

**IN THE DISCIPLINARY DISTRICT IX
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE**

**IN RE: GERALD D. WAGGONER, JR.,
BPR #013988, Respondent, an
Attorney Licensed to Practice Law
in Tennessee
(Shelby County)**

DOCKET NO. 2019-2998-9-WM

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter came to be heard on the 9th day of December, 2020 for hearing on the Board's Petition for Discipline, Supplemental Petition for Discipline and Second Supplemental Petition for Discipline before Thomas P. Cassidy, Jr., Panel Chair, Imad I. Abdullah, Panel Member, and E. Patrick Lancaster, Jr., Panel Member. Joseph K. Byrd, Disciplinary Counsel, appeared for the Board, and Gerald D. Waggoner, Jr., *Pro Se*.

STATEMENT OF THE CASE

1. This is a disciplinary proceeding against the Respondent, Gerald D. Waggoner, Jr. ("Mr. Waggoner") an attorney licensed to practice law in Tennessee.

2. Gerald D. Waggoner, Jr. was admitted to practice law in the state of Tennessee in 1989 by the Supreme Court of Tennessee. On August 1, 2017, Mr. Waggoner's law license was suspended by order of the Tennessee Supreme Court for a period of three (3) years. [Trial Exhibit 4].

3. On May 9, 2019, the Tennessee Board of Professional Responsibility ("The Board" or "Board") filed a Petition for Discipline against the Respondent, Gerald D. Waggoner, Jr. Docket No. 2019-2998-9-W. This Petition for Discipline relates to file No. 58298-9-KB-

informant-Charles W. Gilchrist, Jr., Esq. and file No. 58401-9-KB-informant-Chelsea Rainey, Esq. and File No. 59733-9-KB-media report. The Petition for Discipline alleges violations of Tennessee Rules of Professional Conduct including Rule 5.5 (a) unauthorized practice of law and Rule 8.4 (a) and (g) misconduct.

4. On June 7, 2019 Mr. Waggoner filed his First Response to the Petition for Discipline.

5. The hearing panel was appointed on June 12, 2019 and a Case Management Conference was held on July 11, 2019.

6. A Supplemental Petition for Discipline, Docket No. 2019-2998-9-WM, was filed on July 10, 2019 and served upon Gerald D. Waggoner, Jr. by certified mail. The Supplemental Petition for Discipline involves file No. 60036C-9-KB-informant-Sarvia Morales. The Supplemental Petition for Discipline alleges violations of the Tennessee Rules of Professional Conduct and includes violation of Rule 3.4 (c) fairness to opposing party and counsel and Rule 5.5 (a) unauthorized practice of law and Rule 8.1 (b) for admissions and disciplinary counsel and Rule 8.4 misconduct. On August 16, 2019, Mr. Waggoner filed his Answer to the Supplemental Petition for Discipline.

7. On August 16, 2019 Gerald D. Waggoner, Jr. filed his First Response to Supplemental Petition for Discipline.

8. On November 1, 2019 Gerald D. Waggoner, Jr. filed a Motion for Summary Judgment on Petition for Discipline and Memorandum of Law in Support of Motion for Summary Judgment. Mr. Waggoner also filed a Motion for Summary Judgment on Supplemental Petition for Discipline and Memorandum of Law in Support of Motion for Summary Judgment on Supplemental Petition for Discipline and exhibits.

9. On November 13, 2019 Respondent filed Motion to Enlarge Time to Respond to Discovery Requests.

10. On November 19, 2019 disciplinary counsel filed a Response to Respondent's Motion to Enlarge Time to Respond to Discovery Requests.

11. On November 25, 2019, The Board filed its Response to Motion for Summary Judgment and Response to Respondent's Motion for Summary Judgment on Supplemental Petition for Discipline.

12. On December 6, 2019 disciplinary counsel filed its pre-trial brief.

13. On December 10, 2019 a Notice of Hearing was filed scheduling hearing for January 7, 2020.

14. On December 12, 2019 disciplinary counsel filed exhibit and witness lists.

15. On December 12, 2019 Gerald D. Waggoner, Jr. filed exhibit and witness lists.

16. On December 16, 2019 a revised Notice of Hearing was entered scheduling the case for trial on January 7, 2020.

17. On December 19, 2019 an Order was entered denying Respondent's Motion to Enlarge Time to Respond to Discovery Requests.

18. On December 19, 2019, the Hearing Panel entered an Order denying the Respondent's Motion for Summary Judgment on Petition for Discipline and Supplemental Petition for Discipline.

19. On January 2, 2020 disciplinary counsel filed a Motion in Limine to exclude evidence, exhibits testimony and arguments from Respondent that relate to Respondent's prior disciplinary proceeding.

20. On January 3, 2020 a Motion to Continue Trial was filed and on January 6, 2020, an Order was entered granting the Motion to Continue Trial.

21. On January 31, 2020 a second Scheduling Order was entered.

22. On February 11, 2020 Gerald D. Waggoner, Jr. filed his Response to Motion in Limine.

23. On March 31, 2020 a Second Supplemental Petition for Discipline, Docket No. 2019-2998-9-WM, was filed and served upon Gerald D. Waggoner, Jr. by certified mail. The Second Supplemental Petition for Discipline was assigned file No. 61858-9-KB-Robby Stevens. The Second Supplemental Petition for Discipline alleges violations of the Tennessee Rules of Professional Conduct including Rule 1.3 Diligence and Rule 1.4 Communication, Rule 1.15 Safe Keeping Property and Funds, Rule 1.16 Declining or Termination Representation, Rule 3.2 Expediting Litigation, Rule 3.4(c) Fairness to Opposing Party and Counsel, Rule 5.3 Responsibilities Regarding Non-Lawyer Assistance and Rule 8.4 Misconduct.

24. On May 6, 2020 Mr. Waggoner filed a response to Second Supplemental Petition for Discipline.

25. On May 8, 2020 a Scheduling Order was entered in the case setting the case for trial on December 9, 2020.

26. On March 27, 2020 an Order Suspending Board of Professional Responsibility's Proceedings and Extending Deadlines was entered by the Tennessee Supreme Court.

27. On November 17, 2020 Gerald D. Waggoner, Jr. filed Respondent's Pre-trial Brief.

28. On November 17, 2020 the Board filed its Pre-trial Brief, Exhibit and Witness List.

29. On November 17, 2020 Gerald D. Waggoner, Jr. filed a Pre-Trial Brief pertaining to Second Supplemental Petition.

30. On November 17, 2020 Gerald D. Waggoner, Jr. filed exhibit and witness lists pertaining to Second Supplemental Petition.

31. On November 17, 2020 disciplinary counsel filed a Pre-trial Brief and exhibit and witness lists.

32. On November 20, 2020 a Notice of Hearing was filed scheduling the case for trial to be held by Zoom video conference on December 9, 2020.

33. On November 20, 2020 disciplinary counsel filed Motion to Continue and reset discovery deadline. This motion was withdrawn by filing on November 30, 2020.

34. The Trial was set and conducted via Zoom video conference by agreement of attorney representing the Board and Gerald D. Waggoner, Jr. Trial was conducted on December 9, 2020. After presentation of evidence including testimony from various witness and numerous exhibits introduced during trial and arguments of the parties, the Hearing Panel requested that Mr. Waggoner and Disciplinary Counsel submit proposed findings of fact and conclusions of law on or before January 15, 2020. Thereafter, Mr. Joseph Byrd Attorney for Board of Professional Responsibility and Gerald D. Waggoner, Jr. submitted Proposed Findings of Fact and Conclusions of Law. Due to the number of witnesses, exhibits and extent of trial proof, a transcript of trial proceedings was ordered and the members of the Panel requested that Mr. Joseph Byrd and Gerald D. Waggoner submit Supplemental Proposed Findings of Fact and Conclusions of Law.

35. On January 13, 2021 disciplinary counsel filed the Board of Professional Responsibility's Proposed Findings of Fact and Conclusions of Law.

36. On January 15, 2021 Gerald D. Waggoner, Jr. filed Respondent's Proposed Order of Facts and Law.

37. Disciplinary counsel filed the Board of Professional Responsibility's Amended Proposed Findings of Fact and Conclusions of Law on February 23, 2021.

38. Gerald D. Waggoner, Jr. filed Amended Proposed Findings of Facts and Conclusions of Law on March 10, 2021.

STATEMENT OF FACTS

Initial Petition for Discipline Docket No.: 2019-2998-9-WM includes:

File No. 58298-9-KB-informant-Charles W. Gilchrist, Jr., Esq.

File No. 58401-9-KB-informant –Chelsea Rainey, Esq.

File No. 59733-9-KB-media report.

Findings of Fact:

1. On August 1, 2017, Mr. Waggoner's law license was suspended by order of the Tennessee Supreme Court for a period of three (3) years. [Trial Exhibit 4].

2. Christi Walker testified that at the time of Mr. Waggoner's suspension from the practice of law, Mr. Waggoner maintained two (2) offices in Memphis, Tennessee. Specifically, Mr. Waggoner maintained the Waggoner Law Firm on Poplar Avenue and his satellite office with the tradename "Memphis Legal Group" on Summer Avenue which primarily handled traffic ticket representation. [Tr. 24:19 – 25:1].

3. Ms. Walker testified that the office on Poplar Avenue was closed shortly after Mr. Waggoner's suspension and that in a letter to his clients, Mr. Waggoner notified clients of his suspension and that Brad Reasonover, a licensed attorney in Tennessee, would complete their case or that they could retain another attorney. [Tr. 28:4 – 32:9; 33:15- 34:2].

4. Ms. Walker testified that the office on Summer Avenue, “Memphis Legal Group,” remained opened and continued to take new clients after Mr. Waggoner’s suspension. [Tr. 36:2 – 37:11]

5. Ms. Christi Walker was the Office Manager for the 3939 Summer Avenue and 1433 Poplar Avenue law offices when employed at the Waggoner Law Firm. Ms. Walker’s business card identifying her as Office Manager of the Waggoner Law Firm was entered into evidence (exhibit 53, Walker testimony, Tr. 27: 23-25].

6. Mr. Waggoner admitted during his testimony that he communicated to his former clients through Ms. Walker and other staff members at Memphis Legal Group. [Tr. 312:10 – 314:9]

7. During examination by the Board, Mr. Waggoner was asked to explain what he meant by his statement that he never spoke directly with former clients:

Q. Explain that for the Panel – Would you please? -- What you mean by...[y]ou never spoke to them directly, but you did through the staff and attorneys.

A. Yes. The few PI cases I did, I did need to talk to them. There was a couple trials I had set. I needed to talk to them directly.

I was so concerned, that I wanted to work through-really—when you say staff attorney, I’m talking about anyone as a firewall. So nobody is going to run to your office and say, “Mr. Waggoner is handing out legal advice.”

And that's why I thought I had to I've got to have somebody as an intermediary so I would never get that charge. I mean, tell somebody "You should go get a lawyer" could be giving legal advice.

Q. It could be. Were you -- I guess I'm asking you then, were you finding an indirect way to do that, though by speaking? --

A. Yeah, Ms. Walker. You know she -- she would talk to them and she would talk to me and resolve whatever issues we've got.

Q. So, Mr. Waggoner, do you see that possibly could be a violation, that you were helping Ms. Walker practice law?

A. As former clients and they had questions and, then I gave them answers. Just like I say, I didn't want to talk to them directly and then accuse me of something. And --

Q. I understand your motivation is for the good. Please, understand, you know.

But -- but it just seems like if you are giving legal advice through Ms. Walker, you're helping her and she is giving the legal advice to those clients, you're helping her practice law?

A. Well, I was thinking it wasn't really legal advice. Like, "Well should I file a motion to suppress?" It's more like..."What's going on with my case? What can I do? Can you refer me to somebody? It was -- it was stuff like that.

[Tr. 312:13 -- 314:6]

Supplemental Petition for Discipline Docket No.: 2019-2998-9-WM includes:

File No. 60036-C-9-KB-informant- Sarvia Morales

Findings of Fact:

1. Christi Walker, office manager for Memphis Legal Group, hereinafter “MLG”, testified that after August 1, 2017, Respondent was not involved in any way with the operations or oversight of the practice of MLG [Testimony of the Christi Walker, Tr. 34: 16-23, 169: 3].

2. Christi Walker testified that if there was any conversation or anything that one of the clients needed, the clients would contact her and she would ask the Respondent (Testimony of Christi Walker, Tr. 36: 12].

3. Joseph Crone and Tim Fowler replaced Josh Corman as managing attorneys for MLG. (See testimony of Christi Walker, Tr. 125:17.]

4. Tim Fowler began taking cases from MLG in late July, 2018 [Testimony of Tim Fowler, Tr. 281: 15].

5. Tim Fowler testified that he had no administrative role and no managerial duties with MLG. He further testified that at no point did he take over as managing attorney for the firm [Testimony of Tim Fowler, Tr. 184:12, 192:5].

6. Ms. Walker stated that there was one time when the Respondent met with Tim Fowler at a Mexican restaurant [Testimony of Christi Walker, Tr. 126:8-11).

7. Tim Fowler testified that while at MLG, he had lunch with the Respondent and Christi Walker early on and that he spoke with the Respondent over the phone at least a couple of times. He also testified that he and the Respondent did not discuss any specifics on any case [Testimony of Tim Fowler, Tr. 193: 21 through 194:4].

8. After Respondent's suspension in August 2017, new clients were continually being accepted by MLG under the tenures of Brad Reasonover, Stephen Barnes and Daniel Lenegar as managing attorneys. [Testimony of Christi Walker, Tr. 40: 20].

9. Sarvia Morales made two payments to MLG on July 11, 2018 and on August 6, 2018, totaling \$300 [See Exhibit 28; Testimony of Christi Walker, Tr. 133: 20 - 134: 13].

10. Tim Fowler testified that the money paid by Sarvia Morales was made to MLG; not to him [Testimony of Tim Fowler, Tr. 207:3-6].

11. Sarvia Morales' case was reset or continued to September 18, 2018 by Chelsea Rainey [Testimony of Christi Walker, Tr. 159:1].

12. Sarvia Morales' new court setting of September 18, 2018 appeared on the calendar for MLG [See Exhibit 54; testimony of e Christi Walker, Tr. 158:20].

13. Christi Walker testified that Sarvia Morales was the client of Tim Fowler [Testimony of Christi Walker Tr. 134: 22; 154: 10 and 162:19].

14. Tim Fowler states that he never had any direct contact with Sarvia Morales (Testimony of Tim Fowler, Tr. 212:16].

15. Tim Fowler never received any money for handling the Sarvia Morales case [Testimony of Tim Fowler, Tr. 207:3; 12:208:29; and 215:17].

16. Proof adduced at the hearing was that Tim Fowler received only one check from MLG. This check was in the amount of \$1,550 [Testimony of Tim Fowler, Tr. 188:12-16]. It is unclear what case(s) resulted in issuance of this check to Mr. Fowler.

17. Tim Fowler never signed the court jacket or otherwise became attorney of record for Sarvia Morales. [Testimony of Tim Fowler, Tr. 207:15].

18. Christi Walker testified that she sent Tim Fowler the Sarvia Morales file by text message. [Testimony of Christi Walker, Tr.169:21]. She further testified that she gave Mr. Fowler the new court date by telephone and by text message. [Testimony of Christi Walker, Tr. 170: 16.

19. On August 7, 2018, Christi Walker sent Tim Fowler an email or text message with information pertaining to the Sarvia Morales case [Testimony of Tim Fowler, Tr. 204:12; Testimony of Christi Walker, Tr.169:21]. The testimony suggests that, in this message, Christi Walker stated that she had charged Sarvia Morales \$300 and that Chelsea Rainey would handle the guilty plea for \$75. Mr. Fowler responded, "Good deal..." [Testimony of Tim Fowler Tr. 205: 5-12].

20. Tim Fowler testified that as of August 7, 2018, he was still taking cases for MLG. [Testimony of Tim Fowler, Tr. 206: 8].

21. On August 8, 2018, Chelsea Rainey appeared in court on the Sarvia Morales case as Tim Fowler was not in town at the time [Testimony of Christi Walker, Tr 154:21 through 155:3].

22. Tim Fowler never made any appearance for Sarvia Morales. Moreover, Mr. Fowler stated that he received no money from Sarvia Morales [Testimony of Tim Fowler, Tr.208: 24].

23. Mr. Fowler does not know if Christi Rainey signed his name to the Sarvia Morales court jacket or not. [Testimony of Tim Fowler, Tr.207: 20].

24. Christi Walker testified that Sarvia Morales case was on Tim Fowler's calendar, but that he just did not show up for court. [Testimony of Christi Walker, Tr.135: 21].

25. Tim Fowler testified that he did not know when Ms. Morales' reset date was [Testimony of Tim Fowler, Tr.210:13; 211:18-22 and 213: 20 and 23.].

26. Christi Walker testified that she closed the MLG office on August 9, 2018, approximately 5 weeks before Sarvia Morales' court date of September 18, 2018 [Testimony of Christi Walker, Tr. 160: 4 -14].

27. Tim Fowler was not given another court date after the initial setting in the Sarvia Morales case, nor did he ask for one. [Testimony of Tim Fowler, Tr. 211:18-22].

28. On August 9, 2018, Tim Fowler had a conversation with Christi Walker over his concern that there appeared to be no managing attorney at MLG and that he was, therefore, leaving the firm [Testimony of Tim Fowler, Tr. 204: 21 through 205:2]. Mr. Fowler further stated that he told Ms. Walker that if he was not already attorney of record on a case, he would not be completing any cases [Testimony of Tim Fowler, Tr. 208: 3 and 211: 4].

29. In an email, Tim Fowler told Christi Walker that he had contacted all of his clients and that he was moving forward with their cases [See Exhibit 46 and testimony of Christi Walker, Tr.161:23 through 162:1].

30. Mr. Fowler told Ms. Walker that he was taking his files and would take care of all of his clients [Testimony of Tim Fowler, Tr. 203: 21].

31. Christi Walker testified that the Sarvia Morales file is one of the cases that Tim Fowler took with him when he left MLG [Testimony of Christi Walker, Tr.162: 15-21].

32. Tim Fowler told Christi Walker that he wasn't taking any cases on which he had not already made an appearance [Testimony of Tim Fowler, Tr.213:1].

33. Tim Fowler contends that he had no direct contact with Sarvia Morales [Testimony of Tim Fowler, Tr.212:16].

34. Christi Walker testified that if Tim Fowler had told her about Sarvia Morale's request for a refund, instead of talking to the *Commercial Appeal* newspaper, she would have issued a refund to Ms. Morales [Testimony of Christi Walker, Tr. 118:25 through 119:4 and 135:25 through 136:3].

35. It should be noted that in its Pre-Trial Brief filed November 17, 2020, the Board makes brief mention of the Sarvia Morales matter in its statement of facts, yet never mentions that subject again and does not provide any argument or guidance as to how Respondent failed to comply with the Tennessee Rules of Professional Conduct with regard to Sarvia Morales.

Second Supplemental Petition for Discipline Docket No.: 2019-2998-9-WM includes:

File No. 61858-9-KB-Complainant Rozell Stephens

Findings of Fact:

1. In June 2013, Mr. Waggoner was the attorney of records representing individuals including Bennie Stephens as father and next of kin to Rozell Stephens, a minor. Mr. Waggoner was representing Plaintiffs in a personal injury type case subsequent to motor vehicle accident. [Trial Exhibit 7. Tr. Page 323]. [Trial Exhibit 8. Tr. Page 326].

2. On June 27, 2013, Mr. Waggoner filed separate General Sessions lawsuits on behalf of Bennie Stephens as father and next of kin of minor Rozell Stephens and Bennie Stephens as father and next of kin of minor Bennie Stephens, Jr. [Trial Exhibits 7, 8.].

3. On March 28, 2014, a minor settlement hearing was conducted at which Mr. Waggoner appeared on behalf of two (2) minor children, specifically Rozell Stephen sand Bennie Stevens. Orders approving minor settlements were entered awarding Rozell Stephens and Bennie Stephens each \$4,500.00. [Trial Exhibits 7&8; Tr. 320:16-323:12]

4. Mr. Waggoner signed both orders approving minor settlements as attorney of record for the clients. The orders provided that after fees and medical expenses were deducted, the remaining \$2,948.80 for each of the respective minor children was to be paid to the Shelby County General Sessions Court Clerk to be held in an interest-bearing account until the minors reached the age of 18. [Trial Exhibits 7&8].

5. Mr. Waggoner was the attorney of record representing individuals including Bennie Stephens as father of minor Rozell Stephens. [Trial Exhibit 7. Tr. Page 323]. [Trial Exhibit 8. Tr. Page 326].

6. An Order Approving Minor Settlement was entered on March 28, 2014 requiring \$2,948.80 to be paid to Shelby County General Sessions Court Clerk to be held in an interest bearing account until the minor petitioner, Rozell Stephens, reached the age of 18, at which time the net settlement proceeds and interest accrued thereupon were to be paid to the minor, Rozell Stephens. [Trial Exhibit 7].

7. An Order Approving Minor settlement was entered on March 28, 2014 approving requiring the sum of \$2,948.80 to be paid to the Shelby County General Sessions Court Clerk to be held in an interest bearing account until the minor Bennie Stephens, Jr., reached the age of 18. [Trial Exhibit 9.].

8. April 1, 2014, settlement check in the amount of \$4,500.00 payable to Bennie Stephens, as father and next friend of Rozell Stephens, a minor and Gerald D. Waggoner, Jr. as their attorney was provided to Gerald D. Waggoner, Jr. Additionally, a check in the amount of \$4,500.00 payable to Bennie Stephens, as father and next friend of Bennie Stephens, Jr., a minor and Gerald D. Waggoner, Jr. as their attorney was provided to Gerald D. Waggoner, Jr. [Trial Exhibit 67. Tr. Page 137].

9. On November 12, 2020, Mr. Waggoner and Christi Walker deposited a check in the amount of \$2,948.80 payable to Shelby County General Sessions Court Clerk referencing minor Rozell Stephens. [Trial Exhibit 69. Tr. Page 138. Tr. Page 138:8-141:5].

10. On November 12, 2020, Mr. Waggoner and Christi Walker deposited a \$2,948.80 check payable to Shelby County General Sessions Court Clerk referencing Bennie Stephens, Jr. from personal funds repaying minor settlement monies. [Trial Exhibit 69. Tr. Page 138. Tr. Page 138:8-141:5].

11. Mr. Waggoner represented Mary E. Vaught as mother and next friend of minor, Martavious Vaught, a minor in case filed in General Sessions Court in June 27, 2013, assigned Docket No. 1631870. [Trial Exhibit 10. Tr. Page 336]

12. Subsequent to filing General Sessions case on behalf of Mary E. Vaught and minor, Martavious said lawsuit was “dismissed without prejudice at Plaintiff’s costs for want of prosecution” on October 28, 2014. [Trial Exhibit 10. Tr. Page 336]

13. Mr. Waggoner admitted that he was attorney of record for Mary E. Vaught and minor, Martavious Vaught in the General Sessions case filed on June 27, 2013 and that the case was dismissed for want of prosecution. [Tr. 336].

14. Mr. Waggoner admitted during trial testimony that after filing the General Session case on behalf of Mary E. Vaught and minor Martavious Vaught that he was the attorney of record when the case was dismissed. [Tr. 334:1-336:16; Trial Exhibit 10].

ALLEGED VIOLATIONS OF THE TENNESSEE RULES OF PROFESSIONAL CONDUCT

The initial Petition for Discipline alleges that Respondent violated the following Rules of Professional Conduct:

Rule 5.5 (a)
UNAUTHORIZED PRACTICE OF LAW

- (a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

Rule 8.4 (a) and (g)
MISCONDUCT

It is professional misconduct for a lawyer to:

- (a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (g) Knowingly fail to comply with a final court order entered in a proceeding in which the lawyer is a party, unless the lawyer is unable to comply with the order or is seeking in good faith to determine the validity, scope, meaning, or application of the law upon which the order is based.

The Supplemental Petition for Discipline alleges that Respondent violated the following Rules of Professional Conduct:

Rule 3.4(c)
FAIRNESS TO OPPOSING PARTY AND COUNSEL

A lawyer shall not:

- (b) knowingly disobey an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists

Rule 5.5(a)
UNAUTHORIZED PRACTICE OF LAW

- (a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

Rule 8.1(b)
BAR ADMISSIONS AND DISCIPLINARY COUNSEL

An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:

(b) Fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by RPC 1.6.

Rule
8.4 MISCONDUCT

It is professional misconduct for a lawyer to:

(a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(b) Commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;

Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.

The Second Supplemental Petition for Discipline alleges that Respondent violated the following Rules of Professional Conduct:

Rule 1.3
DILIGENCE

A lawyer shall act with reasonable diligence and promptness in representing a client.

Rule 1.4
COMMUNICATION

(a) A lawyer shall:

(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in RPC 1.0(e), is required by these Rules;

(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) keep the client reasonably informed about the status of the matter;

(4) promptly comply with reasonable requests for information; and

(5) Consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law

- (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Rule 1.15
SAFEKEEPING PROPERTY AND FUNDS

(a) A lawyer shall hold property and funds of clients or third persons that are in a lawyer's possession in connection with a representation separate from the lawyer's own property and funds.

(b) Funds belonging to clients or third persons shall be deposited in a separate account maintained in an FDIC member depository institution having a deposit-accepting office located in the state where the lawyer's office is situated (or elsewhere with the consent of the client or third person) and which participates in the required overdraft notification program as required by Supreme Court Rule 9, Section 29.1. A lawyer may deposit the lawyer's own funds in such an account for the sole purpose of paying financial institution service charges or fees on that account, but only in an amount reasonably necessary for that purpose. Other property shall be identified as such and appropriately safeguarded. Complete records of such funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.

(c) A lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

(d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such funds or other property.

(e) When in the course of representation a lawyer is in possession of property or funds in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property or funds as to which the interests are not in dispute.

Rule 1.16
DECLINING OR TERMINATING REPRESENTATION

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of the client if:

- (1) the representation will result in a violation of the Rules of Professional Conduct or other law; or
- (2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or

(3) the lawyer is discharged.

(b) Except as stated in paragraph (c), a lawyer may withdraw from the representation of a client if the withdrawal can be accomplished without material adverse effect on the interests of the client, or if:

(1) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;

(2) the client has used the lawyer's services to perpetrate a crime or fraud;

(3) a client insists upon pursuing an objective or taking action that the lawyer considers repugnant or imprudent;

(4) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;

(5) the representation will result in an unanticipated and substantial financial burden on the lawyer or has been rendered unreasonably difficult by the client;

(6) other good cause for withdrawal exists; or

(7) after consultation with the lawyer, the client consents in writing to the withdrawal of the lawyer.

(c) When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.

(d) Upon termination of the representation of a client, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, including:

(1) giving reasonable notice to the client so as to allow time for the employment of other counsel;

(2) promptly surrendering papers and property of the client and any work product prepared by the lawyer for the client and for which the lawyer has been compensated;

(3) promptly surrendering any other work product prepared by the lawyer for the client, provided, however, that the lawyer may retain such work product to the extent permitted by other law but only if the retention of the work product will not have a materially adverse effect on the client with respect to the subject matter of the representation;

(4) promptly refunding to the client any advance payment for expenses that have not been incurred by the lawyer; and

(5) promptly refunding any advance payment for fees that have not been earned.

Rule 3.2
EXPEDITING LITIGATION

A lawyer shall make reasonable efforts to expedite litigation.

Rule 5.3
RESPONSIBILITIES REGARDING NONLAWYER ASSISTANTS

With respect to a nonlawyer employed or retained by or associated with a lawyer:

(a) a partner, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the nonlawyers' conduct is compatible with the professional obligations of the lawyer;

(b) a lawyer having direct supervisory authority over a nonlawyer shall make reasonable efforts to ensure that the nonlawyer's conduct is compatible with the professional obligations of the lawyer; and

(c) a lawyer shall be responsible for conduct of a nonlawyer that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:

(1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner or has comparable managerial authority in the law firm in which the nonlawyer is employed, or has direct supervisory authority over the nonlawyer, and knows of the nonlawyer's conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action

PREVIOUS DISCIPLINARY HISTORY

Mr. Gerald D. Waggoner, Jr. has a significant prior history of previous discipline.

On May 27, 2005, Mr. Waggoner received a Private Reprimand for a misconduct involving improper advertising.

On August 1, 2017, an Order of Enforcement was entered by the Supreme Court of Tennessee wherein Mr. Waggoner was suspended from the practice of law for three (3) years for removing disputed fees from his trust account without the knowledge or consent of his client and converting them to his personal and business use and materially misrepresented to the board that

\$27,303.25 of the client's money, deposited January 28, 2014, remained in the law firm's trust account. Various conditions are contained in the Order of Enforcement filed on August 1, 2017.

CONCLUSION OF LAW

1. The jurisdiction and authority of this Panel is derived from Tenn. Sup. Ct. R. 9, and the specific provisions prescribed therein. Attorneys admitted to practice law in Tennessee are subject to the disciplinary jurisdiction of the Supreme Court, the Board of Professional Responsibility, the Hearing Committee, hereinafter established, and the Circuit and Chancery Courts. (Tenn. Sup. Ct. R. 9, § 8 (2014)). Attorneys admitted to practice law in Tennessee are subject to the disciplinary jurisdiction of the Supreme Court, the Board of Professional Responsibility, and its hearing panel appointed pursuant to Tenn. Sup. Ct. R. 9, Section 1.

2. The license to practice law in this state is a privilege, and it is the duty of every recipient of that privilege to conduct himself or herself at all times in conformity with the standards imposed upon members of the bar as conditions for the privilege to practice law. (Tenn. Sup. Ct. R. 9, § 1 (2014)). Acts or omissions by an attorney, individually or in concert with any other person, which violate the Rules of Professional Conduct of the State of Tennessee constitute misconduct and grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship. (Tenn. Sup. Ct. R. 9, § 11 (2014)).

3. It is undisputed that Mr. Waggoner was suspended from the practice of law in this state for 3 years, beginning on August 1, 2017. He has not been reinstated. It is also undisputed that that, following Respondent's suspension, MLG remained open until at least August 2018. During the time between his suspension and the closing of MLG, Respondent interviewed and otherwise took steps to staff MLG with licensed attorneys and otherwise direct the firm. The

preponderance of evidence indicates that, also during this period, Respondent communicated with his former clients through MLG's office manager, Christi Walker.

4. The proof presented established that Mr. Waggoner used Ms. Walker as an intermediary to in his words relay information regarding what was "going on" with a client's cases and to inform what a former client "could do" in a case and who from the Waggoner firm that he no longer had any association with would be in court for particular cases and issues. Mr. Waggoner testified he believed that using Ms. Walker and sometimes other attorneys as an "intermediary" to pass his thoughts and information to former clients created a "firewall" that shielded him from the unauthorized practice of law. However, his attempt to shield himself from authorized practice did nothing more than aid a non-lawyer in the practice of law.

5. The panel finds by a preponderance of the evidence based upon Mr. Waggoner's testimony that Respondent violated the Tennessee Rules of Professional Conduct 5.5(a) (Unauthorized Practice of Law); 8.1(b) (Bar Admission and Disciplinary Matters); and 8.4(a), (c) and (d) (Misconduct).

6. Mr. Waggoner has substantial experience in the practice of law having been admitted in Tennessee 1989.

7. At the hearing, the only witnesses who testified regarding the complaint of Sarvia Morales was Christi Walker, Tim Fowler and the Respondent. The testimony of these witnesses was often conflicting and even contradictory. Ms. Morales was not called to testify. Her testimony may have been helpful in clearing up the disputed testimony heard by the panel. There was no testimony offered or any documentary evidence suggesting that Respondent had any direct involvement with Sarvia Morales or the handling of her case by employees of MLG.

8. The preponderance of evidence indicates that, even after his suspension, the Respondent continued to actively engage in the management and operation of MLG ("MLG"). This is demonstrated in large part through the testimony of Respondent's office manager and the testimony of the Respondent, himself. Respondent marketed MLG after his suspension, although he contends that these efforts were carried out through a separate direct mail advertising company owned and operated by Respondent. During this time, MLG continually accepted new clients, although Respondent contends that these cases were accepted while MLG was overseen by managing attorneys, including, but not limited to, Joseph Crone and Tim Fowler. Mr. Crone admitted that he was offered and had considered a managing attorney's role at MLG, but never accepted it. Mr. Fowler adamantly denied ever being a managing attorney at MLG or having any managerial or administrative role. In fact, he testified that a principal reason for his leaving MLG was the fact that there was no managing attorney and that he was splitting fees with a non-lawyer.

9. It is undisputed that, following Respondent's suspension, MLG remained open until at least August 2018. During the time between his suspension and the closing of MLG, Respondent interviewed and otherwise took steps to staff MLG with licensed attorneys and otherwise direct the firm. The preponderance of evidence indicates that, also during this period, Respondent communicated with clients through MLG's office manager, Christi Walker.

10. The proof presented established that Sarvia Morales hired MLG to represent her in court in connection with prosecution for driving without a license and violation of traffic laws. Ms. Morales made 2 payments to MLG on July 11th and on August 6, 2018, totaling \$300. As evidence of these payments, MLG issued its receipts to her. Christi Walker testified that Ms. Morales was the client of Tim Fowler, but Mr. Fowler insists that he never met Sarvia Morales

or had any direct contact with her and that he was never paid any money by MLG for any work on the Morales matter. According to Mr. Fowler, he began taking cases from MLG in late July, 2018. Ms. Morales initial payment to MLG on July 11th, appears to predate Mr. Fowler's involvement with MLG. Ms. Walker further testified that Tim Fowler had agreed to handle Ms. Morales' case. The preponderance of evidence indicates that Ms. Morales was the client of MLG; not Mr. Fowler. The proof presented showed that no one from MLG appeared on Ms. Morales' behalf on September 18, 2018 or told her that she would need to obtain other counsel. Moreover, Ms. Morales was never issued a refund of her payments of \$300 to MLG. The fact that MLG closed its doors on August 9, 2018, does not diminish its obligation to Sarvia Morales.

11. The panel finds by a preponderance of the evidence that Respondent violated the Tennessee Rules of Professional Conduct 3.4(c) (Fairness to Opposing Party and Counsel); 5.5(a) (Unauthorized Practice of Law); 8.1(b) (Bar Admission and Disciplinary Matters); and 8.4(a), (c) and (d) (Misconduct).

12. Despite his prior 3-year suspension, beginning August 1, 2017, the Respondent continued to be involved in the operation and management of MLG through its office manager, Christi Walker, and through his own involvement. The preponderance of the evidence demonstrates that Respondent managed MLG and provided advice to clients through the firm's office manager, thereby assisting Ms. Walker to practice law during his suspension. The Respondent continued to market MLG, even when it, otherwise, had no managing attorney. As a result, Sarvia Morales was induced to pay \$300 for legal representation, which she never received. The evidence further shows that the \$300 in fees was never refunded to Ms. Morales. The Respondent should be ordered to make restitution in the amount of \$300 to Sarvia Morales, or in the event a claim is made against the Tennessee Lawyers' Fund for Client Protection, then

restitution should be made to Tennessee Lawyers' Fund for Client Protection to the extent of any payment by it to Sarvia Morales.

13. Considering the second Supplemental Petition for discipline File No. 6185-9-KB, and the proof presented The Panel finds, by a preponderance of the evidence, that Mr. Waggoner violated Tennessee Rules of Professional Conduct Rule 3.1 Diligence, Rule 1.4 Communication, Rule 1.15 Safe Keeping Property and Funds, Rule 1.16 Declining or Termination of Representation and Rule 8.4 Misconduct.

14. On March 28, 2014, two orders approving minor settlement were entered pertaining to claims of minor Plaintiffs, Rozell Stephens and Bennie Stephens, Jr. requiring monies to be deposited on behalf of each minor in the amount of \$2,948.80 into the General Sessions Court Clerk's account to be held in an interest bearing account until the minors reached age of 18.

15. Settlement checks were received and deposited by Mr. Waggoner on April 1, 2014. Notwithstanding after receipt of settlement monies that were required to be deposited and held in an interest bearing account of the General Sessions Court Clerk of Shelby County, Tennessee said monies were not deposited until November 12, 2020. Accordingly, monies were not deposited in a timely fashion and said minors were deprived of said monies including interest thereon.

16. It is clear from the trial record that \$2,948.80 was to be deposited on behalf of each minor, specifically, Rozell Stephens and Bennie Stephens, Jr. shortly after orders approving minor settlement were entered on March 28, 2014 and after the funds were received by Mr. Waggoner which occurred on April 1, 2014.

17. It is also clear that the described settlement monies were not deposited with the General Sessions Court Clerk and, therefore, were not held in an interest bearing account until November 12, 2020.

18. From the proof presented it is clear that Mr. Waggoner and Ms. Christi Walker deposited two separate checks on behalf of Rozell Stephens and Bennie Stephens, Jr. in the amount of \$2,948.80 from personal funds held in a joint checking account of Mr. Waggoner and Christi Walker.

19. Because settlement monies owed to Rozell Stephens and Bennie Stephens, Jr. were received by Mr. Waggoner on April 1, 2014, the children were not only deprived of access to monies they were deprived of interest that would have accrued on said monies pursuant to Court Order.

20. Presuming the two settlement checks would have been deposited and cleared within fourteen (14) days of receipt by Mr. Waggoner on April 1, 2014, the children were deprived of interest from April 15, 2014 until the monies were finally deposited into the General Sessions Court Clerk account on November 12, 2020. Mr. Waggoner's actions and omissions were intentional and directly led to withholding of property or funds for a longer period of time after they were provided to Mr. Waggoner. More specifically, Mr. Waggoner held said funds after his receipt of settlement checks on April 1, 2014 until November 12, 2020 when they were submitted to the General Sessions Court Clerk.

21. Mr. Waggoner's actions and omissions were intentional and because the monies that were eventually paid to the General Sessions Court Clerk were deposited from a joint checking account held by Mr. Waggoner and Ms. Walker, it is clear that said monies were not held separate from Mr. Waggoner's own property and funds.

22. Mr. Waggoner's actions and omissions were intentional and directly led to Mr. Waggoner's failure to properly deliver to the client or a third person, in this instance, the General Sessions Court Clerk of Shelby County, Tennessee, funds or property that the client or third person was entitled to receive within a reasonable amount of time after minor settlements were approved.

23. It is clear from trial exhibits and testimony presented that Mr. Waggoner did not act with reasonable diligence and promptness and that his actions rose to the level of misconduct in representing Mary E. Vaught and minor, Martavious Vaught as not only was their lawsuit dismissed for want of prosecution, Mr. Waggoner took no action to revive the lawsuit on behalf of Mary E. Vaught or minor, Martavious Vaught after it was dismissed.

24. Mr. Waggoner's actions and omissions were intentional in that after filing a lawsuit on behalf of Mary E. Vaught as mother and next of kin to Martavious Vaught, a minor, no action was taken in the lawsuit and the Complaint was dismissed without prejudice at Plaintiff's cost for want of prosecution on October 28, 2014.

25. After the General Sessions lawsuit filed on behalf of Mary E. Vaught and minor, Martavious Vaught was dismissed for want of prosecution on October 28, 2014, Mr. Waggoner took no action to revive the lawsuit on behalf of Mary E. Vaught and minor, Martavious Vaught.

26. It is clear that Mr. Waggoner is an experienced attorney who knew he was required to use diligence and promptness in representing a client after lawsuit has been filed.

27. Pursuant to Tenn. Sup. Ct. R. 9, § 8.4, the appropriate discipline must be based upon application of the *ABA Standards for Imposing Lawyer Sanctions*, ("ABA Standards"). The Panel finds the following ABA Standards applicable in this matter:

4.51 Disbarment is generally appropriate when a lawyer's course of conduct demonstrates that the lawyer does not understand the most fundamental legal

doctrines or procedures, and the lawyer's conduct causes injury or potential injury to a client.

4.52 Suspension is generally appropriate when a lawyer engages in an area of practice in which the lawyer knows he or she is not competent, and causes injury or potential injury to a client.

4.53 Reprimand is generally appropriate when a lawyer:

- (a) demonstrates failure to understand relevant legal doctrines or procedures and causes injury or potential injury to a client; or
- (b) is negligent in determining whether he or she is competent to handle a legal matter and causes injury or potential injury to a client.

5.11 Disbarment is generally appropriate when:

- (b) a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

5.13 Reprimand is ammorally appropriate when a lawyer knowingly engages in any other conduct that involves dishonesty, fraud, deceit, or misrepresentation and that adversely reflects on the lawyer's fitness to practice law.

6.12 Suspension is generally appropriate when a lawyer knows that false statements or documents are being submitted to the court or that material information is improperly being withheld, and takes no remedial action, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding.

6.22 Suspension is generally appropriate when a lawyer knows that he or she is violating a court order or rule, and causes injury or potential injury to a client or a party, or causes interference or potential interference with a legal proceeding.

28. Pursuant to ABA Standard 9 22, the Panel finds the following aggravating factors applicable in this matter:

- a) a pattern of misconduct;
- b) failure to acknowledge the wrongful nature of his conduct;
- c) prior disciplinary history;
- d) multiple offenses;
- e) substantial experience in the practice of law; and
- f) dishonest or selfish motive;

29. Based upon the facts and misconduct previously cited, the Hearing Panel finds the following baseline ABA Standards applicable and relevant to its determination of the appropriate discipline to be imposed upon Mr. Waggoner:

4.12 Suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client.

4.42 Suspension is generally appropriate when:

- (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client, or
- (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

6.23 Reprimand is generally appropriate when a lawyer negligently fails to comply with a court order or rule, and causes injury or potential injury to a client or other party, or causes interference or potential interference with a legal proceeding.

7.2 Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty as a professional and causes injury or potential injury to a client, the public, or the legal system.

8.2 Suspension is generally appropriate when a lawyer has been reprimanded for the same or similar misconduct and engages in further similar acts of misconduct that cause injury or potential injury to a client, the public, the legal system, or the profession.

30. The Hearing Panel finds that the appropriate sanction for Mr. Waggoner's violations of RPC 1.3; 1.4; 1.15; 1.16(a) and (d); 3.4(c); 5.3; 5.5, 8.1(b) and 8.4(a) is a significant suspension. ABA Standard 2.3 provides:

31. Suspension is the removal of a lawyer from the practice of law for a specified minimum period of time. Generally, suspension should be for a period of time equal to or greater than six months, but in no event should the time period prior to application for reinstatement be more than three years. Procedures should be established to allow a suspended lawyer to apply for reinstatement, but a lawyer who has been suspended should not be permitted to return to practice until he has completed a reinstatement process demonstrating rehabilitation and fitness to practice law. [emphasis added].

32. Having determined suspension is the appropriate baseline sanction, the Panel must consider the existence of any aggravating or mitigating factors and their applicability to this disciplinary matter. Pursuant to ABA Standard 9.22, the following aggravating factors were considered by the Hearing Panel to determine the appropriate discipline to be imposed against Mr. Waggoner.

33. It is appropriate for the hearing panel to consider whether Mr. Waggoner has benefited from the imposition of prior discipline and whether the public would be endangered and the legal professional and administration of justice would be disserved if Mr. Waggoner were permitted to continue the practice of law. *Sneed v. Board of Professional Responsibility*, 301 S.W.3d 603, 617 (Tenn. 2010).

34. Taking into account Mr. Waggoner's lengthy disciplinary history and considering his testimony and testimony of others and exhibits before this panel, it is clear that Mr. Waggoner has not benefited from the prior discipline imposed upon him. Mr. Waggoner has not heeded lessons from facing numerous prior disciplinary proceedings and, in fact, continued to represent individual while suspended and continues to make mistakes of inadequate communications, neglect and misrepresentation.

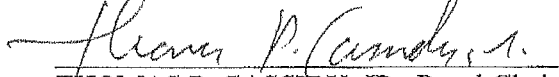
35. It is obvious to the panel that the public would be endangered and the legal profession and administration of justice would be disserved if Mr. Waggoner were allowed to continue the practice of law.

JUDGMENT

1. Based on these findings of fact and conclusions of law and the presence of aggravating circumstances, Mr. Waggoner's license to practice law should be suspended for an additional period of four (4) years pursuant to Tenn. Sup. Ct. R. 9, Section 4. Mr. Waggoner shall

also pay restitution to Rozell Stephens or to Tennessee Lawyers' Fund for Client Protection for interest that would have accrued on \$2,948.80, between April 15, 2014 until the monies were deposited into the General Sessions Court Clerk account on November 12, 2020. Additionally, Mr. Waggoner shall pay restitution to Bennie Stephens, Jr. or to Tennessee Lawyers' Fund for Client Protection on interest that would have accrued on \$2,948.80, between April 15, 2014 until the monies were finally deposited into the General Sessions Court Clerk account on November 12, 2020. In addition, Mr. Waggoner should be ordered to pay restitution in the amount of \$300 plus interest from August 6, 2018 to Sarvia Morales, or in the event a claim has been made against the Tennessee Lawyers' Fund for Client Protection, then restitution should be made to Tennessee Lawyers' Fund for Client Protection to the extent of any payment by it to Sarvia Morales. Pursuant to Tenn. Sup. Ct. R. 9, Section 4.7, payment of all restitution ordered shall be a condition precedent to reinstatement. Mr. Waggoner shall be responsible for the costs of these proceedings.

IT IS SO ORDERED this 2 day of June, 2021.


THOMAS P. CASSIDY, JR., Panel Chair


Imad Adbullah, Panel Member


E. Patrick Lancaster, Panel Member

NOTICE TO RESPONDENT

This Judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, Section 1.3 by filing a Petition for Writ of Certiorari, which shall be made under oath or affirmation and which shall state that it is the first application for writ.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been sent to Respondent, Gerald D. Waggoner, Jr., 6914 Locke Road, Millington, TN 38053, via U.S. First Class Mail, and hand-delivered to Joseph K. Byrd, Disciplinary Counsel, on this the 2nd day of June 2021.

A handwritten signature in cursive script, appearing to read "Rita Webb", written over a horizontal line.

Rita Webb
Executive Secretary

NOTICE

This judgment may be appealed by filing a Petition for Review in the appropriate Circuit or Chancery Court in accordance with Tenn. Sup. Ct. R. 9, § 33.