

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

IN RE: Attorney Marianne Dugan

Administrative Order
No. 19-AD-026

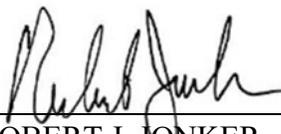
ORDER RE: ATTORNEY SUSPENSION FROM PRACTICE

Attorney Marianne Dugan is a member of the Oregon State Bar. She was admitted to practice before this Court in December of 2011, and has appeared as counsel in two matters. The Court has received information from the Michigan State Bar Attorney Grievance Commission, and the Oregon State Bar that Attorney Dugan is the subject of a stipulated disciplinary Order entered January 30, 2019. The notice and related information, including the Stipulated Order of Discipline is attached as Exhibit A.

Under Local General Rule 2.3(b)(ii), Attorney Dugan is automatically subject to reciprocal discipline in this Court, and may be subject to enhanced discipline, in the discretion of the Court. After reviewing the materials collected at Exhibit A, the Court concludes in its discretion that Attorney Dugan's admission to practice in the Western District of Michigan is **SUSPENDED** until further Order of the Court. Attorney Dugan may seek reinstatement under General Local Rule 2.3(b)(iv) if and when the State Bar of Oregon reinstates her license to practice without any restrictions or conditions. Of course, she may also challenge this Order of discipline directly under General Local Rule 2.3(b)(iii).

Accordingly, Attorney Dugan's admission to practice in the Western District of Michigan is **SUSPENDED** until further Order of the Court.

Date: March 18, 2019



ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE

EXHIBIT A

VICTOR A. FITZ
CHAIRPERSON

VALERIE R. WHITE
VICE-CHAIRPERSON

LATOYA M. WILLIS
SECRETARY

MEMBERS

CATHY JOAN PIETROFESA
JEFFREY J. SAKWA
CHERYL A. BUSH
THOMAS G. KIENBAUM
JAMES WEBB
MARY CHARTIER

STATE OF MICHIGAN



ATTORNEY GRIEVANCE COMMISSION

BUHL BUILDING
535 GRISWOLD, SUITE 1700
DETROIT, MICHIGAN 48226
TELEPHONE (313) 961-6585
WWW.AGCM.ORG

ALAN M. GERSHEL
GRIEVANCE ADMINISTRATOR

ROBERT E. EDICK
DEPUTY ADMINISTRATOR

CYNTHIA C. BULLINGTON
ASSISTANT DEPUTY ADMINISTRATOR

ASSOCIATE COUNSEL

STEPHEN P. VELLA
RHONDA SPENCER POZEHL
EMILY A. DOWNEY
KIMBERLY L. UHURU
DINA P. DAJANI
JOHN K. BURGESS
CHARISE L. ANDERSON
SARAH C. LINDSEY
JORDAN D. PATERRA
NATHAN C. PITLUK
MICHAEL K. MAZUR

RECEIVED-LN

March 8, 2019 12:13 PM
CLERK OF COURT
U.S. DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
BY: _____ pjw _____

March 4, 2019

United States District Court
Western District of Michigan
133 Federal Bldg.
315 W. Allegan St.
Lansing, MI 48933

United States District Court
Theodore Levin U.S. Courthouse
Eastern District of Michigan
231 W. Lafayette Blvd., Room 730
Detroit, MI 48226

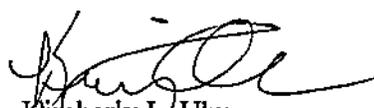
Re: Marianne G. Dugan, Licensed Oregon attorney

Dear Clerks of the Court:

Enclosed for your information please find correspondence from the Oregon State Bar which we received in our offices along with a copy of a recent Stipulation for Discipline and Order signed by the Disciplinary Board Adjudicator involving the above-named member. Our records do not indicate that she is a member of the State Bar of Michigan but she has advised that she is a member of your districts.

Please feel free to contact me with any questions you may have.

Sincerely,


Kimberly L. Uhuru
Senior Associate Counsel

KLU/laa
Enclosures

2/11/2019 11:39:37 000479162

Received DB Clerk

1/30/2019

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

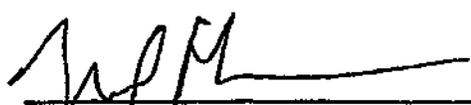
IN THE SUPREME COURT
OF THE STATE OF OREGON

In re the Conduct of: } Case No. 18-187, 18-188, 18-189, & 18-190
MARIANNE G. DUGAN, Bar No. 932563 } ORDER APPROVING STIPULATION FOR
Respondent. } DISCIPLINE

This matter having been heard upon the Stipulation for Discipline entered into by Marianne G. Dugan and the Oregon State Bar, and good cause appearing,

IT IS HEREBY ORDERED that the stipulation between the parties is approved and Marianne G. Dugan is suspended for 30 days, all stayed, pending successful completion of a 1-year term of probation, effective upon the date of this order for violations of RPC 1.15-1(a), RPC 1.15-1(b), and RPC 1.15-1(c).

DATED this 30th day of January, 2019.



Mark A. Turner
Adjudicator, Disciplinary Board

2/11/2019 11:39:38 AM 000475164

1 RPC 1.15-1(a) (duty to safeguard client property and hold client funds separate from the
2 lawyer's own property); RPC 1.15-1(b) (prohibition against depositing a lawyer's own
3 funds into trust beyond bank fees); and RPC 1.15-1(c) (duty to maintain client funds in
4 trust until earned or expenses incurred) of the Rules of Professional Conduct. The parties
5 intend that this stipulation set forth all relevant facts, violations and the agreed-upon
6 sanction as a final disposition of this proceeding.

7

8

Facts

9

5.

10 At all times relevant herein, Dugan had her lawyer trust account at Key Bank ("trust
11 account"), and utilized LawPay online payment portals for the convenience of her clients
12 in paying retainers and bills.

13

6.

14 Prior to May 2018, a recurring client, C.R., made periodic payments to Dugan by
15 credit card for ongoing legal assistance, both through Dugan's LawPay business checking
16 portal and her LawPay trust account portal. In this instance, Dugan instructed C.R. to make
17 a payment for \$810 into the trust account portal, but C.R. mistakenly used the LawPay
18 portal link from an old email and the payment was actually deposited into Dugan's
19 business account on May 14, 2018. Dugan was not aware that C.R. did not follow her
20 instructions because she did not have online access to her trust account.

21

7.

22 On May 16, 2018, Dugan wrote a check for \$810 from her lawyer trust account,
23 intending to transfer C.R.'s payment to her business account.¹ The check was returned by

24

25 ¹ As the payment from C.R. represented payment for services already rendered, it was actually correct that the payment was made directly into Dugan's business account. See RPC 1.15-1(b).

1 pending fees the bank might charge. The \$100 deposit corrected the negative balance
2 and brought the account to \$1,035 (along with another client's \$1,000 deposit the day
3 before).

4
5

Violations

6

13.

7 Dugan admits that, by failing to safeguard the client funds in her trust account and
8 allowing them to be drawn upon with authorization, she violated RPC 1.15-1(a) and RPC
9 1.15-1(c). Dugan further admits that the deposit of her own funds into trust in an amount
10 that exceeded the fees charged in connection with her overdrafts violated RPC 1.15-1(b).

11

12

Sanction

13

14.

14 Dugan and the Bar agree that in fashioning an appropriate sanction in this case,
15 the Disciplinary Board should consider the ABA *Standards for Imposing Lawyer Sanctions*
16 (*"Standards"*). The *Standards* require that Dugan's conduct be analyzed by considering
17 the following factors: (1) the ethical duty violated; (2) the attorney's mental state; (3) the
18 actual or potential injury; and (4) the existence of aggravating and mitigating
19 circumstances.

20

a. **Duty Violated.** Dugan violated her duty to preserve her client's
21 property. *Standards* § 4.1.

22

23

b. **Mental State.** Dugan acted knowingly, that is with the conscious
24 awareness of the nature or attendant circumstances of the conduct
25 but without the conscious objective or purpose to accomplish a
particular result. *Standards* at 9. Dugan was aware that she was

1 for information) where, after she was retained to develop a claim for the
2 wrongful death of his client's daughter, although she initially drafted a
3 demand letter and sent tort claims notices to the appropriate agencies,
4 Dugan then waited nearly two years before taking any further action on the
5 case. During that two-year period, the client made multiple inquiries
6 regarding the status of her case and urging Dugan to take action. Dugan
7 failed to reply to the client's inquiries, apart from a few promises to act
8 within the next few days. *In re Dugan*, 30 DB Rptr 277 (2016).

9 2. Selfish motive. Standards § 9.22(b). Each of the four overdraft
10 notifications stemmed from Dugan's desire to pay herself without taking
11 necessary steps to verify the earned money she was taking was available in
12 the trust account.

13 3. Multiple offenses. Standards § 9.22(d). The Bar received a
14 total of four notifications from Key Bank concerning Dugan's trust account
15 between May 21 and June 11, which represent multiple violations of the
16 identified rules.

17 4. Substantial experience in the practice of law. Standards §
18 9.22(i). Dugan has been a lawyer in Oregon since 1993.

19 5. Indifference to making restitution. Standards § 9.22(j). As of
20 September 2018, Dugan's communications with the Bar demonstrated that
21 she had not taken the time to fully reconcile her accounts (and therefore
22 did not recognize that there were still client funds missing from the trust
23 account), or taken any steps to make her client(s) whole.

24
25

1 attorney transferred approximately thousands of dollars of his own funds into the firm's
2 trust account to correct the depositing error); *In re Eckrem*, 26 DB Rptr 104 (2012)
3 (attorney was suspended for 90 days, all stayed, pending a 180-day probation where
4 client's retainer received via credit-card were deposited directly into an office account
5 rather than a trust account).

6 17.

7 BR 6.2 recognizes that probation can be appropriate and permits a suspension to
8 be stayed pending the successful completion of a probation. *See also, Standards § 2.7*
9 (probation can be imposed alone or with a suspension and is an appropriate sanction for
10 conduct which may be corrected). In addition to a period of suspension, a period of
11 probation designed to ensure the adoption and continuation of better practices will best
12 serve the purpose of protecting clients, the public, and the legal system.

13 18.

14 Consistent with the *Standards* and Oregon case law, the parties agree that Dugan
15 shall be suspended for 30 days for violations of RPC 1.15-1(a); RPC 1.15-1(b); and
16 RPC 1.15-1(c), with all of the suspension stayed, pending Dugan's successful completion
17 of a one (1)-year term of probation. The sanction shall be effective upon approval, or as
18 otherwise directed by the Disciplinary Board ("effective date").

19 19.

20 Probation shall commence upon the effective date and shall continue for a period
21 of one (1) year, ending on the day prior to the 1st year anniversary of the effective date
22 (the "period of probation"). During the period of probation, Dugan shall abide by the
23 following conditions:

24
25

- 1 **(f)** Each month during the period of probation, Dugan shall review all client files
- 2 to ensure that she is timely attending to the clients' matters and that she is
- 3 maintaining adequate communication with clients, the court, and opposing
- 4 counsel.
- 5 **(g)** Each month during the period of probation, Dugan shall:
- 6 **(1)** maintain complete records, including individual client ledgers, of the
- 7 receipt and disbursement of client funds and payments on
- 8 outstanding bills;
- 9 **(2)** review her monthly trust account records and client ledgers and
- 10 reconcile those records with her monthly lawyer trust account bank
- 11 statements; and
- 12 **(3)** sufficiently monitor her trust account to ensure that she does not
- 13 draw upon client funds that are not earned or otherwise owing for a
- 14 particular purpose related to that client's representation.
- 15 **(h)** For the period of probation, Dugan will employ a bookkeeper approved by
- 16 DCO, to assist in the monthly reconciliation of her lawyer trust account
- 17 records and client ledger cards.
- 18 **(i)** Brian Michaels, OSB No. 925607, shall serve as Dugan's probation
- 19 supervisor ("Supervisor"). Dugan shall cooperate and comply with all
- 20 reasonable requests made by her Supervisor that Supervisor, in his or her
- 21 sole discretion, determines are designed to achieve the purpose of the
- 22 probation and the protection of Dugan's clients, the profession, the legal
- 23 system, and the public. Dugan agrees that, if Supervisor ceases to be her
- 24 Supervisor for any reason, Dugan will immediately notify DCO and engage a
- 25 new Supervisor, approved by DCO, within one month.

- 1 in order to obtain practice management advice. Dugan shall notify DCO of
2 the time and date of the appointment.
- 3 (m) Dugan shall attend the appointment with the PLF's Practice Management
4 Advisors and seek advice and assistance regarding procedures for diligently
5 pursuing client matters, communicating with clients, effectively managing a
6 client caseload, and taking reasonable steps to protect clients upon the
7 termination of her employment. No later than thirty (30) days after
8 recommendations are made by the PLF's Practice Management Advisors,
9 Dugan shall adopt and implement those recommendations.
- 10 (n) No later than sixty (60) days after recommendations are made by the PLF's
11 Practice Management Advisors, Dugan shall provide a copy of the Office
12 Practice Assessment from the PLF's Practice Management Advisors and file
13 a report with DCO stating the date of her consultation(s) with the PLF's
14 Practice Management Advisors; identifying the recommendations that she
15 has adopted and implemented; and identifying the specific
16 recommendations she has not implemented and explaining why she has not
17 adopted and implemented those recommendations.
- 18 (o) Dugan shall implement all recommended changes, to the extent reasonably
19 possible, and participate in at least one follow-up review with PLF Practice
20 Management Advisors on or before June 30, 2019.
- 21 (p) On a monthly basis, on dates to be established by DCO beginning no later
22 than thirty (30) days after the effective date, Dugan shall submit to DCO a
23 written "Compliance Report," approved as to substance by her Supervisor,
24 advising whether Dugan is in compliance with the terms of this Stipulation
25 for Discipline, including:

1 is actually imposed Dugan has arranged for Brian Michaels, OSB No. 925607, 259 E 5th
2 Ave., Suite 300D, Eugene, Oregon 97401, an active member of the Bar, to either take
3 possession of or have ongoing access to Dugan's client files and serve as the contact
4 person for clients in need of the files during the term of her actual suspension. Dugan
5 represents that Brian Michaels has agreed to accept this responsibility.

6 21.

7 Dugan acknowledges that reinstatement is not automatic on expiration of any
8 period of suspension, if any stayed period of suspension is actually imposed. If a period
9 of suspension is necessitated by her non-compliance with the terms of her probation, she
10 will be required to comply with the applicable provisions of Title 8 of the Bar Rules of
11 Procedure. Dugan also acknowledges that, should a suspension occur, she cannot hold
12 herself out as an active member of the Bar or provide legal services or advice until she is
13 notified that her license to practice has been reinstated.

14 22.

15 Dugan acknowledges that she is subject to the Ethics School requirement set forth
16 in BR 6.4 and that a failure to complete the requirement timely under that rule may result
17 in her suspension or the denial of her reinstatement, if a suspension is imposed. This
18 requirement is in addition to any other provision of this agreement that requires Dugan
19 to attend continuing legal education (CLE) courses.

20 23.

21 Dugan represents that, in addition to Oregon, she also is admitted to practice law
22 in the jurisdictions listed in this paragraph, whether her current status is active, inactive,
23 or suspended, and she acknowledges that the Bar will be informing these jurisdictions of
24 the final disposition of this proceeding. Other jurisdictions in which Dugan is admitted:
25 Oregon US District Court; US Supreme Court, Federal Circuit, Fed. Court of Claims, DC

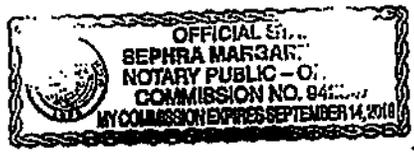
PAGE 14 – STIPULATION FOR DISCIPLINE – MARIANNE G. DUGAN

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

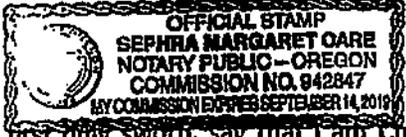
I, Marianne G. Dugan, being first duly sworn, say that I am the Respondent in the above-entitled proceeding and that I attest that the statements contained in the stipulation are true and correct as I verily believe.

Marianne G. Dugan
Marianne G. Dugan

Subscribed and sworn to before me this 21st day of January 2019
December, 2018



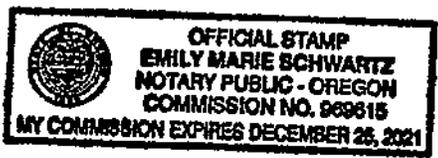
Sephra M. Oare
Notary Public for Oregon
My commission expires: 9/14/2019



I, Amber Bevacqua-Lynott, being first duly sworn, say that I am Chief Assistant Disciplinary Counsel for the Bar and that I attest that I have reviewed the foregoing Stipulation for Discipline and that the sanction was approved by the SPRB for submission to the Disciplinary Board on the 3rd day of November, 2018.

Amber Bevacqua-Lynott
Amber Bevacqua-Lynott, OSB No. 990280

Subscribed and sworn to before me this 23rd day of January 2019
December, 2018



Emily M. Schwartz
Notary Public for Oregon
My commission expires: Dec. 25, 2021