

TO BE PUBLISHED

Supreme Court of Kentucky

2015-SC-000719-KB

FINAL

DATE 3-29-16 EWA/Groum, P.C.
~~MOVANT~~

ERIC CHARLES DETERS

V.

IN SUPREME COURT

KENTUCKY BAR ASSOCIATION

RESPONDENT

OPINION AND ORDER

Pursuant to Supreme Court Rule (SCR) 3.480(2), Eric C. Deters moves this Court to impose a sixty-day suspension for his violations of the Rules of Professional Conduct. The Kentucky Bar Association (KBA) has no objection to this negotiated discipline. Finding a sixty-day suspension appropriate, we grant Deters's motion. Deters whose last known bar roster address is 5247 Madison Pike, Independence, Kentucky 41051, was admitted to the practice of law in the Commonwealth of Kentucky on October 10, 1986.

KBA File 22026

Deters was retained to represent Aric Shinkle regarding criminal charges in Indiana, including a vehicular homicide matter. For this representation, Deters accepted the sum of \$5,000. Deters was not licensed to practice law in Indiana and had previously been denied *pro hac vice* admission in a separate Indiana case. As a result, the representation was initially handled by another

member of Deters's firm, James Moore, who is licensed to practice law in Indiana, Ohio, and Kentucky.

When Moore was unavailable to assist with Shinkle's probation violation hearing, Deters asked Kevin Moser, an attorney licensed in Kentucky and Indiana, to represent Shinkle at that hearing. Moser contacted Shinkle and his parents, received discovery, and appeared at multiple court proceedings. Subsequently, Moser contacted Deters to inquire about compensation for his representation of Shinkle. Deters informed Moser that he had only been paid to represent Shinkle for the vehicular manslaughter charge and that Moser would have to seek compensation directly from the Shinkles. Consequently, Moser contacted the Shinkles and received the sum of \$1,000.

During the pendency of their son's case, the Shinkles hired a new attorney who requested an accounting of the retainer given to Deters. Deters refused to provide an accounting, claiming that he was unable to account for how the retainer was used. During his representation Deters decided to forgo a written fee agreement with the Shinkles, failed to keep time records, and chose to not place the advance fee in an escrow account. The Shinkles' new attorney also contacted Moore to request confirmation that he had been paid for the time he worked on the case. In fact, Moore, who had left Deters's firm in 2013, had not been paid for his work on the case.

In response to the inquiry, Deters sent a text message to the Shinkles to advise them that he would not be refunding any portion of his fee and that he was prepared to sue the couple for slander. Further, Deters advised the

Shinkles that there was no longer an attorney/client relationship and that he would take actions detrimental to their son if necessary to defend himself.

On March 23, 2015, the Inquiry Commission (Commission) issued a four-count charge against Deters for violation of: (1) SCR 3.130(1.6)(a) (Confidentiality of information) for threatening the Shinkles with the disclosure of information that may have been detrimental to Aric Shinkle; (2) SCR 3.130(5.5) (Unauthorized practice of law; multijurisdictional practice of law) for continuing to represent Aric Shinkle in an Indiana criminal case without an Indiana attorney assisting in the matter, and after learning he would not be admitted *pro hac vice*; (3) SCR 3.130(1.15) (Fees) for failing to maintain the advance fee payment in a proper escrow account and by failing to provide a full accounting of the funds to Aric Shinkle; and (4) SCR 3.130(8.4)(c) (Misconduct) for continuing the representation of Aric Shinkle after Deters was left with no Indiana associates and after he was denied *pro hac vice* admission in Indiana.

Deters admits to violating the Rules of Professional Conduct as set forth in Counts I, II, and III, but denies the violations listed in Count IV. In light of a review of the evidence and Deters's cooperation to resolve his ethical violations, the Inquiry Commission Chair and Immediate Past President approved the dismissal of Count IV.

KBA File 23552

In June 2010, Deters contracted with Eugene Trenkamp and Dean Gregory to represent their limited liability companies in a law suit against Fifth Third Bank. Trenkamp and Gregory paid Deters \$10,000 as a retainer for his

services. While Deters was suspended from the practice of law, the case was handled by Tina Edmondson, an employee of Deters's law firm. While Edmondson was handling the case she obtained an additional \$5,000 payment from Trenkamp and Gregory.

In January 2014, Trenkamp contacted Deters by electronic mail to discuss the firm's failure to respond to his attempts at communication. In a hostile email exchange, Deters claimed that his firm had provided diligent representation well in excess of the fees received. Additionally, Deters stated that the firm's representation of Gregory and Trenkamp was over. It is unclear from the record what if any steps were taken by Deters to end the representation.

In any event, in a letter dated March 3, 2015, Trenkamp made it clear that he believed that the representation was ongoing. Trenkamp noted that he had been unsuccessful in the preceding weeks in obtaining a response from Edmonson regarding the status of the lawsuit. Trenkamp then informed Deters that he had recently learned that Edmonson was no longer employed by Deters's firm. Consequently, Trenkamp requested that Deters's firm end the representation, refund the \$15,000 that had been paid, and provide a copy of the file. Subsequently, Trenkamp filed a bar complaint against Deters.

While no formal charges were filed by the Commission, Deters acknowledges that there is probable cause to find that he violated the following rules: (1) SCR 3.130(1.3) (Diligence); (2) SCR 3.130(1.4) (Communication); (3)

SCR 3.130(1.16) (Declining or terminating representation); and (4) SCR 5.1 (Responsibilities of partners, managers and supervisory lawyers).

Proceedings Before this Court

The Inquiry Commission consolidated Deters's files pursuant to SCR 3.260(1). In response to the Commission's inquiries, Deters now moves this Court to enter an order suspending him for a period of 60 days. Additionally, Deters has agreed to refund \$1,000 to the Shinkles in KBA file 23552. The KBA has no objection to the proposed discipline, which was negotiated pursuant to SCR 3.480(2). Upon review of the facts in this case and relevant case law, we find the proposed discipline is appropriate.

While Deters's prior disciplinary history does support increased sanctions, his cooperation in the resolution of these matters is considered as a mitigating factor. Further, the Court has previously issued similar discipline in comparable cases. *See, e.g., Kentucky Bar Ass'n v. Justice*, 198 S.W.3d 583 (Ky. 2006) (attorney with four previous private reprimands, was suspended for thirty days for failing to communicate with client, prosecute client's case, keep funds separate, and return unearned fee). Additionally, we note that Deters is currently suspended from the practice of law and only able to seek reinstatement to practice pursuant to SCR 3.510.

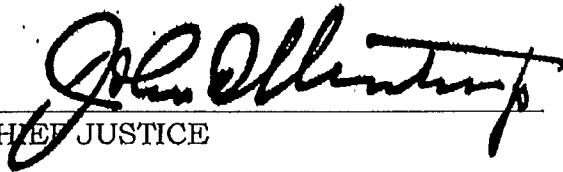
Accordingly, it is hereby ORDERED:

1. Eric C. Deters is suspended from the practice of law in the Commonwealth of Kentucky for sixty days.
2. Deters must return \$1,000 to Mr. and Mrs. Shinkle (KBA File 22026).

3. Pursuant to SCR 3.450, Deters is directed to pay all costs associated with these disciplinary proceedings, in the amount of \$156.09, for which execution may issue from this Court upon finality of this Opinion and Order.

All sitting. All concur.

ENTERED: March 17, 2016.



CHIEF JUSTICE

TO BE PUBLISHED

Supreme Court of Kentucky

2015-SC-000023-KB
AND
2015-SC-000025-KB

FINAL

DATE 8-20-15 ELLAG Courtt+P.S.

KENTUCKY BAR ASSOCIATION

MOVANT

V.

IN SUPREME COURT

ERIC C. DETERS

RESPONDENT

OPINION AND ORDER

In two now-consolidated disciplinary actions, the Kentucky Bar Association Board of Governors found Eric C. Deters¹ guilty of a number of ethical violations and recommended he be suspended thirty days for each. Deters petitions this Court to strike the Board's Findings of Fact, Conclusions of Law, and Recommendation because the Board failed to provide its findings to this Court within the time specified under Supreme Court Rules (SCR) 3.370(6). We now deny Deters's petition and adopt the Board's recommended thirty-day suspension for each action, to run consecutively.

¹ Admitted to practice law in Kentucky on October 10, 1986; KBA Member No. 81812; Bar roster address: 5247 Madison Pike, Independence, KY 41051.

I. KBA FILE NO. 19343.

In 2006, Deters filed a civil complaint in Kenton Circuit Court.² The complaint involved the alleged violation of an individual's rights by the Kenton County Jail. Initially, Deters named only the Kenton County Jailer in his official capacity as a defendant in the action. Deters eventually filed an amended complaint, including the Jailer in his individual capacity and the County Judge-Executive and County Commissioners in their respective individual capacities. At the time of this amended complaint, the evidence indicated the County Judge-Executive and County Commissioners had no direct personal involvement with the plaintiff, Deters's client, under the circumstances giving rise to the complaint. In addition, Deters's amended complaint included "Unknown Kenton County Jail Medical Personnel" and "Unknown Deputy Jailers" as defendants.

The County Judge-Executive and County Commissioners were dismissed by summary judgment because, according to the trial court, there was "absolutely no basis in law or in fact to support the claims." The "unknown" defendants were especially curious because Deters's client "testified in his deposition that he had given the names of the individuals whom he believed to have violated his rights to his attorney "in the beginning." Deters finally attempted to file a second amended complaint naming additional parties; but the trial court summarily rejected it because the statute of limitations had

² While not important for the purposes of the instant action, the case serving as the basis for Deters's discipline was *Chandler v. Carl*, Kenton Circuit Court Civil Action No. 06-CI-03311.

expired and, considering that Deters was attempting to substitute a named defendant for an unnamed defendant, the amended complaint was not within the relation-back rule.

Ultimately, the trial court found that Deters's complaints were not "well grounded in fact nor were they warranted by existing law." Specifically, the naming of improper parties was found unreasonable under the circumstances. So, in the trial court's view, the complaints were signed in violation of Kentucky Rules of Civil Procedure (CR) 11. And the trial court ordered Deters to pay \$29,381.41 for the opposing party's attorneys' fees. The trial court's order was entered November 22, 2010, nearly four years after the initial complaint was filed in the matter.

The Inquiry Commission issued a two-count Charge against Deters for his conduct associated with the frivolous or unsubstantiated filings. The Charge alleged violations of SCR 3.130(3.1)³ and 3.130(3.4)(c).⁴ The matter was referred to a trial commissioner, who found Deters guilty of both counts and recommended a thirty-day suspension. Deters appealed the determination

³ SCR 3.130(3.1) reads, "A lawyer shall not knowingly bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established."

⁴ SCR 3.130(3.4)(c) reads, "A lawyer shall not . . . knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists."

to the Board. The Board likewise found Deters guilty of both counts and recommended a thirty-day suspension.

II. KBA FILE NO. 19711.

In April 2011, Deters was sanctioned by the U. S. District Court for the Eastern District of Kentucky. The district judge found that Deters “knowingly and vexatiously” multiplied the proceedings and, consequently, under the authority of 28 U.S.C. § 1927,⁵ ordered Deters to pay the costs incurred by the opposing parties in defending the case. More specifically, the district judge found Deters “knowingly pursued frivolous claims against these two defendants long after he knew the claims to be such, thereby causing defendants to incur additional litigation costs.” In the end, the district judge ordered Deters to pay \$12,765.45.

Deters appealed the district judge’s determination to the U. S. Sixth Circuit Court of Appeals. Finding no abuse of discretion, the Sixth Circuit upheld the district judge’s sanction. The Sixth Circuit noted that Deters ignored existing law and failed to allege any facts against the defendants that would have entitled his client to relief. Furthermore, Deters failed to allege any facts that, even arguably, could have served as grounds for extending or modifying existing law. The defendants filed a motion seeking sanctions,

⁵ 28 U.S.C. § 1927 reads, “Any attorney or other person admitted to conduct cases in any court of the United States or any Territory thereof who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys’ fees reasonably incurred because of such conduct.”

alleging that the appeal was frivolous, as well. The Sixth Circuit agreed and ordered Deters to pay attorneys' fees and costs relating to the appeal.

The Inquiry Commission again issued a two-count Charge against Deters; and, again, the Charge alleged violations of SCR 3.130(3.1) and 3.130(3.4)(c). The trial commissioner found Deters guilty of both counts and recommended a thirty-day suspension from the practice of law. The Board adopted the findings of the trial commissioner and likewise recommended a thirty-day suspension.

III. ANALYSIS.

A. We will not Strike the Board's Findings.

Deters argues the Board's findings should be stricken because the Board failed to issue its findings within the time required by our rules. The Board held a hearing and determined Deters's guilt on November 21, 2014. Under SCR 3.370(6), "[t]he Board shall issue a written decision within forty five (45) days of voting on the cases." By Deters's estimation then, the Board's findings should have been issued January 5, 2015. The findings, however, were not issued until January 14, 2015. From our understanding of Deters's argument, it seems he views the Board's delayed filing as somewhat inadvertent. Deters filed a lawsuit on January 5, 2015, challenging the constitutionality of SCR 3.150(2); and he posits that lawsuit jogged the Board into the realization that its findings had not yet been issued.

This argument is not a new approach by Deters. Three years ago, he made the identical argument in *Kentucky Bar Ass'n v. Deters*.⁶ That case transpired under the former version of SCR 3.370(6), which gave the Board thirty days from the date of its hearing to issue its findings to this Court. The Board missed its deadline, and we acknowledged as much but refused Deters's attempt to dismiss his disciplinary action because he was unable to show any degree of prejudice resulting from the Board's tardiness. In reaching that conclusion, we relied upon *Kentucky Bar Ass'n v. Baker*,⁷ involving a trial commissioner's report filed three-and-one-half months late. We disciplined Baker despite the trial commissioner's delay, and we disciplined Deters previously despite the Board's delay—both times because the attorney subject to discipline was unable to show any prejudice.

We again acknowledge that the Board missed its deadline—a deadline that has been extended since our last encounter with this issue. But Deters's instant claim fails again because beyond his frustration with the Board's "ignor[ing]" our rules, he demonstrates no prejudice.

We are left to wonder what Deters desires to achieve by striking the Board's findings. Even if we were to grant Deters's motion and strike the Board's findings, the trial commissioner's findings and report would remain within the record. And the trial commissioner found Deters guilty with a recommended suspension of thirty days for each KBA file currently under

⁶ 360 S.W.3d 224 (Ky. 2012).

⁷ 889 S.W.2d 779 (Ky. 1994).

review. Striking the Board's findings would have little impact on our review of Deters's conduct.

Alternatively to striking the Board's findings, Deters requests we order his thirty-day suspensions, as recommended by the Board and trial commissioner, run from the date of the Board's vote—November 21, 2014. Simply put, this request is completely afield of any cognizable legal concept. The Board's vote, while perhaps serving as a factor in our ultimate decision, is nonbinding on this Court. This Court possesses "the sole authority to admit and discipline attorneys."⁸ In light of that axiomatic principle, it makes no sense for Deters's suspension to run from the date the Board voted on his punishment because that vote was nothing more than advisory for this Court.

B. Deters is Guilty of all Counts.

Throughout the lower proceedings, Deters has admitted to the factual recitation of his conduct but denied that his conduct constitutes a violation of the rules cited in both Charges at issue. Before this Court, Deters puts up little defense to his guilt. Instead, Deters is singularly focused on the Board's filing delay. The evidence of Deters's misconduct is rather clear, though.

The respective trial courts issued detailed findings regarding Deters's frivolous complaints and the convoluted, nearly subversive manner in which Deters managed the claims. The Kenton Circuit Court found Deters violated CR 11, which we have previously found to be sufficient for discipline.⁹ In

⁸ See, e.g., *Grigsby v. Kentucky Bar Ass'n*, 181 S.W.3d 40, 42 (Ky. 2005).

⁹ See, e.g., *Trainor v. Kentucky Bar Ass'n*, 311 S.W.3d 719 (Ky. 2010); *Turner v. Kentucky Bar Ass'n*, 955 S.W.2d 926 (Ky. 1997).

Kentucky Bar Ass'n v. Blum,¹⁰ we attempted to provide clarification about the scope of SCR 3.130-3.4(c). In doing so, we noted that violating a rule of civil procedure has qualified as disciplinable conduct in past cases.¹¹ The evidence is uncontroverted; the KBA presented sufficient evidence to find Deters guilty of violating SCR 3.130(3.4)(c) in KBA File No. 19343.

Likewise, the Kenton Circuit Court found Deters's claims were entirely frivolous. We need not repeat the trial court's findings, but we find them sufficient to support a violation of SCR 3.130(3.1). This is especially true in light of the trial court's conclusion: "The Court finds that none of these complaints were well grounded in fact nor were they warranted by existing law, and that the filing of these complaints naming the improper parties was not reasonable under the circumstances" The KBA has sufficiently proven Deters guilty of violating SCR 3.130(3.1) in KBA File No. 19343.

As for KBA File No. 19711, there can be little doubt that Deters violated SCR 3.130(3.1). In affirming the federal district judge's decision to sanction Deters, the Sixth Circuit noted: "Despite this existing law, Deters did not allege any facts against appellees that would entitle [Deters's client] to relief, and he did not allege any facts that could arguably extend or modify existing law." Deters does not deny this conduct; and, in the end, it is clear Deters asserted a claim that had no "basis in law and fact for doing so that is not frivolous" and

¹⁰ 404 S.W.3d 841 (Ky. 2013).

¹¹ 404 S.W.3d at 848.

did not make “a good faith argument for an extension, modification or reversal of existing law.”¹²

In sanctioning Deters, the federal district judge mentioned Deters’s failure to perform a pre-filing investigation as required by Federal Rules of Civil Procedure (FRCP) 11 and Deters’s improper use of FRCP 27 as indicia of vexatious practice. Deters’s conduct with regard to these rules was expanded upon in the federal district judge’s later order denying Deters’s motion to vacate the order imposing sanctions on him. More specifically, the federal district judge found Deters, in direct violation of FRCP 11, “presented an affidavit for an ‘improper purpose,’ namely to pursue a personal vendetta against persons having nothing to do with this case.” The federal district judge, furthermore, noted Deters “failed to make ‘an inquiry reasonable under the circumstances’ of the role that the prosecutorial defendants played in the prosecution of the plaintiff.” Finally, the federal district judge dispelled Deters’s notion that he was attempting to modify existing law by indicating Deters proffered no suitable research to support a modification to existing law. In total, the evidence is overwhelming that Deters violated SCR 3.130(3.4)(c) in KBA File No. 19711.

C. Suspension is Appropriate Punishment.

As for Deters’s punishment, both the Board and the Trial Commissioner recommended consecutive thirty-day suspensions for the disciplinary violations at issue in these cases. We can appreciate why suspensions were

¹² SCR 3.130(3.1).

recommended; and given Deters's past record before this Court, we feel a thirty-day suspension for each violation is appropriate.¹³

Deters has been before this Court several times. In 2012, we suspended Deters for sixty-one days for various violations stemming from his aggressive litigation strategy that exceeded the boundaries of professional conduct.¹⁴ We also required Deters to attend remedial ethics training in 2012. A year later, Deters was before this Court again. In that case, we suspended Deters for a total of sixty days as a result of a CR 11 violation and a false statement before a tribunal.¹⁵ We would be remiss if we did not mention Deters's lengthy disciplinary history—the vast majority of which is a direct result of his aggressive litigation strategy or conduct similar to the conduct at issue here.¹⁶

Undeniably, Deters's litigation tactics are unacceptable professionally and, given his disciplinary history, prohibited by our conduct rules. Despite several disciplinary actions before this Court and various levels of punishment, it appears Deters is undeterred. In light of this, we feel that consecutive thirty-day suspensions for each of the instant disciplinary actions are warranted.

¹³ We should note that Deters claims to be attempting to retire from the practice of law, albeit via an improper method. Deters mailed a letter to the KBA President regarding his retirement from the bar. As the KBA points out in its brief before this Court, this is not, of course, the proper method for retiring from the bar. SCR 3.480 details the procedure for withdrawing from bar membership. Of course, an attorney facing disciplinary charges may not withdraw from membership while those disciplinary proceedings are pending. See SCR 3.480(1).

¹⁴ *Deters*, 360 S.W.3d 224.

¹⁵ *Kentucky Bar Ass'n v. Deters*, 406 S.W.3d 812 (Ky. 2013).

¹⁶ See *Deters*, 406 S.W.3d at 817.

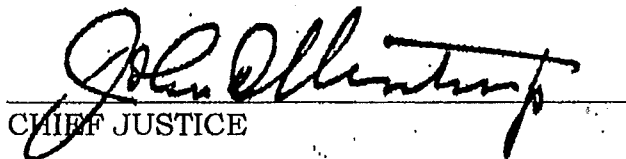
IV. ORDER.

For the foregoing reasons, the Court ORDERS:

- 1) Eric C. Deters, KBA Member No. 81812, is guilty of all charges alleged in KBA File Nos. 19343 and 19711;
- 2) Deters will be suspended from the practice of law for a period of thirty days for violations of SCR 3.130(3.1) and SCR 3.130(3.4)(c) in KBA File No. 19343, and Deters will be suspended from the practice of law for a period of thirty days for violations of SCR 3.130(3.1) and SCR 3.130(3.4)(c) in KBA File No. 19711;
- 3) Deters's suspensions will run consecutively; and
- 4) Under SCR 3.450, Deters is ordered to pay all costs associated with this disciplinary proceeding, in the total amount of \$2,233.00, for which execution may issue from this Court upon finality of this order.

All sitting. All concur.

ENTERED: May 14, 2015.


CHIEF JUSTICE

Supreme Court of Kentucky

2012-SC-000666-KB

AND

2012-SC-000667-KB

KENTUCKY BAR ASSOCIATION

MOVANT

V.

IN SUPREME COURT

ERIC C. DETERS

RESPONDENT

ORDER DENYING PETITION FOR RECONSIDERATION

The Petition for Reconsideration, filed by the respondent, of the Opinion and Order Suspending, rendered May 23, 2013, is DENIED.

Minton, C.J.; Abramson, Cunningham, Keller, Noble, and Venters, JJ., sitting. All concur. Scott, J., not sitting.

ENTERED: August 29, 2013.


CHIEF JUSTICE

TO BE PUBLISHED

Supreme Court of Kentucky

2012-SC-000666-KB
2012-SC-000667-KB

RECEIVED
KENTUCKY BAR ASSOCIATION

MAY 23 2013

KENTUCKY BAR ASSOCIATION

MOVANT

V.

IN SUPREME COURT

ERIC C. DETERS

RESPONDENT

OPINION AND ORDER

This Opinion and Order resolves two KBA disciplinary files, Nos. 16037 and 19366, against Eric C. Deters.

Eric Deters was admitted to the practice of law in Kentucky on October 10, 1986, and his bar roster address is 5247 Madison Pike, Independence, Kentucky 40151. His Kentucky Bar Association (KBA) Member Number is 81812.

In KBA File No. 16037, the Board of Governors of the Kentucky Bar Association has, under SCR 3.370(5), recommended to this Court that Deters be found guilty of three counts of professional misconduct and be suspended from the practice of law in this Commonwealth for 60 days.

In KBA File No. 19366, the Board has recommended that Deters be found guilty of one count of misconduct and be suspended from the practice of law for 30 days, with that time to be served concurrently with the suspension in KBA File No. 16037.

Deters has sought review of these recommendations under SCR 3.370(7) challenging the process before the Board and, alternatively, requesting that he be given credit for additional suspension time related to a previous disciplinary case. This Court agrees with the Board as to Deters's guilt and the recommended sanction in both cases. Additionally, Deters will not be given credit for the previous additional suspension time.

I. Background

A. The facts underlying KBA File 16037.

On February 9, 2003, Victoria and Jerry Huebener contracted with Concept Homes to build a house. At that time, Concept Homes was the assumed name of a sole proprietorship owned by Dennis Zahler. Dennis worked with his son, Scott Zahler. The contract included a binding arbitration clause requiring mediation and then arbitration before the American Arbitration Association.

On June 17, 2003, Dennis Zahler organized Concept Homes as a limited liability company, Concept Homes LLC, under KRS Chapter 275 by filing an articles of organization with the Secretary of State.

In December 2003, the Huebeners filed a demand for mediation under the agreement. Deters began representing the Zahlers and Concept Homes soon after.

In March 2004, Deters filed a pleading in the mediation-arbitration proceeding asserting that Concept Homes LLC was the responsible party because it had been formed on January 11, 2003, almost a month before the

agreement with the Huebeners was signed. Attached to this document was a copy of an articles of organization for the LLC with the January 2003 date.

That same month, the Huebeners filed a response asserting that Concept Homes LLC had not been organized as an LLC until June 17, 2003, almost four months after the contract was signed. Included with their response were certified copies of documents from the Secretary of State, including the articles of organization of the LLC, showing the date of organization as June 17, 2003. Deters claimed that he never read this response or saw the articles of organization.

On April 29, 2004, Deters filed a verified complaint for declaratory judgment in Campbell Circuit Court seeking a declaration that Dennis and Scott Zahler were not individually liable under the contract with the Huebeners. The verified complaint included the following factual and legal claims:

5. Concept Homes, LLC was formed on January 11, 2003.
8. The Contract (Work Order) Exhibit A was entered into between Concept Homes, LLC and Defendants.
9. There is no personal liability on Dennis Zahler's and Scott Zahler's behalf.
11. Concept Homes has no money to arbitrate and Dennis Zahler and Scott Zahler have no personal liability.

The Huebeners filed an answer and counterclaim for declaratory judgment, again alleging that the LLC was not formed until June 17, 2003. Another copy of the certified documents from the Secretary of State were sent to Deters along with the answer and counterclaim.

On August 31, 2004, Deters filed an amended complaint adopting and incorporating all the claims from the original complaint. Deters later admitted that he learned the actual organization date of the LLC during discovery in the case and before he filed the amended complaint. He claimed, however, that he had been relying on the documents provided to him by his client that included an articles-of-organization form with the January 2003 date.

The litigation continued in Campbell Circuit Court. Eventually, the Huebeners filed a motion for partial summary judgment. In his response, filed in January 2005, Deters stated: "After discovery to date, Plaintiffs accept the fact that Dennis Zahler, individually, d/b/a Concept Homes is an appropriate party. ... In addition, Defendants filed a Third Party Complaint naming Concept Homes, LLC as a party. ... Concept Homes, LLC was formed in the middle of the project so they must be a party ... So, Defendants and Plaintiffs are now in agreement, Concept Homes, LLC is a necessary party." The third-party complaint, however, named only "Concept Homes."

On February 10, 2005, the Campbell Circuit Court found that Dennis Zahler was personally liable under the contract and ordered him to proceed with mediation and arbitration.¹

Shortly after, the Huebeners filed a motion for sanctions under Civil Rule 11² based on Deters's misrepresentations about the date of the organization of

¹ Scott Zahler, as a mere employee of his father, had been dismissed from the suit.

² Civil Rule 11 states in part: "The signature of an attorney ... constitutes a certification by him that he has read the pleading, motion or other paper; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the

Concept Homes LLC and the personal liability of Dennis Zahler under the construction contract. The court held a hearing on the motion and in January 2006 held that Deters had violated Civil Rule 11. Specifically, the court order included the following conclusions:

- “As acknowledged by Mr. Deters, all of the statements in the pleadings in this actions, [sic] and signed by him, referenced in paragraph 6,[³] above, as they relate to Plaintiff Dennis Zahler are untrue and were untrue at the time they were made.”
- “Deters knew that Concept Homes, LLC had been formed ... on June 17, 2003, before he filed the Complaint, in which he nonetheless alleged that ‘Concept Homes was formed on January 11, 2003.’”
- “Deters knew or should have known through reasonable inquiry at the time the complaint was filed that Dennis Zahler was a sole proprietor doing business as ‘Concept Homes,’ yet he alleged to the contrary in the Complaint and in the Request for Admissions.”
- “Contrary to his assertion in reply to Defendant’s [sic] motion for partial summary judgment, Defendant’s [sic] never accepted no [sic] agreed that Concept Homes, LLC, was a necessary party.”
- “Deters had *actual notice* that the key allegations he made were false.”
- “[T]he pleadings were interposed only for the purpose of harassing the Defendants and to cause unnecessary delay.”

As a result, the court later imposed sanctions of \$21,876.14 in costs and attorneys fees on Deters.

Deters appealed this decision to the Court of Appeals, which affirmed and stated:

extension, modification or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.”

³ These are the same allegations from the pleadings quoted above.

We agree with the trial court that Deters' conduct was clearly unreasonable and more than a mere oversight. By his own admission, Deters would have known the LLC status of the company simply by reading the information provided by his clients. His failure to do so conveniently resulted in a benefit to his client. An attorney cannot avoid the duty of veracity by failing to read readily available documents.

In 2010, this Court denied discretionary review, and the decision is now final.

In January 2008, upon learning of the Rule 11 sanction imposed by the Campbell Circuit Court, the Inquiry Commission began a disciplinary investigation. In February 2008, Charlotte Huebener filed a bar complaint. The matter was placed in abeyance under SCR 3.180(2) while Deters pursued his appeal of the Rule 11 decision.

After the denial of discretionary review in the Rule 11 proceeding, the Inquiry Commission issued a three-count charge against Deters. The counts alleged the following violations:

- SCR 3.130-3.1⁴ for knowingly filing the complaint in the circuit court action alleging that his client had no personal liability because he had formed his LLC before entering the contract, despite having actual knowledge that this claim was false;
- SCR 3.130-3.3(a)⁵ for making false statements in the verified complaint, amended complaint, and the reply to the defendants' motion for summary judgment; and
- SCR 3.130-3.4(c)⁶ for violating Civil Rule 11, as found by the circuit court and affirmed on appeal.

⁴ "A lawyer shall not knowingly bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law." SCR 3.130-3.1.

⁵ "A lawyer shall not knowingly ... 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" SCR 3.130-3.3-(a)(1).

The matter was assigned to a trial commissioner. The KBA moved to collaterally estop Deters from re-litigating the findings of the Campbell Circuit Court and the Court of Appeals. This motion was granted, though the commissioner allowed Deters to present evidence in mitigation and to contend that the facts found by those courts did not constitute an ethics violation.

After a hearing on the case in December 2011, the commissioner found Deters guilty of all three counts and recommended a 60-day suspension from the practice of law. Deters appealed the matter to the Board of Governors, which is discussed below.

B. The facts underlying KBA File No. 19366.

This charge arose from Deters's filing a lawsuit, pro se, against Rob Sanders in Kenton Circuit Court alleging libel and false light. In a pleading in that case, titled Response to Defendant's Memorandum in Support of Motion to Dismiss, or in the Alternative Motion for Summary Judgment, Deters stated: "Further, Eric Deters has not been the subject of any disciplinary action or sanctioned in the past by any of the bars to which he is admitted." In a later filing, Deters stated: "Fact—I have had only two private reprimands by the KBA." In the same filing, he claimed that his previous statement, that he had not been subject to any disciplinary action nor sanctioned in the past, was not false.

Contrary to these claims, Deters had received a private admonition from the Inquiry Commission in 2002 and a private reprimand from this Court in

⁶ "A lawyer shall not ... knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists." SCR 3.130-3.4(c).

2003. Additionally, at the time the statements were made, Deters was the subject of six ongoing disciplinary proceedings, which resulted in a 61-day suspension in 2012. See *Kentucky Bar Ass'n v. Deters*, 360 S.W.3d 224 (Ky. 2012).

Sanders filed a bar complaint, which led to the issuance of a formal charge by the Inquiry Commission in June 2011. The charge contained one count alleging a violation of SCR 3.130-3.3(a)(1)⁷ by Deters's making false statements of fact in his pleadings in the civil lawsuit.

This matter was also assigned to a trial commissioner. Deters waived a hearing on the matter and instead submitted only a brief arguing why he believed his conduct did not violate the ethical rules. In May 2012, the trial commissioner found Deters guilty of the violation and recommended a 30-day suspension, to be served consecutively to the 61-day suspension ordered by this Court in *Kentucky Bar Ass'n v. Deters*, 360 S.W.3d 224 (Ky. 2012). This matter was also appealed to the Board of Governors.

C. Proceedings before the Board of Governors.

Both cases were then appealed to the Board of Governors, which decided by a vote of 12 to 0 to hear them de novo.⁸ The cases were heard together.

In KBA File No. 16037, the Board then found that the doctrine of collateral estoppel applied to bar Deters from litigating the findings of the circuit court and Court of Appeals, though he was allowed to present mitigation

⁷ SCR 3.130-3.3(a)(1) states: A lawyer shall not knowingly ... 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"

⁸ Six members of the Board had recused, and two members were absent.

evidence and argue that the facts as found did not constitute an ethical violation. Additionally, the Board independently found by a preponderance of the evidence that Deters had knowingly filed a complaint asserting known falsehoods as described above; that Deters made false statements in the complaints and other filings, again as described above; and that Deters knowingly violated Civil Rule 11. The Board voted 12 to 0 to find Deters guilty of all three charges.

In KBA File No. 19366, the Board found that Deters's statements in his libel lawsuit were false when made because he had been subject to two prior sanctions (an admonition and a reprimand), and was the subject of other disciplinary actions at that time. The Board voted 12 to 0 to find Deters guilty of the violation.

Before deciding the appropriate sanction, the Board considered Deters's disciplinary history, which consisted of the following:

1. a private admonition in February 2002 for inflammatory statements about the federal and state bench made in a brief;
2. a private reprimand in December 2003 for failing to pay the proceeds of a personal injury settlement to a chiropractor who had a valid lien and assignment from the client in violation of SCR 3.130-1.15(b);
3. a 61-day suspension, as ordered in February 2012 in *Kentucky Bar Ass'n v. Deters*, 360 S.W.3d 224 (Ky. 2012), for four violations related to allegations of misconduct made against a judge and opposing counsel in a case (SCR 3.130-8.2(a)), filing documents on behalf of a non-client (SCR 3.130-3.3(a)), repeatedly contacting the non-client in a harassing manner (SCR 3.130-7.09(2)), and failing to return the unearned portion of a fee (SCR 3.130-1.16(d)); and

4. a private admonition in March 2012 for claiming that two federal judges were “joining the cabal of lawyers against him” in violation of SCR 3.130-8.2(a).

This prior misconduct included a violation of one of the rules that Deters is alleged to have violated again in these cases. In addition to this prior misconduct, the Board considered several other aggravating factors from the ABA’s *Standards for Imposing Lawyer Sanctions*, which has been cited favorably by this Court. See *Anderson v. Kentucky Bar Ass’n*, 262 S.W.3d 636, 639 (Ky. 2008). Among these factors was Deters’s refusal to acknowledge the wrongful nature of his misconduct, the presence of multiple offenses, his substantial experience in the practice of law, and the fact that his conduct included making false statements to a court and not taking remedial action. The Board stated there were no mitigating factors.

After considering all this, in KBA File No. 16037, the Board voted 11 to 1 for a 60-day suspension and to require payment of costs. The Board also considered whether Deters should be given credit for 52 days of suspension that followed the 61-day suspension ordered in *Kentucky Bar Ass’n v. Deters*, 360 S.W.3d 224 (Ky. 2012). (The details of how that additional 52-day suspension came about are laid out below.) The Board voted 8 to 4 to require service of the full 60 days without any credit for the previous additional suspension.

In KBA File No. 19366, the Board voted 10 to 2 for a 30-day suspension, to be served concurrently with the suspension in KBA File No. 16037, and to require payment of costs.

Deters has now sought review at this Court under SCR 3.370.

D. The previous disciplinary case and additional suspension.

As noted above, Deters was suspended for 61 days beginning in February 2012. His actual time of suspension, however, totaled 113 days. Ordinarily, any suspension less than 180 days “expire[s] by its own terms” if the attorney complies with the terms of the suspension. SCR 3.510(2). But the Office of Bar Counsel may take steps to stop the automatic expiration of such a suspension:

[A] suspension shall not expire by its own terms if ... Bar Counsel files with the Inquiry Commission an opposition to the termination of suspension wherein Bar Counsel details such information as may exist to indicate that the member does not, at that time, possess sufficient professional capabilities and qualifications properly to serve the public as an active practitioner or is not of good moral character.

SCR 3.510(2). If Bar Counsel does not withdraw the objection within 30 days, then the matter is referred to the Character and Fitness Committee for proceedings under SCR 2.300. *Id.* The case is then reviewed by the Board, whose recommendation is then reviewed by this Court. SCR 3.510(3).

Bar Counsel filed such an objection. *See Deters v. Kentucky Bar Ass'n*, 2012-SC-000344-KB, 2012 WL 2362595, *1 (Ky. June 15, 2012). Apparently, Bar Counsel cited as one of the grounds for its objection the fact that this and one other disciplinary case were pending. The matter went to the Character and Fitness Committee, which concluded that Deters had met the requirements for reinstatement as laid out in SCR 2.300(6) and thus recommended reinstatement, albeit with additional conditions. *Id.* at *1, *2. When the case proceeded to the Board of Governors, it concluded “that [Deters] failed to prove that his conduct while under suspension showed him to be worthy of the trust and confidence of the public or that he appreciated the

wrongfulness of his misconduct, was contrite and had rehabilitated himself.”

Id. at *2.

Despite the findings of the Board, this Court granted the reinstatement, concurring instead with the assessment of the Character and Fitness Committee. *Id.* This order was entered June 15, 2012, meaning that Deters had remained suspended 52 days more than the 61 days ordered by this Court.

II. Analysis

In his brief to this Court, which addresses both disciplinary cases, Deters alleges prejudice in the proceedings; challenges the merits of the counts against him, albeit only half-heartedly; claims he should be given credit for his 52-day additional suspension; and argues that he should not be subject to any additional suspension. We address each in turn.

A. Procedural prejudice.

First, Deters argues that he was prejudiced before the Board by its denial of his request for a court reporter and videographer. This, he argues, means there is no record of the proceeding, which prevents this Court from assessing the demeanor of the Board and Bar Counsel. He also complains that the Board told him in a prior disciplinary matter that a similar request had come too late in that case, and that he was given no reason in this case.

The Court sees no prejudice in this practice as it relates to this Court’s review of the matter. When this Court undertakes review of a disciplinary proceeding, whether at the party’s urging under SCR 3.370(7) or the Court’s own motion under SCR 3.370(8), it is not bound as it would be in a pure appeal. The Court is not required to defer to the findings of fact or conclusions

of law of the trial commissioner or the Board. Rather, in disciplinary proceedings, those entities act as administrative agents of this Court to produce a record and a recommendation.

Once this Court undertakes review of a case, it "shall enter such orders or opinion as it deems appropriate on the entire record." SCR 3.370(8). Thus, the demeanor and actions of the Board and Bar Counsel are not relevant. This Court instead decides the case de novo itself based on the record developed below. Any potential unfairness shown by a Board member or by Bar Counsel is alleviated by this Court's independent review of a lawyer's alleged misconduct.

Second, Deters argues that he was prejudiced at the Board by its employment of a deputy sheriff as security at its hearing. Again, this Court discerns no prejudice in this practice, for many of the reasons articulated above. But more importantly, the Board's decision to have a security presence is no different than a Court's decision to have a bailiff present during proceedings. It is a common occurrence and evinces no bias against a litigant.

B. The merits of the charges.

As noted above, Deters also challenges the merits of the charges against him. He does so, however, in a single paragraph arguing that this Court should not give collateral estoppel effect to the decision in the Rule 11 proceeding that led to KBA File No. 16037. In that same paragraph, rather than making an argument on the merits of both cases, he instead refers to the briefs he filed at the Board of Governors, in which he argued that his behavior was at most negligent and there was no proof of intentional or knowing conduct in KBA File

No. 16037, and that he did not make false statements in the proceedings leading to KBA File No. 19366. Incorporating an argument by reference rather than making the argument in the brief is, of course, improper. Nevertheless, the Court will address whether Deters's conduct violated the rules as part of its independent review under SCR 3.370.

1. KBA File No 16037.

As to his first claim, that the Rule 11 proceedings should be given no collateral estoppel effect, this Court has stated on multiple occasions that the judgment of a court can serve as conclusive proof that conduct occurred. *See, e.g., Kentucky Bar Ass'n v. Horn*, 4 S.W.3d 135, 137 (Ky. 1999). In such cases, however, this Court still decides whether the proven conduct violated an ethical rule. This is an independent judgment in which this Court is not bound by the lower courts. The power to discipline attorneys for professional misconduct is lodged solely with this Court, and not the lower courts. *See Ky. Const. § 116.*

Regardless of any preclusive effect of the lower courts' decision, this Court independently concludes that the evidence as presented in the disciplinary proceeding in KBA File No. 16037 proves the following:

1. That Deters knowingly filed a complaint with false allegations despite knowing of their falsity;
2. That Deters knowingly made false statements in the complaint, amended complaint, and reply to the motion for summary judgment;
3. That Deters violated Civil Rule 11.

Deters's argument that he had no actual knowledge of the falsity of the statements and that he had relied on claims by his client is belied by the fact that he had already been given notice that the LLC was not formed in January

2003 during the mediation-arbitration proceeding, which preceded his filing the complaint in circuit court. Specifically, a copy of the filings with the Secretary of State was given to Deters. His claim not to have read these documents is simply not believable, or is no excuse.

Deters also claims that he discovered and admitted the “mistake” upon the service of a request for admissions approximately 30 to 60 days after the suit was filed. (His response was dated June 14, 2004.) Yet the amended complaint, which came more than 60 days after the initial complaint, reiterated the falsehoods by adopting and incorporating by reference *all* the claims in the original complaint. Additionally, despite admitting that the LLC was formed in June 2003, the next request for admission—that the agreement was entered into three months before the LLC was formed—was denied, as were several others.

Finally, there is the alleged false statement in the reply to the motion for summary judgment. Here, the Court disagrees that Deters’s reply included the type of falsehoods contemplated by the Rules of Professional Conduct. In the reply, Deters had claimed that by naming “Concept Homes” in a third-party complaint, the Huebeners had named Concept Homes LLC and thus had essentially conceded that the LLC was a proper party. While the third-party complaint did not actually name Concept Homes LLC and instead only named “Concept Homes,” this Court does not see that as a blatant falsehood, as the circuit court did in the Rule 11 proceeding, that would run afoul of the ethical rules. While Deters’s claim may have been a bit obtuse, in that it conflated the defendants’ use of “Concept Homes” with “Concept Homes LLC” when the

identity of the entity was at the heart of the litigation, this Court cannot say that this behavior violated the ethical rules. Quibbling about the meaning and significance of statements made in pleadings, so long as done in good faith, falls within the scope of legitimate legal strategy.

Finally, Deters was found to have violated Rule 11. This Court agrees that Deters's conduct violated that rule, in that he filed a complaint without a reasonable basis in fact and proceeded only to delay and increase the cost of litigation. This violated Civil Rule 11, which places obligations on all the attorneys in all the courts of this Commonwealth.

This Court also agrees that this conduct, except as noted above, violated the ethical rules as laid out in the charge, namely, SCR 3.130-3.1, SCR 3.130-3.3(a), and SCR 3.130-3.4(c). Finally, this Court also agrees that a 60-day suspension is warranted by these facts.

2. KBA File No. 19366.

This Court also independently concludes that the evidence as presented in the disciplinary proceeding in KBA File No. 19366 proves that Deters violated SCR 3.130-3.3(a)(1) by making false statements in filings with the Kenton Circuit Court.

While Deters is correct that his prior sanctions—the admonition and reprimand—were private, and therefore confidential under SCR 3.150(1),⁹ both sanctions nevertheless occurred. Additionally, at the time of the filings in the circuit court case, Deters had six pending disciplinary cases. These facts make

⁹ “In a discipline matter, prior to a rendition of a finding of a violation of these Rules by the Trial Commissioner or the Board and the recommendation of the imposition of a public sanction, the proceeding is confidential.” SCR 3.150(1).

his claim that he “ha[d] not been the subject of any disciplinary action or sanctioned in the past by any of the bars to which he is admitted” literally false.

In later pleadings in the circuit court case, Deters made more accurate statements, such as that he had “never been publicly reprimanded” or “the subject of public disciplinary action.” These statements demonstrate that he understood the difference between his initial statements and the true facts of the case.

That Deters enjoyed confidentiality for the disciplinary proceedings at that time did not give him license to lie about them. Confidentiality does not erase a disciplinary process or sanction that has occurred. Confidentiality simply allowed Deters not to disclose that it occurred; it did not give him the right to claim that it did not. He could have stood silent on the subject or qualified his statements to make them true. But Deters’s statements did not include any qualification, such as that he has not been publicly disciplined; instead, he made absolute, and therefore false, statements in his pleadings. This violated SCR 3.130-3.3(a)(1).

This Court thus agrees with the Board that Deters’s conduct violated the ethical rules as laid out in the charge. Additionally, this Court also agrees that a 30-day suspension is warranted by these facts, and that this suspension should be served concurrently with the suspension in KBA File No. 16037.

C. Deters is not entitled to credit for the previous 52 days' suspension.

As Deters himself admits in his brief, his focus is not on whether his conduct violated the rules. Instead, he “for the sake of argument’ prefers to focus on the punishment issue.” He argues that he should be given credit for the additional 52 days he was suspended in his earlier case and that he should be given a “break” and not required to serve the remaining 8 days.

This Court need not address in depth Deters’s arguments as to why he should be given credit for the 52 days. The simple fact is that the Supreme Court Rules allow for a suspension of a definite term to be effectively extended when Bar Counsel objects to automatic reinstatement and provides “such information as may exist to indicate that the member does not, at that time, possess sufficient professional capabilities and qualifications properly to serve the public as an active practitioner or is not of good moral character.” SCR 3.510(b).

As noted above, the KBA’s Office of Bar Counsel objected to Deters’s automatic reinstatement for several reasons, including several then-pending disciplinary matters¹⁰ and his possible failure to comply with aspects of this Court’s order related to ceasing all advertising, paying costs, etc. While this Court and the Character and Fitness Committee ultimately concluded that Deters should be reinstated, there is no question that Bar Counsel’s objection was brought in good faith.

¹⁰ Though it is not clear from the record, it appears that originally, Deters had nine different disciplinary matters pending at the time. Five of these have since been dismissed, two have gone through the disciplinary process—KBA File Nos. 16037 and 19366—and two are still being processed.

Deters complains that if he is not given credit for the additional suspension, then he will essentially be punished twice for the same behavior, since the disciplinary matters resolved in this opinion were part of Bar Counsel's reason for objecting to his reinstatement. That might be the case if these disciplinary cases were the *only* basis for that objection, but that is not the case here. As noted above, part of the reason Bar Counsel objected was that Deters had not complied completely with this Court's order in the previous disciplinary matter.

Moreover, it has long been the case that a license to practice law "is not an absolute right, but a privilege only." *Commonwealth ex rel. Ward v. Harrington*, 266 Ky. 41, 98 S.W.2d 53, 57 (1936). The privilege is conditioned not just on a lack of wrongdoing but also on the lawyer's proven professional capability and good moral character. And this Court is charged by the Constitution to police the membership of the bar. See Ky. Const. § 116. This the Court does largely by rule. See *id.*; see also SCR 3.010 - .530. Our rules specifically contemplate that a lawyer's suspension may extend beyond the time ordered by this Court where Bar Counsel has reason to believe the lawyer is not currently qualified to practice law.

Deters's 52 days of additional suspension in his previous case was the result of the process laid out in these rules. The suspension he has earned for the misconduct described above is solely the result of this Court's final resolution of the disciplinary proceedings for that misconduct. Deters has received due process from these proceedings. Thus, this Court concludes that

Deters is not entitled to credit for any previous suspension and must serve the entire 60 days resulting from this case.

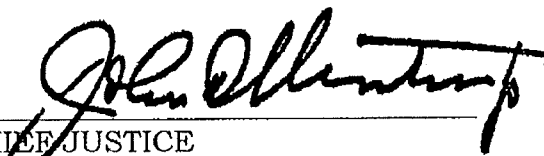
III. Order

ACCORDINGLY, IT IS HEREBY ORDERED:

- (1) Eric C. Deters is found guilty of the violations of the Rules of Professional Conduct as described above in KBA File Nos. 16037 and 19366.
- (2) Deters is suspended from the practice of law in the Commonwealth of Kentucky for 60 days for his conduct in KBA File No. 16037. He is suspended for 30 days for his conduct in KBA File No. 19366, with this time to be served concurrently with that in KBA File No. 16037. Thus, for these two cases, he is suspended for a total of 60 days.
- (3) This order of suspension shall take effect on the tenth day following its entry. As required by SCR 3.390(a), Deters shall promptly take all reasonable steps to protect the interests of his clients, and shall not during the term of suspension accept new clients or collect unearned fees, and shall comply with the provisions of SCR 3.130-7.50(5).
- (4) In accordance with SCR 3.450, Deters is directed to pay all costs associated with these disciplinary proceedings against him, said sum being \$1,677.32 in KBA File No. 16037, and \$773.15 in KBA File No. 19366, for a total of \$2,450.47, for which execution may issue from this Court upon finality of this Opinion and Order.

Minton, C.J.; Abramson, Cunningham, Keller, Noble and Venters, JJ.,
concur. Scott, J., not sitting.

ENTERED: May 23, 2013.



CHIEF JUSTICE