



**BEFORE THE BOARD OF PROFESSIONAL CONDUCT  
OF THE SUPREME COURT OF OHIO**

Disciplinary Counsel  
65 East State Street, Suite 1510  
Columbus, Ohio 43215

Relator,

v.

Case No. \_\_\_\_\_

Jack Herchel VanBibber, Esq.  
Attorney Registration No. 0097242  
165 West Center Street  
Lower Level #3  
Marion, Ohio 43302

Respondent.

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First Amended Complaint and Certificate

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Relator, Disciplinary Counsel, alleges that respondent, Jack Herchel VanBibber, an attorney admitted to the practice of law in the state of Ohio, engaged in misconduct by failing to appear at two hearings, making false statements to the Fairfield County Court of Common Pleas and relator, engaging in a sexual relationship with a client, sending inappropriate and offensive text messages of a sexual nature to a client's significant other, and failing to cooperate in a disciplinary investigation.

Background

1. Respondent was admitted to the practice of law in the state of Ohio on January 4, 2018.
2. Respondent is subject to the Ohio Rules of Professional Conduct and the Supreme Court Rules for the Government of the Bar of Ohio.

### Previous Discipline

3. On May 7, 2024, the Supreme Court of Ohio suspended respondent from the practice of law for two years; however, it stayed the suspension in its entirety on condition that respondent (1) contact the Ohio Lawyers Assistance Program (“OLAP”) within 30 days of the final disciplinary order to schedule a substance-abuse evaluation, (2) comply with any recommendations arising from the OLAP evaluation, (3) serve a two-year term of monitored probation in accordance with Gov.Bar R. V(21), focusing on client-trust-account management and his compliance with any recommendations arising from the required OLAP evaluation, and (4) engage in no further misconduct. *Disciplinary Counsel v. VanBibber*, 2024-Ohio-1702 (“VanBibber I”).
4. On May 7, 2024, respondent contacted OLAP per the court’s May 7, 2024 order.
5. On the same day, OLAP conducted a telephone assessment of respondent and diagnosed him as having “mild-moderate substance abuse disorder;” however, OLAP did not believe that respondent was being honest about his alcohol use, so it instructed respondent to obtain a second assessment from a certified drug and alcohol treatment center.
6. Respondent did not obtain a second assessment per OLAP’s instruction until September 4, 2024.
7. Respondent’s misconduct, as alleged below, began only days after the disciplinary hearing in VanBibber I, which occurred on June 13, 2023.

Count One

*Neglect, False Statements to a Court, and Conduct Prejudicial to the Administration of Justice*

8. On May 3, 2022, the Fairfield County Court of Common Pleas, Domestic Relations Division (“Fairfield Court”), finalized the divorce between Matthew Casto (“Matthew”) and Kathleen Casto (“Kathleen”). Pursuant to a shared parenting agreement, the Fairfield Court awarded joint custody of the Casto children to Matthew and Kathleen. *Casto v. Casto*, Fairfield C.P. No. 2021 DR 00195 (“*Casto*”).
9. Shortly after the divorce was finalized, Kathleen moved to Florida and left the Casto children in the care of her mother, Anne Henderson. At all times relevant to this count, Kathleen lived in Florida.
10. On September 1, 2022, Matthew filed a pro se *Motion for Ex Parte Emergency Temporary Custody* and a *Motion for Change of Parental Rights and Responsibilities* claiming, among other things, that he was the only legal custodian in Ohio.
11. On the same day, Matthew was granted emergency temporary custody of his children.
12. Thereafter, Matthew retained Attorney Hillary Santiago-Burgos to represent his interests, and Kathleen retained Attorney David Poston to represent her interests, which were primarily to have her children returned to the care of Henderson.
13. On March 17, 2023, the court scheduled *Casto* for a Guardian ad Litem (“GAL”)/Settlement Conference on July 25, 2023 at 9:30 a.m., and a one-day bench trial on August 31, 2023 at 9:30 a.m.
14. On May 3, 2023, respondent entered an appearance on behalf of Pamela Schmelzer in *Schmelzer v. Hodges*, Marion C.P. Nos. 2018 PC 77 and 2018 PC 78 (“*Schmelzer*”). *Schmelzer* was unrelated to *Casto*.

15. On June 30, 2023, the Marion Court scheduled the final hearing in *Schmelzer* for August 31, 2023, starting at 9:00 a.m.
16. In late June or early July 2023, Santiago-Burgos had to withdraw from Matthew's representation in *Casto* due to a conflict. Santiago-Burgos contacted respondent about taking over Matthew's representation, and respondent agreed to do so.
17. On July 11, 2023, respondent entered an appearance on Matthew's behalf in *Casto*.<sup>1</sup>
18. At the time of his appearance in *Casto* or shortly thereafter, respondent knew or should have known that the trial in *Casto* (Fairfield County) and the final hearing in *Schmelzer* (Marion County) were both scheduled for August 31, 2023, one-half hour apart.
19. On or about July 14, 2023, respondent's legal assistant contacted the Fairfield Court and inquired into the possibility of respondent appearing via Zoom for the scheduled court dates in *Casto*.
20. The court advised respondent's assistant that the magistrate's assistant, Kaycee Ball ("Ball"), would get back to her by July 20, 2023.
21. On July 20, 2023, Ball sent an email to respondent's assistant stating:

Hi Leslie,

You would need to file a motion to request to appear by zoom for any hearing dates.

Thank you.<sup>2</sup>

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<sup>1</sup> Respondent's appearance was titled a *Notice of Appearance of Co-Counsel*; however, there was never an intention to co-counsel the case with Santiago-Burgos. Both respondent and Santiago-Burgos understood that after respondent entered his appearance, he would be the sole counsel for Matthew, and Santiago-Burgos's involvement in and responsibility for *Casto* would terminate.

<sup>2</sup> The email was sent to leslie@jvblegal.com. At various times, respondent employed an individual named Leslie Farrell as his legal assistant; however, Farrell did not work for respondent between February 24, 2023 and mid-August 2023. Upon information and belief, a different assistant, Nichole Libby, was using Farrell's email address at the time.

22. Respondent did not file a motion requesting permission to appear by Zoom for the July 25, 2023 GAL/Settlement Conference in *Casto*.
23. As of July 25, 2023, respondent had not advised Matthew that he needed to appear for the GAL/Settlement Conference on July 25, 2023.
24. On July 25, 2023, Poston, Kathleen (who had flown in from Florida), and the GAL, Eimear Bahnson, appeared for the GAL/Settlement Conference.
25. Respondent and Matthew did not appear for the July 25, 2023 hearing and provided no reason for their absence.
26. During the July 25, 2023 hearing, Magistrate Sandra Miller called respondent's office and spoke to his assistant. As explained below, respondent did not return Magistrate Miller's call until after the hearing had concluded, nor did he appear for the hearing.
27. On July 26, 2023, Poston filed a *Motion for Attorney Fees* due to respondent's and Matthew's failure to appear at the July 25, 2023 hearing in *Casto*.
28. On July 27, 2023, the Fairfield Court scheduled a non-oral hearing on Poston's *Motion for Attorney Fees* for August 9, 2023, and ordered that "all responsive pleadings must be filed on or before the day immediately prior to the non-oral hearing date," making respondent's response due on August 8, 2023.
29. On July 25, 2023, Henderson filed a *Motion for Ex Parte Emergency Temporary Custody* of the Casto children, as well as a *Motion to be Joined as a Third Party*.
30. On July 28, 2023, the court granted Henderson emergency custody of the Casto children and scheduled a hearing on the matter for August 8, 2023.
31. On August 8, 2023, respondent appeared with Matthew for the emergency custody hearing in *Casto*.

32. During the August 8, 2023 hearing, respondent requested a continuance of the hearing claiming that he had not been served with Henderson's *Motion for Emergency Custody*.
33. Upon information and belief, respondent was not served with Henderson's *Motion for Emergency Custody*; however, he was served with the court's order scheduling a hearing on Henderson's *Motion for Emergency Custody*.
34. During the August 8, 2023 hearing, respondent falsely advised Magistrate Miller that he had not appeared at the July 25, 2023 hearing because a member of Magistrate Miller's staff had told his assistant that he could appear by phone or Zoom and that a link would be provided.
35. As indicated above in ¶¶ 19-21, the court never authorized respondent to appear by phone or Zoom at the July 25, 2023 hearing, but instead told respondent's assistant that respondent would have to file a motion if he wanted to appear by phone or Zoom.
36. During the August 8, 2023 hearing, Poston advised Magistrate Miller that he had a pending *Motion for Attorney Fees*, which was scheduled for a non-oral hearing on August 9, 2023.
37. Magistrate Miller inquired into whether the parties wanted to address the *Motion for Attorney Fees* since all parties were present. Respondent replied that he had "intended" to file a response, but had not done so yet, and that his reasons for opposing the *Motion for Attorney Fees* would be contained in his response.
38. In response, Magistrate Miller reminded respondent that he had failed to appear at the July 25, 2023 hearing, that he had not filed a motion to continue, and that Poston's client had incurred attorney fees and GAL fees. Accordingly, Magistrate Miller suggested that respondent reach out to Poston and try to resolve the matter.

39. Respondent never filed a response to Poston's *Motion for Attorney Fees*, nor did he reach out to Poston to try and resolve the matter.
40. Accordingly, on August 18, 2023, the court granted Poston's *Motion for Attorney Fees* and ordered Matthew to pay \$800 to Kathleen by 4:00 p.m. on August 28, 2023.
41. Respondent did not advise Matthew of the \$800 sanction order until several weeks later.
42. On August 9, 2023, nearly a month after he had entered an appearance in *Casto*, respondent filed a *Motion to Continue* the August 31, 2023 trial in *Casto*. In his motion, respondent advised the court that he was scheduled to appear in *Schmelzer* on the same day.
43. On the same day, Magistrate Miller denied respondent's continuance request indicating that the trial date in *Casto* had been scheduled on March 17, 2023, and that when respondent entered his appearance, the August 31, 2023 trial date had been pending on the court's calendar for almost four months.
44. On August 9, 2023, the Fairfield Court also called respondent and informed him that his *Motion to Continue* was denied.
45. Despite learning on or about August 9, 2023 that his *Motion to Continue* in *Casto* had been denied, respondent waited until August 24, 2023, to file a *Motion to Continue* the August 31, 2023 final hearing in *Schmelzer*.
46. On August 24, 2023, Bahnson, the GAL in *Casto*, sent an email to respondent and Poston inquiring whether there had been any settlement discussions. Poston replied, stating that he had not heard from respondent. Respondent did not reply to either Bahnson's email or Poston's reply.

47. On August 25, 2023, Attorney Angela Seimer-Marvin entered an appearance on behalf of Henderson in *Casto*.
48. On August 29, 2023, Judge Rhonda G. Burggraf denied respondent's *Motion to Continue* the final hearing in *Schmelzer*.
49. On August 29, 2023, respondent filed a second *Motion to Continue* the August 31, 2023 trial in *Casto*.<sup>3</sup> In his motion, respondent falsely stated that "the hearing scheduled to take place on Thursday, August 31, 2023 at 9:30 *Casto vs. Casto* is required to be continued as it was scheduled after the *Schmelzer vs. Hodges* matter."
50. As indicated above in ¶¶ 13 and 15, the August 31, 2023 trial in *Casto* was scheduled on March 17, 2023, and the August 31, 2023 final hearing in *Schmelzer* was scheduled on June 30, 2023. Moreover, in its August 9, 2023 entry denying respondent's prior continuance request, the court specifically stated that the *Casto* trial had been scheduled "over 4 months ago" on March 17, 2023.
51. On August 30, 2023, at 7:02 a.m., Seimer-Marvin filed objections to respondent's second *Motion to Continue* indicating that the *Casto* trial had been scheduled before the *Schmelzer* trial and that when respondent entered an appearance on July 11, 2023, he had on obligation to be aware of pending court dates in the matter. Seimer-Marvin also indicated that Kathleen had already arranged to fly in from Florida to attend the August 31, 2023 hearing.
52. On August 30, 2023, at 8:13 a.m., respondent filed a second *Motion to Continue* in *Schmelzer*.

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<sup>3</sup> The motion was not docketed until August 30, 2023 because it was filed after 4:00 p.m.



53. In this motion, respondent correctly stated that the *Casto* trial had been scheduled before the *Schmelzer* final hearing; however, respondent made no attempt to withdraw his second *Motion to Continue* in *Casto*, which contained false statements, nor did he contact the court to correct his prior false statement.
54. On August 30, 2023, Magistrate Miller denied respondent's second *Motion to Continue* in *Casto*, and Judge Rhonda Burggraf denied respondent's second *Motion to Continue* in *Schmelzer*.
55. On the same day, one of the tires on respondent's car had low air pressure. Respondent took his car to a repair shop and was advised that he should replace all four tires but that the tires would not be in stock until August 31, 2023.
56. On August 30, 2023, Bahnson sent an email to respondent, Poston, and Seimer-Marvin, offering to conduct a call among counsel if the parties believed it would be beneficial to resolve the case. Seimer-Marvin responded that Henderson intended to seek full custody of the *Casto* children but was open to both Matthew and Kathleen having visitation. Poston replied that he and his client, Kathleen, were in full agreement with Seimer-Marvin's proposal. Respondent did not reply despite Bahnson sending him a second email inquiring into Matthew's position.
57. On August 31, 2023, respondent filed a *Motion to Appear via Zoom and/or Telephone* in *Casto*. In his motion, respondent advised the court of his car situation and stated that he did not have a "backup method of transportation."
58. On August 31, 2023, Magistrate Miller denied respondent's *Motion to Appear via Zoom and/or Telephone*.

59. Despite his *Motion to Appear via Zoom and/or Telephone* being denied, respondent failed to appear at the trial in *Casto* on August 31, 2023. All other parties were present at the hearing, including Kathleen, who had flown in from Florida.
60. On August 31, 2023, respondent appeared at the hearing in *Schmelzer*, during which the parties entered into an *Agreement and Stipulation of the Parties*.
61. On September 5, 2023, Magistrate Miller continued the *Casto* trial until January 2, 2024.
62. Between August 31, 2023, and January 2, 2024, respondent had little to no communication with Poston, Seimer-Marvin, or Bahnson.
63. Having heard nothing from respondent, on December 27, 2023, Bahnson sent an email to respondent, Seimer-Marvin, and Poston inquiring whether the parties had discussed settlement. Seimer-Marvin replied that Henderson intended to seek full custody of the children, with Matthew having visitation as recommended by Bahnson. Poston replied that his client, Kathleen, was in full agreement with Henderson having custody of the *Casto* children. Respondent did not reply.
64. On December 27, 2023, Bahnson called respondent. Respondent stated that he would contact Matthew and get back to Bahnson. Respondent did not call Bahnson back.
65. On December 30, 2023, Seimer-Marvin sent an email to respondent inquiring whether Matthew would agree to custody and visitation as recommended by Bahnson. Respondent did not reply to Seimer-Marvin's email.
66. On January 2, 2024, when the parties arrived for the trial in *Casto*, Poston, Seimer-Marvin, and Bahnson were unsure of respondent's/Matthew's position and whether Matthew intended to contest custody to Henderson. However, before the start of the

hearing, the parties were able to reach a settlement with all parties agreeing to Henderson having legal custody of the Casto children.

67. As of January 2, 2024, neither respondent, nor Casto, had paid the \$800 attorney fee award pursuant to the Fairfield Court's August 18, 2024 order. See ¶ 40.

68. Respondent's conduct, as alleged in Count One, violates:

- Prof.Cond.R. 1.3 [A lawyer shall act with reasonable diligence and promptness in representing a client];
- Prof.Cond.R. 3.3(a)(1) [A lawyer shall not make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer]; and
- Prof.Cond.R. 8.4(d) [A lawyer shall not engage in conduct that is prejudicial to the administration of justice].

#### Count Two

##### *Failure to Cooperate and False Statement to Relator*

69. Relator incorporates the allegations in Count One as if fully restated herein.

70. On September 5, 2023, the same day that she scheduled *Casto* for trial on January 2, 2024, Magistrate Miller provided relator with various documents regarding respondent's conduct in *Casto*.

71. On September 12, 2023, relator sent respondent's then-counsel a Letter of Inquiry with several questions concerning the information from Magistrate Miller.

72. On or about September 26, 2023, respondent's then-counsel advised relator that she was no longer representing respondent and that respondent would respond to relator's September 12, 2023 letter himself.

73. On October 3, 2023, respondent submitted a response to relator's September 12, 2023 letter.

74. On February 13, 2024, relator sent respondent a follow-up letter via email, requesting additional information. Among other questions, relator asked respondent whether he had filed a *Motion to Continue* the July 25, 2023 hearing in *Casto* or whether he had informed the Fairfield County Court of his intended absence.
75. Relator requested that respondent reply to its February 13, 2024 letter by February 27, 2024.
76. On February 14, 2024, respondent acknowledged receipt of relator's February 13, 2024 letter by replying, "Received. Thank you!"
77. On February 27, 2024, respondent requested a two-week extension of time to respond to relator's February 13, 2024 letter. On the same day, relator granted respondent's request, making his response due on March 12, 2024.
78. Respondent did not reply to relator's February 13, 2024 letter by March 12, 2024.
79. On March 19, 2024, relator sent respondent an email inquiring into the status of his response to relator's February 13, 2024 letter.
80. Respondent did not reply to relator's March 19, 2024 email, nor did he provide a response to relator's February 13, 2024 letter.
81. On April 1, 2024, relator sent respondent a letter stating that he had failed to respond to relator's February 13, 2024 letter or March 19, 2024 email. Relator's letter stated that respondent's response must be received in relator's office by April 8, 2024, and that no further extensions of time to respond would be granted.
82. Respondent did not reply to relator's April 1, 2024 letter by April 8, 2024, nor did he provide a response to relator's February 13, 2024 letter.

83. On April 16, 2024, at approximately 11:30 a.m., relator called respondent's office and spoke with respondent's assistant, Farrell. Relator advised Farrell that respondent had ignored several communications from relator, and relator wanted to know the reason for respondent's non-cooperation.
84. Later that same day, respondent contacted relator's office and stated that he had sent one response to relator's February 13, 2024 letter at 4:01 p.m., and that he would be sending a second response as soon as it was completed. Respondent sent his second response at 4:54 p.m.
85. In his second April 16, 2024 response, respondent falsely stated,
- I did not prepare a Motion to Continue the hearing for July 25, 2023. The reason I did not prepare a Motion to Continue is because a former member of my staff had indicated that she called the Court to inquire if I could appear via zoom given the scheduling conflict. She indicated that the Court advised I would be able to appear via telephone and/or zoom.
86. As indicated above in ¶¶ 19-21, the court did not advise respondent's assistant that respondent could appear via Zoom or telephone. Rather, the court stated that if respondent wanted to appear via phone or Zoom, he had to file a motion requesting the same, which respondent did not do.
87. On June 17, 2024, relator sent respondent a letter informing him that relator had subpoenaed records from his Chase Operating Account (ending in 3939) and that after reviewing the records, relator had several questions regarding transactions in his operating account. Relator requested that respondent provide a response by no later than July 8, 2024 – three weeks from the date of the letter.

88. Respondent did not provide a response to relator's June 17, 2024 letter by July 8, 2024.<sup>4</sup>
89. On July 9, 2024, Farrell emailed relator and stated, "We are currently in the process of gathering all the requested information from the July 17, 2024, request. However, we need to request additional time, one to two weeks please."<sup>5</sup>
90. On July 10, 2024, relator granted respondent's request for an extension and gave him until July 16, 2024 to respond.
91. On July 16, 2024, respondent provided an incomplete response to relator's June 17, 2024 letter.
92. In his July 16, 2024 response, respondent failed to respond to a majority of the questions in relator's June 17, 2024 letter claiming that his clients' files were in storage or that he needed bank records to respond, which were not yet available for his review even though he had purportedly requested them from Chase Bank.
93. On July 17, 2024, relator sent respondent an email expressing frustration with his incomplete response particularly because relator was attempting to prepare for respondent's deposition, which had been scheduled for August 30, 2024. In addition to requesting that respondent provide a complete response to relator's June 17, 2024 letter, relator also asked that respondent immediately provide the following information:
- The date that respondent purportedly requested his bank records from Chase Bank; and

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<sup>4</sup> As indicated above in ¶ 3, the Supreme Court of Ohio issued its decision in VanBibber I on May 7, 2024. In its Per Curium opinion, the court stated, "VanBibber's initial failure to cooperate in relator's investigation and, more particularly, his submission of false statements to relator in the initial and reopened investigations admittedly give us pause."

<sup>5</sup> The date of relator's letter in Farrell's email is incorrect. It should have been June 17, 2024.

- A detailed explanation for why respondent did not have the information necessary to respond to relator's requests, considering relator's questions focused on transactions between April 29, 2023 and April 24, 2024 and respondent's Prof.Cond.R. 1.15(a) obligation to maintain records of client funds for seven years.
94. On the same day, Farrell responded to relator's July 17, 2024 email. She stated that she would pass the information on to respondent "promptly." She further stated that respondent had a "full day scheduled in Marion County Family Court, but we will be working quickly to get you this information."
95. Respondent did not reply to relator's July 17, 2024 email, nor did he provide any additional information in response to relator's June 17, 2024 letter.
96. On July 30, 2024, relator emailed respondent and Farrell again. Relator indicated that it still had not received a complete response to its June 17, 2024 letter, nor had it received a response to the two questions in relator's July 17, 2024 email. Relator requested that respondent provide the requested information by August 2, 2024.
97. Neither respondent, nor Farrell, responded to relator's July 30, 2024 email, nor did they provide any additional information in response to relator's June 17, 2024 letter or the questions in relator's July 17, 2024 email.
98. As of August 30, 2024, respondent still had not provided a complete response to relator's June 17, 2024 letter or the questions in relator's July 17, 2024 email.
99. On August 30, 2024, respondent appeared for his scheduled deposition; however, he did not bring a response to relator's June 17, 2024 letter or July 17, 2024 email with him.
100. During the deposition, respondent again claimed that he needed bank records to respond to the questions in relator's June 17, 2024 letter, but did not have them yet. Respondent

was unable to provide relator with a date on which he purportedly requested his bank records.

101. Further, respondent inquired into whether relator had copies of his bank records.

Although relator's June 17, 2024 letter specifically indicated that relator had subpoenaed his bank records, relator again informed respondent that it had copies of his bank records and would provide them to him.

102. Respondent replied that once he had copies of his bank records, he could and would provide an immediate response to relator's June 17, 2024 letter.

103. On August 30, 2024, relator emailed respondent a copy of his bank records.

104. To date, respondent has not provided a complete response to relator's June 17, 2024 letter.

105. Respondent's conduct, as alleged in Count Two, violates:

- Prof.Cond.R. 8.1(a) [A lawyer shall not make a false statement of material fact in connection with a disciplinary matter]; and
- Prof.Cond.R. 8.1(b) [A lawyer shall not knowingly fail to respond to a demand for information from a disciplinary authority].

#### Count Three – Leann Weaver

106. Leann Weaver and Anthony Shifflet have three minor children together. Weaver and Shifflet have never been married.

107. In early 2022, Weaver and Shifflet separated. Over the next few months, the relationship between Weaver and Shifflet was strained as they tried to maneuver parenting, visitation, and custody issues concerning their three children.

108. On May 17, 2022, Weaver retained respondent to represent her with respect to the ongoing issues between her and Shifflet.



109. Prior to retaining respondent, Weaver did not know respondent and did not have a prior relationship with him.
110. On June 6, 2022, Shifflet filed a *Complaint to Establish Parentage and Establish Parental Rights and Responsibilities* for each of his three children. *Shifflet v. Weaver*, Marion C.P. No. 2022 PC 0083, 0084, and 0085.
111. Approximately three weeks after respondent began representing Weaver, respondent sent Weaver a message via Snapchat asking if she could meet him.
112. Snapchat is a mobile app and service that allows users to share photos, videos, and messages, with the primary feature being that these messages are often designed to disappear after being viewed, promoting ephemeral communication.
113. Weaver agreed to meet respondent, believing that it was related to the custody matter; however, during the meeting, respondent flirted with Weaver.
114. Following this meeting, Weaver and respondent began dating and engaged in a sexual relationship. In November 2023, respondent and Weaver had a child together.
115. During their relationship, respondent instructed Weaver to say that if anyone ever asked, their relationship pre-dated the start of his representation.
116. In December 2022, Judge Larry Heiser conducted a final hearing in the Weaver/Shifflet custody matter.
117. During this hearing, Judge Heiser learned of respondent's and Weaver's relationship.
118. Respondent advised Judge Heiser that he was in a relationship with Weaver, but falsely stated that their relationship began in April 2022.
119. On December 30, 2022, Judge Heiser filed a grievance against respondent under Prof.Cond.R. 8.3(a).

120. On March 29, 2023, relator sent respondent a Letter of Inquiry concerning Judge Heiser's grievance.
121. On April 24, 2023, respondent replied to the Letter of Inquiry through counsel.
122. In his response, respondent falsely stated that his relationship with Leann began in April 2022.
123. Based on respondent's false statement, relator terminated its investigation.
124. In or about October 2024, Weaver ended her relationship with respondent, in part because of the conduct alleged below in Count Four.
125. On March 10, 2025, Weaver's father, Terrance Weaver, filed a grievance against respondent alleging an improper relationship between respondent and his daughter.
126. Respondent's Conduct as outlined above in Count Four violates:
- Prof.Cond.R. 1.8(j) [A lawyer shall not solicit or engage in sexual activity with a client unless a consensual sexual relationship existed between them when the client-lawyer relationship commenced];
  - Prof.Cond.R. 3.3(a)(1) [A lawyer shall not make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer];
  - Prof.Cond.R. 8.1(a) [In connection with a disciplinary matter, a lawyer shall not knowingly make a false statement of material fact]; and
  - Prof.Cond.R. 8.4(d) [A lawyer shall not engage in conduct prejudicial to the administration of justice].

Count Four – Jessica Hartman

127. Jessica Hartman is in a relationship with Joshua Miller.
128. Miller has two minor children with his ex-girlfriend, Kiena Crees.

129. On January 16, 2024, Crees filed objections to child support recommendations by the Marion County Child Support Enforcement Agency. *Crees v. Miller*, Marion C.P. No. 2010-PC-0196 and 0197.
130. The court scheduled a hearing on Crees' objections for March 11, 2024; however, the hearing was continued until April 16, 2024, so that Miller could obtain counsel.
131. On or about March 6, 2024, Miller retained respondent to represent him. Hartman was present for this meeting and paid respondent a portion of his fee.
132. Hartman knew of respondent from a prior matter and had recommended that Miller retain respondent.
133. On March 6, 2024, respondent filed a *Notice of Appearance of Counsel* on behalf of Miller.<sup>6</sup>
134. On or about March 12, 2024, Hartman paid the remainder of Miller's fees and also dropped off paperwork at respondent's office regarding the child support matter.
135. On April 9, 2024, Hartman was at a concert when she received a Snapchat from respondent.
136. On April 9, 2024, the following Snapchat messages were exchanged between respondent and Hartman:<sup>7</sup>

Respondent: So question

Hartman: What's up

Respondent: You single?

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<sup>6</sup> Respondent's notice incorrectly stated that he was entering an appearance on behalf of Karena Curtis, an individual not associated with the Miller/Crees case. On April 16, 2024, respondent filed an *Amended Notice of Appearance of Counsel*, which correctly stated he represented Miller.

<sup>7</sup> All Snapchat messages are quoted verbatim, including any spelling or grammatical errors.

Hartman: I'm dating Josh lol that's why i been comin into the office to pay for him

Respondent: Ahhh that makes sense

Hartman: Yea lol hbu<sup>8</sup>

Respondent: Leann and I had a baby recently so we are together. We have been for a bit.

Hartman: Nice how's that going

Respondent: It's going well. Hbu?

Hartman: It's not too bad, we split up in may then got back together in September, so far it's goin good just hope I don't end up in the same situation as last time tryna help a mf see his kids more[.]<sup>9</sup>

Respondent: I'm sure it'll work out.

Hartman: Hopefully, tired of getting hurt.

Respondent: I get that for sure

Hartman: So just curious, but what made you ask that question lol

Respondent: lol make our snap delete immediately and I'll tell ya

Hartman: Done lol

Respondent: I want to fucking rail you. I want to fuck you as hard and fast as I can and I've wanted to since the moment I saw you.

Hartman: Honestly didn't expect that lol

Respondent: Sorry?.....

Hartman: Lmao i just don't think I'm very attractive

Respondent: Who wants perfect? I want a freak.....

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<sup>8</sup> Upon information and belief, "hbu" means "how about you."

<sup>9</sup> Respondent previously represented Hartman's ex-boyfriend in a child custody matter. Shortly after that representation, Hartman terminated the relationship after discovering that her ex-boyfriend had been cheating on her.

Hartman: Lmao ur chick not a freak? 😂

Respondent: She is. If I'm being honest I just like new experiences lol

Hartman: lol hard to have new experiences in a relationship

Respondent: lol has it stopped you?

Hartman: I mean I never cheated on Billy just got cheated on for the whole 5 years, but when me and Josh got together i found out he had been cheating on me the whole time 3 days after i found out i was pregnant with Emmy so i cheated back to show i was tired of getting played and could play it better

Respondent: Well if my cock has ever gone hard softer if not be keen to it.....That shit is sad

Hartman: lol maybe I'm a lil drunk but didn't quite understand the first part 😂

Respondent: lol I'm really just asking if you wanna fuck meeeeeeeeeee

Hartman: Lmao aren't u always busy at court

Respondent: That's not what I asked

Hartman: 😂😂😂

137. On April 10, 2024, Hartman told Miller about the Snapchat messages. Miller was very upset, but neither he, nor Hartman, believed they could terminate respondent's services because the hearing was only one week away.
138. On April 11 or 12, 2024, Hartman confronted respondent about the conversation on April 9, 2024.
139. Respondent admitted that he had been intoxicated on April 9, 2024, but stated that he meant what he had said in his messages. Respondent then invited Hartman to his office after hours for sex.
140. On April 16, 2024, the court conducted a hearing in the Miller/Crees matter. Respondent appeared at the hearing on behalf of Miller.

141. On May 2, 2024, Magistrate Sheena Bateman issued a *Magistrate's Decision* based upon an agreement of Miller and Crees that had been reached at the April 16, 2024 hearing.
142. On May 28, 2024, Judge Larry Heiser adopted the *Magistrate's Decision* as the final order of the court.
143. On March 10, 2025, respondent's conduct came to the attention of relator through another grievance.
144. On March 11, 2025, relator sent respondent a Letter of Inquiry regarding his Snapchat conversation with Hartman. Relator requested a response by March 25, 2025.
145. On March 13, 2025, respondent emailed relator and stated,
- I received a letter dated March 11, 2025, in regard to the above referenced matter. As such, and to ensure that I am able to respond completely to any and all accusations, please provide me with a copy of the report and/or any other related documents filed and/or provided to your office in regard to the same. I appreciate your assistance in this matter.
146. On the same day, relator replied to respondent and stated,
- Our office opened this investigation (C5-0703) as a "matter that came to our attention." There is no grievance or other documents to provide. It came to our attention through another grievance that our office is currently investigating. Based on our investigation of the other matter, we spoke to Ms. Hartman, who provided information regarding her contacts with you, as well as the Snapchat messages that were enclosed with our letter. We look forward to receiving your response on or before March 25, 2025.
147. Respondent did not respond to relator's March 11, 2025 Letter of Inquiry by March 25, 2025.
148. On March 30, 2025, relator emailed respondent and inquired into the status of his response to relator's March 11, 2025 Letter of Inquiry. Relator requested that respondent provide an update by the end of the day on March 31, 2025.

149. Respondent did not reply to relator's March 30, 2025 email, nor did he submit a response to relator's March 11, 2025 email.
150. On April 8, 2025, relator sent respondent a second Letter of Inquiry concerning his Snapchat conversation with Hartman on April 9, 2024. Relator requested that respondent provide a response by April 22, 2025.
151. Respondent did not reply to the second Letter of Inquiry by April 22, 2025.
152. On April 29, 2025, relator subpoenaed respondent for a deposition on May 7, 2025.
153. Among other items, the subpoena required that respondent bring to the deposition his "response to the letter of inquiry dated March 11, 2025 and the 2<sup>nd</sup> letter of inquiry dated April 8, 2025, in File No. C5-0703 (Hartman)."
154. On May 6, 2025, Farrell emailed respondent and stated, "Jack is in a murder trial, that has been scheduled for some time, he will need to reschedule the deposition scheduled for today."<sup>10</sup>
155. After verifying that respondent was involved in a murder trial, relator withdrew the subpoena for respondent's May 7, 2025 deposition, with the exception of the documents that had been subpoenaed.
156. On May 7, 2025, Farrell provided relator with some of the subpoenaed documents; however, neither Farrell nor respondent provided a response to relator's first or second Letter of Inquiry.

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<sup>10</sup> Respondent's deposition was scheduled for May 7, 2025, not May 6, 2025.

157. Respondent's Conduct as outlined above in Count Three violates:

- Prof.Cond.R. 8.1(b) [A lawyer shall not knowingly fail to respond to a demand for information from a disciplinary authority]; and
- Prof.Cond.R. 8.4(h) (a lawyer shall engage in conduct that adversely reflects on his fitness to practice law).<sup>11</sup>

#### Restitution

On April 24, 2024, at the request of relator, respondent paid Poston \$800 in satisfaction of the Fairfield Court's August 18, 2023 order for attorney fees. Accordingly, relator submits that no further restitution is owed in this matter.

#### Conclusion

Relator requests that respondent be found in violation of the Ohio Rules of Professional Conduct and be sanctioned accordingly.

Respectfully submitted,

/s Joseph M. Caligiuri

Joseph M. Caligiuri (0074786)

Disciplinary Counsel

*Relator*

/s Karen H. Osmond

Karen H. Osmond (0082202)

Senior Assistant Disciplinary Counsel

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*Counsel for Relator*

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<sup>11</sup> Under *Disciplinary Counsel v. Bricker*, "In order to find a violation of Prof.Cond.R. 8.4(h), there must be clear and convincing evidence that the lawyer has engaged in misconduct that adversely reflects on the lawyer's fitness to practice law, even though that conduct is not specifically prohibited by the rules, or there must be proof that the conduct giving rise to a specific rule violation is so egregious as to warrant an additional finding that it adversely reflects on the lawyer's fitness to practice law." 2013-Ohio-3998. Here, the Prof.Cond.R. 8.4(h) violation is charged for misconduct, i.e., soliciting a client's significant other for sexual activity, which is not specifically prohibited by the rules.



/s Susan M. Hard

Susan M. Hard (0096220)

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*Counsel for Relator*

### Certificate

The undersigned, Joseph M. Caligiuri, Disciplinary Counsel, hereby certifies that Karen H. Osmond and Susan M. Hard are authorized to represent relator in the action and have accepted the responsibility of prosecuting the complaint to its conclusion.

Dated: May 15, 2025

/s Joseph M. Caligiuri

Joseph M. Caligiuri (0074786)

Disciplinary Counsel