

STATE OF MINNESOTA  
IN SUPREME COURT  
A23-0397



In re Petition for Disciplinary Action against  
Daniel M. Gallatin, a Minnesota Attorney,  
Registration No. 0387456.

O R D E R

The Director of the Office of Lawyers Professional Responsibility (Director) filed a petition for disciplinary action alleging that respondent Daniel M. Gallatin committed professional misconduct warranting public discipline—namely, filing a settlement document with a court containing the opposing parties’ electronic signatures without having confirmed consent or authorization to do so. *See* Minn. R. Prof. Conduct 1.1, 3.3(a), 8.4(c), 8.4(d). We referred the matter to a referee, and after conducting an evidentiary hearing, the referee made findings of fact, conclusions of law, and a recommendation for discipline. The referee found that respondent committed the alleged misconduct and that there were two mitigating factors. The referee recommended a public reprimand and that respondent pay \$900 in costs pursuant to Rule 24, Rules on Lawyers Professional Responsibility (RLPR).

Respondent and the Director entered into a stipulation for discipline. In it, they stipulate that the referee’s findings of fact and conclusions of law are conclusive and waive briefing and oral argument before us pursuant to Rule 14(g), RLPR. The parties

jointly recommend that the appropriate discipline is a public reprimand and that respondent pay \$900 in costs pursuant to Rule 24, RLPR.

Respondent's misconduct includes making knowingly false statements to a court. "[W]e have suspended attorneys for misrepresentations made to our judicial officers." *In re Jensen*, 542 N.W.2d 627, 634 (Minn. 1996); *see also In re Ask*, 899 N.W.2d 182, 182 (Minn. 2017) (order) (30-day suspension for making false statements to a court when pleading guilty to a crime, making a false statement in a plea petition, and making a false statement to a police officer); *In re Sannes*, 832 N.W.2d 446, 446 (Minn. 2013) (order) (30-day suspension for "failing to inform opposing counsel or the opposing party" that his client had made a false statement to the court and failing to correct that false statement).

But we have imposed a public reprimand in cases involving false statements to a court when there was evidence of mitigating factors. *See In re McGuire*, 982 N.W.2d 713, 714 (Minn. 2022) (order) (public reprimand for "affixing a client's electronic signature to two sworn declarations the client had neither approved, authorized, nor reviewed," in light of evidence of mitigating factors); *In re Hoeschler*, 872 N.W.2d 261, 261–62 (Minn. 2015) (order) (public reprimand for "filing and settling property tax appeals without the permission of the property owners," in light of evidence of mitigating factors); *In re Amundson*, 869 N.W.2d 671, 671 (Minn. 2014) (order) (public reprimand for "making knowingly false statements to a court and opposing counsel," in light of evidence of mitigating factors); *In re Novak*, 856 N.W.2d 97, 97 (Minn. 2014) (order) (public reprimand for "making knowingly false statements to a court and opposing counsel," in light of evidence of mitigating factors).

We have independently reviewed the file and, in light of the evidence of mitigating factors, approve the jointly recommended disposition.

The dissent insists that respondent should be suspended for a minimum of 30 days, finding respondent's behavior particularly egregious and deeming the mitigating factors found by the referee to be insufficient to warrant only a public reprimand. But we give deference to a referee's findings. *In re Sea*, 932 N.W.2d 28, 34 (Minn. 2019). And "we give 'significant weight' to a referee's recommendation." *In re Riehm*, 883 N.W.2d 223, 233 (Minn. 2016) (quoting *In re Singer*, 541 N.W.2d 313, 315 (Minn. 1996)). Further, we "give some deference to the Director's decision to enter into a stipulation for discipline. . . . because the Director is in the best position to weigh the cost and risk of litigation and to determine when a stipulated discipline will best serve the interests of the [Lawyers Professional Responsibility] Board." *Id.* (citations omitted) (internal quotation marks omitted).

Ultimately, "[t]he purpose of attorney discipline is 'not to punish the attorney but rather to protect the public, to protect the judicial system, and to deter future misconduct by the disciplined attorney as well as by other attorneys.' " *In re Usumanu*, 979 N.W.2d 885, 886 (Minn. 2022) (order) (quoting *In re Klotz*, 909 N.W.2d 327, 335 (Minn. 2018)). In light of the discipline we have imposed in similar cases when there was evidence of mitigating factors, we conclude that a public reprimand will adequately protect the public, protect the judicial system, and deter future misconduct.

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. Respondent Daniel M. Gallatin is publicly reprimanded.
2. Respondent shall pay \$900 in costs pursuant to Rule 24, RLPR.

Dated: March 8, 2024

BY THE COURT:

A handwritten signature in black ink, appearing to read "M. Chutich", written in a cursive style.

Margaret H. Chutich  
Associate Justice

## DISSENT

McKEIG, Justice (dissenting).

Because a suspension from the practice of law for a minimum of 30 days is the appropriate discipline for respondent Daniel M. Gallatin based on his derisive and belittling treatment of unrepresented parties and fraudulent conduct upon a court, I respectfully dissent.

### A.

In 2019, Gallatin represented defendants in a conciliation court matter concerning an undisclosed water intrusion problem in a house that the defendants had recently sold. The plaintiffs in the matter were, at all relevant times, acting *pro se*. The conciliation court awarded the plaintiffs \$10,265.19. Consequently, the defendants gave Gallatin authority to settle the matter for whatever amount he could obtain below the judgment amount and forwarded him the full amount of the judgment.

Judgments in conciliation court after a contested trial are removable to district court, and Gallatin threatened removal when negotiating with the plaintiffs. The tone of Gallatin's negotiation emails was terse and, at times, condescending, but the parties eventually agreed to settle for \$9,000 on the condition that the plaintiffs received a check for the full amount. Gallatin told the plaintiffs that he would have a check for them the following day. Following this agreement—and independent of the settlement discussion—Gallatin informed the plaintiffs that they would need to write up the settlement and dismissal papers themselves, which was the first time this was mentioned to the plaintiffs. The *pro se* plaintiffs are not lawyers and were entirely unfamiliar with settlement

documents, but they attempted to draft the documents using a form they found on the internet. The plaintiffs had difficulties delivering the form to Gallatin as a PDF and eventually sent a photo of the drafted, but unsigned document using their cellphone. That evening, Gallatin sent an email to the plaintiffs, the body of which read, in full:

FIGURE OUT HOW TO CREAT [sic] A PDF. MOST HIGH SCHOOL SENIORS CAN DO THAT. CREATE A PDF. E-MAIL A PDF. PICTURES FROM YOUR PHONE ARE A JOKE. THERE IS NOT A SETTLEMENT AGREEMENT AND ORDER TO FILE. THERE'S A DISMISSAL OF THE ACTION. A SEPARATE DOCUMENT IS A SETTLEMENT AGREEMENT.

After this exchange, the plaintiffs wished to not work further with Gallatin and sought to collect the conciliation award in other ways. Around 2 weeks later, Gallatin texted the plaintiffs, again chided them for not being able to write up the proper legal documents, and told them he would file the correct documents for \$250 off the settlement. The plaintiffs did not agree to this deduction off the settlement amount. Five days later, having still not received a check from Gallatin, the plaintiffs filed with the court an affidavit of identification of judgment debtor listing themselves as judgment creditors and the defendants as judgment debtors. Over a week later, Gallatin sent an email to the plaintiffs stating, "It seems your incompetence and lack of integrity know no boundaries. A stipulation for dismissal with prejudice is being filed today with your signatures. I'll do the paperwork and send you your settlement check." The email did not contain a copy of the document Gallatin claimed he would file. The plaintiffs did not respond, nor did they give Gallatin permission to affix their signatures to any documents.

After nearly another week had passed, Gallatin filed with the Anoka County District Court a stipulation to vacate judgment and dismissal which contained the unauthorized typographical/electronic signatures of the plaintiffs. At this point, Gallatin *still* had not sent the plaintiffs a check. Based on Gallatin's submission, the matter's presiding judge signed the corresponding order for judgment of dismissal. The plaintiffs only found out about the dismissal of their claim after visiting the courthouse to determine the next steps in their collection efforts. The plaintiffs then petitioned the court to vacate the order vacating judgment, and only then did Gallatin send them a check for \$9,000, which the plaintiffs did not cash.

At a hearing on the plaintiffs' motion to vacate, the district court found that Gallatin had "committed intrinsic fraud and misrepresentation by affixing Plaintiffs [sic] electronic signatures on a Stipulation and Order for Dismissal and EFiled the same with the Court." After the court issued its order, Gallatin emailed the plaintiffs informing them that the defendants would pay the full judgment amount—\$1,265.19 more than they would have had to pay if Gallatin had simply drafted the settlement paperwork himself—because the defendants wanted to "move on."

The district court judge who presided at the motion to vacate hearing reported Gallatin to the Office of Lawyers Professional Responsibility. Other lawyers present in the courtroom during the hearing were disturbed enough by Gallatin's behavior that they notified the judge that they would file a complaint if she did not.

The Director of the Office of Lawyers Professional Responsibility (Director) filed a petition for disciplinary action against Gallatin, and this court referred the matter to a

referee. During the referee's consideration of this matter, Gallatin made several exculpatory claims which the referee found not credible. The referee, however, found credible Gallatin's testimony that he was taken aback by the district court judge's decision, and that it gave him one of the worst feelings he has ever had. The referee also found credible Gallatin's testimony that he has since changed the way in which he communicates, especially in writing. Further, the referee found that Gallatin did not bill his clients for his attempts to settle the matter.

B.

The Director and Gallatin entered into a stipulation for discipline and jointly recommend that the appropriate discipline is a public reprimand. When the Director enters into a stipulation for discipline, we generally give some deference to that decision. *In re Olson*, 872 N.W.2d 862, 864 (Minn. 2015) (order). However, “[w]e are the sole arbiter of the discipline to be imposed for professional misconduct by Minnesota lawyers.” *In re Stoneburner*, 882 N.W.2d 200, 206 (Minn. 2016) (citation omitted) (internal quotation marks omitted). When determining appropriate discipline, we attempt to impose consistent discipline by consulting similar cases, but we also recognize that “proper discipline is ultimately determined based on the unique facts and circumstances of each case.” *In re Nielson*, 977 N.W.2d 599, 612 (Minn. 2022) (citation omitted) (internal quotation marks omitted).

As noted by the court, an appropriate discipline for making false statements to a court is suspension. *See In re Jensen*, 542 N.W.2d 627, 634 (Minn. 1996). In fact, we have held that “[m]aking false statements is ‘misconduct of the highest order and warrants

severe discipline.’ ” *In re Severson*, 860 N.W.2d 658, 672 (Minn. 2015) (quoting *In re Ruffenach*, 486 N.W.2d 387, 391 (Minn. 1992)). However, we have imposed only a public reprimand in cases involving false statements to a court when there was evidence of mitigating factors. *See, e.g., In re McGuire*, 982 N.W.2d 713, 714 (Minn. 2022) (order) (imposing a public reprimand for affixing a client’s electronic signature to sworn declarations without the client’s approval, and filing the otherwise truthful declarations with a court, in light of evidence of mitigating factors); *In re Hoeschler*, 872 N.W.2d 261, 261–62 (Minn. 2015) (order) (imposing a public reprimand for “filing and settling property tax appeals without the permission of the property owners,” in light of evidence of mitigating factors); *In re Amundson*, 869 N.W.2d 671, 671 (Minn. 2014) (order) (imposing a public reprimand for making knowingly false statements to a court and to opposing counsel, in light of evidence of mitigating factors).

But the cases of misrepresentation where we have favored a public reprimand over a suspension simply do not include the type of misconduct seen here. Gallatin forged the signatures of an unrepresented, opposing party, which resulted in the dismissal of their claim. This misconduct is far more egregious than cases where mitigating factors have warranted a lesser discipline. Allowing the mitigating factors to lessen the imposed discipline here seems to ignore the unique facts of this case for the sake of a tenuous consistency.

Further, when determining appropriate discipline, we consider factors which include “the harm to the public and the legal profession.” *In re Butler*, 960 N.W.2d 540, 553 (Minn. 2021). Gallatin’s behavior needlessly harmed his *pro se* opponents because

his misconduct delayed payment of the judgment the plaintiffs were awarded, caused the plaintiffs unnecessary stress and uncertainty, and improperly forced the plaintiffs to expend time and energy on the matter. At least one of the plaintiffs testified that she had lost her faith in the judicial system because of the ordeal. Gallatin's behavior harmed his own clients as well because it caused the plaintiffs to not want to work with him toward a resolution. This cost his clients money and dragged the matter on for months longer than required. Gallatin negatively impacted the legal profession by harming both the judicial system and his own clients.

Disciplinary sanctions serve the threefold purpose of protecting the public, protecting the judicial system, and deterring future misconduct. *In re Pitera*, 827 N.W.2d 207, 210 (Minn. 2013). Gallatin's petty and childish behavior unfairly subjected his opponents to a frustrating legal ordeal and caused his own clients to pay the full judgment amount—despite the opportunity to settle for less. His fraudulent behavior wasted the court's valuable time and cast a pall on the judicial system and the trustworthiness of its officers. Gallatin forged the signatures of an opposing party and filed those documents with the court. It is difficult to see how a mere public reprimand for such a serious breach of ethical standards will deter either him or other attorneys from engaging in similar dishonesty.

To that end, attorneys are “expected to show a renewed commitment to ethical behavior” after being disciplined. *In re Coleman*, 793 N.W.2d 296, 308 (Minn. 2011) (citation omitted) (internal quotation marks omitted). We may consider previous reprimands, both public and private, when determining appropriate discipline. *Id.* at 308—

09. Gallatin has a history of discipline, having been issued an admonition in 2018 for failing to timely return a client's original documents in violation of Rules 1.15(c)(4) and 1.16(d) of the Minnesota Rules of Professional Conduct. Gallatin's behavior here offers little evidence that he has renewed his commitment to ethical behavior.

The plaintiffs whose electronic signatures Gallatin forged were simply trying to recover a judgment they had won against his clients in conciliation court. Gallatin could have settled the matter for his clients in a few hours, but instead chose to antagonize and belittle the *pro se* plaintiffs, letting the matter drag on for months before forging their signatures and costing his own clients unnecessary money and time. Mitigating factors such as Gallatin now being more polite in his emails and not billing his clients for the extra work—which he, himself created—simply do not tip the scales in favor of a lesser discipline. For his unprofessional and fraudulent conduct, Gallatin should be suspended from the practice of law for a minimum of 30 days.

For the foregoing reasons, I respectfully dissent.

THISSEN, Justice (dissenting).

I join in the dissent of Justice McKeig.

MOORE, III, Justice (dissenting).

I join in the dissent of Justice McKeig.