

**PRACTICE OF LAW BOARD
STATE OF WASHINGTON**

1325 Fourth Avenue, Suite 600, Seattle, WA 98101-2539
(206) 727-8252 ■ Fax (206) 727-8314

Members

December 7, 2009

Nancy Ivarinen
Chairperson
Bellingham

Ann Mercer

c/o [REDACTED]

Thomas Andrews
Vice-Chairperson
Seattle

[REDACTED]
Portland, OR [REDACTED]

Nicholas Berning
Bellingham

Re: Complaint Alleging Unauthorized Practice of Law against Ann Mercer; POLB No. 09-12

Margaret Bridewell
Walla Walla

Dear Ms. Mercer:

Brian J. Dano
Moses Lake

The Practice of Law Board was created by order of the Washington State Supreme Court, General Rule (GR) 25. The Board is charged with the investigation of allegations of unauthorized practice of law in Washington. Revised Code of Washington (RCW) 2.48.180 states that a nonlawyer practicing law or holding himself out as entitled to practice law constitutes the unauthorized practice of law. Court rule GR 24 defines the practice of law. The unauthorized practice of law is a crime in Washington.

Gail Hammer
Spokane

Cheryl D. Kringle
Seattle

Crystal Lambert
Vancouver

Daniel Pérez
Seattle

As you are aware, W [REDACTED] H [REDACTED] filed a complaint against you alleging that you engaged in the unauthorized practice of law by assisting two litigants with qualified domestic relations orders (QDROs) that were filed in Washington courts. In 2006 and 2007, you provided assistance to a pro se litigant, J [REDACTED] C [REDACTED], who was involved in a dissolution action filed in Clark County Superior Court. Mr. H [REDACTED] represented the husband in the dissolution action. Ms. C [REDACTED] was represented by another attorney, D [REDACTED] S [REDACTED], until January 2007 when he withdrew from representation. You continued to assist and represent Ms. C [REDACTED] with her qualified domestic relations order after Mr. S [REDACTED] withdrew. Mr. H [REDACTED] included with his complaint to the Practice of Law Board a copy of a letter sent by you to him, dated October 11, 2007, in which you state "I represent J [REDACTED] C [REDACTED]. Please communicate directly with me regarding the domestic relations order..." According to Mr. H [REDACTED], you also asked him to prepare pleadings for your signature.

Priscilla Selden
Entiat

Renée Shadel
Seattle

Hon. Jane M. Smith
Nespelem

-

Administrator
Julie Shankland

Investigative Attorney
Sandra Schilling

On November 3, 2008, you wrote to Mr. H [REDACTED] advising him that you represent R [REDACTED] S [REDACTED], a pro se litigant with a

qualified domestic relations order entered in a Clark County action. Mr. H [REDACTED] represented the wife in that action. On December 5, 2008, Mr. H [REDACTED] obtained a Washington court order giving him authority to communicate directly with R [REDACTED] S [REDACTED]. Mr. H [REDACTED] supported his motion for direct communication with two letters, dated November 3, 2008 and November 18, 2008, in which you advised Mr. H [REDACTED] that you represent Mr. S [REDACTED] in the action and asked him to communicate only with you. Mr. H [REDACTED] included copies of both letters with his complaint. The December 5, 2009 Washington court order made the conclusion that your conduct constitutes the unauthorized practice of law. The Practice of Law Board agrees with this conclusion. In particular, the Board believes that this is the type of conduct that requires pro hac vice admission in Washington.

You are not licensed to practice law in the state of Washington. You have not requested pro hac vice admission for either of the two previously-mentioned dissolution cases. As defined by RCW 2.48.180(1)(b), you are a nonlawyer in the state of Washington. RCW 2.48.180(2)(a) states that a non-lawyer practicing law or holding himself or herself out as entitled to do so constitutes the unauthorized practice of law. You represented parties who were each involved in pending litigation in Washington Superior Courts. Representation of another entity or person(s) in a court, or in a formal administrative adjudicative proceeding in which legal pleadings are filed or a record is established as the basis for judicial review is included in the GR 24 definition of the practice of law. The QDROs in both Ms. C [REDACTED]'s and Mr. S [REDACTED]'s dissolution actions are legal documents signed and filed in the Superior Court of Clark County, Washington.

The Board reviewed the March 19, 2009 response from your counsel, [REDACTED] [REDACTED], which acknowledges that you were practicing law. According to the response, Washington's RPC 5.5(c)(4) and RPC 5.5(d)(2) authorize you to provide Mr. S [REDACTED] legal services because you specialize in federal law, limit your advice to federal ERISA law, and few attorneys in Vancouver specialize in this area of law. The Board does not agree. The Board finds that orders filed in pending legal actions require pro hac vice admission. Also, QDROs require knowledge and application of state law; therefore, RPC 5.5(d)(2) does not apply.

At this time, pursuant to GR 25(f)(4)(B), we request that you enter into a written agreement with this Board, to refrain from the following conduct:

- Holding yourself out as authorized to practice law in the state of Washington;
- Representation of another entity or person(s) in a Washington court;
- Any other conduct that violates Washington's GR 24.

We further ask you to stipulate that in the event you violate this agreement, you agree that this stipulation, evidence of your further violation, the investigative report to the Board of your past violations, the original complaint, your response, and all other evidence of such violations shall be turned over to the appropriate County Prosecutor's Office with a request from the Board that that office institute a criminal proceeding against you.

In the event you do not return this stipulation as signed and agreed to within 15 days of the mailing of this letter, the Board will issue its report and consider turning over its investigation along with a request for prosecution to the County Prosecutor's Office.

If you disagree with the Practice of Law Board's final action, you may seek review by filing a Notice of Petition for Review with the Washington Supreme Court. The Notice must be filed within 30 days of final Practice of Law Board action. You must serve the original Notice of Petition for Review on the Supreme Court Clerk and a copy on the Practice of Law Board. Your Notice must set out your name and address, the name and address of your counsel, if any, and a concise statement of the reason for your appeal. Your Petition must comply with the Rules of Appellate Procedure (RAP). For further information on Petitions for Review, please see GR 25(g).

We are hopeful that we will be able to resolve these matters by stipulation. If you are willing to so stipulate, please sign and date your signature and have your signature witnessed by a person over the age of eighteen, who will also sign as the witness. The signed letter should be returned to the Board within 15 days.

Thank you in advance for your anticipated cooperation.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Nancy Ivarinen". The signature is fluid and cursive, with the first name "Nancy" written in a larger, more prominent script than the last name "Ivarinen".

Nancy Ivarinen, Chair
Practice of Law Board

Enclosure: Agreement to Refrain
JS:as

cc: [REDACTED], counsel for Mr. Harris (w/out enclosure)
[REDACTED], Asst. Disciplinary Counsel (w/out enclosure)

RECEIVED

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PRACTICE OF LAW BOARD OF THE STATE OF WASHINGTON

In the Matter of)	No. #09-12
)	
ANN MERCER,)	AGREEMENT TO REFRAIN FROM
)	ENGAGING IN THE UNAUTHORIZED
Respondent.)	PRACTICE OF LAW
)	

I, ANN MERCER, agree to refrain from engaging in the unauthorized practice of law in Washington, as set forth in the attached letter dated December 7, 2009. I agree not to hold myself out as authorized to practice law in the state of Washington, in violation of Washington law, and from representing another entity or person(s) in a Washington court, unless I am either admitted *pro hac vice* or have associated with a lawyer who is admitted in Washington and who actively participates in the matter.

FURTHER, I agree and understand that, in the event I violate this agreement, the Board will refer this matter to the appropriate Prosecutor's Office with copies of the following documents: this agreement, evidence of any further violation, the investigative report to the Board of this matter, the original complaint, my response, and all other evidence of such violations.

Dated this 14 day of April, 2010.

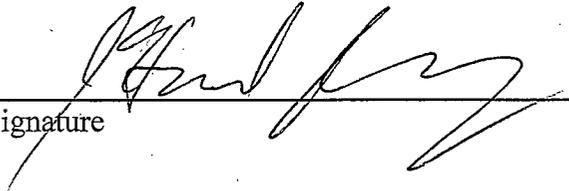


ANN MERCER, Respondent

WITNESS

The undersigned, a person over the age of eighteen, declares that on the date shown above,

Ann Mercer signed this agreement in my presence of his or her own free act and will.


Signature

J. Harold Phillips
Print name