

ORIGINAL

IN THE SUPREME COURT OF OHIO

Disciplinary Counsel,

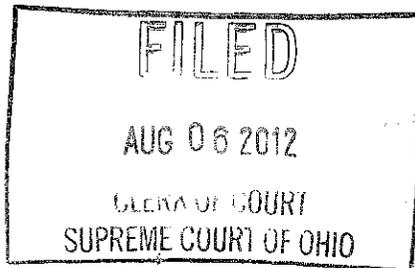
Case No. 2012-1106

Relator,

vs.

Erika Klie Kolenich,

Respondent.



**RESPONDENT'S RESPONSE TO ORDER TO SHOW CAUSE AND REQUEST  
REGARDING OHIO RECIPROCAL DISCIPLINE**

This is a reciprocal discipline matter before the Court pursuant to Gov. Bar R. V(11)(F). By order dated March 29, 2012, the Supreme Court of Appeals of West Virginia imposed a public reprimand and a two-year supervised practice upon Respondent Erika Klie Kolenich (referred to herein as the "West Virginia disciplinary order"). The West Virginia disciplinary order requires Ms. Kolenich to submit to a two-year supervised practice pursuant to the terms of an Agreement With Supervising Lawyer and Respondent, including the submission to the Supervisor on a monthly basis of a list of Ms. Kolenich's open cases, and Ms. Kolenich's attendance at weekly meetings with the Supervisor to discuss any pending matter. *See* Affidavit of Supervising Attorney Julie Gower Romain attached at Exhibit A, attaching copies of Agreement With Supervising Lawyer and Respondent and Ms. Romain's initial report to the West Virginia Office of Disciplinary Counsel.

Although Ms. Kolenich's practice primarily involves representing clients from West Virginia before West Virginia courts, she has some cases currently pending in Ohio courts. Ms. Kolenich has and will continue to include any pending Ohio matter in her reports to the Supervising Attorney pursuant to the West Virginia Agreement With Supervising Lawyer. *See* Romain Affidavit, and Affidavit of Ms. Kolenich attached as Exhibit B.

Based upon the foregoing, Ms. Kolenich respectfully request that the reciprocal discipline imposed by this Court in Ohio be limited to a public reprimand given that any monitored probation imposed by this Court would be duplicitous of the supervised practice imposed under the terms of the West Virginia disciplinary order. Alternatively, if this Court imposes a monitored probation period in Ohio under Gov. Bar R. V(9), Ms. Kolenich respectfully requests that her compliance with the Agreement With Supervising Lawyer apply in satisfaction of Ohio's probationary/monitoring requirements. Although not licensed in Ohio, West Virginia supervising attorney Julie Gower Romain has agreed to cooperate with and provide information and/or documents requested by the Ohio Office of Disciplinary Counsel during the term of any monitored probation imposed by this Court. *See Ms. Romain Affidavit.*

Respectfully submitted,



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Christopher J. Weber (0059270)  
KEGLER, BROWN, HILL & RITTER  
65 East State Street, Suite 1800  
Columbus, OH 43215  
(614) 462-5400  
Counsel for Respondent

**CERTIFICATE OF SERVICE**

This will certify that a true copy of the foregoing was served upon the following, by ordinary

U.S. Mail, postage prepaid, this 6<sup>th</sup> day of August, 2012:

Stacy Solochek Beckman  
Office of Disciplinary Counsel  
250 Civic Center Drive, Suite 325  
Columbus, Ohio 43215



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Christopher J. Weber

**IN THE SUPREME COURT OF OHIO**

Disciplinary Counsel,

Case No. 2012-1106

Relator,

vs.

Erika Klie Kolenich,

Respondent.

**AFFIDAVIT OF JULIE GOWER ROMAIN, ESQ.**

STATE OF WEST VIRGINIA :  
: SS  
COUNTY OF MARION :

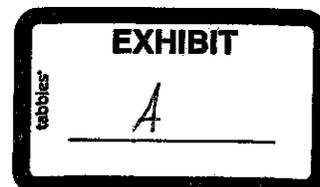
I, Julie Gower Romain, Esq., being first duly qualified and cautioned, state that:

1. I am an attorney licensed to practice law in West Virginia. I have personal knowledge of the facts set forth herein.

2. I am the supervising attorney for Erika H. Klie Kolenich pursuant to the Agreement With Supervising Lawyer and Respondent ("Agreement") entered into pursuant to the Supreme Court of Appeals of West Virginia's March 29, 2012 Order filed in Ms. Kolenich's West Virginia disciplinary matter. A true and accurate copy of the Agreement is attached hereto as Exhibit 1.

3. Pursuant to the terms of the Agreement, I submitted my initial report, dated July 30, 2012, to the West Virginia Office of Disciplinary Counsel. A true and accurate copy of this report is attached hereto as Exhibit 2.

4. Also pursuant to the Agreement, Ms. Kolenich has reported on all of her open matters, including those cases currently pending in Ohio.



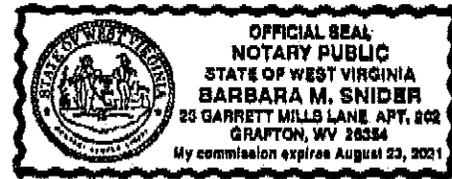
5. I agree to cooperate with and provide information and/or documents requested by the Ohio Office of Disciplinary Counsel during the term of any monitored probation imposed by the Ohio Supreme Court on Ms. Kolenich.

FURTHER AFFIANT SAYETH NAUGHT.

  
Julie Gower Romain

Sworn to and subscribed in my presence this 1<sup>st</sup> day of August 2012.

  
Notary Public



OFFICE OF LAWYER DISCIPLINARY COUNSEL  
STATE OF WEST VIRGINIA

IN RE: Erika H. Klie Kolenich, a member of  
The West Virginia State Bar

I.D. No.: 09-05-543  
Supreme Court No.: 11-0091

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AGREEMENT WITH SUPERVISING LAWYER AND RESPONDENT

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1. The Supreme Court of Appeals of West Virginia, by Order entered March 29, 2012, reprimanded Respondent; Ordered her to submit to supervised practice for a period of two years; to complete an additional nine hours of CLE; and to pay costs in the amount of \$4,954.23.
2. The purpose of the supervised practice is to protect the public from acts similar to those past acts of Respondent's which were in violation of the Rules of Professional Conduct and to improve the quality and effectiveness of Respondent's law practice to the extent that the sanctioned behavior is not likely to recur.
3. The Supreme Court found that Respondent violated Rules 1.1; 1.4(b); 1.15(b); 1.16(d); 3.1; and 3.3(a) of the Rules of Professional Conduct.
4. Based upon the finding that Respondent violated the above listed ethical standards, Respondent agrees to not violate any of the Rules of Professional Conduct.
5. It is recognized that information exchanged pursuant to this Agreement between Respondent, Supervisor, Respondent's counsel and the Office of Disciplinary Counsel is confidential as provided by the Rules of Professional Conduct.
6. The parties have agreed that Julie Gower Romain will be the Supervising Lawyer ["Supervisor"].
7. **Supervisor will initially meet with Petitioner as soon as practical but at least by May 18, 2012.** The purpose of the initial meeting is to form a plan of improvement.
8. **Supervisor shall file a report** with Rachael L. Fletcher Cipoletti, Disciplinary Counsel, at the Office of Disciplinary Counsel, City Center East, Suite 1200 C, 4700 MacCorkle Avenue, S.E., Charleston, West Virginia 25304, **within three weeks**

EXHIBIT

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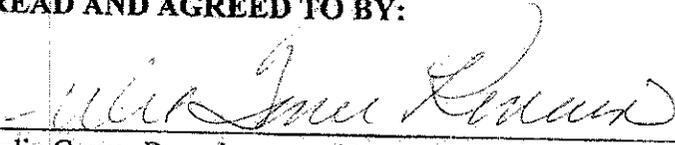
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**following the initial meeting.** THE SUPERVISION PERIOD WILL NOT BEGIN UNTIL THE INITIAL MEETING REPORT HAS BEEN RECEIVED AND REVIEWED BY ODC.

9. Supervisor agrees to set aside time to counsel, monitor and meet with Respondent and to fully and timely submit reports and documents as provided herein and upon request by the Office of Disciplinary Counsel. Supervisor agrees to counsel Respondent at times when Supervisor sees a need arise or when Respondent contacts Supervisor.
10. Supervisor shall retain all documentation provided to him/her by and about Respondent for two years following the conclusion of the supervision and to provide any and all documentation to the Office of Disciplinary Counsel upon request.
11. Respondent agrees to openly, honestly and fully provide information and/or documents as requested by Supervisor and/or the Office of Disciplinary Counsel. Respondent agrees to cooperate with Supervisor and with the Office of Disciplinary Counsel to the best of her ability in order to improve her practice of law. Should Respondent not fully and timely respond to requests for information by the Office of Disciplinary Counsel, the Office of Disciplinary Counsel may seek sanctions pursuant to Rule 8.1(b) of the Rules of Professional Conduct.
12. Respondent shall provide verification from the banking institution that he has properly established an IOLTA account pursuant to Rule 1.15 of the Rules of Professional Conduct. Respondent shall provide verification that the same IOLTA account has been properly registered with the West Virginia State Bar.
13. Respondent shall pay the full amount of the Court ordered costs in these proceedings in the amount of \$4,954.23.
14. Respondent agrees to provide to Supervisor on a weekly basis a copy of her calender for the following week which shows at a minimum appointments, deadlines and hearings.
15. On a monthly basis Respondent is to submit to Supervisor a list of her open cases or legal matters which shows the case name, the nature of the case, the last date work was done on the file, the work that is needed in order to move the case along, and significant dates including, but not limited to, deadlines for discovery and dates for hearings.

16. Supervisor is to review Respondent's calendar, case list, and work product, to ensure that the Respondent is providing competent legal representation consistent with the Rules of Professional Conduct.
17. **Supervisor agrees to set aside time to meet with Respondent at least weekly, monitor Respondent's progress, discuss problems, review documents submitted by Respondent and review the weekly reports. IT IS THE RESPONSIBILITY OF THE RESPONDENT TO ARRANGE THESE MEETINGS.**
18. Respondent agrees to attend the meetings with Supervisor, to come prepared to tender required and requested documents and to participate in discussing problems and solutions. Respondent agrees to willingly discuss areas which are problematic in her practice or which are not satisfactory according to Supervisor. Respondent agrees to give a good faith effort to implement improvement plans.
19. **Supervisor shall thereafter file a report with Disciplinary Counsel every three months.** Supervisor must promptly report to Disciplinary Counsel any time that Respondent fails to abide by the terms of this supervision agreement.
20. Respondent and Supervisor shall notify Disciplinary Counsel of any change of address, telephone number or telecopier number in writing as soon as the new information is available. This does not alter any lawyer's duty to keep The West Virginia State Bar informed of her current address, telephone number and practice status. Respondent shall notify Disciplinary Counsel if illness prevents her from meeting her obligations under this supervision agreement.
21. Supervisor is to timely and fully respond to requests by the Office of Disciplinary Counsel. Those requests concerning Respondent's law practice or Supervisor's duties herein are deemed to be lawful demands for information. Should Supervisor not fully and timely fulfill her duties herein, the Office of Disciplinary Counsel may seek sanctions, pursuant to the Rules of Lawyer Disciplinary Procedure and pursuant to Rule 8.1(b) of the Rules of Professional Conduct. By his/her signature hereto, Supervisor signifies that he/she has entered this Agreement freely, voluntarily and without Respondent or third parties making any representations not stated herein.
22. **The supervised practice shall begin on \_\_\_\_\_, 2012.** The period of supervision will conclude on or about \_\_\_\_\_. Respondent intends to practice law in Buckhannon, West Virginia.

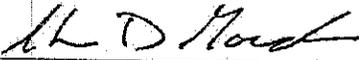
**READ AND AGREED TO BY:**

  
\_\_\_\_\_  
Julie Gower Romain [Supervisor]

7-23-12  
Date

  
\_\_\_\_\_  
Erika H. Klie Kolenich [Respondent]

7-23-12  
Date

  
\_\_\_\_\_  
Sherri D. Goodman [Respondent's Counsel]

6/22/12  
Date

\_\_\_\_\_  
Rachael L. Fletcher Cipoletti [Office of Disciplinary Counsel]

\_\_\_\_\_  
Date

**The Law Office of Julie Gower Romain**  
**211 Adams Street, Suite 600**  
**Fairmont, WV. 26554**  
**Telephone 304-368-1490 Facsimile 304-368-1529**

July 30, 2012

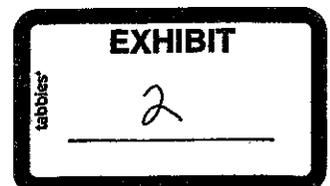
The West Virginia State Bar  
Office of Disciplinary Counsel  
City Center East, Suite 1200-C  
4700 MacCorkle Ave., S.E.  
Charleston, WV. 25304

Re: IN RE: Erika H. Klie Kolenich  
ID NO. 09-05-543  
Supreme Court No.: 11-0091

Dear Office of Disciplinary Counsel,

I am the supervising attorney for Erika H. Klie Kolenich. Mrs. Klie Kolenich has provided me with the Agreement With Supervising Lawyer and Respondent and I have executed the agreement effective July 23, 2012. My first meeting with Mrs. Klie Kolenich was on July 23, 2012. We were not able to meet prior to that date due to my schedule and vacation time. However, Mrs. Klie Kolenich began to provide me with her weekly schedule as soon as I agreed to act as her supervising attorney.

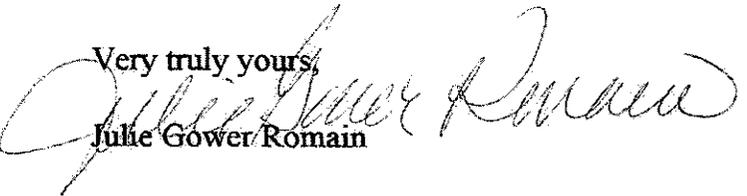
1. Mrs. Klie Kolenich has provided me with a copy of the verification showing that she has established an IOLTA client trust account.
2. Mrs. Klie Kolenich has provided me with a list of her open cases and all legal matters showing the case name, the nature of the case, the last date work was done on the file, the work that is needed in order to move the case along, and all significant dates including deadlines for discovery and dates for hearings for June and July, 2012 and for all significant dates and deadlines which have been set through 2013.
3. Mrs. Klie Kolenich has provided me with a copy of her calendar weekly.
4. Mrs. Klie Kolenich and I met for several hours on July 23, 2012. At that meeting we discussed each of her open cases and legal matters and the status of each action. We planned a schedule of meetings and discussed any questions and concerns we each had. Mrs. Klie Kolenich was forthcoming in all matters we discussed and was receptive to any suggestions I made.



5. I understand that the State Bar was concerned that Mrs. Klie Kolenich had certain time management issues that may have contributed to her discipline. To address those concerns, Mrs. Klie Kolenich has added additional support staff, hired a law clerk and has a new associated starting next week.

Please feel free to contact me with any questions or requests for additional information you may have.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Julie Gower Romain".

Julie Gower Romain

IN THE SUPREME COURT OF OHIO

Disciplinary Counsel,

Case No. 2012-1106

Relator,

vs.

Erika Klie Kolenich,

Respondent.

**AFFIDAVIT OF ERIKA H. KLIE KOLENICH, ESQ.**

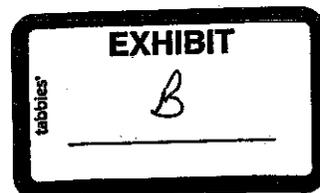
STATE OF WEST VIRGINIA :  
 : SS  
COUNTY OF UPSHUR :

I, Erika H. Klie Kolenich, Esq., being first duly qualified and cautioned, state that:

1. I am an attorney licensed to practice law in West Virginia and Ohio. I have personal knowledge of the facts set forth herein.

2. My legal practice primarily involves representing clients from West Virginia before West Virginian courts. However, I represent some Ohio clients and currently have sixteen (16) cases pending in Ohio courts.

3. I reported on my Ohio cases, along with my West Virginia cases, to Julie Gower Romain, the attorney serving as my supervising attorney pursuant to the Agreement with Supervising Lawyer and Respondent entered into as a part of the discipline imposed upon me by the Supreme Court of Appeals of West Virginia in its March 29, 2012 Order.



FURTHER AFFIANT SAYETH NAUGHT.



*Erika H. Klie Kolenich*  
Erika H. Klie Kolenich

Sworn to and subscribed in my presence this 3 day of August 2012.

*Melissa J. Daugherty*  
Notary Public