

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

Disciplinary Counsel
65 East State Street, Suite 1510
Columbus, Ohio 43215-4215

FILED

DEC 02 2022

BOARD OF PROFESSIONAL CONDUCT

Relator,

v.

Case No. 2022-049

Carolyn Kaye Ranke, Esq.
Attorney Registration No. 0043735
55 Public Square #2100
Cleveland, Ohio 44113

Respondent.

Complaint and Certificate

Relator alleges that respondent, Carolyn Kaye Ranke, an attorney admitted to the practice of law in the state of Ohio, has committed the following misconduct:

1. Respondent was admitted to the practice of law in the state of Ohio on November 6, 1989.
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 October 21, 2010, the court publicly reprimanded respondent for a pattern of neglect in a single client matter. *Cleveland Metro. Bar Assn. v. Ranke*, 127 Ohio St.3d 126, 2010-Ohio-5036.
4. On September 22, 2011, the court indefinitely suspended respondent for improperly maintaining her client trust account, failing to file an appellate brief on a client's behalf,

and failing to cooperate with relator's investigation. *Disciplinary Counsel v. Ranke*, 130 Ohio St.3d 139, 2011-Ohio-4730.

5. On November 24, 2015, the court reinstated respondent's license to practice law. *11/24/2015 Case Announcements*, 2015-Ohio-4800.

Count I – The Winegarner Matter

6. On June 29, 2021, Raphelle Winegarner ("Winegarner") was convicted of multiple felony charges in the Cuyahoga County Court of Common Pleas. *State of Ohio v. Raphelle D. Winegarner*, Case No. CR-20-648107A.
7. During the trial phase, Attorney Mark Mariotti represented Winegarner.
8. On September 9, 2021, the court sentenced Winegarner to 33 years imprisonment. During the sentencing hearing, the court appointed respondent as Winegarner's appellate counsel.
9. After his sentencing hearing, Winegarner called respondent and told her that she had been appointed as his appellate counsel.
10. On September 20, 2021, the court issued an entry appointing respondent to represent Winegarner for appeal purposes, which respondent received.
11. Winegarner's notice of appeal was due on October 9, 2021, per App.R. 4(A)(1).
12. Despite receiving notice of the court's appointment, respondent failed to file a timely notice of appeal on Winegarner's behalf.
13. On Tuesday, November 16, 2021, Winegarner's mother, Paulette Winegarner ("Paulette"), texted respondent, stating, "Waiting on appeal." ¹

¹ All text messages are quoted verbatim.

14. Despite not taking any formal action on Winegarner's appeal, respondent replied to Paulette's text that same day, falsely implying that she had, stating, "Will send it to you. Still in court and haven't made it back from office."
15. Paulette texted respondent later that same evening, "I am waiting on you to send the appeal."
16. Respondent replied to Paulette's text, again falsely implying she had taken formal action on Winegarner's appeal, stating, "I just got out of trial. Will send it to you. Sorry for the delay."
17. On Wednesday, November 17, 2021, at 9:26 a.m., Paulette again texted respondent, asking, "where is the appeal that was filed?"
18. At 7:48 p.m. that same day, Paulette texted respondent again, stating she was waiting on "the appeal that was filed" and that she had not seen it.
19. That same evening, respondent replied to Paulette's text, falsely implying that she had emailed Paulette, "Did you check your spam sent today around 2. Let me know. Will resend."
20. Paulette responded that she "didn't get it." Respondent did not "resend" the information as she promised.
21. Paulette subsequently contacted the court and learned that respondent had not filed a notice of appeal on her son's behalf, and the deadline to file had passed.
22. Shortly after, Paulette hired Attorney Rick Ferrara ("Ferrara") to handle her son's appeal.
23. On January 12, 2022, Ferrara filed a Notice of Appeal and a Motion for Delayed Appeal Instanter on Winegarner's behalf. *State of Ohio v. Raphelle D. Winegarner*, 8th Dist. Cuyahoga, Case No. CA-22-111201.

24. In support of the motion, Ferrara included an affidavit from Paulette attesting that respondent falsely represented that the appeal had been filed and promised to provide her the appellate paperwork when in fact, respondent never filed the notice of appeal, or took any formal action on Winegarner's behalf.
25. On January 24, 2022, the Eighth District Court of Appeals granted Winegarner's Motion for a Delayed Appeal, permitting Winegarner's appeal to proceed.

Failure to Cooperate

26. On December 13, 2021, Paulette filed a grievance against respondent with relator's office ("Winegarner grievance").
27. On December 22, 2021, relator sent respondent a letter of inquiry ("LOI") regarding the Winegarner grievance via email to kaye.ranke@gmail.com, the same email address respondent registered with the Supreme Court of Ohio's Office of Attorney Services. Relator's LOI required respondent's reply by January 5, 2022.
28. Respondent failed to respond to relator's LOI by January 5, 2022.
29. On January 18, 2022, relator sent respondent a second LOI regarding the Winegarner grievance via email to kaye.ranke@gmail.com, requiring respondent's reply by February 1, 2022.
30. Respondent failed to respond to relator's second LOI by February 1, 2022.
31. On March 4, 2022, respondent replied to an email from relator's office regarding other client matters, but still did not provide her written response to the Winegarner grievance.
32. In that same email chain, because of respondent's failure to respond to relator's inquiries, relator discussed potential deposition dates with respondent. In addition, relator again requested respondent's reply to the Winegarner grievance by March 11, 2022.

33. Respondent did not provide a written response to the Winegarner grievance by March 11, 2022.
34. On April 22, 2022, as discussed in ¶ 32 above, respondent appeared for her deposition via Zoom.
35. During her deposition, respondent falsely testified that she had previously sent her response to the Winegarner grievance to relator's office via email.
36. Respondent promised to provide a copy of that response to relator, including proof that she previously "sent" her response, as referenced in her deposition testimony.
37. On April 22, 2022, relator sent respondent a post-deposition inquiry via email requesting, among other items, respondent's previously emailed reply to the Winegarner grievance and proof of respondent's professional liability insurance policy. Relator requested respondent's reply by May 4, 2022.
38. Respondent failed to respond by May 4, 2022.
39. On May 12, 2022, relator emailed respondent again requesting respondent's previously emailed reply to the Winegarner grievance and proof of her professional liability insurance policy. Relator requested respondent's reply by May 19, 2022.
40. Respondent failed to respond by May 19, 2022.
41. On July 20, 2022, relator sent respondent an email again requesting proof of her professional liability insurance.
42. On the same date, respondent replied via email and provided relator with proof of her professional liability insurance. Respondent further stated, "what else do you need from me?"

43. Relator replied that it was still awaiting respondent's reply to the Winegarner grievance, per her April 22, 2022 deposition testimony. Relator requested respondent's reply by August 3, 2022.
44. Respondent did not respond by August 3, 2022.
45. Respondent has not provided to relator any documentation to support her deposition testimony that she previously provided a written response to Winegarner's grievance despite her statement that she would "resend it" to relator after her deposition.
46. Respondent's conduct, as alleged in Count I, violates the following provisions of the Ohio Rules of Professional Conduct:
 - (a) Prof.Cond.R. 1.3 [a lawyer shall act with reasonable diligence and promptness in representing a client];
 - (b) Prof.Cond.R. 8.1(a) [a lawyer shall not knowingly make a false statement of material fact in connection with a disciplinary matter];
 - (c) Prof.Cond.R. 8.1(b) [a lawyer shall not fail to disclose a material fact or knowingly fail to respond to a demand for information from a disciplinary authority];
 - (d) Prof.Cond.R. 8.4(c) [a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation]; and,
 - (e) Prof.Cond.R. 8.4(d) [a lawyer shall not engage in conduct that is prejudicial to the administration of justice].

Count II – The Caraballo Matter

47. In March 2022, Joshmarie Caraballo ("Caraballo") filed a grievance alleging that she hired respondent in October 2020 to assist in a legal matter involving her children. Caraballo alleged that respondent failed to return her calls or provide her with any answers about her legal matter. Caraballo claimed she asked for a refund of her \$1,300, but respondent refused.

48. Because Caraballo's grievance was written in Spanish, relator's office had it translated into English.
49. On April 5, 2022, relator sent respondent an LOI regarding the Caraballo grievance and the English translation via email to kaye.ranke@gmail.com. Relator's LOI required respondent's reply by April 19, 2022.
50. Respondent failed to respond to relator's LOI by April 19, 2022.
51. On April 20, 2022, relator sent respondent a second LOI regarding the Caraballo grievance via email to kaye.ranke@gmail.com, requiring respondent's reply by May 4, 2022.
52. On April 22, 2022, respondent appeared for a deposition regarding other client matters, as discussed in ¶ 34 above. Respondent testified that she received relator's April 20, 2022 email inquiry relating to the Caraballo grievance.
53. During her deposition, respondent provided some background information about the Caraballo matter. She further testified that, after receiving the Caraballo grievance, she contacted Caraballo and scheduled an office visit for April 23, 2022 to discuss a refund or continuing the representation.
54. During her deposition, respondent acknowledged that she was still required to provide relator a written response to the Caraballo grievance by May 4, 2022, and agreed to do so.
55. On April 22, 2022, as discussed in ¶ 37 above, relator sent respondent a post-deposition inquiry via email requesting, among other items, respondent's written response to the Caraballo grievance by May 4, 2022.
56. Respondent failed to respond by May 4, 2022.

57. On May 12, 2022, relator emailed respondent reiterating its request for her reply to the Caraballo grievance. Relator requested respondent's reply by May 19, 2022.
58. Respondent failed to respond by May 19, 2022.
59. As stated above in ¶ 41-42, on July 20, 2022, relator sent respondent an email requesting proof of her professional liability insurance. On the same date, respondent replied via email and provided relator with proof of her professional liability insurance. Respondent further stated, "what else do you need from me?"
60. Relator replied and again requested respondent's written response to the Caraballo grievance. Relator requested respondent's reply by August 3, 2022.
61. Respondent failed to respond by August 3, 2022.
62. To date, respondent has not provided a written response to the Caraballo grievance.
63. Respondent's failure to cooperate with relator's investigation has prevented relator from determining whether respondent neglected the Caraballo matter.
64. Respondent's conduct, as alleged in Count II, violates the following provision of the Ohio Rules of Professional Conduct:
 - (a) Prof.Cond.R. 8.1(b) [a lawyer shall not fail to disclose a material fact or knowingly fail to respond to a demand for information from a disciplinary authority].

Restitution

65. Upon information and belief, respondent has provided Caraballo with at least a partial refund of legal fees in the amount of \$1,100. However, due to respondent's failure to cooperate, further discovery is required to determine if respondent should be required to make additional restitution to Caraballo as part of this proceeding.

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
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Disciplinary Counsel
Relator

/s Michelle R. Bowman
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Counsel for Relator

Certificate

The undersigned, Joseph M. Caligiuri, Disciplinary Counsel, hereby certifies that Michelle R. Bowman and Audrey E. Varwig are authorized to represent relator in the action and have accepted the responsibility of prosecuting the complaint to its conclusion.

Dated: November 28, 2022

/s Joseph M. Caligiuri
Joseph M. Caligiuri (0074786)
Disciplinary Counsel