The following selected cases involve application of the American Bar Association’s Model Rules of Professional Conduct from around the country, for a period of September 2017 to October 5, 2018. The Model Rules are located here:


Note: This presentation discusses reported decisions imposing discipline. It does not include referrals by courts for discipline, malpractice actions, discovery disputes or sanctions, Rule 11 sanctions or orders, voluntary license surrenders, consent orders, applications for reinstatement, applications to take a bar examination or for admission on motion, or opinions imposing reciprocal discipline without providing in-depth discussion.

A. An Interesting Case Involving an ALJ

Matter of Discipline of LaJeunesse, 2018 UT 6 (2018). Respondent was the chief administrative law judge for Utah’s workers compensation agency. In his leadership capacity, he changed the procedure for handling medical panel reports (rejecting medical panel reports as insufficient without providing copies of the rejected reports to the parties), a practice which led to his termination and an ethics complaint for “conduct prejudicial to the administration of justice.” In its decision finding that the respondent had not violated rule 8.4, the Utah Supreme Court wrote:

We may ultimately agree with the OPC that the better view of the Workers’ Compensation Act is one that would call for an open and transparent use of medical panel reports by ALJs. But the Workers’ Compensation Act nowhere expressly forecloses the approach endorsed by LaJeunesse. And we see no reason to conclude that LaJeunesse made anything other than a good faith mistake in interpreting the law. That conclusion is sufficient to sustain the dismissal of the charge against him.

B. Attorneys Convicted of Crimes

2. *Columbus Bar Ass’n v. Okuley*, 2018 WL 4627127 (Ohio Sept. 26, 2018) (road rage, plus false assertions in a civil suit related to road rage: one year suspension, six months stayed on conditions)

3. *In re Steffensen*, 2018 UT 53 (2018) (failure to file state taxes: affirming violation but remanding for calculation of discipline - was this crime serious enough for disbarment?)


5. *Mahoning County Bar Ass’n v. McNally*, 2018 WL 4516365 (Ohio Sept. 18, 2018) (four misdemeanor violations [false statements, unlawful use of a telecommunications devices, etc.]: one year suspension, with six months stayed)


12. *Lorain County Bar Ass’n v. Lewis*, 152 Ohio St.3d 614 (2018) (false statements to police investigating a motor vehicle accident: two year suspension, with final six months stayed)


14. *In re Schuyler*, 97 N.E.3d 618 (Ind. 2018) (theft of over $500,000 from probate estates: disbarment)


20. *Office of Disciplinary Counsel v. Pozonsky*, 177 A.3d 830 (Pa. 2018) (conviction of theft of cocaine - respondent was the county’s Drug Court judge, and the cocaine was evidence: disbarment)

21. *Ohio State Bar Ass’n v. Mason*, 152 Ohio St.3d 228 (2017) (attempted felony assault and domestic abuse - respondent was a trial court judge: indefinite suspension)

22. *In re Hernandez*, 66 N.Y.S.3d 577 (App. Div. 2017) (wire fraud plus “clear disinterest in his fate as an attorney” [respondent had failed to file 11 biennial reports]: disbarment)
23. *In re LaMartina*, 235 So.3d 1061 (La. 2017) (shoplifting, second offense, plus noncooperation with disciplinary authorities: three year suspension)

C. Conduct of Attorney’s Personal Affairs

6. *In re Disciplinary Action against Trombley*, 916 N.W.2d 362 (Minn. 2018) (abuse of power of attorney granted by his mother: six month suspension)
8. *In re McCoy-Jacien*, 2018 VT 35 (failure to file tax returns, as required by a prior disciplinary order: nine month suspension)
10. *Lawyer Disciplinary Bd. v. Campbell*, 240 W. Va. 146 (2017) (public defender’s sexual relationship with client predated attorney client relationship; however, attorney was admonished for lying about the nature of her relationship)

D. Attorney’s Conduct of Law Practice

1. *Columbus Bar Ass’n v. Midian*, 2018 WL 46226807 (Ohio Sept. 27, 2018) (very large fee, no fee-sharing agreement: public reprimand)
7.  *Columbus Bar Ass’n v. Rieser*, 2018 WL 4627658 (Ohio Sept. 26, 2018) (failure to inform client of no malpractice insurance, fee violations, commingling, excessive fees, etc.: two year suspension, with one year stayed)


11.  *In re Bokenfohr*, 2018 WL 4560265 (La. Sept. 21, 2018) (respondent knew client was withholding evidence in response to a search warrant, counseled client to turn the evidence over, and was successful in doing so after three months: complaint dismissed)


15.  *In re Montgomery*, 251 So.3d 401 (La. 2018) (neglect of a divorce case: one year and one day suspension)

16.  *In re Goudeau*, 251 So.3d 393 (La. 2018) (practicing while suspended: one year and one day suspension)


21.  *Board of Overseers of Bar v. Prolman*, 2018 ME 128 (sexual relationship with client - who was a sex trafficking victim: six month suspension imposed below was insufficient)


25.  *Porter v. Kentucky Bar Ass’n*, 552 S.W.3d 509 (Ky. 2018) (failure to supervise non-lawyer staff - who had, along with another attorney - stolen respondent’s identity: public reprimand and probated suspension of 181 days)


34. *In re Avery*, 189 A.3d 715 (D.C. 2018) (neglect: sixty day suspension, with thirty days stayed in favor of one year probation)


36. *Matter of Disciplinary Action Against Turcotte*, 915 N.W.2d 848 (N.D. 2018) (neglect, including failure to file written plea agreement: six month and one day suspension)

37. *Matter of Disciplinary Action Against Bruhn*, 915 N.W.2d 850 (N.D. 2018) (client communication issues: sixty day suspension and one year probation)

38. *In re Disciplinary Action Against Springer*, 915 N.W.2d 894 (Minn. 2018) (trust account violations: public reprimand)

39. *In re Disciplinary Action v. Eichhorn-Hicks*, 916 N.W.2d 32 (Minn. 2018) (failure to communicate plea offer to client, forgery of client’s signature on release of information form: one hundred and twenty day suspension)


41. *In re Sprouts*, 2018 WL 3648286 (Cal. State Bar Ct., July 24, 2018) (incompetence amounting to moral turpitude - immigration matters: six month suspension and two years probation, served concurrently)


44. *Dayton Bar Ass’n v. Wilcoxson*, 153 Ohio St. 3d 279 (2018) (neglect, failure to provide client with file, noncooperation with disciplinary authorities: six month suspension)

46. Matter of Gorski, 424 S.C. 11 (2018) (neglect, etc., including taking ten years to have three QDROs prepared and failure to comply with a fee arbitration panel award: twelve month suspension)
47. Mahoning County Bar Ass’n v. Mickens, 2018 WL 3387281 (Ohio July 10, 2018) (neglect, etc.: six month suspension)
48. Akron Bar Ass’n v. Tucker, 2018 WL 3387977 (Ohio July 10, 2018) (trust account violations, etc.: six month suspension, stayed with conditions)
49. The Florida Bar v. Petersen, 248 So.3d 1069 (Fla. 2018) (violations of the following rules: 1.1, 1.3, 1.4, 1.5, 1.8, 3.3, 4.1, 4.3, 4.4, & 8.4: three year suspension, plus costs of $7,513.81). The referee had recommended 91 days.
50. In re Grandell, 2018 WL 3213784 (Del. June 29, 2018) (failure to comply with restrictions in private admonition: public reprimand and two years probation)
51. In re Machado, 2018 WL 3215183 (D.C. June 28, 2018) (neglect of court-appointed criminal defense client’s case, failure to cooperate with court or disciplinary official orders: ninety day suspension, stayed in favor of two years probation)
52. In re Evans, 187 A.3d 554 (D.C. 2018) (neglect of criminal appeal, resulting in its dismissal: thirty days suspension, stayed in favor of one year probation)
55. In re Krasnoff, 100 N.E.3d 697 (Ind. 2018) (practicing law while suspended: two year suspension without automatic reinstatement)
56. Cleveland Metro. Bar Ass’n v. Horton, 153 Ohio St. 3d 327 (2018) (fees, trust account, disclosures, safeguarding client property: two year suspension, with one year stayed)
58. State ex rel. Oklahoma Bar Ass’n v. Kruger, 421 P.3d 306 (Okla. 2018) (diligence, communication, financial transactions with clients, financial assistance to clients, fees, safeguarding client property: disbarment)
59. In re Crosley, 99 N.E.3d 643 (Ind. 2018) (out-of-state law firm directed all casework, Indiana attorney did not communicate with clients: thirty day suspension)
60. In re Kitto, 382 Wis.3d 368 (2018) (conversion of $10,000 in client funds: sixty day suspension)
61. In re Coulter, 816 So.3d 1 (Ga. 2018) (fees, self-dealing, conversion of client funds: disbarment)
62. In re Clement, 382 Wis.2d 324 (2018) (multiple violations in connection with representing client accused of first-degree murder [competence, diligence, communication regarding client objectives, mandatory withdrawal, etc.]: public reprimand)
63. Merz v. Kentucky Bar Ass’n, 547 S.W.3d 764 (Ky. 2018) (use of trust account to make payroll payments: public reprimand)
64. Kentucky Bar Ass’n v. Niehaus, 547 S.W.3d 523 (Ky. 2018) (safekeeping of client property, duties upon termination, suspension for failure to file annual report and CLE report: disbarment)
65. Kentucky Bar Ass’n v. Chenault, 2018 WL 2979586 (Ky. June 14, 2018) (attorney, while serving as her county’s Master Commissioner, withdrew unauthorized funds from Master Commissioner account: four year suspension, with final eighteen months probated)
67. Board of Prof’l Responsibility v. Hiatt, 422 P.3d 940 (Wyo. 2018) (problems with diligence and communication with child custody client: thirty day suspension)
68. Matter of Maynard, 2018 WL 2938633 (V.I. June 8, 2018) (allowing probate case to remain needlessly open for over a decade, among other things: eighteen month suspension and $29,269.85 in restitution)
69. Board of Prof’l Responsibility v. Daniel, 549 S.W.3d 90 (Tenn. 2018) (misappropriation of client funds: one year suspension followed by two years probation)
70. Cleveland Metro. Bar Ass’n v. Gay, 153 Ohio St. 3d 251 (2018) (trust account mismanagement, loan to client: one year fully stayed suspension)
71. In re Matisik, 186 A.3d 117 (D.C. 2018) (failure to file corporation’s registration documents, misrepresentation to client, conversion of client funds: disbarment)
72. Matter of Beauregard, 189 A.3d 1236 (Del. 2018) (client trust account mismanagement, false trust account reporting, supervision of nonlawyer staff: six month suspension and permanent bar from being in charge of his or his firm’s books and accounts)
73. Board of Prof’l Responsibility v. Mears, 418 P.3d 839 (Wyo. 2018) (false statements during disciplinary proceedings: nine month suspension)
75. Matter of McCann, 391 Mont. 443 (2018) (failure to cooperate with investigation of another attorney’s misconduct: seven month suspension)
78. In re Ashley, 243 So.3d 547 (La. 2018) (missing court dates, failure to return unearned fees, failure to communicate with clients: fully stayed eighteen month suspension)
79. In re Mendy, 243 So.3d 538 (La. 2018) (while disbarred, attorney took $7000 from a patent client and did no work: permanent disbarment)
81. The Florida Bar v. Blackburn, 244 So.3d 168 (Fla. 2018) (sexual relations with two clients while they were in prison: disbarment)
82. In re Anderson, 184 A.3d 846 (D.C. 2018) (competence, communication with clients, withdrawal duties, unauthorized practice of law: one year suspension)
83. In re Charges of Unprofessional Conduct, 912 N.W.2d 224 (Minn. 2018) (communication with represented party: private admonition)
86. In re Hunter, 242 So.3d 1210 (La. 2018) (lack of diligence, failure to keep clients informed: one year and one day suspension, with all but four months stayed)
88. Attorney Grievance Comm’n v. Hecht, 459 Md. 133 (2018) (practicing while suspended: indefinite suspension, with right to seek reinstatement after twelve months)
89. In re Vega, 241 So.3d 993 (La. 2018) (neglect of immigration client’s matter, resulting in deportation: permanent disbarment)
90. In re Dunn, 241 So.3d 984 (La. 2018) (conversion of third-party funds from client’s personal injury settlement: disbarment)
94. The Florida Bar v. Parrish, 241 So.3d 66 (Fla. 2018) (improper fee agreements, improper business transactions with clients: three year suspension)
95. In re Burns, 249 So.3d 811 (La. 2018) (sent paralegal to lawyers-only pretrial conference, falsely claiming he was ill on that date: one year suspension)
100. Matter of Kishaveh, 2018 WL 2459565 (Cal. State Bar Ct., Apr. 24, 2018) (multiple acts of misconduct - failure to inform client, failure to respond to insurance carrier, allowing the limitations period to expire: three year suspension)
103. Disciplinary Proceedings Against Rostollan, 381 Wis.2d 5 (2018) (fees, conversion: two year suspension)
104. In re Hulstrand, 910 N.W.2d 436 (Minn. 2018) (safeguarding client property, conversion, false statements to tribunal, failure to follow court orders: disbarment)
105.  *Disciplinary Proceedings Against Gray*, 381 Wis.2d 56 (2018) (drafting a non-relative’s will in which the attorney received a sizable gift [$298,742.12]; sixty day suspension)

106.  *In re Iwu*, 813 S.E.2d 336 (Ga. 2018) (practicing while ineligible for failure to pay annual fees: three year suspension)


108.  *In re Garcia*, 813 S.E.2d 591 (Ga. 2018) (abandonment: disbarment)


112.  *In re Kitay*, 2018 WL 2459569 (Cal. State Bar Ct., Apr. 9, 2018) (practicing while suspended, commingling, failure to report sanctions and malpractice actions as required by California rule: two year suspension, the last six months stayed)


114.  *In re Li*, 2018 WL 2452211 (Cal. State Bar Ct., Apr. 4, 2018) (practicing while suspended [for two matters involving a sibling]: two year suspension, with one year stayed)


116.  *In re Disciplinary Action Against Soyaovong*, 909 N.W.2d 575 (Minn. 2018) (misappropriation, abandonment: disbarment)


118.  *In re Klaile*, 238 So.3d 949 (La. 2018) (neglect, trust account violations: one year and one day suspension)

119.  *In re Swafford*, 238 So.3d 957 (La. 2018) (neglect, communication failures: six month suspension)


123.  *Matter of Whitlark*, 422 S.C. 362 (2018) (multiple violations, including failing to disclose after discovering offered evidence was false and failing to pay a court reporter bill: six month suspension)

124.  *Matter of Hurley*, 2018 WL 1319010 (Del. March 14, 2018) (unprofessional letters to opposing counsel, which had “no substantial purpose other than to embarrass, delay or burden”: public reprimand)
125. Matter of Wray, 91 N.E.3d 578 (Ind. 2018) (violation of rule against solicitation of clients, dishonest statements to clients and disciplinary authorities: six month suspension)

126. The Florida Bar v. Ratiner, 238 So.3d 117 (Fla. 2018) (a record of repeated disruption of hearings [kicking counsel table, stage whispering “lie, lie, lie”]: disbarment)

127. In re Koeck, 173 A.3d 463 (D.C. 2018) (disclosure of confidences and secrets to a media outlet, a United States attorney, the SEC, and the government of Brazil: sixty day suspension)

128. State ex rel. Oklahoma Bar Ass’n v. Brookings, 411 P.3d 377 (Okla. 2018) (rolling back the date on the clerk of court’s “filed” stamp: sixty day suspension)


130. The Florida Bar v. Christensen, 233 So.3d 1019 (Fla. 2018) (providing unlawful “Official Legal Certifications” to clients purportedly allowing them to grow marijuana, several of whom were arrested: disbarred)

131. Disciplinary Counsel v. Williams, 152 Ohio St. 3d 57 (2017) (magistrate judge mentioned her position in a traffic stop, to avoid a ticket: public reprimand)

132. In re Fontenot, 230 So.3d 185 (La. 2017) (settling personal injury case without client’s consent, forging client signatures on settlement agreement, failing to disburse settlement funds: disbarment)

133. In re Disciplinary Proceedings Against Baratki, 378 Wis.2d 1 (2017) (sexual comments to clients, practicing while under suspension, failure to cooperate with disciplinary authorities: six month suspension)

E. Procedural Issues

1. In re Bertoni, 363 Or. 614 (2018) (defense of claim preclusion not available under these facts)

2. D.A.R. v. R.E.L., 2018 WL 4266697 (Ala. Sept. 7, 2018) (bar complainants were immune from attorney’s suit alleging the complaints were frivolous); accord Carey v. Board of Overseers of Bar, 2018 ME 119.

3. Roberts v. State Bar, 818 S.E.2d 45 (Va. 2018) (rule prohibiting attorney from withdrawing funds from trust account whenever two or more persons claimed an interest in the funds was not unconstitutionally vague)

4. Disciplinary Counsel v. Mancino, 2018 WL 3672599 (Ohio Aug. 2, 2018) (rule requiring client to be informed of matter is not violated if there is no attorney-client relationship)

5. Disciplinary Counsel v. Engel, 2018 WL 3672445 (Ohio July 31, 2018) (board had discretion to refuse attorney’s request to supplement a post-hearing brief)

6. In re Speights, 189 A.3d 205 (D.C. 2018) (hearing board had the authority to make credibility determinations)

7. State ex rel. Oklahoma Bar Ass’n v. Knight, 421 P.3d 299 (Okla. 2018) (resigning in lieu of discipline in State X for conduct occurring in State X does not bar discipline in State Y)

9. *In re Bolinske*, 908 N.W.2d 462 (N.D. 2018) (no due process right to personally appear before disciplinary board to argue case)

10. *In re Conduct of Klamp*, 363 Or. 62 (2018) (allegations not included in complaint are dismissed on due process grounds: lack of notice)


F. A Special Situation: Prosecutorial Misconduct - Consider the following cases in light of Model Rule 3.8 (Special Responsibilities of a Prosecutor)

1. *In re Nassar*, 2018 WL 4490909 (Cal. State Bar Ct., Sept. 18, 2018) (withholding evidence from defense: six month suspension, served concurrently with two years probation with conditions)


