[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *Lorain Cty. Bar Assn. v. Baker*, Slip Opinion No. 2026-Ohio-4628.]

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SLIP OPINION NO. 2026-OHIO-4628

LORAIN COUNTY BAR ASSOCIATION *v.* BAKER.

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Attorneys—Misconduct—Violations of the Rules of Professional Conduct, including engaging in conduct that involves dishonesty, fraud, deceit, or misrepresentation and knowingly making a false statement of fact to a tribunal—Conditionally stayed six-month suspension.

(No. 2026-0164—Submitted May 20, 2026—Decided November 23, 2026.)

ON CERTIFIED REPORT by the Board of Professional Conduct of the Supreme Court, No. 2025-014.

The below per curiam opinion announcing the judgment of the court was joined by DETERS, HAWKINS, and SHANAHAN, JJ. DEWINE, J., concurred in judgment only and agreed with the lead opinion that Baker violated Prof.Cond.R. 3.3(a)(1) and 8.4(c) by making a false statement to a tribunal, disagreed with the

lead opinion that Baker violated the disciplinary rules by printing his client's signature on the pretrial-entry form, but agreed that a six-month stayed suspension is the appropriate sanction. KENNEDY, C.J., concurred in part and dissented in part, with an opinion joined by FISCHER and HANSEMAN, JJ. ROBERT G. HANSEMAN, J., of the Second District Court of Appeals, sitting for BRUNNER, J.

Per Curiam Opinion announcing the judgment of the court.

{¶ 1} Respondent, Anthony Baker, of Sheffield, Ohio, Attorney Registration No. 0084620, was admitted to the practice of law in Ohio in 2009. On June 8, 2021, this court publicly reprimanded Baker for engaging in conduct that was intended to disrupt a tribunal, conduct that was undignified or discourteous and degrading to a tribunal, and conduct that was prejudicial to the administration of justice. *Cleveland Metro. Bar Assn. v. Baker*, 2021-Ohio-1896.

{¶ 2} In a September 2025 complaint, relator, the Lorain County Bar Association, charged Baker with misconduct arising from his signing a client's name on a pretrial entry, submitting that entry to the Lorain County Court of Common Pleas, and then misrepresenting the circumstances surrounding that signature to the judge. Specifically, the complaint alleged that Baker's conduct violated Prof.Cond.R. 3.3(a)(1) (prohibiting a lawyer from knowingly making a false statement of fact to a tribunal or failing to correct a false statement of material fact the lawyer previously made to the tribunal) and 8.4(c) (prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation).

{¶ 3} Baker answered the complaint, admitting that some of the alleged facts are true and that his conduct violated Prof.Cond.R. 3.3(a)(1) and 8.4(c). In December 2025, the parties entered into a consent-to-discipline agreement in which Baker admitted (only for purposes of the agreement) that he committed the misconduct listed in the agreement and the parties agreed to the relevant

aggravating and mitigating factors and a proposed sanction of a public reprimand. *See* Gov.Bar R. V(16)(A). The parties also submitted 25 exhibits with the agreement and offered case law in support of the agreed-upon sanction. On the same date, the parties also signed a separate document containing factual stipulations that were nearly identical to those of the consent-to-discipline agreement along with the same 25 stipulated exhibits that were submitted with the consent-to-discipline agreement. However, the three-member panel of the Board of Professional Conduct appointed to hear the case rejected the consent-to-discipline agreement, and the matter proceeded to a hearing. *See* Gov.Bar R. V(16)(C).

{¶ 4} At the hearing, the parties submitted their December 2025 stipulations, including the 25 stipulated exhibits. The panel heard testimony from four witnesses, including Baker. Based on that evidence, two members of the panel found by clear and convincing evidence that Baker had committed the charged misconduct and recommended that he be suspended from the practice of law for six months. The third member of the panel dissented, stating that he would dismiss the complaint based on his belief that relator had failed to establish by clear and convincing evidence that Baker had committed the charged misconduct.

{¶ 5} The board adopted the findings of fact, conclusions of law, and recommendation of the panel majority. Baker now raises multiple objections to the board's report and recommendation that fall into three categories. First, Baker objects to the board's findings of fact and misconduct, arguing that the panel's findings are inaccurate and not supported by clear and convincing evidence. Second, he challenges the aggravating factors found by the board. And third, he argues that the complaint should be dismissed or, alternatively, that if this court adopts the board's findings of misconduct, the appropriate sanction is a fully stayed suspension.

{¶ 6} For the reasons that follow, Baker's objections to the board's findings of fact and misconduct are overruled. However, his objections to the aggravating factors found by the board are sustained in part, and his objection to the recommended sanction is sustained. The board's findings that Baker violated Prof.Cond.R. 3.3(a)(1) and 8.4(c) are adopted. The appropriate sanction for Baker's misconduct is a conditionally stayed six-month suspension for that misconduct.

THE BOARD'S FINDINGS OF FACT AND MISCONDUCT

{¶ 7} On April 26, 2024, Baker and his client, Willis Hamilton, appeared in the Lorain County Court of Common Pleas for a pretrial hearing in Hamilton's criminal case, which was pending before Judge Melissa Kobasher. Baker requested that the pretrial hearing be rescheduled to the following Friday, May 3. Following the April 26 hearing, Baker instructed Hamilton to return to work. The board found that Baker had another hearing scheduled at 11:00 a.m. in a different courtroom—though it should be noted that Baker testified that it was an eviction hearing at the Elyria Municipal Court, which he suggested was "a block, maybe two" from the Lorain County Court of Common Pleas.

{¶ 8} After Judge Kobasher finished her morning docket, her bailiff texted Baker at 12:25 p.m., telling him: "The judge wants Willis Hamilton to sign his entry." A video recording shows that Baker returned to the courtroom at approximately 12:26 p.m. He took the pretrial entry to a conference room in the vestibule outside the courtroom and outside the view of the camera. When he returned to the courtroom about a minute later, he handed the entry to the bailiff, talked with the prosecutor for a minute or two, and then left.

{¶ 9} The pretrial entry used in Judge Kobasher's courtroom has signature lines for the defendant, the defendant's attorney, the prosecutor, and the judge. At Baker's disciplinary hearing, Judge Kobasher testified that she requires defendants to appear in person for pretrial hearings and that she has a rule requiring the

defendant and the defendant's counsel to sign the pretrial entry acknowledging that the defendant was present at the pretrial hearing, is aware of future court dates, and has waived statutory time for speedy trial. In her grievance, Judge Kobasher insisted:

> To be clear, the Court never permits attorneys to sign on behalf of their clients and will generally be accommodating if an unforeseen circumstance has arisen, allowing the client to come at a later time, or allowing a client to return that has left without signing the entry.

During Baker's disciplinary hearing, she testified that "if the defendant was [at the pretrial hearing], they needed to sign," but she acknowledged that there have been occasions in which she has permitted lawyers to sign on behalf of a client if she was notified that the client had a "legitimate reason" for missing a hearing. She also affirmed that if an unforeseen circumstance arises, she is generally accommodating, allowing defendants to sign the pretrial entry at a later time.

{¶ 10} The entry that Baker submitted to the court on April 26 had Hamilton's name printed on the signature line for the defendant with no indication that Baker had placed Hamilton's name on the document. Moreover, Baker did not inform the court or anyone present in the courtroom that he had signed the entry on behalf of his client.

{¶ 11} After Baker left the courtroom, the court reporter assigned to Judge Kobasher's courtroom informed the bailiff that Baker had entered the conference room where no one else was present and returned with his client's signature on the pretrial entry. The bailiff then checked the conference room and confirmed that Hamilton was not there or in the hallway. The bailiff and court reporter informed Judge Kobasher that there was a question as to whether Baker had signed his client's name to the pretrial entry.

{¶ 12} During the May 3 pretrial hearing, Judge Kobasher questioned Baker and Hamilton about the April 26 entry. Hamilton confirmed that it was not his signature on the entry. Baker initially represented to the judge that he had signed Hamilton's name on the entry after calling Hamilton to obtain his consent from the court's conference room. After the judge questioned him about the time of the call, Baker checked his phone and stated that he had made the call at 11:04 a.m. and that Hamilton called him back at 11:10 a.m. When Judge Kobasher informed Baker that he had entered the conference room after 12:00 p.m., Baker maintained that he had made a call to Hamilton when he went into the conference room and that he could not explain why the call was "not in [his] phone."

{¶ 13} It was not until Baker responded to relator's inquiry regarding Judge Kobasher's grievance that he admitted that he had not called Hamilton from the court conference room to obtain authority to sign the pretrial entry as he had represented to the court during the May 3 pretrial. In that response, Baker claimed that he had "mistakenly indicated that [he] had called Hamilton at 12:30 PM" but that he nevertheless had "had authority to act on [Hamilton's] behalf." Then, after reviewing relator's proposed complaint, Baker asserted in his second response to the judge's grievance that he had "actually met with Mr. Hamilton and received authority [to sign the entry] in person."

{¶ 14} At his disciplinary hearing, Baker explained that he had not intended to represent Hamilton's printed name on the pretrial entry as Hamilton's signature and that he had mistakenly represented to the court that he had called Hamilton from the conference room to obtain authority to sign the entry, though he maintained throughout his testimony that he had authority to sign for Hamilton.

{¶ 15} Baker testified, "I had authority to sign for him. I planned to sign for him after the morning session. And what I did in the afternoon when I was called back was sign for my client." But the board noted that Baker offered no evidence beyond his own testimony to support his contention that he had received

authority from Hamilton to sign his name on the entry; and specifically, the board pointed to the absence of any testimony from Hamilton on that issue.

{¶ 16} Baker acknowledged two other occasions in which he had signed pretrial entries on Hamilton's behalf. Copies of those entries, which were submitted as joint exhibits by the parties, show that on both of those occasions, Baker clearly indicated on the face of the document that he had signed on Hamilton's behalf—using his own signature followed by "for Defendant" on the first entry and "W. Hamilton" followed by his own signature and the notation "def. in Court for hearing" on the second entry. In contrast, the April 26 entry at issue here bore no indication that Baker had signed on Hamilton's behalf.

{¶ 17} In its posthearing brief, relator asserted that Baker violated Prof.Cond.R. 3.3(a)(1) and 8.4(c) by signing Hamilton's name to the pretrial entry and presenting it to the court as if it were Hamilton's signature, and by falsely representing to the trial court that he had called his client to obtain authority to sign the entry. In his posthearing brief, Baker asserted that he had made a "false, impromptu statement" to the court "under duress" after Judge Kobasher accused him of forgery during the May 3 hearing, and he claimed that at the time he made the statement, he believed it to be true. Baker maintained that he had made no attempt to "duplicate [or] simulate" Hamilton's signature, and he contended that while he had misremembered the events from the prior week, he nonetheless had had authority to sign the pretrial entry for Hamilton. He acknowledged that he had not informed the court that his client had not signed the entry but argued that he had "had no duty to inform the Court of anything."

{¶ 18} The board found by clear and convincing evidence that Baker violated Prof.Cond.R. 3.3(a)(1) and 8.4(c) by submitting the pretrial entry that falsely represented that Hamilton had signed it and misrepresenting to the judge that he had received authority from Hamilton to sign the entry.

BAKER'S OBJECTIONS TO THE BOARD'S FINDINGS OF FACT AND MISCONDUCT

{¶ 19} Baker objects to the board's findings of misconduct, alleging that relator failed to present clear and convincing evidence that he violated Prof.Cond.R. 3.3(a)(1) and 8.4(c). Baker begins his objections by alleging that the board made inaccurate factual findings related to the nature and location of the hearing he attended immediately after Hamilton's April 26 pretrial hearing and the time and manner of the notice for him to have Hamilton return to Judge Kobasher's courtroom. Regarding the nature and location of Baker's second hearing, his testimony regarding that hearing has been noted in the statement of facts above—Baker testified that it was an eviction hearing at the Elyria Municipal Court, which the record indicates was a block or two away from the Lorain County Court of Common Pleas—and regarding the notice Baker received, the evidence supports the board's findings as to the text message sent to Baker by Judge Kobasher's bailiff.

{¶ 20} Next, Baker challenges the board's finding that Judge Kobasher had a rule that defendants must sign pretrial entries. And he asserts that if there was such a rule, it was not enforced. The record shows that there was much discussion during the disciplinary hearing about the purported rule, whether or where it was codified or displayed, and how attorneys who practiced in Judge Kobasher's courtroom—including Baker—were informed of its existence. But Baker was not charged with a violation of Prof.Cond.R. 3.4(c) (prohibiting a lawyer from knowingly disobeying an obligation under the rules of a tribunal) and whether the rule exists and the uniformity of its enforcement have little, if any, bearing on the alleged misconduct in this case—i.e., whether Baker knowingly made a false statement of fact to Judge Kobasher in violation of Prof.Cond.R. 3.3(a)(1) or whether he engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Prof.Cond.R. 8.4(c).

{¶ 21} The thrust of Baker's remaining challenges to the board's findings of fact and misconduct is two-pronged. First, he contends that the board relied on insufficient circumstantial evidence to support its findings that he knowingly made false statements of fact to Judge Kobasher about his authority to sign the pretrial entry on Hamilton's behalf. And second, he contends that the board improperly shifted the burden of proof to him to present testimony from Hamilton to show that Baker had actual authority to sign the April 26 pretrial entry on Hamilton's behalf. These arguments are unavailing.

{¶ 22} Despite Baker's arguments to the contrary, there is ample circumstantial evidence to support the board's findings that Baker (1) falsely represented to the court that Hamilton had signed the pretrial entry by failing to note that he had signed the document on Hamilton's behalf and (2) falsely represented to the court that he had called Hamilton from the conference room to obtain authority to sign the entry on his behalf. Because "'[t]he intent of an accused person dwells in his mind, . . . it can never be proved by the direct testimony of a third person, and . . . must be gathered from the surrounding facts and circumstances.'" *State v. Johnson*, 56 Ohio St.2d 35, 38 (1978), quoting *State v. Huffman*, 131 Ohio St. 27 (1936), paragraph four of the syllabus. Consequently, intent is most often proved through circumstantial evidence. *See State v. Collins*, 2000-Ohio-231, ¶ 24.

{¶ 23} In this case, the evidence shows that rather than simply signing the entry in the courtroom in the presence of the bailiff and court reporter, Baker took the entry to a nearby conference room where no one could observe him. The fact that the pretrial-entry form used in Judge Kobasher's courtroom had signature lines for the defendant, the defendant's attorney, the prosecutor, and the judge shows that each of those persons was expected to sign the form. Baker's past practice of signing his client's name with a notation that he had signed on his client's behalf or signing his own name or initials with the notation "for Defendant" demonstrates

that he knew the proper procedure to notify the court when he had signed a document on behalf of his client. But on April 26, Baker did not follow his past practice and instead printed Hamilton's name on the defendant's signature line because, he later claimed, he "didn't want it to appear as a signature." Baker made no notation that it was he who had placed Hamilton's name on the entry. He then returned the entry to the bailiff without explanation.

{¶ 24} Those actions and omissions constitute clear and convincing evidence that Baker knew that by printing his client's name by itself on the defendant's signature line and then submitting the entry to the court, he was falsely representing to the court that Hamilton had signed the document. Moreover, Baker's surreptitious conduct, combined with his admission during his disciplinary-hearing testimony that he "didn't take [his] phone into the conference room," further demonstrate that Baker knew his statements about calling Hamilton from the conference room to obtain authority to sign his name were false when he made them.

{¶ 25} Whether Baker actually obtained Hamilton's authority to sign the entry is irrelevant to the findings of misconduct here, because his misconduct lies in the fact that he misrepresented the printed signature as Hamilton's own mark and then falsely informed the court that he had obtained Hamilton's authorization to sign the entry in a phone call he had placed from the court's conference room just prior to submitting the entry. Thus, Baker's argument that the board improperly shifted the burden of proof to him on that point is without merit.

{¶ 26} While Baker maintained that his misrepresentations regarding the supposed telephone call to Hamilton were the result of a mistaken recollection upon being "ambush[ed]" by the judge and accused of forgery in open court, the panel did not find his testimony to be credible. Because the record does not weigh heavily against the panel's findings, deference is given to the panel's credibility determinations, inasmuch as the panel members observed the witnesses firsthand.

Cincinnati Bar Assn. v. Statzer, 2003-Ohio-6649, ¶ 8, citing *Cleveland Bar Assn. v. Cleary*, 2001-Ohio-1326, ¶ 18.

{¶ 27} Furthermore, it must be noted that although Baker disputed the charges against him throughout his disciplinary hearing and in the objections he filed in this court, in his answer to the complaint, Baker admitted that his conduct in this case violated Prof.Cond.R. 3.3(a)(1) and 8.4(c). On these facts, Baker's objections to the board's findings of fact and misconduct are overruled. Baker knowingly made false statements of fact to a tribunal and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Prof.Cond.R. 3.3(a)(1) and 8.4(c) by submitting the pretrial entry with Hamilton's purported signature without noting that he had signed the document on Hamilton's behalf and by falsely representing to the court that he had called Hamilton from the conference room to obtain authority to sign the entry.

AGGRAVATING AND MITIGATING FACTORS

{¶ 28} When imposing sanctions for attorney misconduct, this court considers "all relevant factors," including "the ethical duties that the attorney violated, the aggravating and mitigating factors listed in Gov.Bar R. V(13), and the sanctions imposed in similar cases." *Disciplinary Counsel v. Ranke*, 2024-Ohio-5491, ¶ 37. "We have consistently recognized that 'the goal of disciplinary proceedings is not to punish the errant lawyer, but to protect the public.'" *Id.*, quoting *Toledo Bar Assn. v. Hales*, 2008-Ohio-6201, ¶ 21.

{¶ 29} The parties did not stipulate to any aggravating or mitigating factors. In his posthearing brief, Baker asserted that the only aggravating factor present is his prior disciplinary offense and that mitigating evidence consisted of the lack of deliberate intent, the absence of a pattern of misconduct or history of dishonesty, the lack of harm to his client and the net benefit of avoiding the need for the client to return to the courthouse, his advocacy for his client, and the absence of similar cases to justify an actual suspension in this case.

{¶ 30} The board, however, adopted the six aggravating factors advanced by relator, finding that Baker (1) has previously been disciplined, (2) exhibited a selfish and dishonest motive when he made false statements to a tribunal to avoid accountability for his conduct, (3) engaged in a pattern of misconduct, (4) committed multiple offenses by submitting a document falsely representing that it bore the signature of his client and lied to the court on several occasions regarding that action, (5) caused harm to his client by forcing him to hire new counsel and unnecessarily prolonging his criminal case, and (6) never acknowledged the wrongful nature of his misconduct, arguing throughout the hearing that he did not intentionally make any misrepresentation to the court. *See* Gov.Bar R. V(13)(B)(1) through (4), (7), and (8).

{¶ 31} Although the board found that there was no evidence to support several mitigating factors advanced by Baker, it independently found that he fully cooperated throughout the entire disciplinary process and exhibited a cooperative attitude toward the disciplinary proceedings. *See* Gov.Bar R. V(13)(C)(4). Specifically, the board found that Baker responded to relator's letters of inquiry regarding Judge Kobasher's grievance, submitted to a deposition, worked with relator to submit a consent-to-discipline agreement (though it was ultimately rejected by the panel), and attended the disciplinary hearing.

{¶ 32} Baker objects to each of the aggravating factors found by the board in this case, and some of those objections have merit. After reviewing the record, it is apparent that Baker engaged in a single incident of misconduct that involved two misrepresentations to the court. First, Baker submitted the pretrial entry purportedly signed by his client to the court without noting that he had signed the document on his client's behalf. Then, when the court questioned him about the entry a week later, he falsely represented that he had called his client from a conference room to obtain authority to sign the document. While this conduct violated two Rules of Professional Conduct, those offenses do not constitute a

pattern of misconduct. Therefore, Baker's objection with respect to the board's finding that he engaged in a pattern of misconduct is sustained.

{¶ 33} It should also be acknowledged that Baker's misconduct caused some harm to Hamilton, who opted to obtain new counsel (presumably at additional expense) after Baker was accused of forging Hamilton's signature. But the record shows that after obtaining new counsel, Hamilton elected to abandon the plea that Baker had arranged and pursue other options—including a jury trial and a plea of not guilty by reason of insanity. Because not all of the delay in the resolution of Hamilton's case can be attributed to Baker's misconduct, the board's finding that Baker caused harm to his client is tempered.

{¶ 34} Notwithstanding these findings, Baker's objections to the remaining aggravating factors found by the board are overruled.

{¶ 35} First, throughout these disciplinary proceedings, Baker has repeatedly acknowledged that this court publicly reprimanded him for other professional misconduct in June 2021. And in his posthearing brief, he acknowledged that that prior discipline constitutes an aggravating factor. He now contends, however, that his prior discipline "should have no bearing on the present matter as [his past] actions were wrong but tied to his zealous advocacy for his client." Baker offers no authority to support this contention.

{¶ 36} Gov.Bar R. V(13)(A) recognizes that "[e]ach disciplinary case involves unique facts and circumstances" and directs the board, in determining the appropriate sanction for attorney misconduct, to consider "all relevant factors," this court's precedent, and the aggravating and mitigating factors set forth in Gov.Bar R. V(13)(B) and (C). The first aggravating factor expressly enumerated by the rule is "[p]rior disciplinary offenses." Gov.Bar R. V(13)(B)(1). A review of the court's disciplinary case law shows that the court has routinely found prior disciplinary offenses to be an aggravating factor—and that the court has done so even when the prior discipline was remote in time or dissimilar to the attorney's most recent

misconduct. *See, e.g.*, *Cincinnati Bar Assn. v. Rothermel*, 2004-Ohio-6559, ¶ 15 (considering a 20-year-old disciplinary offense for similar client-related misconduct to be an aggravating factor); *Akron Bar Assn. v. Goodlet*, 2003-Ohio-3935, ¶ 6, 9 (considering a 21-year-old disciplinary offense for dissimilar client-related misconduct to be an aggravating factor).

{¶ 37} In this case, Baker was publicly reprimanded less than six years ago for engaging in conduct that was intended to disrupt a tribunal, was undignified or discourteous and degrading to a tribunal, and was prejudicial to the administration of justice. The fact that Baker's prior discipline—much like his current discipline—involved misconduct before a tribunal makes it particularly relevant to the determination of the appropriate sanction in this case.

{¶ 38} Baker's objection to the board's findings that he acted with a selfish motive and failed to acknowledge the wrongful nature of his misconduct are likewise without merit. When asked by Judge Kobasher, Baker admitted that he signed his client's name on the entry, but he then sought to avoid accountability for presenting that signature as his client's by claiming that he had obtained authority from his client to sign the entry on his behalf. And while it should be acknowledged that Baker attempted to resolve this matter through a consent-to-discipline agreement and that he claimed that his conduct was the result of a "mistake" or his "conflation of facts," the record shows that he never acknowledged the wrongfulness of his conduct by showing any remorse for his claimed mistake or explaining what he would do to ensure that it did not happen again. Instead, in his posthearing brief, he turned the focus away from his own misconduct and attacked the judge, accusing her of failing to adequately communicate to counsel her rule that defendants must sign the pretrial entry and "deliberately misstat[ing] her rule and other facts in her grievance and during her testimony" before the panel. Baker maintained that this case "[was] not about fraud or misrepresentation," but rather, "[his] lack of compliance with a rule that the [j]udge cannot even get straight."

Baker may have had legitimate questions and criticisms regarding Judge Kobasher's purported rule, the nature and extent of that rule, the notice provided to counsel appearing in the judge's courtroom, and the uniformity of the rule's enforcement. But he was not charged with violating Judge Kobasher's rule. And contrary to his assertions, this case was about whether Baker knowingly made a false statement of fact to the judge and whether he engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation.

SANCTION

{¶ 39} In its posthearing brief, relator argued that a fully stayed six-month suspension was the appropriate sanction for Baker's misconduct. In his posthearing brief, Baker argued that no ethical violation had been proved and therefore no sanction was appropriate but that if he were found to have engaged in misconduct, then a fully stayed suspension would be the appropriate sanction.

{¶ 40} The board recommends that Baker be suspended from the practice of law for six months with no stay. In support of that sanction, the board relies on three cases advanced by relator in which this court suspended attorneys for six months with no stay for misconduct that included making false or misleading statements to a court. *See Disciplinary Counsel v. Rohrer*, 2009-Ohio-5930, *Disciplinary Counsel v. Spinazze*, 2020-Ohio-957, and *Disciplinary Counsel v. Rossi*, 2025-Ohio-5398.

{¶ 41} Baker objects to the board's recommended sanction and once again argues that his misconduct warrants no more than a fully stayed suspension.

{¶ 42} This court has held that "[w]hen an attorney engages in a course of conduct that violates [an ethical rule prohibiting dishonesty, fraud, deceit, or misrepresentation] the attorney will be actually suspended from the practice of law for an appropriate period of time." *Disciplinary Counsel v. Fowerbaugh*, 1995-Ohio-261, syllabus. In *Fowerbaugh*, this court explained:

> A lawyer who engages in a material misrepresentation to a court or a pattern of dishonesty with a client violates, at a minimum, the lawyer's oath of office. . . . Such conduct strikes at the very core of a lawyer's relationship with the court and with the client. Respect for our profession is diminished with every deceitful act of a lawyer. We cannot expect citizens to trust that lawyers are honest if we have not yet sanctioned those who are not.

Id. at ¶ 14.

{¶ 43} In keeping with the holding in *Fowerbaugh*, this court has stated that "[w]e will not allow attorneys who lie to courts to continue practicing law without interruption," *Cleveland Bar Assn. v. Herzog*, 1999-Ohio-30, ¶ 10, citing *Toledo Bar Assn. v. Batt*, 1997-Ohio-222, ¶ 11. And it has been recognized that an actual suspension from the practice of law is especially appropriate "when an attorney makes repeated and material false statements to a court." *Toledo Bar Assn. v. DeMarco*, 2015-Ohio-4549, ¶ 12. This court has, however, "tempered the presumptive sanction of an actual suspension for an attorney's dishonest conduct in two sets of circumstances": (1) "when an attorney has engaged in an isolated incident of dishonest conduct" and (2) when an abundance of mitigating evidence justifies a lesser sanction. *Mahoning Cty. Bar Assn. v. Macala*, 2024-Ohio-3158, ¶ 24-25.

{¶ 44} While a six-month suspension from the practice of law was the appropriate sanction in the three cases considered by the board, the facts of those cases are far more egregious than the facts at issue today.

{¶ 45} In *Rohrer*, the attorney deliberately violated a juvenile judge's order barring communications with the media and then made false and misleading statements to the judge denying his conduct. 2009-Ohio-5930 at ¶ 8-16. During the resulting disciplinary hearing, he acknowledged that his conduct was wrongful

but tried to justify it by claiming that "justice got served by the breaking of that gag order" because his statement to the media achieved his objective of spurring the prosecutor to provide timely discovery. *Id.* at ¶ 24. In addition to the two rule violations present in this case, Rohrer also knowingly disobeyed an obligation under the rules of a tribunal and engaged in conduct that was prejudicial to the administration of justice and adversely reflected upon his fitness to practice law. *Id*. at ¶ 20, 23.

{¶ 46} In *Spinazze*, the attorney was serving as a part-time prosecutor when he offered a defendant charged with operating a vehicle while under the influence of alcohol a plea to a lesser offense over the objection of one of the arresting officers. 2020-Ohio-957 at ¶ 5-6. When confronted about the agreement by the judge presiding over the case, Spinazze misrepresented the state of the evidence and falsely stated that the arresting officers had consented to the plea. Based on those assertions, the judge accepted the plea. *Id*. at ¶ 6. In an effort to conceal his misrepresentations, Spinazze made a false notation in the case file and additional false statements to his supervisor. *Id*. at ¶ 7-8. In addition to the rule violations at issue in this case, the court found that Spinazze's conduct was prejudicial to the administration of justice because once the truth came to light, the court was forced to vacate the defendant's plea and appoint new defense counsel and a special prosecutor. *Id*. at ¶ 11-12.

{¶ 47} And in *Rossi*, the attorney "implicitly encourag[ed]" his client to violate a no-contact order that was a condition of the client's bond in a criminal case. 2025-Ohio-5398, at ¶ 10-11, 33-34. At his client's request, Rossi then drafted a nondisclosure agreement between his client and the victim of the client's criminal offense that was intended to thwart the prosecution of the client's criminal case. *Id.* at ¶ 12-14, 35-36. Rossi also intentionally lied to the trial court about the origins of that agreement so that the court would not learn that his client was violating the court's no-contact order. *Id.* at ¶ 18-19. This court found that Rossi knowingly

made a false statement to the tribunal and that his conduct was prejudicial to the administration of justice in several respects. *Id*. at ¶ 23-24.

{¶ 48} Like Baker, Rossi objected to the recommended sanction of a six-month suspension, arguing that the appropriate sanction for his misconduct was a public reprimand or a conditionally stayed suspension. *Id*. at ¶ 52. In support of his proposed sanction, Rossi relied primarily upon ten cases in which this court publicly reprimanded attorneys whose misconduct arose entirely from the false notarization of documents, most of which were filed with a court or another public office. *Id*. at ¶ 53.

{¶ 49} Although the court did not find the false-notarization cases cited by Rossi to be germane to his case, *id*. at ¶ 56, they are particularly instructive here. Those cases address three distinct categories of improper notarization. The first group of cases involved attorneys who "signed a client's name to a document with authorization, notarized that signature without indicating that fact on the face of the document, and then filed the document with a court," thereby falsely attesting to the court that their clients had signed the documents. *Id*. at ¶ 53, citing *Disciplinary Counsel v. Moore*, 2017-Ohio-883; *Disciplinary Counsel v. Wilson*, 2014-Ohio-5487; *Disciplinary Counsel v. Mezacapa*, 2004-Ohio-302; and *Cincinnati Bar Assn. v. Thomas*, 2001-Ohio-1344.

{¶ 50} The second group of cases involved attorneys who "signed a client's name to a document without obtaining the client's consent, falsely notarized the signature, and then filed the document with [a] court or another public office," thereby falsely representing that the client's signature was genuine. *Id*., 2025-Ohio-5398, at ¶ 54, citing *Disciplinary Counsel v. Bush*, 2023-Ohio-4200; *Disciplinary Counsel v. Bryant*, 2021-Ohio-375; and *Columbus Bar Assn. v. Craig*, 2012-Ohio-1083.

{¶ 51} The final group of cases involved attorneys who notarized one or more documents that had not been signed in their presence, thereby falsely attesting

that the documents had been signed in their presence. *Rossi* at ¶ 55, citing *Disciplinary Counsel v. Billingsley*, 2024-Ohio-222; *Mahoning Cty. Bar Assn. v. Melnick*, 2005-Ohio-6265; and *Disciplinary Counsel v. Simon*, 1994-Ohio-11.

{¶ 52} Here, Baker misrepresented his client's printed name as his client's own signature. Although Baker did not falsely notarize the document before submitting it to the court, he did make an additional misrepresentation to the court regarding the circumstances surrounding his signing of his client's name. However, the signature on that pretrial entry amounted to little more than an acknowledgement that Baker's client was present at the pretrial hearing, was aware of future court dates, and had waived his speedy-trial rights. And it is undisputed that the notification requirements of that entry were satisfied, as Hamilton was present at the April 26 hearing, was aware of and present for the May 3 hearing, and had previously waived his right to a speedy trial. While an attorney should not knowingly make false statements to a court under any circumstances, Baker's misrepresentations to the court are of the type that this court would ordinarily expect a trial judge to address directly with the attorney—without resort to the disciplinary process.

{¶ 53} Because Baker's misconduct is similar to the attorney misconduct in the false-notarization cases discussed above, a public reprimand might be the expected sanction. However, in light of Baker's prior disciplinary offenses and the limited mitigating evidence present here, the appropriate sanction for Baker's misconduct is a six-month suspension, stayed in its entirety on the condition that he engage in no further misconduct.

CONCLUSION

{¶ 54} Accordingly, Anthony Baker is suspended from the practice of law in Ohio for six months with the entire suspension stayed on the condition that he engage in no further misconduct. If Baker violates the condition of the stay, the

stay will be lifted and he will serve the six-month suspension in its entirety. Costs are taxed to Baker.

Judgment accordingly.

KENNEDY, C.J., joined by FISCHER and HANSEMAN, JJ., concurring in part and dissenting in part.

{¶ 55} I agree with the lead opinion that respondent, Anthony Baker, "knew his statements [to the trial court] about calling [his client] from the conference room to obtain authority to sign his name [on a pretrial-entry form] were false when he made them," lead opinion, ¶ 24. But I disagree with the lead opinion that Baker forged his client's signature on the form, *id*. at ¶ 24.

{¶ 56} In my view, the evidence shows that Baker printed his client's name on the form for the sole purpose of showing that his client was present at a pretrial hearing, not in an attempt to forge his client's signature. Regardless of my disagreement with the lead opinion on that finding, because the presumptive sanction for lying to a tribunal is the imposition of an actual suspension, and because there is no overwhelming mitigating evidence to overcome the presumed sanction, I agree with the Board of Professional Conduct that the appropriate sanction in this case is a six-month suspension from the practice of law with no stay. Therefore, I concur in part and dissent in part.

THE MISCONDUCT

{¶ 57} Baker is an attorney with a prior disciplinary record. In 2020, during a jury trial in Cuyahoga County, Baker was frustrated that the judge would not grant his request for a self-defense jury instruction. When recounting that episode during his disciplinary hearing in this case, Baker claimed that the judge had made "personal statements" against him in chambers and described the judge as acting "arbitrarily" in ruling against his client. Because he disagreed with the judge's ruling, Baker moved away from counsel's table while the judge was reading the

jury instructions. The judge in that case imposed a personal sanction of $500 on Baker. The local bar association, upon discovering the situation, filed a formal complaint that ultimately resulted in a public reprimand from this court. *See Cleveland Metro. Bar Assn. v. Baker*, 2021-Ohio-1896.

{¶ 58} As for this case, on April 26, 2024, Baker and his client, Willis Hamilton, were scheduled for a pretrial hearing in Hamilton's case before Judge Melissa Kobashar in the Lorain County Court of Common Pleas. The hearing was reset for the following week, and Baker and Hamilton both left the courthouse.

{¶ 59} After the court finished the morning docket, the court's bailiff sent the following text to Baker: "The judge wants Willis Hamilton to sign his entry." Baker then returned to the courtroom, but Hamilton did not.

{¶ 60} Baker took the pretrial-entry form to a nearby conference room and then returned to the courtroom with the form completed with Hamilton's name in print on the line designated for the defendant's signature. Baker handed the document to the bailiff and then left the courtroom. The form had no indication that Baker had completed it without his client present, nor did Baker make any such indication to the court or anyone present in the courtroom.

{¶ 61} After Baker left the courtroom, the court reporter informed the court's bailiff that no one else was in the conference room with Baker when he printed Hamilton's name on the form. Judge Kobashar generally requires the defense attorney and the defendant to sign a pretrial-entry form acknowledging that the defendant was present at the pretrial, that the defendant is aware of future court dates, and that the defendant has waived his statutory time for a speedy trial.

{¶ 62} The next week, during the court's rescheduled pretrial hearing, Judge Kobashar questioned Baker and Hamilton about the writing on the defendant's signature line of the entry form, referring to the printed name written on the line as a "signature." Hamilton confirmed that he had not signed the form and that the writing on the form was not his. When questioned about who had

written Hamilton's name on the form, Baker stated, "I signed that when we came in for court the last time." After some back and forth with Judge Kobashar, Baker said, "I called Mr. Hamilton and said . . . we need to come back to court and I am taking care of the signature." When asked why he had not "sign[ed]" the paper in the courtroom, Baker responded, "Because I walked out to call [Hamilton]."

{¶ 63} As he was questioned further about this alleged call, Baker reaffirmed, "I called [Hamilton] from the [conference] room." However, when Judge Kobashar asked him to check his phone for the call, Baker's phone showed only an outgoing call to Hamilton at 11:04 a.m., which was over an hour before Baker returned to complete the entry form. When asked why the supposed call from the conference room did not appear in his phone history, Baker replied, "I cannot explain why this is not in my phone." Indeed, despite his assertions at the pretrial hearing, when he testified at his disciplinary hearing in this case, Baker admitted to the panel that he had not called Hamilton from the conference room to obtain consent to sign the pretrial form.

{¶ 64} The board adopted the panel's finding that Baker violated Prof.Cond.R. 3.3(a)(1) and 8.4(c) by falsely representing that Hamilton had signed the pretrial-entry form and then misrepresenting to the court that he had called Hamilton from the conference room to obtain his authority to sign the form. In support of its decision, the board pointed to Baker's shifting story before Judge Kobasher as to the source of his authority to complete the form for Hamilton. The board also referred to Baker's response to relator's grievance, in which he said that he had received his authority to sign for Hamilton "in person." The board determined that Baker's explanations were "inconsistent and not credible."

{¶ 65} The lead opinion agrees with the board's findings that Baker violated Prof.Cond.R. 3.3(a)(1) (prohibiting a lawyer from knowingly making a false statement of fact to a tribunal or failing to correct a false statement of material fact the lawyer previously made to the tribunal) and 8.4(c) (prohibiting a lawyer from

engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation). Lead opinion at ¶ 6. I also agree with those findings.

{¶ 66} However, the lead opinion treats Baker's misconduct primarily as a false-notarization case and therefore concludes that the baseline sanction here is a public reprimand. I disagree with that approach. In my view, the evidence does not support finding that Baker purported to "sign" the document on Hamilton's behalf or make a representation to the court that he had done so; nonetheless, the evidence does support a finding that Baker lied to the tribunal at the May 3 hearing.

{¶ 67} Various provisions of the Revised Code address whether a particular writing or mark is a signature. *See, e.g.*, former R.C. 1303.41(b), Am.Sub.S.B. No. 147, 145 Ohio Laws, Part I, 1292, 1329 (noting that a "signature" requires the "present intention to authenticate a writing");[1] R.C. 3501.011(A) (defining a "signature" on election petitions as a "cursive-style legal mark written in that person's own hand"); R.C. 317.11 (distinguishing a signature from a printed name in context of real-estate instruments to be recorded); R.C. 2913.01(G) (defining "forge," in relevant part, as "to *fabricate* or create . . . any *spurious writing*, . . . when the writing in fact is not authenticated by that conduct [emphasis added]").

{¶ 68} Here, Baker's writing was not spurious. *See Black's Law Dictionary* (12th Ed. 2024) (defining "spurious" as "[d]eceptively suggesting an erroneous origin"). It was clearly in print and not an attempt to fabricate Hamilton's signature. In fact, one of the documents that Baker used to try to show that he had filled out the form for Hamilton on prior occasions was a November 2023 pretrial-entry form approved by Judge Kobashar that contains Hamilton's name written in cursive followed by Baker's signature along with a notation reading, "def[endant] in Court for hearing."

1. R.C. 1303.41 was amended, effective October 6, 2026, and no longer includes this language. *See* 2026 Sub.H.B. 195.

{¶ 69} I disagree that this case is primarily about Baker's writing on the pretrial-entry form. Baker's principal, and in my view only, infraction was lying to the tribunal about calling his client to obtain authorization to complete the form for him. Nevertheless, I agree with the board and the lead opinion that Baker violated Prof.Cond.R. 3.3(a)(1) and 8.4(c).

AGGRAVATING AND MITIGATING FACTORS

Aggravating Factors

{¶ 70} Turning to the evidence of aggravating factors, the board found that six aggravating factors were present. It found that Baker (1) has previously been disciplined, (2) exhibited a selfish and dishonest motive, (3) engaged in a pattern of misconduct, (4) committed multiple offenses, (5) caused harm to his client, and (6) refused to acknowledge the wrongful nature of his misconduct, *see* Gov.Bar R. V(13)(B)(1) through (4), (7), and (8). Baker filed objections to those findings.

{¶ 71} The lead opinion sustains Baker's objections in part and overrules them in part. Specifically, the lead opinion agrees with Baker that the board incorrectly found a pattern of misconduct, lead opinion at ¶ 32, and it concludes that the weight given to the harm Baker caused Hamilton should be "tempered," *id*. at ¶ 33.

{¶ 72} I also would sustain Baker's objections in part and overrule them in part, but not in the same way the lead opinion does. I agree with the lead opinion that Baker did not engage in a pattern of misconduct, but I disagree with the lead opinion's "tempering" of the board's finding regarding the harm Baker caused Hamilton and the lead opinion's determination that Baker committed multiple offenses.

{¶ 73} Hamilton walked into the courtroom on May 3 expecting to enter a guilty plea. Instead of leaving with the plea deal, he left confused and unsure of what to do in the case. Baker later had to advise Hamilton that they should part ways. According to Baker, they "mutually agreed" that Hamilton would not get a

"fair dealing" if Baker continued as his attorney in front of the judge who had just confronted them on the record. There is inherent stress, not to mention expense, to defendants when they are forced to obtain new counsel midway through a prosecution.

{¶ 74} Hamilton did ultimately enter a guilty plea, albeit in February of the next year—nine months after he was originally scheduled to enter a guilty plea. Regardless of whether his new counsel advised him to take the case to trial under a theory different from Baker's, *see* lead opinion at ¶ 33, it necessarily takes additional time and expense to build trust and rapport with a new attorney. The resulting disruption and added expense and stress harmed Hamilton. *See Cleveland Metro. Bar Assn. v. Heller*, 2021-Ohio-2211, ¶ 37 (affirming the board's finding of harm to a vulnerable client under Gov.Bar R. V(13)(B)(8) when the attorney's misconduct caused his client to experience "significant stress and frustration" and left the client with an additional $335 debt). And while the record may not support attributing the entire nine-month delay solely to Baker, his misconduct plainly contributed to the delay and disruption by derailing the scheduled plea proceeding and requiring Hamilton to restart the attorney-client relationship with new counsel.

{¶ 75} I also disagree with the lead opinion's determination that Baker committed multiple offenses because, as stated above, in my view the evidence does not support a finding that he forged the pretrial-entry form.

Mitigating Factors

{¶ 76} Turning to the mitigating factors, the board rejected Baker's mitigation claims because there was no evidence to support them. However, it did find, sua sponte, that Baker "fully cooperated during the entire disciplinary process" and exhibited a cooperative attitude toward the disciplinary proceedings, *see* Gov.Bar R. V(13)(C)(4).

{¶ 77} I agree with the lead opinion that there is "limited mitigating evidence present here," lead opinion at ¶ 53. Moreover, any mitigating effect is

substantially outweighed by Baker's refusal to acknowledge the wrongful nature of his misconduct as well as his continued efforts to minimize and deflect responsibility.

{¶ 78} Baker continues to refuse to take accountability for his prior disciplinary offenses, *see Baker*, 2021-Ohio-1896, and he blames the judges in the underlying cases more than he blames himself for the misconduct that resulted in both this proceeding and his previous disciplinary proceeding. When questioned about his prior disciplinary case, Baker claimed that the judge had made "personal statements" against him in chambers and described the judge as having acted "arbitrarily" in ruling against his client.

{¶ 79} In this case, Baker claimed that Judge Kobashar had never informed him of her rule that a defendant must personally sign the pretrial-entry form and that she had "ambush[ed]" him in the courtroom at the May 3 pretrial hearing. Moreover, despite stipulating otherwise, he repeatedly asserted during his disciplinary hearing that Judge Kobashar did not have such a rule.

{¶ 80} Therefore, I conclude that there are four aggravating factors and only one mitigating factor, which is entitled to little weight.

SANCTION

Baker's Lying to the Tribunal Warrants Imposing the Presumptive Actual Suspension

{¶ 81} The primary purpose of attorney discipline "is not to punish the offender, but to protect the public." *Disciplinary Counsel v. O'Neill*, 2004-Ohio-4704, ¶ 53. "Protecting the public, however, is not strictly limited to protecting clients from a specific attorney's potential misconduct. Imposing attorney-discipline sanctions also protects the public *by demonstrating to the bar and the public that this type of conduct will not be tolerated*." (Emphasis added.) *Disciplinary Counsel v. Schuman*, 2017-Ohio-8800, ¶ 17.

{¶ 82} "Each disciplinary case involves unique facts and circumstances." Gov.Bar R. V(13)(A). We apply our "precedent—cases involving similar misconduct and aggravating and mitigating factors—to ensure a fair and equitable disciplinary system." *Disciplinary Counsel v. Nowicki*, 2023-Ohio-3079, ¶ 35 (Kennedy, C.J., concurring in part and dissenting in part).

{¶ 83} "We will not allow attorneys who lie to courts to continue practicing law without interruption." *Cleveland Bar Assn. v. Herzog*, 1999-Ohio-30, ¶ 10. "When an attorney engages in a course of conduct that violates [an ethical rule prohibiting dishonesty, fraud, deceit, or misrepresentation], the attorney will be actually suspended from the practice of law for an appropriate period of time." *Disciplinary Counsel v. Fowerbaugh*, 1995-Ohio-261, syllabus. "'Respect for our profession is diminished with every deceitful act of a lawyer. We cannot expect citizens to trust that lawyers are honest if we have not yet sanctioned those who are not.'" *Disciplinary Counsel v. Rohrer*, 2009-Ohio-5930, ¶ 42, quoting *Fowerbaugh* at ¶ 14. This court has nonetheless recognized that "an abundance of mitigating evidence can justify a lesser sanction." *Disciplinary Counsel v. Markijohn*, 2003-Ohio-4129, ¶ 8. But such evidence is not present here.

{¶ 84} The board recommends a sanction of a six-month suspension from the practice of law with no stay. In support of that recommendation, the board relies on *Rohrer*, *Disciplinary Counsel v. Spinazze*, 2020-Ohio-957, and *Disciplinary Counsel v. Rossi*, 2025-Ohio-5398.

{¶ 85} The lead opinion takes a different approach. It relies on the ten false-notarization decisions collected in *Rossi* to establish that a public reprimand is the baseline sanction for the misconduct Baker committed here. *See* lead opinion at ¶ 49-51. Then, pointing to Baker's prior disciplinary history and limited mitigating evidence, the lead opinion decides that the baseline sanction should be increased to a six-month suspension, stayed in its entirety. *Id*. at ¶ 53.

{¶ 86} I categorically reject the lead opinion's determination that the cases cited in *Rossi* are "particularly instructive," because I disagree that Baker forged the pretrial-entry form. Nonetheless, the evidence still supports finding that Baker lied to the court. I agree with the board that *Rohrer* and *Spinazze* are controlling, and further, I agree with the board's recommendation that the appropriate sanction is a suspension from the practice of law for six months with no stay.

Baker's Conduct Warrants a Six-Month Suspension from the Practice of Law with No Stay

{¶ 87} *Fowerbaugh* was the first case in which this court established that the presumptive sanction for conduct involving dishonesty, fraud, deceit, or misrepresentation was the imposition of an actual suspension. 1995-Ohio-261 at syllabus. In *Fowerbaugh*, this court "express[ed] [its] growing concern with the increase in the discipline matters referred to [the court] by the Board of Commissioners on Grievances and Discipline in which members of the bar of Ohio have deceived their clients or a court." *Id*. at ¶ 14. While the misconduct in *Fowerbaugh* involved an attorney lying to his client, in *Rohrer*, 2009-Ohio-5930, this court applied the presumptive sanction to a case in which the attorney made misrepresentations to the tribunal. The court explained that "[a]bsent significant mitigating factors that warrant a departure from the principle announced in *Fowerbaugh* . . . , an actual suspension from the practice of law is appropriate." *Rohrer* at ¶ 45.

{¶ 88} If a majority of this court overturns the holdings in *Fowerbaugh* and *Rohrer* that the presumptive sanction for lying to a tribunal is the imposition of an actual suspension, then the outcome in this case might be different. But this court's established precedent requires imposition of an "actual suspension from the practice of law" when an attorney lies to a tribunal, *Rohrer* at ¶ 45; *Fowerbaugh* at syllabus, in the absence of an "*abundance* of mitigating evidence" (emphasis added), *Markijohn*, 2003-Ohio-4129, at ¶ 8.

{¶ 89} In *Rohrer*, the attorney violated a court order prohibiting communications with the media regarding a juvenile case. *Rohrer* at ¶ 10. Specifically, Rohrer directed one of his staff members to deliver a motion that had been filed in the case to the local newspaper, despite a verbal order from the judge not to contact the media. *Id.* at ¶ 8, 10. Then, Rohrer made false and misleading statements to the court regarding his role in releasing the motion. *Id.* at ¶ 16.

{¶ 90} His statements included: "I said some things to my staff that I believe . . . [were] misconstrued, but I'm not going to hold them responsible and I believe that a copy . . . of that motion later on in the day got delivered over there without my knowledge" and "I take responsibility for that because if they thought that that was my intent or that's what I wanted to happen, and they did that, then that's still my responsibility. It was . . . not my intent." (Ellipses in original.) *Id.*, 2009-Ohio-5930, at ¶ 13-15. We found that Rohrer's lies to the court constituted violations of Prof.Cond.R. 3.3(a)(1) and 8.4(c). *Id*. at ¶ 20.

{¶ 91} The lead opinion attempts to minimize the similarities between Baker's and Rohrer's cases by noting that Rohrer's sanction was also based on his violations of Prof.Cond.R. 3.4(c) and 8.4(d) for disobeying an obligation under the rules of a tribunal and engaging in conduct that was prejudicial to the administration of justice. Lead opinion at ¶ 45. But the lead opinion's reasoning ignores the fact that most of this court's analysis of applicable precedent in *Rohrer* addressed Rohrer's dishonesty with the juvenile court. *See Rohrer* at ¶ 41-48. The court found that three aggravating factors were present in Rohrer's case: multiple offenses, a selfish or dishonest motive, and failure to show remorse. *Id*. at ¶ 34, 38, 40.

{¶ 92} The court also found five mitigating factors: no prior disciplinary record, a cooperative attitude toward the disciplinary proceedings, other sanctions already imposed by the juvenile court, good character and reputation, and service to indigent clients. *Id*. at ¶ 50-51. Despite the abundance of mitigating factors, this

court imposed an actual suspension from the practice of law for a period of six months. *Id*. at ¶ 54.

{¶ 93} Like Rohrer, Baker has the aggravating factors of selfish or dishonest motive and refusal to acknowledge the wrongful nature of his misconduct. But whereas Rohrer had the additional aggravating factor of multiple offenses, Baker's case includes the additional aggravating factors of causing harm to a vulnerable client and his previous disciplinary record. Further, Baker has only one mitigating factor—his cooperation with the disciplinary proceedings—compared to Rohrer's five.

{¶ 94} In *Spinazze*, as in *Rohrer*, this court found that the attorney violated Prof.Cond.R. 3.3(a)(1) and 8.4(c). *Spinazze*, 2020-Ohio-957, at ¶ 11-12. And because the trial court had to vacate a defendant's guilty plea and appoint a special prosecutor as a result of Spinazze's dishonesty, this court also found that he violated Prof.Cond.R. 8.4(d). *Id*. at ¶ 10-12.

{¶ 95} Relevant here, Spinazze, an assistant prosecutor, made false statements to the trial court about a deputy sheriff's recommendation on a plea agreement. *Id*. at ¶ 5-6, 9. He compounded his misconduct by making a false notation in the case file, *id*. at ¶ 7, and misleading his supervisor by not disclosing the misrepresentations he had made to the court, *id*. at ¶ 8.

{¶ 96} However, this court noted that there were also numerous mitigating factors, including Spinazze's clean disciplinary record, his cooperative attitude toward the disciplinary proceedings, evidence of positive character and reputation, and the fact that other penalties had been imposed for the same misconduct. *Id*. at ¶ 14. And there was only one aggravating factor—namely, that Spinazze had acted with a dishonest motive. *Id*. Despite the abundance of mitigating factors, this court imposed a six-month suspension. *Id*. at ¶ 25.

{¶ 97} While the lead opinion is correct that Spinazze violated Prof.Cond.R. 8.4(d) in addition to Prof.Cond.R. 3.3(a)(1) and 8.4(c), it discounts

the similarities between the cases by pointing out that Spinazze's lies were at least a partial basis for the judge's decision to accept the defendant's plea agreement. Lead opinion at ¶ 46. However, the lead opinion ignores the fact that Baker's conduct also affected a defendant's plea deal. As noted above, Hamilton was expecting to enter into a plea agreement on May 3, but instead, his case was not resolved until he entered into a different plea agreement in February of the following year. And like Spinazze, Baker also made a false representation to the trial court when he lied to cover up the fact that he did not call Hamilton to obtain his consent to sign the pretrial-entry form. *See Spinazze*, 2020-Ohio-957, at ¶ 6.

{¶ 98} Spinazze and Rohrer had one and three aggravating factors, respectively, and they both had at least four mitigating factors, yet this court imposed a sanction of a six-month suspension from the practice of law with no stay in both cases based on the presumptive sanction under *Fowerbaugh*. *Spinazze* at ¶ 22, 25; *Rohrer*, 2009-Ohio-5930, at ¶ 45, 54. Here, Baker lied to a tribunal and there are numerous aggravating factors and an absence of significant mitigating factors; therefore, the appropriate sanction in light of this court's precedent is a six-month suspension from the practice of law with no stay.

CONCLUSION

{¶ 99} I disagree with the lead opinion's finding that Baker forged Hamilton's signature, and accordingly, I reject the lead opinion's determination that Baker committed multiple offenses and engaged in a pattern of misconduct. I also disagree with the lead opinion's "tempering" of the weight to be given to the harm that Baker caused to his client. Regardless, this case is fundamentally about the fact that Baker knowingly made false statements to a tribunal to conceal that he had not called his client from the conference room to obtain consent to fill out the pretrial-entry form, reasserting multiple times that the call had taken place. Under *Fowerbaugh*, that misconduct presumptively warrants the sanction of an actual

suspension. And under *Rohrer* and *Spinazze*, because there is not an abundance of mitigation evidence, there is no basis to deviate from the presumptive sanction.

{¶ 100} Baker's misconduct strikes at the core of the professional-conduct rules regarding dishonesty. "'We cannot expect citizens to trust that lawyers are honest if we have not yet sanctioned those who are not.'" *Rohrer* at ¶ 42, quoting *Fowerbaugh*, 1995-Ohio-261, at ¶ 14. Because Baker (1) lied to the tribunal and (2) this case involves numerous aggravating factors and only a single mitigating factor—one that is of limited weight and falls far short of the "abundance of mitigating evidence" required by this court's precedent, *Markijohn*, 2003-Ohio-4129, at ¶ 8—I would impose an actual suspension from the practice of law for six months. A majority of this court concludes otherwise, and therefore, I concur in part and dissent in part.

Fauver Co., L.P.A., and Margaret A. O'Bryon, for relator.

Anthony Baker, pro se.
