

**BEFORE THE HEARING BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION**

In the Matter of:

SARA MCCLUSKY,

Attorney-Respondent,

No. 6336345.

Commission No. 2024PR00067

REPORT AND RECOMMENDATION OF THE HEARING BOARD

DEFAULT PROCEEDING

The hearing in this matter was held by videoconference on March 12, 2025, before a Hearing Board Panel consisting of Mark T. Peters, Chair, Charles W. Swartwout, and Sherri Miller. Peter L. Rotskoff appeared on behalf of the Administrator. Respondent did not appear. The Administrator requested that Respondent be suspended for six months and until further order of the Court. We agree with the Administrator's request.

We have considered the Administrator's two-count Complaint, filed on October 30, 2024, a copy of which is attached as Exhibit 1. In addition, we have considered the order entered on February 14, 2025, deeming the allegations of the complaint admitted, a copy of which is attached as Exhibit 2. Respondent was represented by counsel in the early stages of this matter, but her counsel was granted leave to withdraw on January 13, 2025, before an answer was filed. Respondent was given additional time to file an appearance and an answer, but she did not do so. She did not participate in pre-hearing conferences held on February 3, 2025, and February 13, 2025.

FILED

March 25, 2025

ARDC CLERK

The allegations deemed admitted establish that Respondent did not file an appellate brief for two individuals she was appointed to represent after their parental rights were terminated. The Appellate Court, Fifth District, ordered her to personally appear to explain her failure to comply with its orders requiring her to file a brief. Respondent did not appear, and the court found her in direct criminal contempt and fined her \$100. In addition, Respondent ignored letters from the Administrator asking her to submit a response about the conduct at issue and failed to appear for a sworn statement after being served with a subpoena. Based on these admitted allegations, the Administrator established by clear and convincing evidence that Respondent violated Illinois Rules of Professional Conduct 1.3, 3.2, 3.4(c), 8.1(b), and 8.4(b).

Respondent, who was licensed in 2021, has no prior discipline. Her lack of prior discipline has no mitigating effect on our recommendation given the short amount of time she has been practicing law. Moreover, her failure to participate in these proceedings significantly aggravates her misconduct and leaves us unable to assess her fitness to practice. Therefore, we agree with the Administrator that she should be suspended until further order of the Court.

Accordingly,

1. On October 31, 2024, Respondent indicated that she would accept service of the Administrator's complaint by email and was so served that same day. A copy of the Affidavit of Agreed Service Pursuant to Commission Rule 214(c) is attached as Exhibit 3.
2. The allegations and charges of the Complaint were deemed admitted in an order entered on February 14, 2025. A copy of that order is attached as Exhibit 2.
3. In consideration of the order deeming the allegations and charges of the complaint admitted, this Panel finds that Respondent committed the charged misconduct.

Exhibit 1

BEFORE THE HEARING BOARD
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In the Matter of:

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COMPLAINT

Lea S. Gutierrez, Administrator of the Attorney Registration and Disciplinary Commission, by her attorney, Peter Rotskoff, pursuant to Supreme Court Rule 753(b) and 761(c), complains of Respondent, Sara McClusky, who was licensed to practice law in the State of Illinois on January 14, 2021, and alleges that Respondent has engaged in the following conduct which subjects her to discipline pursuant to Supreme Court Rule 770:

COUNT I

*(Criminal Contempt, Failure to Comply with Court Orders
and Lack of Diligence in an Appeal)*

1. On September 1, 2023, the Circuit Court in Massac County, Illinois, terminated the parental rights of D.J. and E.J., with respect to their minor child, in case number 20JA18.
2. On October 13, 2023, Respondent was appointed by the Circuit Court to represent D.J. and E.J. in separate appeals from the termination order in the Appellate Court, Fifth District, case number 05-23-0762 [D.J.] and 05-23-0668 [E.J.].
3. Due to the nature of the proceeding, the appeals were expedited pursuant to Supreme Court Rule 311(a), and Respondent's brief was due on November 8, 2023.

4. At no time on or before November 8, 2023, did Respondent file a brief or a motion for extension of time to file the brief.

5. On December 5, 2023, the Appellate Court entered an order requiring Respondent to file a brief on or before December 20, 2023.

6. At no time on or before December 20, 2023, did Respondent file a brief or any other pleading in either case.

7. On December 29, 2023, the Appellate Court entered an order granting Respondent an additional seven days to file a brief or seek an extension of time or face possible contempt proceedings.

8. At no time did Respondent file any pleading in response to the Court's December 29, 2023, order.

9. On May 3, 2024, the Appellate Court entered an order requiring Respondent to file a brief in the cases on or before May 16, 2024. The order stated that if no brief was filed, Respondent would be required to personally appear before an Appellate Court panel on Monday, May 20, 2024, to provide an explanation for her failure to respond to the Court's previous orders in cases 05-23-0762 and 05-23-0668. The order further stated that if Respondent did not appear, she would be held in contempt, fines would be issued, and she would be reported to the Illinois Attorney Registration and Disciplinary Commission ("ARDC"). The May 3, 2024, order was served via email and certified mail. Respondent received the order on or about May 3, 2024.

10. At no time did Respondent file a brief or other pleadings in either case 05-23-0762 or case 05-23-0668 on or after May 3, 2024.

11. On May 20, 2024, Respondent did not appear for the scheduled hearing before a panel of the Appellate Court.

12. On May 28, 2024, the Appellate Court issued an order finding Respondent in contempt for failing to appear as ordered on May 20, 2024, and ordered that a sanctions hearing be held on June 4, 2024, in both cases.

13. Respondent was personally served with the court's May 28, 2024 order, by the Massac County Sheriff's office.

14. On June 4, 2024, Respondent did not appear for the sanctions hearing and the court found her to be in direct criminal contempt. She was fined \$100, and the court ordered that the Fifth District Appellate Court Clerk report Respondent's conduct to the ARDC.

15. By reason of the conduct described above, Respondent has engaged in the following misconduct:

- a. failure to act with reasonable diligence and promptness in representing a client by failing to comply with numerous orders and deadlines in cases 05-23-0762 and 05-23-0668, in violation of Rule 1.3 of the Illinois Rules of Professional Conduct (2010);
- b. failure to make reasonable efforts to expedite litigation consistent with the interests of the client by her conduct in cases 05-23-0762 and 05-23-0668, in violation of Rule 3.2 of the Illinois Rules of Professional Conduct (2010);
- c. knowingly disobeying an obligation under the rules of a tribunal by failing to comply with numerous orders in cases 05-23-0762 and 05-23-0668 and failing to appear as ordered for the contempt hearing, in violation of Rule 3.4(c) of the Illinois Rules of Professional Conduct (2010); and
- d. committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to as a lawyer in other respects by being held in direct criminal contempt, in violation of Rule 8.4(b) of the Illinois Rules of Professional Conduct (2010).

COUNT II

(Failure to Cooperate with a Disciplinary Investigation - 2024IN02247)

16. The Administrator realleges and incorporates paragraphs 1-14, above.

17. On June 19, 2024, the Administrator received a request for investigation regarding Respondent's conduct from the clerk of the Fifth District Appellate Court, Cortney Kuntze ("Kuntze"), on direction from the Justices of the Fifth District Appellate Court. Kuntz reported that the Appellate Court had found Respondent guilty of criminal contempt in their cases of 5-23-0668 and 5-23-0762. After reviewing the communication, the Administrator docketed an investigation into Respondent's conduct.

18. On June 21, 2024, the Administrator sent Respondent a letter via email to the email address Respondent registered with the ARDC. The letter requested a response to the allegations raised in the communication received from the clerk of the Appellate Court within 14 days.

19. At no time did Respondent submit a written response to the Administrator's June 21, 2024, correspondence.

20. On July 19, 2024, the Administrator sent a second letter via email to the email address Respondent registered with the ARDC. The letter requested a response within seven days. Additionally, the letter referred Respondent to her obligations under Commission Rule 53 and Rule 8.1(b) of the Illinois Rules of Professional Conduct (2010), to respond to the Administrator's request for information. Respondent received the email on or about July 19, 2024.

21. At no time did Respondent submit a written response to Administrator's July 19, 2024, email.

Peter L. Rotskoff

Peter L. Rotskoff
Counsel for Administrator
3161 W. White Oaks Dr. Ste. 301
Springfield, Illinois 62704
Telephone: (312) 540-5211
Email: protskoff@iadc.org
Email: ARDCeService@iadc.org

4867-0483-9902, v. 1

Exhibit 2

**BEFORE THE HEARING BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION**

FILED

February 14, 2025

ARDC CLERK

In the Matter of:

SARA MCCLUSKY,

Attorney-Respondent,

No. 6336345.

Commission No. 2024PR00067

ORDER

A telephonic pre-hearing was held in this matter on February 13, 2025, at 10:00 a.m. Participating were Mark T. Peters, Chair, and Peter L. Rotskoff, Counsel for the Administrator. The Clerk of the Commission provided call-in information to Respondent but she did not participate. Counsel for the Administrator advised the Chair as to the status of the matter. Accordingly,

IT IS ORDERED:

1. The Administrator's Motion to Deem the Allegations of the Complaint Admitted Pursuant to Commission Rule 236 (Motion) is granted due to Respondent's failure to file an answer to the Complaint or a response to the Motion. The allegations and charges of the Complaint are deemed admitted, with no further proof required to establish those allegations or charges. At hearing, the parties shall be limited to presenting evidence of aggravating and mitigating factors and arguments regarding the form and amount of discipline to be imposed;

2. The remaining dates set forth in the December 9, 2024 scheduling order, including the exhibit-exchange date of March 5, 2025 and the hearing date of March 12, 2025, remain in effect, except that the default hearing in this matter will commence at 1:00 p.m., and will be held remotely

by Microsoft Teams (Teams). The Clerk of the Commission shall provide the parties with Teams instructions and access information; and

3. The parties shall prepare exhibits in conformance with Commission Rule 276 and the Clerk of the Commission's procedures regarding electronic exhibits.

CERTIFICATION

I, Michelle M. Thome, Clerk of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois and keeper of the records, certify that the foregoing is a true copy of the order, approved by the Hearing Board Chair, entered in the above-entitled cause of record filed in my office on February 14, 2025.

/s/ Michelle M. Thome

Michelle M. Thome,
Clerk of the Attorney Registration and
Disciplinary Commission of the
Supreme Court of Illinois

PROOF OF SERVICE

I, Andrea L. Watson, hereby certify that I served a copy of this Order on Attorney-Respondent listed at the addresses shown below, by email and by regular mail by causing it to be deposited with proper postage prepaid in the U.S. Mailbox at One Prudential Plaza, 130 East Randolph Drive, Chicago, Illinois 60601, on February 14, 2025, at or before 5:00 p.m. At the same time, a copy of this Order was sent to Counsel for the Administrator by e-mail service.

Sara McClusky
Attorney-Respondent
McClusky Law, LLC
3 S. Main Street, Suite #2
Harrisburg, IL 62946-1660

Sara McClusky
Attorney-Respondent
75 N Hankins Road
Harrisburg, IL 62946-4157

Sara McClusky
Attorney-Respondent
sara@mcccluskylaw.com

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

/s/ Andrea L. Watson

Andrea L. Watson

Exhibit 3

BEFORE THE HEARING BOARD
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FILED
11/1/2024 9:58 AM
ARDC Clerk

In the Matter of:

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Attorney-Respondent,

No. 6336345.

Commission No. 2024PR00067

**AFFIDAVIT OF AGREED SERVICE
PURSUANT TO COMMISSION RULE 214(c)**

I, Mark J. Pointer, (“Affiant”) being duly sworn, hereby state:

1. Affiant possesses firsthand knowledge of the facts presented in this Affidavit and, if called as a witness, Affiant will testify to the truth of the facts as presented in this Affidavit.
2. Affiant is an Investigator for the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois (“ARDC”) and, as such, is authorized to serve process.
3. On Thursday October 31, 2024, at 1:26 P.M., Affiant phoned 618-841-7540 and left a voicemail for Respondent inquiring if she would accept the disciplinary complaint and associated documents electronically.
4. On Thursday October 31, 2024, at 1:29 P.M., Affiant received a phone call from Respondent who verbally agreed to have the disciplinary complaint and associated documents to be served electronically using email address sara@mccluskylaw.com.
5. On Thursday October 31, 2024, at 1:37 P.M., Affiant sent an email to Respondent which contained the Notice of Complaint and Order, the Disciplinary Complaint (2024PR00067), ARDC Filings and Procedures Memorandum, and the 2024 Rules of the ARDC.

6. On Thursday October 31, 2024, at 1:39 P.M., Affiant received an email confirmation from Respondent confirming receipt of the disciplinary complaint, and associated documents.

7. Further Affiant sayeth not.

/s/ Mark J. Pointer
Mark J. Pointer, Investigator Dated: November 1, 2024

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

/s/ Mark J. Pointer
Mark J. Pointer, Investigator Dated: November 1, 2024