

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1262 Disciplinary Docket No. 3
Petitioner :
v. : No. 46 DB 2006
: Attorney Registration No. 64374
JULIE ANN MARZANO, :
Respondent : (Philadelphia)

ORDER

PER CURIAM:

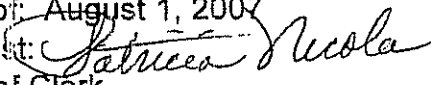
AND NOW, this 1st day of August, 2007, upon consideration of the Report and Recommendations of the Disciplinary Board dated May 16, 2007, it is hereby

ORDERED that Julie Ann Marzano is suspended from the Bar of this Commonwealth for a period of nine months, and she shall comply with all the provisions of Rule 217, Pa.R.D.E.

It is further ORDERED that respondent shall pay costs to the Disciplinary Board pursuant to Rule 208(g), Pa.R.D.E.

A True Copy Patricia Nicola

As of: August 1, 2007

Attest: 
Chief Clerk

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 46 DB 2006
Petitioner	:	
	:	
v.	:	Attorney Registration No. 64374
	:	
JULIE ANN MARZANO	:	(Philadelphia)
Respondent	:	

REPORT AND RECOMMENDATIONS OF
THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES
OF THE SUPREME COURT OF PENNSYLVANIA:

Pursuant to Rule 208(d)(2)(iii) of the Pennsylvania Rules of Disciplinary Enforcement, the Disciplinary Board of the Supreme Court of Pennsylvania ("Board") herewith submits its findings and recommendations to your Honorable Court with respect to the above-captioned Petition for Discipline.

I. HISTORY OF PROCEEDINGS

On March 13, 2006, Office of Disciplinary Counsel filed a Petition for Discipline against Julie Ann Marzano, Respondent. The Petition charged Respondent with multiple violations of the Rules of Professional Conduct and Rules of Disciplinary Enforcement arising out of her representation of three individuals, during a time period

when Respondent had been placed on inactive status for failing to fulfill her Continuing Legal Education credits. Respondent filed an Answer to Petition for Discipline on April 4, 2006.

A disciplinary hearing was held on June 15, 2006, before a District I Hearing Committee comprised of Chair Samuel Cohen, Esquire, and Members Charles Eppolito, III, Esquire, and Eric W. Sitarchuk, Esquire. Respondent was represented by Vincent J. Giusini, Esquire.

Following the submission of briefs by the parties, the Hearing Committee filed a Report on October 2, 2006, finding that Respondent engaged in professional misconduct and recommending that she be suspended for a period of six months.

Petitioner filed a Brief on Exceptions on October 23, 2006 and requested oral argument before the Disciplinary Board.

Respondent filed a Brief Opposing Exceptions on November 8, 2006.

Oral argument was held on January 29, 2007 before a three-member panel of the Disciplinary Board comprised of Chair Min S. Suh, Esquire, with Members Laurence H. Brown, Esquire, and Carl D. Buchholz, III, Esquire.

This matter was adjudicated by the Disciplinary Board at the meeting on March 20, 2007.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is located at Suite 1400, 200 North Third Street, Harrisburg, Pennsylvania, is invested, pursuant to Pa.R.D.E. 207, with the power and duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of said Rules.

2. Respondent, Julie Ann Marzano, was born in 1964 and was admitted to practice law in the Commonwealth in 1992. Her mailing address is 7 Tara Drive, Sewell, NJ 08080. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has no prior record of discipline.

4. In 1992 the Pennsylvania Continuing Legal Education Board assigned Respondent to Compliance Group 3, which has an annual deadline of December 31 to comply with CLE requirements.

5. Respondent did not complete the CLE requirements before December 31, 1997.

6. On or about February 20, 1998, the CLE Board provided Respondent with a Final Report informing Respondent of her failure to comply with the CLE requirements.

7. On or about May 27, 1998, the CLE Board provided to Respondent a 2nd Notice of Non-Compliance.

8. Respondent received the Final Report and 2nd Notice.

9. By Order dated July 16, 1998, the Supreme Court of Pennsylvania directed that Respondent be transferred to inactive status pursuant to Pa.R.C.L.E. 111(b) for failure to comply with CLE requirements, said transfer to be effective 30 days after the date of the Order.

10. In and under cover of a letter dated July 16, 1998, which was sent by certified mail, return receipt requested, Elaine M. Bixler, Secretary of the Disciplinary Board:

- a. forwarded to Respondent a copy of the Supreme Court Order;
- b. forwarded to Respondent copies of Pa.R.D.E. 217 and 219;
- c. forwarded to Respondent Forms DC-23(i) and DB-24(i) Nonlitigation and Litigation Notices of Transfer to Inactive Status;
- d. forwarded to Respondent Form DB-25(i), Statement of Compliance; and
- e. advised Respondent that she was now required to comply with Pa.R.D.E. 217.

11. Respondent signed for and received the July 16, 1998 letter, with enclosures, on July 20, 1998.

12. Respondent was on inactive status effective August 15, 1998.

13. Respondent failed to file a Form DB-25(i) with the Board Secretary within ten days after the effective date of Respondent's transfer to inactive status, or anytime thereafter.

14. Respondent failed to promptly notify at least one client with pending matter(s) of her transfer to inactive status and consequent inability to represent them after the effective date of her transfer to inactive status.

15. Respondent failed to file her 1999-2000 and 2000-2001 Pennsylvania Attorney's Annual Fee Forms.

16. On September 28, 2001, Respondent signed and returned her 2001-2002 annual fee form to the Attorney Registrar's office, which form indicated that Respondent was inactive since August 15, 1998.

17. By letter dated October 2, 2001, Suzanne E. Price, Attorney Registrar:

a. acknowledged receipt of Respondent's PA Attorney Annual Fee Form for 2001-2002 and her check;

b. informed Respondent that as of the date of the letter, the CLE Board had not certified that Respondent had complied with the CLE requirements or that Respondent may be reinstated to active status;

c. returned Respondent's check to her and notified Respondent that Ms. Price would process the registration form as inactive; and

d. notified Respondent that practicing law while on inactive status violated the Rules of Professional Conduct.

18. Respondent received this letter.

19. Respondent continued to engage in the practice of law.

The Cooper Matter

20. On or about November 15, 1996, and prior to her transfer to inactive status on August 15, 1998, Respondent caused to be executed a contingent fee agreement between Victoria Cooper as legal guardian of Katherine Cooper, a minor, and Respondent's law firm, Machulsky & Marzano, P.C.

21. On November 16, 1998, Respondent filed an entry of appearance in the Philadelphia Court of Common Pleas in Cooper v. Philadelphia Housing Authority, et. al.

22. On November 16, 1998, Respondent filed a complaint and made a jury demand on behalf of the Plaintiffs.

23. On January 12, 1999, Respondent filed a praecipe to transfer the matter from a major listing to arbitration.

24. On February 17, 1999, Respondent filed a reply to defendant's preliminary objections.

25. On April 23, 1999, Respondent filed a reply to new matter.

26. On March 28, 2001, Respondent filed a Petition for Minor's Compromise.

27. On July 16, 2001, Respondent filed a Praecipe to Settle, Discontinue and

End.

The Marzano Matter

28. On July 31, 2001, Respondent filed her entry of appearance and a complaint in the Philadelphia Court of Common Pleas in Marzano v. Popeye's Chicken, et.al.

29. The plaintiff in the matter was the father of Respondent.

30. On October 11, 2001, Respondent filed a praecipe to reinstate the complaint.

31. On October 19, 2001, Respondent filed an affidavit of service of complaint on defendant.

32. On April 30, 2002, Respondent notified the Philadelphia Arbitration Center that the matter had been settled.

33. On all the pleadings involved in Cooper and Marzano, Respondent identified her law office address as 1326 Mifflin Street, Philadelphia PA 19148 while providing only a New Jersey telephone number.

The DiGregorio/Kates Matter

34. On May 10, 2005, Respondent sent a letter to John R. Mininno, Esquire, on behalf of Respondent's client, Monica DiGregorio, related to a real estate matter involving property in Philadelphia.

35. The party represented by Respondent was the fiancée of Respondent's nephew.

36. The letterhead upon which Respondent sent the letter to Mr. Mininno indicated that she was a member of the Pennsylvania and New Jersey Bars.

Miscellaneous Findings

37. Respondent claimed she became depressed as a result of personal and family issues. These hardships included serious injuries, health problems and or/death affecting family members, Respondent's difficult pregnancy, pre-term labor and delivery of a son with health problems.

38. Respondent introduced expert testimony of Steven Gumerman, PhD, in support of her claim that she suffered from depression which caused her professional misconduct.

39. Dr. Gumerman met with Respondent on one occasion, May 17, 2006. He conducted an interview and performed testing.

40. Dr. Gumerman opined that Respondent demonstrated elevated levels of depression and an adjustment disorder (N.T. 105-112, 126), and had great difficulty in keeping things together. (N.T. 115)

41. Dr. Gumerman did not relate Respondent's depression to her unauthorized practice of law, but to her failure to take CLE credits. (N.T. 121, 122) He opined that she allowed one of the most important aspects of her professional development to lapse as a result of her complete and total enmeshment in family and personal matters. (N.T. 113)

42. Dr. Gumerman opined that Respondent was capable of practicing law and that her mental disorder did not prevent her from doing so. (N.T. 122, 123)

43. Respondent apologized for her misconduct and expressed remorse.

III. CONCLUSIONS OF LAW

By her conduct as set forth above, Respondent violated the following Rules of Professional Conduct and Rules of Disciplinary Enforcement:

1. RPC 5.5(a) - A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction.

2. RPC 5.5(b) - A lawyer shall not practice law in a jurisdiction where to do so would be in violation of regulations of the profession in that jurisdiction.

3. RPC 7.1 - A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.

4. RPC 7.5(b) - A law firm with offices in more than one jurisdiction may use the same name in each jurisdiction, but identification of the lawyer in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.

5. RPC 8.4(c) - It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

6. RPC 8.4(d) - It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

7. Pa.R.D.E. 203(b)(3) - It is grounds for discipline for a lawyer to willfully violate any other provision of the Enforcement Rules, via the Enforcement Rules charged in the subsections below:

a. Pa.R.D.E. 217 (c)(2) - A formerly admitted attorney shall promptly notify, or cause to be notified, of the disbarment, suspension or transfer to inactive status, by registered or certified mail, return receipt requested: (2) all other persons with whom the formerly admitted attorney may at any time expect to have professional contacts under circumstances where there is a reasonable probability that they may infer he or she continues as an attorney in good standing.

b. Pa.R.D.E. 217(d) - Orders imposing suspension, disbarment or transfer to inactive status shall be effective 30 days after entry. The formerly admitted attorney shall not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature.

c. Pa.R.D.E. 217(j)(2) - The only law-related activities that may be conducted [under the direct supervision of a member in good standing of the Bar, as provided in Pa.R.D.E. 217(j)(1)] by a formerly admitted attorney are the following:

(i) legal work of a preparatory nature, such as legal research, assembly of data and other necessary information, and

drafting of transactional documents, pleadings, briefs, and other similar documents;

(ii) direct communication with the client or third parties to the extent permitted by paragraph (3); and

(iii) accompanying a member in good standing of the Bar to a deposition or other discovery matter or to a meeting regarding a matter that is not currently in litigation, for the limited purpose of providing clerical assistance to the member in good standing who appears as the representative of the client.

d. Pa.R.D.E.. 217(j)(3) - A formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except that a formerly admitted attorney may have direct communication with a client or third party regarding a matter being handled by the attorney or firm for which the formerly admitted attorney works only if the communication is limited to ministerial matters such as scheduling, billing, updates, confirmation of receipt or sending of correspondence and messages, and the formerly admitted attorney shall clearly indicate in any such communication that he or she is a legal assistant and identify the supervising attorney.

e. Pa. R.D.E. 217(j)(4)(ii) - (vii) and Pa.R.D.E. 217(j)(4)(ix) - (x) - Without limiting the other restrictions in this subdivision (j), a formerly admitted attorney is specifically prohibited from engaging in any of the

following activities:...(ii) performing any law-related services from an office that is not staffed, on a full time basis, by a supervising attorney; (iii) performing any law-related services for any client who in the past was represented by the formerly admitted attorney; (iv) representing himself or herself as a lawyer or person of similar status; (v) having any contact with clients either in person, by telephone, or in writing, except as provided in paragraph (3); (vi) rendering legal consultation or advise to a client; (vii) appearing on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, hearing officer or any other adjudicative person or body...(ix) negotiating or transacting any matter for or on behalf of a client with third parties or having any contact with third parties regarding such a negotiation or transaction; and (x) receiving, disbursing or otherwise handling client funds.

8. Respondent did not establish by clear and convincing evidence that she suffers from a psychiatric disorder which substantially caused her misconduct. Office of Disciplinary Counsel v. Braun, 553 A.2d 894 (Pa. 1989)

IV. DISCUSSION

This matter is before the Disciplinary Board for consideration of charges against Respondent that she engaged in the unauthorized practice of law in three separate instances during a period when she had been placed on inactive status by the Supreme

Court of Pennsylvania. Two of the incidents involved matters of litigation before the Court of Common Pleas of Philadelphia; one of the parties being represented was Respondent's father. The third incident involved communication relating to a matter arising from a real estate deal in Philadelphia; this matter involved Respondent's nephew and his fiancée.

Respondent, in her pleadings and at the disciplinary hearing before the Hearing Committee, admitted she had engaged in the unauthorized practice of law and admitted that she violated the Rules of Professional Conduct and Rules of Disciplinary Enforcement.

In an effort to mitigate the disciplinary sanction imposed upon her, Respondent offered evidence that she suffered from depression which caused her misconduct. Office of Disciplinary Counsel v. Braun, 553 A.2d 894 (Pa. 1989) In addition to her own testimony regarding difficult family circumstances, Respondent presented the expert testimony of Stephen Gumerman, PhD, a licensed psychologist. Dr. Gumerman was not Respondent's treating psychologist, but rather met with her on one occasion prior to the disciplinary hearing. Based on this meeting Dr. Gumerman diagnosed Respondent with "elevated levels of depression", "an adjustment disorder..with possible dysthymia". (N.T. 105-112, 126) Dr. Gumerman explained that, in his professional opinion, Respondent "relied solely on herself to resolve many of these difficulties during the last several years which seemed to spiral out of control. While she recognizes that she allowed one of the most important aspects of her professional development to lapse, it was not intentional, and most likely a result of her complete and total enmeshment in family and personal

matters". (N.T. 113). The doctor added that "she shut down and just had great difficulty in keeping things together". N.T. 115) Dr. Gumerman's testimony established a causal connection between Respondent's depression and her failure to take CLE credits; however, it did not establish a causal connection between the depression and the unauthorized practice of law, which misconduct is the subject of these disciplinary charges. For these reasons the Board concludes that Respondent did not satisfy the requirements of Braun, as she did not demonstrate that her psychiatric disorder caused her unauthorized practice of law.

The Hearing Committee recommended a suspension of six months based upon its conclusion that Respondent met Braun and was entitled to mitigation. The Board's recommendation is that Respondent be suspended for a period of nine months. While we recognize that prior cases of unauthorized practice of law have resulted in suspension of more than one year, it is the considered opinion of the Board that the instant case does not require a suspension of that length. Respondent has no prior record of discipline; the acts of legal representation were limited; and she expressed sincere remorse and apologized for her violations. A nine month period of suspension fairly and reasonably disciplines Respondent for her professional misconduct and achieves the goals of protecting the public and the integrity of the courts.

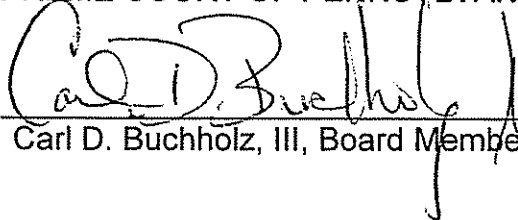
V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Julie Ann Marzano, be suspended from the practice of law for a period of nine months.

It is further recommended that the expenses incurred in the investigation and prosecution of this matter are to be paid by the Respondent.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: 
Carl D. Buchholz, III, Board Member

Date: 5/16/07



THE DISCIPLINARY BOARD
OF THE
SUPREME COURT OF PENNSYLVANIA

First Floor
Two Lemoyne Drive
Lemoyne, PA 17043-1226
(717) 731-7073

May 16, 2007

OFFICE OF DISCIPLINARY COUNSEL	:	
Petitioner	:	
	:	No. 46 DB 2006
	:	
v.	:	Attorney Registration No. 64374
	:	
JULIE ANN MARZANO	:	
Respondent	:	(Philadelphia)

**Expenses Incurred in the Investigation and Prosecution
of the above-captioned proceedings***

03-07-2006	16 Copies of Petition for Discipline	\$ 128.00
03-28-2006	16 Copies of Answer to Petition for Discipline	48.00
05-23-2006	Transcript from Prehearing Conference held on 5/03/2006	303.75
07-05-2006	Transcript from Hearing held on 06/15/2006	1311.50
10-02-2006	16 Copies of Report and Recommendations of Hearing Committee	160.00
10-20-2006	16 Copies of Office of Disciplinary Counsel's Brief On Exceptions	264.00
02-14-2007	Transcript from Oral Argument held on 1/29/2007	630.00
05-16-2007	Administration Fee	<u>250.00</u>
TOTAL AMOUNT DUE		<u>\$3095.25</u>

Make Check Payable to PA Disciplinary Board

PAYMENT IS REQUIRED UPON RECEIPT OF ORDER

* Submitted pursuant to Rule 208(g) of the Pa.R.D.E. and §93.111 of the Disciplinary Board Rules.