

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 23-8001(A)

IN RE: TAMESHA N. LARBI, MEMBER OF THE BAR

Before FALVEY, LAURER, and JAQUITH, *Judges*.

ORDER

Attorney Tamesha N. Larbi (Respondent), a member of this Court's bar, is the subject of a grievance referred to the Court's Standing Panel on Admission and Discipline (Panel) by the Office of General Counsel, under Rule 6(a) of this Court's Rules of Admission and Practice (A&P Rules). *See* U.S. VET. APP. R. ADM. & PRAC. 6(a). The grievance was sent to the Court's Committee on Admission and Practice (Committee) for its recommendation.

The Committee submitted its report and recommendation to the Court on February 6, 2024. The Committee emailed and mailed Ms. Larbi a copy of the report and a cover letter notifying her of her right to submit a rebuttal. *See* U.S. VET. APP. R. ADM. & PRAC. 2(d)(8). Tracking information reveals that mailing was delivered on February 29, 2024. Ms. Larbi did not file a rebuttal in the time allotted, nor did she request an extension of time.

On June 6, 2024, the Panel issued a preliminary, non-public version of this order notifying Ms. Larbi of its intent to impose the Committee's recommendation of a suspension for 6 months with specified conditions that Ms. Larbi must meet before she may be reinstated by the Panel. The order also notified Ms. Larbi of her right to file a motion for reconsideration within 21 days after the date of the order. *See* U.S. VET. APP. R. ADM. & PRAC. 5(d). Ms. Larbi has not filed a motion for reconsideration or requested an extension of time, and the time for doing so has passed. The Panel now issues this final, public order imposing discipline.

I. BACKGROUND

Ms. Larbi has been a member of this Court's bar since August 14, 2018, and has appeared in 43 cases before the Court. She has also been a member of the North Carolina State Bar since September 12, 2008, and the Federal Circuit Bar since July 29, 2020.

The Court tracks practitioners' filing deficiencies, including filing nonconforming documents or failing to file required documents. During a 12-month period, from September 2021 through August 2022, Ms. Larbi accumulated 16 filing deficiencies, including 6 nonconforming notices and 10 show cause orders, in 11 cases.

Notably, from February through July 2022, five of Ms. Larbi's cases were dismissed for failure to prosecute and comply with the Court's Rules of Practice and Procedure (Rules). *See* case nos. 21-4129, 21-4535, 21-4979, 21-6101, and 21-6104. In a sixth case, no. 21-7075, judgment

was entered after Ms. Larbi failed to file a conforming motion for extension to file a motion for reconsideration.

On October 5, 2022, then-Clerk of the Court Greg Block mailed Ms. Larbi a letter concerning the 16 filing deficiencies. In the letter, Mr. Block noted that Ms. Larbi had been warned earlier that year by a docket clerk and the Chief Deputy Clerk that the Court was tracking filing deficiencies. And Mr. Block noted that he had personally contacted her about two cases, both of which were subsequently dismissed.

Mr. Block requested that Ms. Larbi respond to his letter within 30 days with assurances that she had "taken remedial action to ensure that [her] practice can conform to reasonable standards of diligence and ensure that all future filings are timely and otherwise compliant with the Court's rules." Grievance Attach. at 1. Mr. Block further notified Ms. Larbi that, though the letter itself did not constitute disciplinary action, given her "past failures to adhere to the Court's rules," failure to respond within 30 days might trigger an official disciplinary grievance. *Id.*

The letter was returned to the Court as undeliverable. On October 24, 2022, Court staff emailed Ms. Larbi a copy of the letter and advised her to update her mailing address consistent with A&P Rule 4(c)(2) if the address on file with the Court was no longer correct. Ms. Larbi did not respond to the email.

Return of the letter as undeliverable suggests that Ms. Larbi did not promptly notify the Clerk of the Court in writing of a change of address as required by A&P Rule 4(c)(2). Even so, on November 28, 2022, over a month after Mr. Block's letter was returned to the Court, Ms. Larbi emailed the Clerk's office to provide her new business address in Landover, MD.

Ms. Larbi never responded to Mr. Block's letter. On January 12, 2023, Mr. Block filed a grievance against Ms. Larbi based on her failure "to conform her practice to the Court's rules on multiple occasions" and because, "in [his] opinion, she ha[d] been derelict in her duty to competently represent veterans before the Court." Grievance at 1. He attached to the grievance his October 5, 2022, letter noting 16 filing deficiencies in 11 cases and a subsequent dismissal order in another case (case no. 22-1289).

Each of the cases on which the grievance is based is discussed below. However, we detail the relevant procedural history of the cases in which Ms. Larbi's misconduct led to dismissal and the case in which it led to disposition without reconsideration after she failed to file a conforming motion for extension to file a motion for reconsideration.

A. *Moore*, 21-4129

The Rule 33 conference was first scheduled for November 29, 2021, with the appellant's summary of the issues (SOI) and corresponding certificate of service due on November 15, 2021. Ms. Larbi did not timely file the certificate of service showing that she'd served the SOI on opposing counsel and the Court's Central Legal Staff (CLS). On November 29, 2021, the Secretary

filed an unopposed motion to reschedule the Rule 33 conference to January 13, 2022, and the Court granted the Secretary's motion that same day.

Ms. Larbi again did not timely file a certificate of service for the SOI. On January 12, 2022, the Court ordered the appellant to, within 3 days, file the SOI, a corresponding certificate of service, a motion for leave to file a late paper, and a motion to reschedule the Rule 33 conference. Ms. Larbi filed none of the required documents with the Court.

On January 18, 2022, the Court ordered the appellant to, within 7 days, show cause why further appropriate action should not be taken, noting that failure to comply with Court rules may lead to dismissal of the case and may subject representatives to disciplinary action, under Rule 38(b) and A&P Rule 4(b)(2), respectively. *Moore v. McDonough*, U.S. Vet. App. No. 21-4129 (Jan. 18, 2022) (unpublished order). The Court also cited A&P Rule 4(a), noting that the Court had adopted the ABA Model Rules of Professional Conduct (Model Rules), and quoted Model Rule 1.3: "A lawyer shall act with reasonable diligence and promptness in representing a client." *Id.*

Ms. Larbi did not respond to the January 18, 2022, order. The Court dismissed the appeal on February 16, 2022, for failure to prosecute and failure to comply with the Rules and entered judgment on March 10, 2022.

On May 10, 2022, Ms. Larbi filed "Appellant's Motion for Leave to File an Out-of-Time Motion to File a Response to the Court's January 13th [*sic*] & 18 Orders," as well as the appellant's response to the two January orders and a certificate of service reflecting that she had served the long-overdue SOI on May 9, 2022. Ms. Larbi stated in the motion for leave that she had unintentionally failed to respond to the two orders "due [to] an undetectable yet systemic lapse with my office's work operating system (OS) which we upgraded to just last year." *Moore v. McDonough*, U.S. Vet. App. No. 21-4129 (May 9, 2022) (motion for leave). She did not clarify why she was unaware of the January 12 and 18, 2022, and February 16, 2022, orders from the Case Management/Electronic Case Filing System (CM/ECF) notifications. She also did not explain why she had failed to timely file the certificate of service for the SOI in both November and December 2021.

Ms. Larbi admitted that she was unaware of the dismissal until her client contacted her about it. She wrote, "While efforts were made to work with our managed IT vendor to resolve, what at the time seemed like isolated performance deficiencies, it was not until Mr. Moore reached out to me directly about the dismissal, which had not populated in our workOS, that the gravamen of the system failures became known to me." *Id.* Although Ms. Larbi did not state when this communication with her client took place, she filed the motion for leave nearly 4 months after the Court ordered the appellant to show cause why further action should not be taken and nearly 3 months after the case was dismissed.

On June 1, 2022, the Court revoked the judgment, withdrew the February 16, 2022, order dismissing the appeal, granted the appellant's motion for leave, and ordered that the Rule 33

conference be rescheduled. After one request to reschedule by the Secretary, the Rule 33 conference was finally held on July 19, 2022.

On August 18, 2022, Ms. Larbi filed a joint motion for a 30-day stay to facilitate the parties' discussion of alternative disposition of the case. The motion was granted on August 19, 2022, *nunc pro tunc* to August 18, 2022.

Later, Ms. Larbi tried to file two motions rejected as nonconforming with the Rules. First, on September 20, 2022, Ms. Larbi filed an unopposed motion to stay. The motion was mistitled as appellee's motion, was filed a day late without an accompanying motion for leave, and incorrectly stated in the first sentence "Pursuant to U.S. Vet. App. R. 5, *Appellee, Denis McDonough, Secretary of Veterans Affairs, respectfully moves the Court* for a 30-day stay of proceedings in this case until, October 20, 2022." *Moore v. McDonough*, U.S. Vet. App. No. 21-4129 (Sept. 20, 2022) (motion to stay) (emphasis added). The Court issued a Notice of Nonconforming Documents on September 22, 2022, and stayed the proceedings for seven days so the appellant could file a conforming document with the Court.

On September 30, 2022, Ms. Larbi filed an unopposed motion for leave to file the motion for stay. The motion for leave was mistitled as appellee's motion. On October 3, 2022, the Court again issued a Notice of Nonconforming Documents informing Ms. Larbi of the error and staying proceedings for 7 days so that she could file a conforming document. Ms. Larbi did not file a conforming document.

On October 12, 2022, the Court ordered the appellant to file a brief and a motion for leave to file a late brief within 7 days. The Court also warned that "[f]ailure to comply with the Rules of the Court can result in dismissal and/or sanctions" under Rule 31(b) and stayed the proceedings pending further order of the Court. *Moore v. McDonough*, U.S. Vet. App. No. 21-4129 (Oct. 12, 2022) (unpublished order). Ms. Larbi never filed anything in response.

Ultimately, on October 19, 2022, the Secretary filed a joint motion for remand, which the Court granted on October 26, 2022.

B. *Madison*, 21-4535

The Rule 33 conference was first scheduled for October 27, 2021, thus making the SOI due on October 13, 2021. On October 14, 2021, after failing to timely submit the SOI and file the certificate of service, Ms. Larbi filed an unopposed motion to reschedule the Rule 33 conference to November 22, 2021. The Court granted Ms. Larbi's motion on October 20, 2021, thus making the SOI due November 8, 2021. Ms. Larbi again failed to submit the appellant's SOI and file the certificate of service, and the conference was not held.

On December 29, 2021, the Court ordered the appellant to serve the SOI and file the corresponding certificate of service and motion for leave within 3 days; the Court also stayed the proceedings pending further order of the Court. Ms. Larbi did not respond to this order.

On January 12, 2022, the Court ordered the appellant to show cause within 7 days why further appropriate action should not be taken, noting that failure to comply with the Rules may lead to dismissal of the case and may subject representatives to disciplinary action, under Rule 38(b) and A&P Rule 4(b)(2), respectively. *Madison v. McDonough*, U.S. Vet. App. No. 21-4535 (Jan. 12, 2022) (unpublished order). The Court also noted that the Court had adopted the Model Rules and quoted Model Rule 1.3: "A lawyer shall act with reasonable diligence and promptness in representing a client." *Id.*

Ms. Larbi again did not respond to the Court's order. The Court dismissed the appeal on February 15, 2022, for failure to prosecute and to comply with the Rules. Judgment and mandate were entered on March 9 and May 11, 2022, respectively.

C. *Patricio*, 21-4979

The appellant's brief was first due March 11, 2022. On March 4, 2022, Ms. Larbi filed an unopposed motion requesting an extension of the deadline to April 25, 2022. The Court granted the motion the day it was filed.

On April 25, 2022, Ms. Larbi filed a nonconforming motion for a 7-day extension to file the brief citing a death in her family. On April 27, 2022, the Court issued a Notice of Nonconforming Documents noting that, under Rule 26(b)(1)(C), the motion had to state the number of days of extension previously granted. Proceedings were stayed for 7 days to allow the appellant to file a conforming motion, but Ms. Larbi failed to file one.

On May 3, 2022, the Court ordered the appellant to file the brief and a motion for leave within 7 days and stayed proceedings until further order of the Court. The Court also warned that "[f]ailure to comply with the Rules of the Court can result in dismissal and/or sanctions" under Rule 31(b). *Patricio v. McDonough*, U.S. Vet. App. No. 21-4979 (May 3, 2022) (unpublished order).

On May 10, 2022, Ms. Larbi filed an unopposed motion for leave and an accompanying, nonconforming motion for extension. In the motion for leave, Ms. Larbi wrote, "This motion was not timely filed because Appellant's Counsel was out of the office following the death of a beloved family member and as a solo practitioner did not immediately have another attorney or paralegal available who could respond to the notice of nonconformance in my absence." *Patricio v. McDonough*, U.S. Vet. App. No. 21-4979 (May 10, 2022) (motion for leave).

On May 16, 2022, the Court issued a Notice of Nonconforming Documents, noting that the motion for an extension did not include the information required by Rule 26(b)(1)(B)-(E). The Court stayed proceedings for 7 days for the appellant to file a conforming motion or potentially face dismissal. Ms. Larbi again failed to file a conforming motion.

On May 26, 2022, the Court ordered the appellant to file the brief and a corresponding motion for leave within 7 days. The Court again warned that "[f]ailure to comply with the Rules of the Court can result in dismissal and/or sanctions" under Rule 31(b). *Patricio v. McDonough*,

U.S. Vet. App. No. 21-4979 (May 26, 2022) (unpublished order). Proceedings were stayed until further order of the Court. Ms. Larbi never filed a conforming motion or otherwise responded to the May 26, 2022, order.

On or about June 16, 2022, Mr. Block called Ms. Larbi about the case's status and Ms. Larbi reassured him that she would take appropriate action.¹ Ms. Larbi, however, never filed a conforming motion or other responsive document with the Court.

On July 8, 2022, pursuant to Rules 31(b) and 45(h), the Court dismissed the case for failure to prosecute and comply with the Rules. Judgment and mandate were entered August 1 and October 3, 2022, respectively.

D. *Martinez*, 21-6101

The appellant's brief was due February 11, 2022, but Ms. Larbi did not file the brief. On February 14, 2022, the Court ordered the appellant to file the brief and a motion for leave within 7 days. The Court also warned that "[f]ailure to comply with the Rules of the Court can result in dismissal and/or sanctions" under Rule 31(b) and stayed the proceedings pending further order of the Court. *Martinez v. McDonough*, U.S. Vet. App. No. 21-6101 (Feb. 14, 2022) (unpublished order).

After the 7 days had lapsed, on February 22, 2022, Ms. Larbi filed an unopposed motion for leave and an unopposed, out-of-time motion for a 45-day extension to file the brief. Ms. Larbi asserted in the motion for leave that she had "inadvertently overlooked actually filing the appropriate pleadings" after agreeing to an extension of time with opposing counsel. *Martinez v. McDonough*, U.S. Vet. App. No. 21-6101 (Feb. 22, 2022) (motion for leave). The two motions were granted on February 24, 2022, and the brief was then due March 28, 2022.

On March 28, 2022, Ms. Larbi filed a motion for a 7-day extension to file the brief citing a family medical emergency. The Court granted the motion the next day *nunc pro tunc* to March 28, 2022, and the appellant's brief was then due April 4, 2022. However, Ms. Larbi did not timely file the brief.

On April 5, 2022, the Court ordered the appellant to file the brief and a motion for leave within 7 days. The Court again warned that "[f]ailure to comply with the Rules of the Court can result in dismissal and/or sanctions" under Rule 31(b) and stayed the proceedings pending further order of the Court. *Martinez v. McDonough*, U.S. Vet. App. No. 21-6101 (Apr. 5, 2022) (unpublished order).

¹ Mr. Block documented that he had contacted Ms. Larbi and received her assurances in a non-public docket entry on CM/ECF.

Ms. Larbi did not respond to the April 5, 2022, order. At Mr. Block's request, the appeals processing clerk assigned to the case called and emailed Ms. Larbi on or about April 27, 2022, to check on the status of the case but received no response.²

On May 3, 2022, pursuant to Rules 31(b) and 45(h), the Court dismissed the appeal for failure to prosecute and to comply with the Rules. Judgment and mandate were entered May 25 and July 26, 2022, respectively.

E. *Middleton*, 21-6104

The Rule 33 conference was rescheduled from January 18, 2022, to January 21, 2022, at the Secretary's request, which the appellant did not oppose. The appellant's SOI and certificate of service were then due January 7, 2022, but Ms. Larbi did not file them.

On January 18, 2022, Ms. Larbi filed an unopposed motion to reschedule the Rule 33 conference from January 21, 2022, to February 24, 2022, which the Court granted. The SOI and certificate of service were then due February 10, 2022, but Ms. Larbi did not file them until the next day.

The Rule 33 conference was held February 24, 2022, thus making the appellant's brief due March 28, 2022. On March 4, 2022, Ms. Larbi filed a motion for a 45-day extension to file the brief; the motion was granted the same day.

On May 10, 2022, the day the appellant's brief was due, Ms. Larbi filed a nonconforming motion for voluntary dismissal of the appeal. The next day, the Court issued a Notice of Nonconforming Documents specifying that the appellant's name was misspelled in the caption and staying the proceedings for 7 days to allow the appellant to file a conforming motion. Ms. Larbi never filed a conforming motion.

On May 19, 2022, the Court ordered the appellant to file the brief and a motion for leave within 7 days and warned that failure to comply with the Rules could "result in dismissal and/or sanctions" under Rule 31(b). *Middleton v. McDonough*, U.S. Vet. App. No. 21-6104 (May 19, 2022) (unpublished order). The Court also ordered the proceedings stayed until further order of the Court. Ms. Larbi failed to file a conforming motion for voluntary dismissal or the appellant's brief or otherwise respond to the Court order.

On or about June 16, 2022, Mr. Block contacted Ms. Larbi about the status of the case.³ Ms. Larbi never filed a conforming motion or responsive document. On July 12, 2022, the Court dismissed the appeal, under Rules 31(b) and 45(h), for failure to prosecute and comply with the Rules. Judgment and mandate were entered August 4 and October 4, 2022, respectively.

² Mr. Block's request and the notes from the appeals processing clerk are documented in non-public docket entries on CM/ECF.

³ Mr. Block noted that he was contacting Ms. Larbi in a non-public docket entry on CM/ECF.

F. *Okdie*, 21-7075

On November 5, 2021, Ms. Larbi filed the appellant's Amended Petition for Writ of Mandamus asking the Court to, among other things, reinstate the appeal that the Board of Veterans' Appeals (Board) "unilaterally cancelled without providing any written notification or decision of such action." Am. Pet. at 1. The Secretary responded to the petition on January 11, 2022.

On January 14, 2022, Ms. Larbi filed an unopposed motion for leave to reply, as well as an amended version of that motion. The Court granted the appellant's amended motion on January 21, 2022, and ordered the appellant to respond within 30 days, i.e., no later than February 21, 2022. Ms. Larbi filed the response on February 22, 2022. On March 30, 2022, the Court denied the petition.

On April 20, 2022, the deadline for filing a Rule 35 motion, Ms. Larbi filed a motion for a 21-day extension to file a motion for reconsideration, panel decision, or both. The Court granted the motion on April 28, 2022.

On May 11, 2022, the new deadline for a Rule 35 motion, Ms. Larbi filed a second motion for an extension, which was nonconforming. On May 13, 2022, the Court issued a Notice of Nonconforming Documents that identified two issues with the second motion for extension: (1) the title and the body of the motion requested a different amount of days of extension; and (2) the motion did not state the Secretary's position as required by Rule 27(a)(5). Proceedings were stayed 7 days so Ms. Larbi could file a conforming motion, but she never did. The Court entered judgment and mandate on May 26, 2022, and July 28, 2022, respectively.

G. *Gephart*, 22-1289

The Rule 33 conference was scheduled for August 9, 2022, thus making the SOI and certificate of service due July 26, 2022. Ms. Larbi did not timely submit the SOI and file the certificate of service.

On July 27, 2022, Ms. Larbi filed an unopposed motion to reschedule the conference to August 31, 2022. The Court granted the motion and the SOI was then due August 17, 2022. But Ms. Larbi again failed to timely file the certificate of service confirming that she'd served the SOI.

The Rule 33 conference was held on August 31, 2022, thus making the appellant's brief due September 30, 2022. Ms. Larbi did not timely file the brief. On October 3, 2022, the Court ordered the appellant to file the brief and a motion for leave within 7 days. The Court warned that "[f]ailure to comply with the Rules of the Court can result in dismissal and/or sanctions" under Rule 31(b) and stayed the proceedings pending further order of the Court. *Gephart v. McDonough*, U.S. Vet. App. No. 22-1289 (Oct. 3, 2022) (unpublished order).

Ms. Larbi again failed to file the brief or otherwise respond to the Court order. On October 31, 2022, pursuant to Rules 31(b) and 45(h), the Court dismissed the appeal for failure to prosecute

and comply with the Rules. The Court entered judgment on November 22, 2022. This was the sixth case of Ms. Larbi's to be dismissed for this reason in 2022.

On January 3, 2023, Ms. Larbi filed "Appellant's Motion for Leave to File an Out-of-Time Motion to File a Response to the Court's October 3, 2022 Order." Ms. Larbi stated that she had inadvertently "recorded a document drafting task" in her case management system under a prior, closed case of the appellant's and thus was not reminded of the deadline because notifications are not generated in closed cases. *Gephart v. McDonough*, U.S. Vet. App. No. 22-1289 (Jan. 3, 2023) (motion for leave). She also stated that, on October 3, 2022, the date of the 7-day order, she had obtained the Secretary's position on the appellant seeking an extension to file the brief, but "[a]s best [she] can surmise at this juncture, Counsel more than likely turned her attention to something else in the office and did not catch that the document drafting task was placed in the wrong case file." *Id.* at 1-2.

Ms. Larbi also stated that she only learned of the case number error at the end of 2022 when she "discovered that her client to cases ratio was off." *Id.* at 2. Upon "manually going through all of the clients and case files in [her] office files to find the source of the discrepancy, [she] discovered that the Court's October 2022 Order had gone without response." *Id.* Ms. Larbi's explanation does not clarify why she was unaware of the October 3, October 31, or November 22, 2022, orders from CM/ECF notifications.

By order dated February 2, 2023, the Court construed the pending motion for leave as a motion for reconsideration of the dismissal and to reinstate the appeal. The Court held the motion in abeyance and ordered the appellant to file the brief within 30 days to be considered together with the pending motion. The brief was due March 6, 2023.

On March 6, 2023, and March 13, 2023, Ms. Larbi filed unopposed motions for a 7-day extension to file the brief. The Court granted each motion.

On March 20, 2023, the day the brief was now due, Ms. Larbi filed a nonconforming brief. On March 22, 2023, the Court issued a Notice of Nonconforming Documents specifying that the brief did not conform to Rules 28(a)(2) and 32(d) and staying the proceedings for 7 days for the appellant to file a conforming brief. Ms. Larbi did not timely file the brief during the 7-day stay.

On March 30, 2023, Ms. Larbi filed an unopposed motion for leave saying that she had experienced technical difficulties with CM/ECF while trying to file the brief. Ms. Larbi titled this motion nearly the same title as her January 3, 2023, motion, which remained pending and which had not included the Secretary's position as it was filed after business hours. Also on March 30, 2023, Ms. Larbi filed the appellant's brief twice, though each time it remained nonconforming. The Court issued another Notice of Nonconforming Documents on April 3, 2023.

On April 10, 2023, Ms. Larbi successfully filed the appellant's brief. The Secretary filed his brief on July 24, 2023, and filed the Record of Proceedings on August 16, 2023.

By order dated September 19, 2023, the Court noted that "due to an administrative error and the confusion created by the March 30, 2023, refiling of the original motion noting the Secretary was unopposed, the brief was not marked received, and the appeal continued without adjudication of the motion for reconsideration." *Gephart v. McDonough*, U.S. Vet. App. No. 22-1289 (Sept. 19, 2023) (unpublished order). The Court determined that, "[b]ecause the Secretary is unopposed and has expended time and resources filing a brief on the substance of this appeal, the Court will grant appellant's construed motion for reconsideration and reinstate the appeal." *Id.* at 1-2. The Court revoked the judgment, withdrew the October 31, 2022, order dismissing the case, and granted the appellant's construed motion for reconsideration. *Id.* at 2.

But the Court also issued a warning:

The Court is concerned by appellant's counsel's repeated missed deadlines in this matter. Prior to the Rule 33 conference, counsel failed to timely file a summary of the issues. And even after the Court construed a motion for reconsideration and allowed her to file a brief after the matter was dismissed, counsel sought two more extensions of time. We remind counsel of her duty to diligently represent her clients before this Court. Our decision to allow this appeal to move forward should in no way be seen as an endorsement of counsel's behavior.

Id. at 2 n.1.

On September 29, 2023, the Court issued a memorandum decision affirming the Board's decision. *Gephart v. McDonough*, No. 22-1289, 2023 WL 6351278 (Vet. App. Sept. 29, 2023). Under Rule 35(d), the appellant had 21 days, i.e., until October 20, 2023, to file a motion for reconsideration, for panel review, or both. On that day, Ms. Larbi filed a motion for a 45-day extension citing "competing professional commitments" and the need for "additional time to consult with" the appellant. *Gephart v. McDonough*, U.S. Vet. App. No. 22-1289 (Oct. 20, 2023) (motion for extension). She could not provide the Secretary's position on the motion as she had sought it without enough time to get a response prior to filing the motion.

By order dated October 23, 2023, the Court addressed the pending motion for extension and reiterated the concerns with Ms. Larbi's representation in the matter. The Court stated:

As noted in this Court's September 19, 2023, order, we are concerned with appellant's repeated missed deadlines in this matter and counsel's commitment to diligently representing appellant. In her motion, counsel notes that she sought two previous extensions of time. This is an inaccurate portrayal of the circumstances of this case. Appellant's counsel missed several deadlines and sought multiple extensions of time beyond the two she identified in her motion.

And now, having waited until the last possible moment to file a motion for reconsideration and/or panel review, she instead seeks another extension of time, without providing all relevant information. The Court disfavors last minute motions for extensions of time filed just as the clock is running out.

Gephart v. McDonough, U.S. Vet. App. No. 22-1289 (Oct. 23, 2023) (unpublished order) (footnote omitted).

The Court granted in part the motion for extension "[i]n deference to the appellant," but limited the extension to 7 days "given the lengthy delays in this matter and the multiple deadlines appellant's counsel missed and extensions previously granted." *Id.* at 2. Thus, the Court ordered that the appellant had until October 27, 2023, to file a motion for reconsideration or panel review and that no further extensions would be allowed. Ms. Larbi did not file a motion for reconsideration or panel review.

On October 30, 2023, the Court entered judgment. Ms. Larbi filed the Notice of Appeal to the U.S. Court of Appeals for the Federal Circuit on December 27, 2023. On March 18, 2024, Ms. Larbi filed a Joint Stipulation of Voluntary Dismissal, which specified that each side would bear their own costs. The Federal Circuit dismissed the appeal on March 20, 2024. *See Gephart v. McDonough*, No. 2024-1358, 2024 WL 1193569 (Fed. Cir. Mar. 20, 2024). This Court entered mandate in case no. 22-1289 on June 20, 2024.

H. Additional Cases

Ms. Larbi's pattern of failing to file required documents, filing nonconforming documents, and creating delays through other actions and inactions continued in other cases during the September 2021 through August 2022 period in which the Court tracked 16 filing deficiencies. Because the cases below were not disposed of as a result, these filing deficiencies are summarized more briefly.

- In case no. 21-2763 (*Wigginton*), Ms. Larbi failed to file the appellant's brief by the September 8, 2021, deadline. On September 9, 2021, the Court issued an order requiring the appellant to file the brief and a motion for leave within 7 days. In the motion for leave, Ms. Larbi stated that she had "not properly calculate[d] this filing deadline in order to timely request an extension of time to file Appellant's initial brief, thus necessitating the instant motion." *Wigginton v. McDonough*, U.S. Vet. App. No. 21-2763 (Sept. 16, 2021) (motion for leave).
- In case no. 21-0813 (*Guglieri*), Ms. Larbi similarly failed to file the appellant's brief by the November 9, 2021, deadline. On November 16, 2021, the Court issued an order requiring the appellant to file the brief and a motion for leave within 7 days. On November 24, 2021, Ms. Larbi filed an unopposed motion for voluntary dismissal which noted that she had missed the deadline due to a calendaring error.⁴

⁴ While this failure to file the brief was the only filing deficiency from case no. 21-0813 captured in the 16 filing deficiencies noted in Mr. Block's October 5, 2022, letter and referenced in his grievance, the Court notes that Ms. Larbi also filed a late and nonconforming unopposed motion for extension to respond to the RBA on April 23, 2021, and failed to timely submit the SOI and file the certificate of service before the July 6, 2021, Rule 33 conference. Then, on the day of the Rule 33 conference, Ms. Larbi moved to reschedule the conference to August 11, 2021, which was granted. Then she filed motions for a 45-day extension to file the brief and, later, a stay of proceedings, before failing to timely file the brief on November 9, 2021.

- In case no. 21-3008 (*Peyton*), Ms. Larbi filed a nonconforming EAJA application on November 12, 2021.
- In case no. 19-0546 (*Martinez*), on November 2, 2021, the Court ordered the appellant to respond within 14 days on the status of his supplemental claim, but Ms. Larbi did not respond. On November 18, 2021, the Court issued an order requiring the appellant to file a response and motion for leave within 7 days, but Ms. Larbi did not respond until after the 7 days had passed. In her November 26, 2021, motion for leave, Ms. Larbi stated that she had missed the deadline due to a calendaring error.

The Court notes that in the appellant's response concerning the status of the supplemental claim, Ms. Larbi wrote that the supplemental claim "now awaits adjudication on the court's docket as 21-6104 [*sic*]. Because the latter appeal would resolve the veteran's underlying claims *in globo* the Appellant intends to submit a motion to voluntarily dismiss the instant appeal after obtaining the position of the Secretary for such motion." *Martinez v. McDonough*, U.S. Vet. App. No. 19-546 (Nov. 26, 2021) (Appellant's response). Ms. Larbi then filed a motion for voluntary dismissal on December 7, 2021, which the Court granted.

Case no. 21-6104 belonged to a different client of Ms. Larbi's, but case no. 21-6101 belonged to the same appellant as in case no. 19-0546, Mr. Martinez. That case was subsequently dismissed for failure to prosecute and comply with Court rules in May 2022. *See* Section I.D, *supra*.

- In case no. 21-6519 (*Brown*), Ms. Larbi filed a nonconforming joint motion to stay on April 7, 2022.

II. Attorney Discipline Case No. 23-8001A

This attorney discipline case originated on January 12, 2023, when Mr. Block submitted a grievance against Ms. Larbi based on her failure "to conform her practice to the Court's rules on multiple occasions," despite efforts from Court staff to address her deficiencies, which led to the dismissal of six cases. Grievance at 1. On March 15, 2023, under A&P Rule 6(a), Chief Judge Bartley determined that the grievance had prima facie validity and directed the Office of General Counsel to refer the grievance to the Panel. A copy of the March 20, 2023, order referring the grievance to the Panel, the A&P Rules, and the grievance were mailed to Ms. Larbi by certified mail.

On March 22, 2023, the Panel ordered Ms. Larbi to show cause within 30 days why the grievance should not be referred to the Committee for action under A&P Rule 2(c). This order was mailed to Ms. Larbi by certified mail with return receipt requested. The Court did not receive the signed receipt and tracking information revealed that the U.S. Postal Service had attempted delivery on March 24, 2023, at 2:44 p.m. but the office was closed. The tracking information further showed that delivery would be reattempted, but no subsequent updates were made to the

tracking information.

On May 1, 2023, the Panel issued an updated show cause order noting the lack of confirmation that the first had been delivered to Ms. Larbi. Ms. Larbi was again ordered to show cause within 30 days why the grievance should not be referred to the Committee. This order was emailed to Ms. Larbi on May 1, 2023, and mailed to her the next day by certified mail with return receipt requested. Tracking information revealed that the order was delivered on May 8, 2023. Ms. Larbi did not respond to the show cause order in the time allotted, nor did she request an extension of time.

On August 31, 2023, the Panel referred the grievance to the Committee for action under A&P Rule 2(c) and ordered that the Committee's report be submitted within 120 days. Under A&P Rule 2(a)(1), three Committee members were randomly selected; one member, Ms. Christine Khalili-Borna Clemens, recused herself. Then Committee member Amy Richardson was randomly selected to replace Ms. Clemens as Committee Chair.

On September 29, 2023, the Court received returned mail containing the August 31, 2023, order mailed to Ms. Larbi; "refused" was written on the envelope. Also that day, the Committee mailed Ms. Larbi a letter informing her of her rights under A&P Rule 2(d) and inviting her to provide the Committee with a response within 30 days per A&P Rule 2(d)(1). Enclosed with the letter was a copy of the A&P Rules. A Court staff member emailed Ms. Larbi a copy of the Committee's letter, as well as the August 31, 2023, order that had been returned to the Court, and asked Ms. Larbi to confirm receipt of the email. Ms. Larbi acknowledged receipt that day. Her email signature block contained the same address to which the "refused" mail had been sent.

On October 30, 2023, Ms. Larbi requested a 45-day extension to respond, noting that she had recently located an attorney to help her respond and needed more time. The Committee granted the request on November 2, 2023, extending Ms. Larbi's deadline to respond from October 30, 2023, to December 14, 2023.

Also, on November 2, 2023, the Committee requested a 45-day extension of its report deadline from December 29, 2023, to February 12, 2024. That same day, the Panel issued an order granting the Committee's request, and the Court mailed and emailed a copy of the order to Ms. Larbi.

Late in the evening on December 18, 2023, four days after the deadline, Ms. Larbi emailed her response to the Committee to a Court staff member. The next morning, the Court staff member forwarded the response to the Committee. Although Ms. Larbi submitted it on December 18, 2023, the response was dated November 18, 2023.

In her response, Ms. Larbi did not dispute the allegations made in the grievance. She acknowledged that "2022 was a particularly challenging year for [her] both personally and professionally" and the most challenging year of her 15 years practicing law. Larbi Response at 1. She asserted mitigating circumstances and "propose[d] alternative action in the form of private admonition." *Id.* The response is also discussed in Sections II and III, *infra*.

The Committee submitted its report and recommendation, discussed in Section III, *infra*, to the Court on February 6, 2024. The Committee also emailed and mailed a copy of its report and recommendation to Ms. Larbi with a cover letter notifying her of her right under A&P Rule 2(g) to submit a rebuttal within 30 days from the date of her receipt of the report and recommendation. Tracking information revealed it was delivered February 29, 2024, thus making the deadline for her rebuttal April 1, 2024. Ms. Larbi did not submit a rebuttal or request an extension.

On June 6, 2024, the Panel issued a preliminary, non-public version of this order notifying Ms. Larbi of its intent to impose the Committee's recommendation of a suspension for 6 months with specified conditions that Ms. Larbi must meet before she may be reinstated by the Panel. The order also notified Ms. Larbi of her right to file a motion for reconsideration within 21 days after the date of the order. *See* U.S. VET. APP. R. ADM. & PRAC. 5(d). Ms. Larbi has not filed a motion for reconsideration or requested an extension of time, and the time for doing so has passed.

III. DISCUSSION

A. Disciplinary Standard

Under A&P Rule 4(a), the Court applies the Model Rules as its disciplinary standard. *See* U.S. VET. APP. R. ADM. & PRAC. 4(a). Practitioners are "subject to the Court's disciplinary authority for professional misconduct," which is defined as "an act or omission that violates the Court's disciplinary standard or any other disciplinary rules applicable to the practitioner" or "a failure to comply with any rule of the Court." U.S. VET. APP. R. ADM. & PRAC. 4(b)(1)(A), (2). A "finding [of] clear and convincing evidence that the practitioner engaged in professional misconduct" is required to impose discipline in a grievance proceeding. U.S. VET. APP. R. ADM. & PRAC. 6(c).

As discussed below, the Court finds by clear and convincing evidence that Ms. Larbi violated Model Rules 1.1 (Competence) and 1.3 (Diligence) and therefore committed professional misconduct as defined by A&P Rule 4(b).

1. Model Rule 1.1 – Competence

Model Rule 1.1 requires lawyers to "provide competent representation to a client," which "requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation." Model Rule 1.1. Commentary to this rule provides that "[c]ompetent handling of a particular matter includes . . . use of methods and procedures meeting the standards of competent practitioners" and "adequate preparation." *Id.* cmt. 5. Additionally, lawyers "should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology." *Id.* cmt. 8.

Competent representation includes knowing and following the applicable rules of procedure and complying with court orders and instructions. *See, e.g., In re Conduct of Obert*, 282 P.3d 825, 838-39 (Or. 2012) (finding incompetence where lawyer's representation "reflect[ed] a

pattern of ignorance of the most basic of applicable rules and a failure to heed instructions of both the trial court and the Court of Appeals"); *In re Sumner*, 665 A.2d 986, 989 (D.C. 1995) (finding incompetence where lawyer "did nothing to perfect the appeal he noted, although he was aware of the initial court deadlines and the risk that the appeal would be dismissed if it were not pursued with timely filings or motions for additional time"). "[A]ttorneys can violate Rule 1.1 even though they possess adequate knowledge and skill to represent a client where there is evidence of a lack of thoroughness or preparation." *Att'y Grievance Comm'n Md. v. Moore*, 152 A.3d 639, 652-53 (Md. 2017) (citing *Att'y Grievance Comm'n Md. v. Guida*, 891 A.2d 1085, 1097 (Md. 2006)).

The Court finds that there is clear and convincing evidence that Ms. Larbi violated Model Rule 1.1 by repeatedly failing to respond to court orders and to comply with the Rules by filing timely and conforming documents. Her deficient representation ultimately led to the dismissal of six cases. She only sought reinstatement of two of those cases before this Court, case nos. 21-4129 and 22-1289, and, notably, case no. 21-4129 was ultimately remanded after the dismissal order was withdrawn and judgment revoked.

In her response, Ms. Larbi stated that she "ha[d] figured out ways to continue/revive each veterans' case at the agency to pursue the same benefits that were once on appeal to the CAVC with the earliest effective dates allowed by Title 38." Larbi Response at 1. Although mitigating the damage from her misconduct is necessary, it does not change that the cases were dismissed as a result of her failures. In addition, her statement fails to acknowledge the effect of resulting delays on her clients.

Ms. Larbi also stated:

I am sure at some point last year, I threw my hands up in surrender. At the time, I read CAVC Rule 38(b) as the sum total of the consequences for failure to act. This is especially true because these were the only consequences discussed with the former clerk of court. In retrospect, this is most likely why it did not even occur to me that dismissals would lead to the underlying grievance and potential disciplinary action.

Id. This statement acknowledges no consequences, potential or actual, for her clients. Dismissal is a significant consequence for an appellant. Ms. Larbi's assertion that she believed action under Rule 38(b) – which provides for "such action as the Court deems appropriate, including dismissal of the appeal or assessment of costs" – to be "the sum total consequences for failure to act" reveals that she was less concerned about consequences that may befall her clients than consequences that may befall her, such as discipline. *Id.*

In addition, this statement shifts blame. As an attorney admitted to this Court's bar, Ms. Larbi is responsible for knowing and complying with the Court's rules. It was not, as Ms. Larbi appears to imply, Mr. Block's responsibility to warn her about every possible outcome of her failure to comply with the Court's rules. Furthermore, her statement disregards the many times that the Court *did* warn her of the various potential consequences of her conduct, to include potential discipline. As early as January 12, 2022, the Court warned her in an order. *See Madison v.*

McDonough, U.S. Vet. App. No. 21-4535 (Jan. 12, 2022) (unpublished order) (citing A&P Rule 4(a), (b)(2), Rule 38(b), and Model Rule 1.3). The Court issued that warning again on January 18, 2022. *See Moore v. McDonough*, U.S. Vet. App. No. 21-4129 (Jan. 18, 2022) (unpublished order). In the next months, the Court issued at least seven orders warning of dismissal, sanctions, or both under Rule 31(b) as potential consequences of Ms. Larbi's failures to comply with the Rules. Yet, in her statement submitted in December 2023, Ms. Larbi stated that she knew of no consequences aside from those under Rule 38(b) and seemed to not appreciate the significance of dismissal as a consequence for her clients.

2. Model Rule 1.3 – Diligence

Model Rule 1.3 requires that a lawyer "act with reasonable diligence and promptness in representing a client." Model Rule 1.3. Commentary to this rule provides that "[a] lawyer's work load must be controlled so that each matter can be handled competently." *Id.* cmt. 2. Additional commentary notes that "[p]erhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions." *Id.* cmt. 3. Moreover, "unreasonable delay" from a lawyer's lack of diligence "can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness." *Id.*

Lack of diligence can prejudice a client's interests and, in the extreme, may destroy a client's legal position. *See, e.g., Bd. Pro. Resp., Wyo. State Bar v. Hinckley*, 503 P.3d 584, 597 (Wyo. 2022) (finding lack of required diligence where lawyer "fail[ed] to comply with the [c]ourt's deadline for filing witness and exhibit lists and jury instructions" and was "chronically late in responding to motions"); *Shah v. Miss. Bar*, 919 So. 2d 59, 62, 65 (Miss. 2005) (finding lack of required diligence where lawyer failed to file client's appeal); *see also* Model Rule 1.3 cmt. 3 (providing the example of "a lawyer overlook[ing] a statute of limitations" which destroys their client's legal position).

The Court finds that there is clear and convincing evidence that Ms. Larbi violated Model Rule 1.3 by repeatedly failing to prosecute the cases of her clients, to file required and conforming documents, and to respond to Court orders. These failures caused delays in multiple matters and the dismissal of six cases, all of which were negative consequences for her clients.

Despite many attempts by the Court to identify and call Ms. Larbi's attention to her lack of diligence, she continued the same pattern for months. The Court even quoted Model Rule 1.3 in two orders issued in January 2022. *See Madison v. McDonough*, U.S. Vet. App. No. 21-4535 (Jan. 12, 2022) (unpublished order); *Moore v. McDonough*, U.S. Vet. App. No. 21-4129 (Jan. 18, 2022) (unpublished order). In April and June 2022, Ms. Larbi was personally contacted by an appeals processing clerk and Mr. Block, respectively, about the status of cases in which she had failed to file required documents and which were in danger of being dismissed. *See* Sections I.C.-E., *supra* (concerning case nos. 21-4979, 21-6101, and 21-6104). Even so, Ms. Larbi did not take adequate measures to ensure the required level of diligence in her representation. All three cases were subsequently dismissed after she failed to act. *See id.*

As recently as September and October 2023, the Court in *Gephart* expressed concern about Ms. Larbi's lack of diligence. *Gephart v. McDonough*, U.S. Vet. App. No. 22-1289 (Sept. 19, 2023) (unpublished order); *id.* (Oct. 23, 2023) (unpublished order). Thus, despite multiple warnings about her level of diligence and the possible repercussions of the same, Ms. Larbi's lack of diligence continued throughout 2022 and into 2023.

B. Discipline

The Court, having found that Ms. Larbi committed misconduct, turns to the Committee's recommendation as to discipline. Under A&P Rule 2(c)(3), the Committee must discuss, but is not bound by, the *ABA Standards for Imposing Lawyer Sanctions* (ABA Standards). *See* U.S. VET. APP. R. ADM. & PRAC. 2(c)(3). The ABA Standards are guidelines and "do not attempt to recommend the type of discipline to be imposed in any particular case" as "the discipline to be imposed 'should depend upon the facts and circumstances of the case, should be fashioned in light of the purpose of lawyer discipline, and may take into account aggravating or mitigating circumstance.'" ABA Standards §§ I.A, II.

The ABA Standards provide that "[t]he purpose of lawyer discipline proceedings is to protect the public and the administration of justice from lawyers who have not discharged, will not discharge, or are unlikely properly to discharge their professional duties to clients, the public, the legal system, and the legal profession." *Id.* at § III.A. 1.1.

The framework of the ABA Standards "can be used initially to categorize misconduct and to identify the appropriate sanction. The decision as to the effect of any aggravating or mitigating factors should come only after this initial determination of the sanction." *Id.* at § I.B. When "imposing a sanction after a finding of lawyer misconduct, a court should consider the following factors: (a) the duty violated; (b) the lawyer's mental state; (c) the potential or actual injury caused by the lawyer's misconduct; and (4) the existence of aggravating or mitigating factors." *Id.* at § III.C. 3.0; *see Model Rules for Lawyer Disciplinary Enforcement* R. 10(C) (cited in the Committee's report).

As to the first factor, a lawyer owes duties to her clients, the public, the legal system, and the profession. *See* ABA Standards § II. The Committee found that Ms. Larbi's misconduct violated duties to her clients, the Court, and the profession. *Comm. R. & R.* at 5. The Court agrees.

Turning to the mental state of the attorney, an attorney may act with negligence, knowledge, or intent. ABA Standards § II. "Negligence" is defined as "the failure of a lawyer to heed a substantial risk that circumstances exist or that a result will follow, which failure is a deviation from the standard of care that a reasonable lawyer would exercise in the situation," and "knowledge" is defined as "the conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result." *Id.* at §§ II, III: Definitions.

The Court disagrees with the Committee's finding that "[t]he persistent nature of Respondent's misconduct indicates that it was negligent." *Comm. R. & R.* at 5. Specifically, acting

with negligence would require that Ms. Larbi lacked "the conscious awareness of the nature or attendant circumstances of [her] conduct," but the Court finds that the pattern of Ms. Larbi's misconduct was more egregious than that standard. *See* ABA Standards § II (defining "knowledge"). Ms. Larbi was warned many times by Court orders and staff that her failure to prosecute cases and comply with the Rules could lead to case dismissals, sanctions, or discipline. One by one, six of her cases were dismissed in 2022 for those exact reasons. She also admitted in her response that, in 2022, she "read CAVC Rule 38(b) as the sum total of the consequences for failure to act." Larbi Response at 1. This reveals that she was aware that she was failing to act on behalf of her clients. For these reasons, the Court determines that Ms. Larbi acted with knowledge.

As to the potential or actual injury caused by Ms. Larbi's misconduct, the Committee found that her "misconduct resulted in actual harm via 6 case dismissals, ineffective representation, wasting the Court's resources, and undue delay." Comm. R. & R. at 5. The Court agrees.

The Court will now make an initial determination of an appropriate sanction before turning to whether mitigating or aggravating factors justify a departure from that sanction. *See* ABA Standards § I.B. Regarding lack of competence, "[r]eprimand is generally appropriate when a lawyer . . . demonstrates failure to understand relevant legal doctrines or procedures . . . or . . . is negligent in determining whether he or she is competent to handle a legal matter and causes injury or potential injury to a client," while "[s]uspension is generally appropriate when a lawyer engages in an area of practice which the lawyer knows he or she is not competent, and causes injury or potential injury to a client." *Id.* at § III.C. 4.52-53. As for lack of diligence, "suspension is generally appropriate when . . . a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client." *Id.* at § III.C. 4.42(a).⁵

While the ABA Standards "do not account for multiple charges of misconduct," they provide that "[t]he ultimate sanction imposed should at least be consistent with the sanction for the most serious instance of misconduct among a number of violations." *Id.* at § II. Further, the sanction imposed "might well be and generally should be greater than the sanction for the most serious misconduct." *Id.* The Court thus concludes that a suspension would be appropriate under these circumstances.

The Court now turns to whether mitigating and aggravating factors justify a decrease or increase in the discipline, respectively. *See id.* at §§ III.C. 9.1-9.3. The Committee considered the mitigating factors asserted by Ms. Larbi in her written response, which "included the sudden death of a loved one, technical problems and staffing shortages at her law practice, and competing family responsibilities." Comm. R. & R. at 5. The Court also notes that Ms. Larbi has faced no prior discipline as a member of this Court's bar.

As another mitigating factor, Ms. Larbi asserted that, as of her December 2023 response, she "ha[d] continuously practiced before the court for 16 months since the events leading to the grievance without incident." Larbi Response at 1; Comm. R. & R. at 5. The Committee noted, however, "that during this 16-month period, Respondent continued to file nonconforming

⁵ If the conduct causes "serious or potentially serious injury," however, disbarment is generally appropriate. ABA Standard § III.C. 4.41(b).

documents and receive notices and warnings from the Court in 2023." Comm. R. & R. at 5 (citing Docket No. 23-679 (September 15, 2023 Motion); Docket No. 22-1289 (April 3, 2023 Notice, October 23, 2023 Order)). Thus, Ms. Larbi's summary of that time is not accurate and is not a mitigating factor.

As to aggravating factors, the Committee found several:

Ms. Larbi was repeatedly warned by the docket clerk, the Clerk of Court, and the Chief Deputy Clerk, as early as January 2022, that her failure to comply with the Court's rules would result in disciplinary action . . . Ms. Larbi refused delivery of the Court's letters. And Ms. Larbi cited her ignorance of the Court's ethics rules as an excuse for failing to perform her duties, indicating Ms. Larbi prioritized personal consequences over consequences to her clients, including dismissal. And the Court warned Ms. Larbi that it was concerned about Ms. Larbi's commitment to diligent representation as recently as October 2023.

Id. (citation omitted). The Court also notes that Ms. Larbi has 15 years of experience practicing law, *see* Larbi Response at 1, which suggests that she should be fully aware of the basic requirements of competency and diligence in representing her clients. *See* ABA Standards § III.C. 9.22(i). Further, Ms. Larbi engaged in a pattern of misconduct. *See id.* § III.C. 9.22(c).

The Committee took the mitigating and aggravating factors discussed in its report into account and recommended that Ms. Larbi be suspended for 6 months with the opportunity to apply for reinstatement. Comm. R. & R. at 5. The Committee also found that "the nature and extent of Respondent's misconduct warrants a demonstration that she understands and can comply with the Court's rules, particularly given her statement that she believed that dismissal under Rule 38(b) would be the sole consequence of her failure to act." *Id.* In addition, the Committee also found, "given the nature of Respondent's asserted mitigating factors, that her misconduct warrants a demonstration that she is competent in law practice management." *Id.*

These recommendations follow the ABA Standards' guidance that "a lawyer who has been suspended should not be permitted to return to practice until he has completed a reinstatement process demonstrating rehabilitation, compliance with all applicable discipline or disability orders and rules, and fitness to practice law." ABA Standards § III.B. 2.3. The Committee recommended that Ms. Larbi meet these conditions to qualify for reinstatement:

- (a) file an affidavit certifying that she has completed 12 hours of continuing legal education, to include 6 hours focused on veterans law or appellate practice and 6 hours focused on law practice management, which do not include continuing legal education courses that she taught or attended before her suspension;
- (b) file an affidavit certifying that she has notified the six Appellants whose appeals were dismissed and the consequences of the dismissals;
- (c) file an affidavit certifying that she has informed the state bar(s) of which she is a member

of the discipline imposed by the Court; and

- (d) file an affidavit certifying that she has complied with 38 C.F.R. § 14.629(b)(4) by "notify[ing] VA within 30 days of any change in [her] status in any jurisdiction in which [she is] admitted to appear."

Comm. R. & R. at 5-6.

The Court agrees with the Committee's recommendation and will impose a 6-month suspension. As for the recommended conditions for reinstatement, the Court makes two minor modifications: Ms. Larbi must report the discipline to all bars of which she is a member including, but not limited to, state bars, and she will be required to submit proof of completion of the required continuing legal education.

Finally, the Court notes that Ms. Larbi is currently the attorney of record on three open matters before this Court. The suspension will not preclude her from filing a motion to withdraw in each of her open cases, which she must do promptly. The suspension also does not prevent her from assisting clients in finding substitute counsel for any of those cases. Indeed, it is her duty to mitigate the disruption this suspension may cause for her clients. *See Model Rules for Lawyer Disciplinary Enforcement* R. 27 cmt.

IV. CONCLUSION

Under A&P Rule 6(b)(3)(C), it is ORDERED that, effective as of the date of this order, attorney Tamesha N. Larbi is publicly suspended from the practice of law before the United States Court of Appeals for Veterans Claims with a right to apply for reinstatement after a period of 6 months. It is also

ORDERED that, Ms. Larbi is prohibited from holding herself out as a member of the Bar of the United States Court of Appeals for Veterans Claims until such time at which she may be reinstated by this Panel. It is also

ORDERED that Ms. Larbi shall promptly file a motion to withdraw in each of her three open cases before the Court. It is also

ORDERED that, if Ms. Larbi chooses to file a motion for reinstatement, she shall be required to demonstrate that she has completed 12 hours of continuing legal education, to include 6 hours focused on veterans law or appellate practice and 6 hours focused on law practice management. The 12 hours of continuing legal education cannot include continuing legal education courses that Ms. Larbi taught or attended before her suspension. It is also

ORDERED that Ms. Larbi shall file an affidavit within 14 days of the date of this order certifying that she has notified in writing the six appellants whose appeals were dismissed (in case nos. 21-4129, 21-4535, 21-4979, 21-6101, 21-6104, and 22-1289) that their appeals were

dismissed as a result of her failure to prosecute and comply with the Rules and the consequences of the dismissals. It is also

ORDERED that Ms. Larbi shall file an affidavit within 14 days of the date of this order certifying that she has informed all bar(s) of which she is a member of the discipline imposed by this Court. It is also

ORDERED that Ms. Larbi shall file an affidavit within 14 days of the date of this order, certifying that she has complied with 38 C.F.R. § 14.629(b)(4) by "notify[ing] VA within 30 days of any change in [her] status in any jurisdiction in which [she is] admitted to appear." It is also

ORDERED that, should Ms. Larbi seek to be reinstated to this Court's bar, she shall be required to file a motion for reinstatement. The motion shall come with evidence of satisfactory completion of all actions here ordered. With the exception of filing a motion to withdraw in any currently pending matter in which she appears, Ms. Larbi may not practice before this Court until reinstated by this Panel.

DATED: July 10, 2024

PER CURIAM.

Copy to:

Tamesha N. Larbi, Esq.

VIA EMAIL AND CERTIFIED MAIL -- RETURN RECEIPT REQUESTED