

NEW HAMPSHIRE SUPREME COURT
PROFESSIONAL CONDUCT COMMITTEE

a committee of the attorney discipline system

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Wellman-Ally, Lisa A. advs. Attorney Discipline Office - #20-003/#20-013

**SIX-MONTH SUSPENSION, STAYED FOR ONE YEAR, WITH
CONDITIONS**

On February 16, 2021, the Professional Conduct Committee (“the Committee”) deliberated the Stipulation as to Facts, Violations and Sanction (“the Stipulation,” attached as **Exhibit A**), and the Agreement to Pay Costs of Disciplinary Matter (attached as **Exhibit B**).

The Committee approved the facts as stipulated. It further found that Ms. Wellman-Ally’s conduct violated Rules of Professional Conduct 1.2; 1.4; 3.4; and 8.4(a), as stipulated.

The Committee also concluded that a Stayed Six-Month Suspension With Conditions is appropriate. Its sanction is in accord with the purposes of attorney discipline. *See, e.g., Conner’s Case* 158 N.H. 299, 303 (2009); *Richmond’s Case*, 152 N.H. 155, 159-60 (2005). The sanction is also in accord with the *ABA Standards for Imposing Lawyer Sanctions* (2005) (“Standards”).

Having approved the stipulated sanction, the Committee approved the agreement that Ms. Wellman-Ally shall reimburse the Committee for all costs of investigation and prosecution of this matter.

February 19, 2021

David M. Rothstein
David M. Rothstein
Chair

cc: Elizabeth M. Murphy, Assistant Disciplinary Counsel
Lisa A. Wellman-Ally, Esquire
File

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NEW HAMPSHIRE SUPREME COURT
PROFESSIONAL CONDUCT COMMITTEE

Wellman-Ally, Lisa A. advs. Attorney Discipline Office - #20-003

and

Wellman-Ally, Lisa A. advs. Attorney Discipline Office - #20-013

STIPULATION AS TO FACTS, VIOLATIONS, AND
SANCTION: STAYED SIX-MONTH SUSPENSION
WITH CONDITIONS

Respondent Lisa A. Wellman-Ally, Esq., and the Attorney Discipline Office (ADO) stipulate as follows:

A. Facts

Background

1. Lisa A. Wellman-Ally ("Ms. Wellman-Ally") is an attorney licensed to practice law in New Hampshire. Ms. Wellman-Ally was admitted to the New Hampshire Bar on October 28, 2002.
2. Ms. Wellman-Ally has also been admitted to practice law in Vermont (admitted on June 16, 2003) and in New York (admitted in 1990). She is currently on active status in both states.
3. At all times material to this proceeding, Ms. Wellman-Ally practiced law at Wellman-Ally Law, PLLC, 98 Charlestown Road, Suite 1, Claremont, NH 03743.

4. Ms. Wellman-Ally has a prior disciplinary history. She was issued a public censure for violations of Rules 1.1, 1.3, 1.4 and 8.4(a) on December 11, 2018 in the matter, *Wellman-Ally, Lisa A. advs. ADO - #18-027*.
5. These disciplinary matters were initiated by a letter of complaint dated December 28, 2019 filed by Hayley Goncalves (“Goncalves matter”) and a referral dated June 29, 2020 filed by Theodore H. Parent, Esquire (“Jordan matter”).

#20-003 Goncalves Matter

6. The Goncalves matter arises out a complaint filed by Ms. Wellman-Ally’s client, Haley Goncalves (“Ms. Goncalves”) dated December 28, 2019 and received by the ADO on January 7, 2020, alleging that Ms. Wellman-Ally did not consider her concerns prior to agreeing to a parenting plan.
7. Ms. Wellman-Ally represented Ms. Goncalves in a disputed parenting matter in the 8th Circuit Court-Keene Family Division (the “Court”) entitled *In the Matter of Hayley Goncalves and Burton Bolton, Jr.*, Case No. 213-2009-DM-00555. The parties have been to Court numerous times since 2009 requesting changes to the parenting plan. Ms. Wellman-Ally first filed an Appearance for Ms. Goncalves in 2011.
8. On May 16, 2019, the parties attended a mediation regarding the parenting plan. After agreeing upon a few things, the mediation ended when Burton Bolton (“Mr. Bolton”) abruptly left the mediation.

9. On that same day, the mediator filed a report with the Court stating: “Case did not settle; court to schedule next hearing.” A hearing was scheduled for June 4, 2019.

10. On May 20, 2019, Mr. Bolton’s attorney, Kelly E. Dowd (“Mr. Dowd”) wrote to Ms. Wellman-Ally stating:

This email is for settlement purposes only.

It seemed we got far last week, but then we could not reach an agreement on exchanges/transportation.

I have attempted to write up provisions of our discussions with the exception of the transportation provisions. My client has authorized me to extend the following as a partial settlement of the matter, leaving solely the issue of transportation provision to the trial court. If this is acceptable, let me know, you and your client can sign the parenting plan, and I will get my client to sign and submit to the Court.

11. On that same day, Ms. Wellman-Ally forwarded Mr. Kelly’s email to Ms. Goncalves writing: “Look this over and we can discuss it.”

12. At some time thereafter, Ms. Goncalves called Ms. Wellman-Ally to express her disagreement with the plan’s summer schedule.

13. On May 30, 2019, Ms. Goncalves emailed Ms. Wellman-Ally stating: “Lol For some reason I thought today was the 4th so I took the day off & spent it getting copies of all incidents! Dated & itemized! You’ll be proud haha!”

14. On June 2, 2019, Ms. Wellman-Ally emailed Mr. Dowd stating: “For transportation, would your client agree to either switch-my client transports on Friday and your client transports on Sunday or agree to a

half way meeting point both times. The rest of the parenting plan was ok.”

15. Ms. Wellman-Ally replied to Ms. Goncalves’ May 30, 2019 email on June 3, 2019 at 8:53 a.m. writing:

I have looked over the parenting plan based upon what we talked about in mediation. I think that it will work for you because it addresses all of the issues that you had about the parenting plan. The only issue is the transportation, what about you transport on Friday and he transport on Sunday?

16. On June 3, 2019 at 10:08 a.m., Mr. Dowd replied to Ms. Wellman-Ally’s suggestion in her June 2nd email stating:

I believe the following comports with your suggestion below. If this is agreeable to your client, let me know. I can notify the Court that we have settled, and I can probably get Rusty’s signature tomorrow and drop it at your office for signature by you and your client.

17. After receiving Mr. Dowd’s response, Ms. Wellman-Ally forwarded the email to Ms. Goncalves at 10:12 a.m. stating: “This should resolve all issues.”

18. Ms. Wellman-Ally replied to Mr. Dowd’s email at 12:58 p.m. stating: “Couldn’t tell if my response went through. I’m at court, do you want me to tell them it’s settled[?]” Mr. Dowd replied: “Please advise the Court that its settled. I think you will have to file a motion to continue, and if so, I assent.” Ms. Wellman-Ally responded: “I filed a motion to continue.”

19. The Motion to Continue stated in relevant part:

1. The parties have reached an agreed-upon parenting plan. The plan is being circulated for signature.

2. The parties request two weeks to submit the parenting plan.
 3. The parties and counsel request that the hearing be continued.
20. A court assistant emailed the parties at 3:19 p.m. stating: "Tomorrow's 11am hearing has been continued. I will send new hearing notices out within the next few days." That evening, Ms. Wellman-Ally emailed Ms. Goncalves writing: "We have cancelled court tomorrow in the hopes that we are going to have an agreement."
21. Ms. Goncalves responded the following day:
- I have at least 2 text messages printed out where I offered Burton Bolton extra time & he refused! There is not one single text message to show from either party where he requested extra time! I'm not even going to consider his parenting proposal until he reimburses ½ of what I've already spent! \$750.00 he owes us! You can keep it! This is a joke & I'm not putting another ounce of energy into this! I really appreciate your support & sanity but this shit's gone too far just for him to back out now!
22. Ms. Goncalves assumed that it was the opposing party that requested the continuance of the hearing, not Ms. Wellman-Ally.
23. Mr. Bolton signed the parenting plan on June 4, 2019 and it was delivered to Ms. Wellman-Ally's office that day.
24. On June 4, 2019, Ms. Goncalves sent an email asking about whether there was a new parenting plan.
25. Ms. Wellman-Ally replied Ms. Goncalves stating: "You do not have a new parenting plan yet, it has not been fully executed nor approved by the Court. The existing parenting plan remains in effect." Ms. Goncalves

and Ms. Wellman-Ally then exchanged emails regarding summer camp and pick up and drop offs for Friday games.

26. On June 10, 2019, Ms. Wellman-Ally informed Mr. Dowd via email that “My client has not yet signed the new parenting plan, it appears that she has had a change of mind about it. I am working with her and need to meet with her in person to try to get her back on track.”

27. On that same day, Mr. Dowd responded:

I am confused. My client communicated with Haley attempting to coordinate the summer weeks so that Haley’s weeks coincide with soccer camp in Keene, and also to set up vacation time in advance. Haley indicates she is not going to sign anything, etc. etc. . . .

Based on our communications, I understood that the case had completely settled, and we took the matter off the docket based on that impression.

I am asking for a status update on whether you [sic] client has signed the parenting plan, and whether it has been submitted to the Court, and about dealing with the weeks in summer and vacation week in a civilized manner.

28. In subsequent discussions between Mr. Dowd and Ms. Wellman-Ally, Ms. Wellman-Ally advised that Ms. Goncalves was not willing to sign the parenting plan.

29. On June 21, 2019, Ms. Wellman-Ally emailed Ms. Goncalves stating:

Can you meet with me on Monday afternoon so we can go over the parenting plan together and discuss the areas of disagreement. I would like to do it in person so we are on the same page. I have court at 1:30 so could you meet me after that in Keene?

30. On July 12, 2019, Mr. Dowd filed a Motion to Enforce Agreement and Request for Attorney’s Fees (the “Motion”) against Ms. Goncalves. The

Motion outlined the communications between Mr. Dowd and Ms. Wellman-Ally as set forth above.

31. On July 15, 2019, Ms. Wellman-Ally filed a “Motion to Schedule Hearing” stating in relevant part, “Upon reviewing the final version of the parenting plan, the Petitioner no longer believes that the terms are acceptable nor in the best interest of [minor child]. As such, she has elected not to proceed with the settlement.” She further requested that a hearing be scheduled in the matter.
32. On September 5, 2019, at the hearing on Mr. Bolton’s Motion to Enforce, Ms. Goncalves learned that it was Ms. Wellman-Ally that filed the motion to continue.
33. By Order dated September 12, 2019, the Court granted the Motion and approved the Parenting Plan without Ms. Goncalves’s signature and without the approval of the GAL. The Court denied Mr. Bolton’s request for attorneys’ fees. The Court Order noted that Ms. Wellman-Ally did not dispute the emails that were quoted in the Motion.
34. The Court found in relevant part:

Here, the Court finds that the parties had been engaged in negotiations, and that the petitioner was aware of the issues, and aware of the communications taking place between her counsel and opposing counsel. There is no evidence to suggest that counsel was not authorized to enter into the settlement.

Counsel for the petitioner filed an assented to motion to continue a scheduled final hearing representing that the parties had reached an agreed-upon parenting plan which was being circulated for signature.

The Court finds that subsequent to reaching an agreement on behalf of her client, for which she was authorized, the petitioner essentially changed her mind, and seeks to retract her agreement. It is exactly this type of circumstance which the law, as reflected in the cases cited above, seeks to deter.¹

35. Ms. Goncalves and Ms. Wellman-Ally decided to file a Rule 7 Notice of Discretionary Appeal with the New Hampshire Supreme Court with respect to the Court's September 12, 2019 decision. The issues for appeal were:

1: Whether an attorney has the authority to bind a parent to a modification of a parenting plan when said party has not signed the parenting plan and has rejected its terms. 2. Is a parenting plan effective without approval of the GAL.

36. The Supreme Court declined to accept the appeal.
37. On October 22, 2019, Ms. Wellman-Ally wrote to Ms. Goncalves explaining that the new parenting plan addressed some issues in her favor that had been the subject of past disputes.
38. On December 8, 2019, Ms. Goncalves sent an email inquiring about why Ms. Wellman-Ally had chosen to cancel the hearing and requesting a copy of her file.
39. Ms. Wellman-Ally responded in relevant part:

I will get your file copied. I can send it to you to save you the trip. The parenting plan reflected what had been agreed upon at mediation, thus it was my belief that it was acceptable to you and that it only needed to be circulated for execution so that a hearing was not necessary. If I somehow misunderstood that you were not in agreement with what had been agreed upon in mediation, that may be a basis to

¹ Ms. Wellman-Ally did not confirm with her client that she was still in agreement with the terms of the mediation including aspects of the summer schedule and the proposal on the weekend transportation issue before filing the Motion to Continue.

seek to modify the parenting plan. If you have a new attorney, I can also forward you [sic] file to them, just let me know.

40. Ms. Goncalves subsequently retained other counsel.
41. At this time, the parenting plan remains in effect.

#20-013 Jordan Matter

42. This matter arises from a June 29, 2020 referral filed by Theodore H. Parent, Esq. ("Mr. Parent"). Mr. Parent represented Amanda J. Scherlin ("Ms. Scherlin") in post-divorce proceedings against Nino M. Jordan, Jr. ("Mr. Jordan"). Ms. Wellman-Ally represented Mr. Jordan. Mr. Parent alleges that Ms. Wellman-Ally did not comply with a Court order.
43. The couple originally divorced on October 23, 2010. Thereafter, there were numerous post-divorce proceedings. Many of the proceedings involved Mr. Jordan's relationship with his children.
44. In 2017, the children expressed strong feelings that they wanted to have no further relationship with Mr. Jordan.
45. Pursuant to a November 13, 2018 order of the Court, the parties and their children participated in and completed a child-centered family evaluation, conducted by Dr. Benjamin Garber.
46. The purpose of the evaluation was to determine whether the deterioration of the relationship was caused by parental alienation by Ms. Scherlin, or was caused by Mr. Jordan's own actions. The evaluation and the resulting report were prepared for use by the Court as part of a request to change the parenting schedule.

47. Dr. Garber's evaluation resulted in a lengthy and detailed 72-page report addressing many private matters about Ms. Scherlin, Mr. Jordan, and the parties' children.

48. On February 28, 2019, Ms. Scherlin, through counsel, filed an Assented to Motion Re: Dr. Garber's Report. The Assented to Motion stated as follows:

1. The Court has ordered Dr. Benjamin Garber to do a report in this matter.
2. Dr. Garber has spoken with the parties, their children, and is in the process of preparing his report.
3. The Court's order requires Dr. Garber's report to be delivered under seal directly to the Court.
4. However, obviously both parties are going to need copies of the report in order to prepare for hearing.
5. Lisa Wellman-Ally, attorney for Nino Mr. Jordan, Jr. assents to this Motion.

Wherefore Amanda Scherlin respectfully requests that the Honorable Court:

- A. Order that Dr. Garber shall provide copies by mail (and not electronically) to counsel for both parties at approximately the same time as he delivers a copy of his report, under seal, to the Court.
- B. Order counsel not to release the reports outside of their respective offices. Their respective clients may review the report only in counsel's office.
- C. Order counsel to not disseminate the report, nor to make further copies. However, counsel is authorized to make a "working copy" for the purpose of making notes, preparing for hearing, and the like, provided that those working copies remain in counsel's control.
- D. Grant such other and further relief as may be equitable and just.

49. The Court granted the Assented to Motion on March 8, 2019.

50. On April 29, 2019, the Court issued a Further Temporary Decree on Respondent's Petition to Change Court Order; Petitioner's Cross-Motion to Suspend and Modify Parenting Time. In that Order, the Court specifically ordered, in relevant part, as follows:

Dr. Garber's complete report may be released to Mr. Jordan's individual therapist and to the family therapist who is engaged for the purpose of providing family therapy to Mr. Jordan and the minor children. Mr. Jordan and Ms. Scherlin shall communicate to the therapists that no copies of Dr. Garber's report should be made or disseminated.

51. At some time thereafter, Mr. Jordan had an appointment with his individual counselor. The counselor was located in Keene, New Hampshire and had not yet received a copy of Dr. Garber's report although per the Court's orders, she was entitled to a copy. Mr. Jordan works in Walpole, New Hampshire and Ms. Wellman-Ally's office is in Claremont, New Hampshire.

52. On the day of the appointment, Ms. Wellman-Ally placed a copy of Dr. Garber's report into an envelope for Mr. Jordan to pick up and hand-deliver to his individual counselor in Keene. Ms. Wellman-Ally has explained that at the time it seemed like an efficient method for the counselor to get the report she was entitled to, sooner rather than later.

53. The Court's orders also required the parties to meet with a family counselor. The family counselor would also have been entitled to receive a copy of Dr. Garber's report once he or she was engaged as the counselor. Two family counselors were engaged but eventually turned down the matter.

54. Mr. Jordan contacted a third potential family counselor, James Esposito (“Mr. Esposito”), about handling the matter. Ms. Esposito then contacted Ms. Scherlin expressing some interest in taking on the matter. During their conversation, Mr. Esposito indicated that he had received an electronic copy of the report from “Nino’s Dropbox.”
55. Mr. Parent called Ms. Wellman-Ally about the matter and inquired how Mr. Jordan had obtained a copy of the report. Ms. Wellman-Ally initially stated that she did not know but then explained that she had given a hard copy of the report for Mr. Jordan to deliver to his individual counselor.
56. At this time, Mr. Jordan claims that he has deleted his copy of the report. However, Ms. Scherlin was extremely upset by the situation and cannot be assured that Mr. Jordan does not still have a copy of the report either electronically or in paper. Ms. Scherlin views this as an invasion of her privacy and that of her [REDACTED]
57. On April 9, 2020, Mr. Parent, on his client’s behalf, filed a Motion for Contempt and Request for Evidentiary Hearing arising out of the incident. In the Motion for Contempt, Ms. Scherlin asserts that Ms. Wellman-Ally will be called a witness to inquire as to whether or not, she gave Mr. Jordan as copy of the report. On April 15, 2020, Ms. Wellman-Ally filed an Objection to Motion for Contempt.
58. A hearing on the issue was originally scheduled for October 23, 2020 but has been continued and has not yet been rescheduled.

59. Mr. Jordan has since retained other counsel, James Steiner, Esq., to represent him.
60. Ms. Wellman-Ally agrees that she should not have provided Mr. Jordan with a copy of the report to provide to his individual counselor because the Court had ordered otherwise and there was a foreseeable potential that Mr. Jordan would have the opportunity to copy or even alter the report, if he was provided with a copy.

B. Disciplinary Rules Violated

61. The parties agree that Ms. Wellman-Ally's conduct in this case involves violations of the New Hampshire Rules of Professional Conduct, as follows:

Rule 1.2: Scope of Representation

62. The facts set forth at ¶¶ 1-60 above are incorporated by reference.
63. Rule 1.2, in relevant part, states as follows:
 - (a) Subject to paragraphs (c), (d), and (e), a lawyer shall abide by a client's decisions concerning the objectives of representation, and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.
64. Ms. Wellman-Ally had a duty to seek her client's authorization prior to entering into a settlement agreement.
65. Ms. Wellman-Ally failed to consult with her client regarding the weekend transportation issue, and to obtain express approval from her client

regarding the weekend transportation issue and the final terms of the parenting plan

66. The parties agree that there is clear and convincing evidence that Ms. Wellman-Ally's conduct violates Rule 1.2(a).

Rule 1.4: Communication

67. The facts set forth at ¶¶ 1-60 above are incorporated by reference.

68. Rule 1.4 states as follows:

(a) A lawyer shall:

- (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent 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 the legal and practical aspects of a matter and alternative courses of action to the extent that such explanation is reasonably necessary to permit the client to make informed decisions regarding the representation.

69. Ms. Wellman-Ally had a duty to communicate with her client.

70. Ms. Wellman-Ally did not confirm with her client that Ms. Wellman-Ally's proposed resolution of the weekend transportation issue would be acceptable to her before she suggested it to opposing counsel and did not confirm that her client was still in agreement with the parenting plan as

discussed at the mediation before she requested the continuance of the hearing.

71. The parties agree that there is clear and convincing evidence that Ms. Wellman's Ally's conduct violates Rule 1.4.

Rule 3.4: Fairness to Opposing Party and Counsel

72. The facts set forth at ¶¶ 1-60 above are incorporated by reference.
73. Rule 3.4 states as follows:

A lawyer shall not:

- (a) unlawfully obstruct another party' s access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act;
- (b) falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;
- (c) knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists;
- (d) in pretrial procedure, make a frivolous discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party;
- (e) in trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused; or
- (f) request a person other than a client to refrain from voluntarily giving relevant information to another party unless:
 - (1) the person is a relative or an employee or other agent of a client; and

(2) the lawyer reasonably believes that the person's interests will not be adversely affected by refraining from giving such information.

74. Ms. Wellman-Ally had a duty to comply with orders of the Court.
75. Ms. Wellman-Ally violated that duty when she provided Mr. Jordan with a copy of Dr. Garber's report to provide to his individual counselor.
76. The parties agree that there is clear and convincing evidence that Ms. Wellman-Ally's failure to comply with the Court order violates Rule 3.4(c).

Rule 8.4(a): General Rule

77. The parties agree that as a result of the foregoing violations, there is clear and convincing evidence that Ms. Wellman-Ally's conduct, as described herein, violated N.H. R. Prof. Conduct 8.4(a).

C. Recommended Sanction

78. The Attorney Discipline Office and Ms. Wellman-Ally jointly agree that a stayed six-month suspension is the appropriate sanction in this matter. This sanction would serve the purposes of attorney discipline.
79. Both case law and the American Bar Association's *Standards for Imposing Lawyer Sanctions* (2005) ("*Standards*") support this sanction.
80. The purpose of the Court's disciplinary power is "protecting the public, maintaining public confidence in the bar, preserving the integrity of the legal profession, and preventing similar conduct in the future." *Conner's Case*, 158 N.H. 299, 303 (2009). "The sanction...must take into account the severity of the misconduct." *Coffey's Case*, 152 N.H. 503, 513 (2005).

81. Although the Court has not adopted the *Standards*, it looks to them for guidance. *Conner's Case*, 158 N.H. at 303. The *Standards* set forth a four part analysis for courts to consider in imposing sanctions: "(a) the duty violated; (b) the lawyer's mental state; (c) the potential or actual injury caused by the lawyer's misconduct; and (d) the existence of aggravating or mitigating factors." *Id.* (quoting *Douglas' Case*, 156 N.H. 613, 621 (2007)); *Standards* § 3.0.
82. The first three parts of the analysis create the framework for characterizing the misconduct and determining a baseline sanction. *See Conner's Case*, 158 N.H. at 303 (stating that "[i]n applying these factors, the first step is to categorize the respondent's misconduct and identify the appropriate sanction"). Once the baseline sanction is determined, the Court then looks to the fourth and final part of the analysis: the existence of any aggravating or mitigating factors, and whether they affect the baseline sanction. *See id.* (stating that "[a]fter determining the sanction, [the Court] consider[s] the effect of any aggravating or mitigating factors on the ultimate sanction").
83. Under the first prong of the analysis, in the *Goncalves* matter, Ms. Wellman-Ally owed a duty of diligence to her client to communicate with her and consult with her before making any final decisions on her matter. In the *Jordan* matter, Ms. Wellman-Ally owed a duty to the legal system to comply with the Court's orders. *See Standards* §§ 4.4 and 6.2.

84. With respect to Ms. Wellman-Ally's mental state under the second prong of the sanction analysis, the parties agree that Ms. Wellman-Ally's mental state was negligent in Goncalves matter and knowing in the Jordan matter. In the Goncalves matter, Ms. Wellman-Ally had worked on Ms. Goncalves' case for a number of years and had worked through a number of issues with her. She believed that her proposal was reasonable and one that Ms. Goncalves would be able to agree to. She acted negligently when she failed to clearly confirm Ms. Goncalves' assent to the proposal and the terms of the parenting plan. In the Jordan matter, Ms. Wellman-Ally was well-aware of the Court's order and had assented to a Motion with respect to dissemination of Dr. Garber's report. Her mental state was knowing.
85. The third prong of the sanction analysis requires an assessment of the actual or potential injury caused by Ms. Wellman-Ally's misconduct.
86. In the Goncalves matter, Ms. Wellman-Ally's conduct caused injury and potential injury because Ms. Goncalves is required to abide by a parenting plan that she did not entirely agree with and the GAL's point of view was not considered. Ms. Goncalves had paid to obtain the GAL's evaluation. Ms. Goncalves lost her opportunity for a hearing on the matter.
87. In the Jordan matter, Ms. Wellman-Ally caused injury to Ms. Scherlin's privacy rights and that of her children when Ms. Wellman-Ally provided Mr. Jordan with a copy of the report. Additionally, there was a potential

injury that Mr. Esposito, who had not yet been approved by the Court to receive the report, could have received a report that was altered in some way.

88. The parties agree that the baseline sanction in this matter is a public censure for the Goncalves matter and a suspension for the Jordan matter. *See Standards* §§ 4.43 and 6.22.
89. Ms. Wellman-Ally's Rule 1.2 and 1.4 violations implicate Section 4.4 of the *Standards*. That Section provides:

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving a failure to act with reasonable diligence and promptness in representing a client:

4.41 Disbarment is generally appropriate when:

- (a) a lawyer abandons the practice and causes serious or potentially serious injury to a client; or
- (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or
- (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious 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.

4.43 Reprimand² [public censure] is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.

² The term "admonition," as used in the *ABA Standards*, is analogous to a reprimand in New Hampshire. The term "reprimand," as used in the *ABA Standards*, is analogous to a public censure in New Hampshire.

4.43 Admonition [reprimand] is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes little or no actual or potential injury to a client.

(emphasis added).

90. Ms. Wellman-Ally's conduct in this matter, when considered under *Standard* 4.44, would call for a baseline sanction of a public censure.

91. Ms. Wellman-Ally's Rule 3.4(c) violation implicates Section 6.2 of the *Standards*. That Section provides:

Absent aggravating or mitigating circumstances, upon application of the factors set out in *Standard* 3.0, the following sanctions are generally appropriate in cases involving failure to expedite litigation or bring a meritorious claim, or failure to obey any obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists:

6.21 Disbarment is generally appropriate when a lawyer knowingly violates a court order or rule with the intent to obtain a benefit for the lawyer or another, and causes serious injury or potentially serious injury to a party or causes serious or potentially serious interference with a 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.

6.23 Reprimand [public censure] 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.

6.24 Admonition [reprimand] is generally appropriate when a lawyer engages in an isolated instance of negligence in complying with a court order or rule, and causes little or no actual or potential injury to a party, or causes little or no actual or potential interference with a legal proceeding.

(emphasis added).

92. Ms. Wellman-Ally's conduct in this matter, when considered under *Standard 6.22*, would call for a baseline sanction of suspension.
93. The baseline sanction must be considered in light of any aggravating and mitigating factors. *E.g., Conner's Case*, 158 N.H. at 303.
94. In this case there are two aggravating factors present: Ms. Wellman-Ally prior disciplinary history and her substantial experience in the practice of law. *See Standards § 9.22*. In the matter of *Wellman-Ally, Lisa A. advs. ADO - #18-027*, Ms. Wellman-Ally was issued a public censure on December 11, 2018 for violations of Rules 1.1, 1.3, 1.4 and 8.4(a) for her failure carefully review the terms of her client's guilty plea and sentencing prior to providing information to her client about the issue.
95. Mitigating factors include: the absence of a dishonest or selfish motive, full and free disclosure to the ADO and a cooperative attitude toward proceedings and remorse. *See Standards § 9.32*.
96. Ms. Wellman-Ally has explained that both matters to some degree were as a result of a lack of diligence on her part due to a lack of staffing in her office. Given that the incidents that gave rise to both of those matters occurred in approximately the same 2019 time-frame, the parties agree that a period of monitoring is appropriate so that Ms. Wellman-Ally can address these issues.
97. As such, the parties agree that given the baseline sanction, and consideration of aggravating and mitigating circumstances, a six-month

suspension, stayed for one year, serves the purposes of discipline and is an appropriate sanction in this case.

D. Conditions of Imposed Discipline and Procedures For Alleged Violation of Conditions

98. Ms. Wellman-Ally agrees to comply with the following conditions for one year, which shall begin on the date the Professional Conduct Committee accepts this Stipulation:
- a. Respondent shall supply Disciplinary Counsel with quarterly reports, with the first report to be provided to Disciplinary Counsel within 60 days of the date that the Professional Conduct Committee accepts the Stipulation, and subsequent reports thereafter at quarterly intervals/deadlines thereafter as set forth by the ADO. The reports shall set forth in detail the steps Ms. Wellman-Ally is taking to manage her staffing issues and her case load. She will provide detailed information regarding the implementation of those improvements to the ADO for approval. The quarterly reports shall be submitted directly to Disciplinary Counsel by Ms. Wellman-Ally.
 - b. Respondent shall pay the expenses incurred by the Professional Conduct Committee in connection with this investigation and prosecution, and if unable to pay in lump sum, shall agree to some form of payment plan with the PCC within 60 days of receiving an invoice from the PCC.

c. Respondent will engage in no professional misconduct during the one year period.

99. If it is alleged that Ms. Wellman-Ally violated any of the conditions enumerated at Paragraph 98 above, the following shall apply:

(a) Upon motion by Disciplinary Counsel, the Professional Conduct Committee may determine whether any of the conditions enumerated at Paragraph 98 have been violated. If it determines that a condition has been violated, the Committee may lift the stay and impose a six-month suspension. If the Committee determines that no condition of this Stipulation has been violated, the Stipulation shall continue in force and effect pursuant to its terms.

(b) Respondent may request that the Professional Conduct Committee remand the matter to the Hearings Committee so that a Hearing Panel may be appointed to decide the sole issue of whether a condition under Paragraph 98 of this Stipulation has been violated. During such hearing, it shall be the burden of Disciplinary Counsel to demonstrate by a preponderance of evidence that a condition listed in Paragraph 98 has been violated.

(c) If a Hearing Panel determines that a condition has been violated, the Panel shall report the same and the Committee may impose a six-month suspension. If the Hearing Panel determines that no condition of the Stipulation has been violated, the Stipulation shall

continue in force and effect pursuant to its terms. The PCC shall review the decision of the Hearing Panel.

100. If a new grievance or referral is filed against Ms. Wellman-Ally during the one-year period of the stay, thus implicating the condition at Paragraph 98(c), the following shall apply:

- (a) So long as a grievance or referral is filed within the one-year period of the stay (“the subsequent proceeding”), and the alleged misconduct occurred, at least in part, during the one-year period, the stay can be lifted and the six-month suspension may be imposed at such time as there is a finding of misconduct in the subsequent proceeding, even if such finding occurs beyond the one-year period of the stay.
- (b) Pending the final resolution of the subsequent proceeding, the matter underlying this Stipulation shall not be closed.
- (c) If the conditions of Paragraph 98(a)-(b) have been met, Ms. Wellman-Ally will not have to continue to comply with those provisions while the subsequent proceeding is pending.
- (d) The Respondent shall bear all costs associated with compliance and enforcement of the terms and conditions of this Stipulation.
- (e) Nothing herein shall be construed to limit prosecution of any new grievance or referral involving conduct of Respondent occurring during the one year period of stay.

- (f) If a grievance or referral is filed within the one-year period of the stay, Ms. Wellman-Ally shall provide written notice to Disciplinary Counsel within thirty (30) days of receipt of notice of the grievance or referral, *time being of the essence*, along with supporting information or documentation.

E. Costs

101. Subject to the PCC's approval of Ms. Wellman-Ally's Stipulation, Ms. Wellman-Ally agrees to pay the costs incurred by the ADO in the investigation and enforcement of this disciplinary matter. See Supreme Court Rule 37(19). Her agreement to pay the costs incurred by the ADO is the subject of a separate agreement signed by Ms. Wellman-Ally.

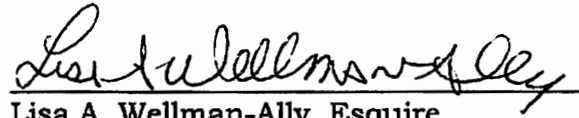
F. Effect of Stipulation

102. Ms. Wellman-Ally understands that this Stipulation represents a recommended disposition, and that the PCC may accept, reject, or conditionally accept the Stipulation pursuant to Rule 37A(III)(aa)(1).
103. Ms. Wellman-Ally acknowledges that the admissions of misconduct and the proposed disposition contained in this Stipulation are freely, knowingly, and voluntarily submitted; that she is not entering this Stipulation as a result of any threats, coercion, or duress, or of any promises or inducements not set forth in the Stipulation
104. Ms. Wellman-Ally understands that she has a right to obtain counsel regarding this Stipulation and, that she is fully aware of the consequences of the Stipulation.

105. Ms. Wellman-Ally knowingly and intelligently waives her right to a hearing.

Respectfully submitted,

Dated: December 7, 2020



Lisa A. Wellman-Ally, Esquire
Respondent

Dated: December 7, 2020

By: /s/ Elizabeth M. Murphy
Elizabeth M. Murphy
Assistant Disciplinary Counsel

NEW HAMPSHIRE SUPREME COURT
PROFESSIONAL CONDUCT COMMITTEE

Wellman-Ally, Lisa A. advs. Attorney Discipline Office - #20-003

and

Wellman-Ally, Lisa A. advs. Attorney Discipline Office - #20-013

AGREEMENT TO MANDATORY CONDITIONS AND
PROCEDURE FOR ALLEGED VIOLATION OF
CONDITIONS

Lisa A. Wellman-Ally, Esquire (hereinafter "Respondent") and Elizabeth M. Murphy, Assistant Disciplinary Counsel, on behalf of the Attorney Discipline Office ("ADO"), hereby enter into the following Agreement (hereinafter "Agreement"):

1. The Respondent was admitted to the Bar of the New Hampshire Supreme Court on October 28, 2002 (Bar number 15386). Respondent is subject to the jurisdiction of the New Hampshire Supreme Court in these proceedings.
2. The Respondent enters into this Agreement freely, intelligently and voluntarily, and understands the consequences of this Agreement.
3. This Agreement is a product of the Respondent's personal decision, and the Respondent affirms that she has been subjected to no coercion or other intimidating acts by any person or agency concerning this matter.
4. The Respondent is familiar with the rules of the New Hampshire

Supreme Court (“Court”) regarding the procedures for discipline of attorneys and with her rights under those rules. N.H. Sup. Ct. R. 37 and 37A.

5. Respondent understands that this Agreement, subject to approval by the Professional Conduct Committee (“PCC”) and, is in accordance with Rule 37(3)(c)(3) and Rule 37A(d)(2)(D)(ii).
6. The underlying complaint in this matter involves allegations that Respondent engaged in professional misconduct by violating rules 1.2(a), 1.4 and 3.4(c) pertaining to Scope of Representation, Communication and Fairness to Opposing Party and Counsel.
7. As part of this Agreement, Respondent shall sign the Stipulation as to Facts, Rule Violations and Sanction.
8. Respondent agrees that, in the event she fails to comply with the terms of this Agreement, the factual admissions and admissions of Rule Violations contained in the Stipulation as to Facts, Rule Violations and Sanction shall be deemed true in any subsequent disciplinary proceedings.
9. The Respondent acknowledges that she has the right to a full and complete evidentiary hearing in this matter. At any such hearing, Respondent would have the right to be represented by counsel, present evidence, call witnesses, and cross-examine the witnesses presented by Disciplinary Counsel. The Respondent understands that at such evidentiary hearing, Disciplinary Counsel would bear the burden of

proving each material allegation of fact by clear and convincing evidence. Nonetheless, having full knowledge of her right to such evidentiary hearing, the Respondent waives that right.

10. Respondent understands and agrees that, in the event she fails to comply with any term or condition of this Agreement, the Agreement shall be terminated.
11. Respondent agrees to the following terms and conditions for a period of one year, or as long as it takes to complete the conditions set forth herein, beginning on the date that the PCC approves the Stipulation and Agreement to Mandatory Conditions:
 - A. Respondent shall provide Disciplinary Counsel with written quarterly reports which set forth in detail the steps Ms. Wellman-Ally is taking to manage her staffing issues and her case load. She will provide detailed information regarding the implementation of those improvements to the ADO for approval.
 - B. Respondent shall pay the expenses incurred by the Professional Conduct Committee in connection with this investigation and prosecution of this matter.
 - C. For a period of one year, beginning on the date the Court approves the Agreement, Respondent shall not engage in any further professional misconduct.
12. If it is alleged that Respondent violated any of the conditions enumerated at paragraph 11 above, the following shall apply:

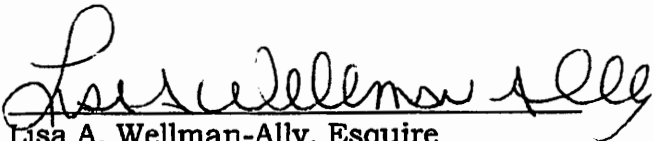
- A. Upon motion by Disciplinary Counsel, the Court may determine whether any of the conditions enumerated at paragraph 11 have been violated. If it determines that a condition has been violated, the PCC may lift the stay and impose a six-month suspension. If the PCC determines that no condition of this Stipulation has been violated, the Stipulation shall continue in force and effect pursuant to its terms.
 - B. Respondent may request that the Professional Conduct Committee remand the matter to the Hearings Committee so that a Hearing Panel may be appointed to decide the sole issue of whether a condition under paragraph 11 of this Agreement has been violated. During such hearing, it shall be the burden of Disciplinary Counsel to demonstrate by a preponderance of evidence that a condition listed in paragraph 11 has been violated.
 - C. If a Hearing Panel determines that a condition has been violated, the Panel may recommend imposition of a six-month suspension. If the Hearing Panel determines that no condition of the Stipulation has been violated, the Stipulation shall continue in force and effect pursuant to its terms. The PCC shall review the decision of the Hearing Panel.
13. If a new grievance or referral is filed against Respondent during the one-year period of monitoring, thus implicating the condition at Paragraph 11(c), the following shall apply:

- A. So long as a grievance or referral is filed within the one-year period of monitoring (“the subsequent proceeding”), and the alleged misconduct occurred, at least in part, during the one-year period, the stay can be lifted and the suspension imposed at such time as there is a finding of misconduct in the subsequent proceeding, even if such finding occurs beyond the one-year time period referenced above.
- B. Pending the final resolution of the subsequent proceeding, the matter underlying this Stipulation shall not be closed.
- C. If the conditions of paragraph 11(a)-(b) have been met, Ms. Wellman-Ally will not have to continue to comply with those provisions while the subsequent proceeding is pending.
- D. The ADO agrees to expedite the processing and investigation of any subsequent proceeding and to adjudicate it in a timely manner, either by stipulation of the parties or before a panel appointed by the Hearings Committee.
- E. Pursuant to New Hampshire Supreme Court Rule 37(19), the Respondent shall bear all costs associated with compliance and enforcement of the terms and conditions of this Agreement.
- F. If there is a finding of misconduct in the subsequent proceeding (whether by stipulation or after a hearing by a Hearing Panel), then the misconduct admitted as part of this Agreement shall be considered “previous discipline” for purposes of the subsequent proceeding.

G. In addition, Respondent agrees that such “previous discipline,” if used in the subsequent proceeding, shall be a sanction of a six-month suspension. Respondent agrees that a six-month suspension is an appropriate sanction under the *ABA Standards* for the conduct admitted as part of this Agreement.

14. Nothing herein shall be construed to limit prosecution of any new complaint involving conduct of Respondent occurring during the referenced one-year time period.
15. The parties agree that if the Attorney Discipline Office verifies that the Respondent has successfully complied with the conditions enumerated in paragraph 11, *supra*, the Court shall close this matter and no additional discipline beyond the agreed upon sanction of a stayed suspension as set forth in the Stipulation as to Facts, Rule Violations and Sanction shall be imposed in this case.
16. The Respondent acknowledges by signing this Agreement that she understands and accepts all of the terms and conditions of this Agreement.

Dated: December 7, 2020


Lisa A. Wellman-Ally, Esquire
Respondent

Dated: December 7, 2020

By: /s/ Elizabeth M. Murphy
Elizabeth M. Murphy
Assistant Disciplinary Counsel

**NEW HAMPSHIRE SUPREME COURT
PROFESSIONAL CONDUCT COMMITTEE**

Wellman-Ally, Lisa A. advs. Attorney Discipline Office - #20-003

and

Wellman-Ally, Lisa A. advs. Attorney Discipline Office - #20-013

**AGREEMENT TO PAY COSTS
OF DISCIPLINARY MATTER**

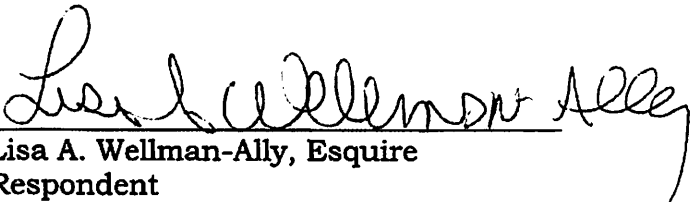
1. Subject to the Professional Conduct Committee's approval of the Stipulation of Facts, Rule Violations, and Sanction in the above matters, I agree to pay the expenses incurred by the Committee in the investigation and enforcement of these disciplinary matters. See Sup. Ct. R. 37(19)(b). Costs can include, but are not limited to: mileage, stenographers, transcripts, copying, inventory, audit expenses and publication.
2. As of December 7, 2020, I have been informed that the costs are approximately \$0.00, although this may increase. I understand that if these matters result in a sanction, there could be publication costs added to the above amount.
3. I am aware that the Professional Conduct Committee will not issue an invoice until the final disposition in these matters.
4. Should further costs accrue in this disposition of these matters, I understand that the Committee will bill me for these costs. If I dispute the bill, I will notify the Committee of the specific nature of the dispute in

writing within thirty days of my receipt of the bill. I understand that the Committee will consider the disputed item and issue a written decision. If I do not notify the Committee that I dispute the bill, payment will be due upon its receipt.

5. I waive the provisions of Supreme Court Rule 37(19)(b) regarding any further detail of the nature and amount of each expense, and I also waive formal demand for payment.
6. I understand and agree that the assessment of costs is deemed final and shall have the full force and effect of a civil judgment. As a result, it may be enforced in any Superior Court in New Hampshire.
7. The Committee may file a copy of the final assessment with the superior court in any county in the state, where it shall be docketed as a final judgment and shall be subject to all legally-available post-judgment enforcement remedies and procedures. See Sup. Ct. R. 37(19)(c).
8. I also agree to be responsible for all costs incurred as a result of the Attorney Discipline Office's collection efforts.

Respectfully submitted,

Dated: December 7 2020


Lisa A. Wellman-Ally, Esquire
Respondent

NEW HAMPSHIRE SUPREME COURT
PROFESSIONAL CONDUCT COMMITTEE

a committee of the attorney discipline system

Stephanie C. Hausman, Chair
Caroline K. Leonard, Vice Chair
Kathleen M. Ames, * Vice Chair
 **non-attorney member*
Barbara J. Guay, Legal Assistant

Wellman-Ally, Lis A. - #20-003; #20-013

ORDER

On February 19, 2021, the Committee issued a Six Month Suspension Stayed for One Year With Conditions. The Attorney Discipline Office has indicated that there have been no further complaints docketed by the Attorney Discipline Office since the February 19, 2021 Order was issued. Ms. Wellman-Ally has complied with the terms and conditions of the Committee's Order.

Upon consideration, the matter is closed.

March 15, 2022

/s/ Caroline K. Leonard
Caroline K. Leonard
Vice Chair

Distribution:

Elizabeth M. Murphy, Assistant Disciplinary Counsel
Lisa Wellman-Ally, Esquire