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JURISDICTIONAL STATEMENT

Respondent Katherine Anne Dierdorf does not contest this Court's jurisdiction. This is a lawyer discipline case. Therefore, as stated in Informant's Brief, this Court has jurisdiction over this case pursuant to Article V, Section 5 of the Missouri Constitution; Missouri Supreme Court Rule 5; Missouri common law; and Missouri Revised Statute § 484.040. In addition, this Court has jurisdiction under its inherent authority to regulate the Missouri Bar.

CASE SUMMARY

In July 2014, during her first six months as a junior prosecutor at the St. Louis City Circuit Attorney's Office, Katherine Dierdorf learned that a St. Louis City police detective Thomas Carroll had "roughed up" a suspect who had allegedly stolen the credit card of Carroll's daughter. When asked a few days later about the incident (hereinafter the "Carroll-Worrell incident") by her superiors and separately by the Police Department's Internal Affairs, Ms. Dierdorf admits that she was not initially forthcoming about all she knew regarding Police Detective Thomas Carroll's assault against a suspect and Assistant Circuit Attorney Bliss Worrell's filing of criminal charges against that suspect. Instead, during two interviews, Ms. Dierdorf held back or changed certain facts to avoid implying her friend Ms. Worrell had filed criminal charges against a suspect Ms. Worrell knew Detective Carroll had assaulted.

Ms. Dierdorf's failure to be fully forthcoming, however, was very brief, at most twenty-four hours. Within one day of the first interview where she had not been fully forthcoming, Ms. Dierdorf began making repeated attempts to fully disclose all she knew, but Ms. Dierdorf's supervisors in the Circuit Attorney's Office rebuffed these efforts. Ms. Dierdorf then voluntarily submitted to two Federal Bureau of Investigation interviews, answered all questions asked candidly and completely, and provided 3,000 pages of text messages, with nothing held back. Ms. Dierdorf's cooperation helped propel the federal investigation into the Carroll-Worrell incident, which resulted in convictions of Carroll and Worrell and Worrell's disbarment by this Court.

Informant then brought the instant discipline case against Ms. Dierdorf and two of her young colleagues in the Circuit Attorney's Office. Alone among the respondents, Ms.

Dierdorf immediately and consistently admitted her failure to be forthcoming and cooperated in all stages of Informant's investigation. Ms. Dierdorf has also acceded to the reprimand recommended by the Hearing Panel. Informant's counsel, however, pursues a more serious penalty, largely by trying to ignore uncontroverted facts that show Ms. Dierdorf's prompt change of heart, thorough cooperation, and deep remorse. Based upon those undisputed facts and other matters discussed in this Brief, Ms. Dierdorf requests this Court impose no more than the reprimand ultimately recommended by the Hearing Panel.

STATEMENT OF FACTS

The Informant's counsel's statement of facts omits uncontroverted facts that support Ms. Dierdorf should receive a much more lenient penalty than Informant's counsel requests. Therefore, consistent with Missouri Supreme Court Rule 84.04(c) and (f), Ms. Dierdorf offers the following Statement of Facts.

Background

Bar admissions. Ms. Dierdorf was licensed as an attorney in Missouri on September 14, 2011.¹ (Answer, R. 51) Ms. Dierdorf obtained her Missouri law license at the age of twenty-five. (Dierdorf, R. 810, 812) She is the first lawyer in her family. (Dierdorf, R. 812)

Ms. Dierdorf's Missouri Bar is currently "inactive." (Dierdorf, R. 815) Ms. Dierdorf is also on inactive status with the Illinois bar. (Dierdorf, R. 815)

Ms. Dierdorf resides in Colorado, where she maintains a Colorado law license in good standing and serves as a public defender for the Office of Municipal Public Defender in Denver, Colorado. (Answer, R. 51)

Ms. Dierdorf is also expecting her first child in January 2019, and thus will be unable to attend oral argument.

No prior discipline. Ms. Dierdorf has no prior discipline with the OCDC. (R. 1769, 1800) Prior to July 2014, in fact, Ms. Dierdorf had never really been in trouble before. (R. 901)

¹ Citations to the record are denoted by the appropriate Record page, for example "R. (page number)."

Twenty-three months at Armstrong Teasdale LLP. Immediately after law school, Ms. Dierdorf worked as a junior associate at Armstrong Teasdale for twenty-three months. (Dierdorf, R. 812, 816, 903) Ms. Dierdorf had realized during her final year of law school at Washington University that she really wanted to practice criminal law, but Ms. Dierdorf had already committed to work at Armstrong Teasdale LLP after a summer clerkship there the prior summer. (Dierdorf, R. 813, 816, 902)

During most of her twenty-three months at Armstrong Teasdale, Ms. Dierdorf wrote demand letters for foreclosure cases, receiving little mentoring and professional development. (Dierdorf, R. 903-04) When she left Armstrong Teasdale, Ms. Dierdorf still did not feel comfortable sending an email outside the firm without partner review and approval. (Dierdorf, R. 904; *see also* Barrett, R. 540-42 *and* Jane Doe, R. 800-01 (both discussing Dierdorf's limited experience at Armstrong Teasdale))

After twenty-three months, in September 2013, Ms. Dierdorf resigned from Armstrong Teasdale, after it became obvious both to Ms. Dierdorf and the firm that her position there was not working out. (Dierdorf, R. 905-06) Ms. Dierdorf did not have subsequent employment arranged when she left Armstrong Teasdale. (Dierdorf, R. 906)

Search for employment. Ms. Dierdorf sought a position as a public defender in the City of St. Louis, but was told no positions would become available due to budget cuts. (Dierdorf, R. 816) So Ms. Dierdorf applied for a position at the St. Louis City Circuit Attorney's Office. (Dierdorf, R. 816-17)

Ms. Dierdorf volunteered at the Civil Justice Clinic at Washington University for several months, helping students handle juvenile court cases, before accepting an offer to work at the St. Louis City Circuit Attorney's Office. (Dierdorf, R. 817, 946-47)

Five months at the Circuit Attorney's Office. Ms. Dierdorf joined the Circuit Attorney's Office on February 3, 2014, only five months before the Carroll-Worrell incident. (Dierdorf, R. 816-18, 948) At the time of the Carroll-Worrell incident, Ms. Dierdorf was still treated as a junior Assistant Circuit Attorney within the Circuit Attorney's Office: having worked in the Office less than six months, Ms. Dierdorf was allowed to work essentially only on misdemeanor cases. (Dierdorf, R. 818, 930)

When Ms. Dierdorf joined the Circuit Attorney's Office, there were several other younger female Assistant Circuit Attorneys already working there. Ms. Dierdorf became quite friendly with several of these younger female Assistant Circuit Attorneys, including Ambry Schuessler and Ms. Worrell, often socializing with them during and outside work. (Dierdorf, R. 826; Answer, R. 42) In addition, Ms. Dierdorf had been looking for someone to share rent; in July 2014, Ms. Schuessler moved into Ms. Dierdorf's apartment. (Dierdorf, R. 831-32) Finally, during the summer of 2014, Jane Doe² joined the Office as a legal intern. (Jane Doe, R. 798) Ms. Dierdorf knew Jane Doe from years earlier, when Ms. Dierdorf was a high school student, and Ms. Dierdorf and Jane Doe quickly became quite close both at and away from work. (Jane Doe, R. 796-97)

The Carroll-Worrell Incident

The week of July 21 to 25, 2014. Ms. Dierdorf first became aware of the Carroll-Worrell incident the morning of Wednesday, July 23, 2014, after Ms. Dierdorf had only worked at the Circuit Attorney's Office for five months. It was a very busy week for Ms.

² Jane Doe is a pseudonym for an individual who participated in the consolidated proceedings, but whose charges were ultimately dismissed by the Office of Chief Disciplinary Counsel.

Dierdorf. Ms. Dierdorf had to deal with her ordinary case load and docket calls, and she was defending her second and third depositions ever. (Dierdorf, R. 876, 916) In addition, Ms. Dierdorf was preparing to try her first case – a misdemeanor criminal case –the following Monday. (Dierdorf, R. 916, 942) Further adding to the activity, Ms. Dierdorf was also helping law student Jane Doe by serving as a last-minute stand-in for a witness at a July 25 mock trial that would be used to assess whether after law school Jane Doe should receive an offer of employment from the Circuit Attorney’s Office. (Jane Doe, R. 732, 763, 800; Dierdorf, R. 876). A chart that was designated Exhibit KD-5 is placed here to assist the Court in keeping track of the events of that busy week. (*See also* Exhibit KD-5, R. 1598)

Tuesday July 22, 2014	Wednesday July 23, 2014	Thursday July 24, 2014	Friday July 25, 2014	Monday July 28, 2014
	Morning	Morning	Morning	Morning
	8 AM Worrell tells Dierdorf and [REDACTED] about theft and "roughing" or "beating" up suspect	8 AM Worrell tells Dierdorf and [REDACTED] about preparing charges against Waller	Barrett directs Worrell and Dierdorf to handle probation revocations	Dierdorf told to wait in her office
	10 AM Carroll discusses assault on speaker phone with Worrell and Schuessler	9 AM Dierdorf tells Collins and Schuessler that Worrell helped prepare the charges against Waller	9 AM Dierdorf is recalled and interviewed by SLMPD Internal Affairs	Worrell and Dierdorf are sent about 10 AM
Evening	(Dierdorf leaves before details discussed)	Collins and Schuessler disclose Carroll and Worrell's actions to CAO supervisors	After lunch	After 5:00 PM
Worrell learns Megan Carroll's purse was stolen	After lunch	After lunch	Dierdorf sent home at 3:30 or 4 PM	Dierdorf meets with Darst and Orwick; Dierdorf resigns instead of being discharged
(at baseball game with Dierdorf and [REDACTED])	Worrell prepares criminal charges against Michael Waller	Dierdorf is interviewed by Circuit Attorney's Office supervisors		

(All times are approximate)

1598

The evening of Tuesday, July 22, 2014. On the evening of July 22, 2014, Ms. Dierdorf attended a St. Louis Cardinals baseball game with Ms. Worrell and Jane Doe, who were both also working at the Circuit Attorney's Office. (Dierdorf Answer, R. 42) During the ballgame, Ms. Worrell received a telephone call where she learned and informed Ms. Dierdorf and Jane Doe that St. Louis City police detective Tom Carroll's daughter's credit card had been stolen. (Dierdorf, R. 912) Ms. Worrell and Detective Carroll were quite close, including that Ms. Worrell had done several unauthorized "ride alongs" with Detective Carroll and was training for a race with Detective Carroll. (Schuessler, R. 617;

Jane Doe, R. 744; Dierdorf, R. 848) Ms. Dierdorf and Jane Doe, meanwhile, had become irritated that Ms. Worrell – who was married – was maintaining such an odd relationship with the significantly older, divorced Detective Carroll. (Jane Doe, R. 740; Dierdorf, R. 837-38)

Morning of Wednesday, July 23, 2014: Dierdorf first learns Carroll assaulted the suspect. The next morning, on July 23, 2014, Ms. Dierdorf arrived at the Circuit Attorney’s Office at approximately 8:00 AM. (Dierdorf, R. 836) Shortly after Ms. Dierdorf arrived, while Jane Doe was also present, Ms. Worrell entered Ms. Dierdorf’s office. Ms. Dierdorf’s office shared a wall with their supervisor Ms. Barrett’s office. (Barrett, R. 542; *see also* Dierdorf, R. 965-66 (discussing the thinness of the walls, and otherwise open nature of Ms. Dierdorf’s office at the Circuit Attorney’s office).) Nevertheless, loudly and with the door open, Ms. Worrell proceeded to tell Ms. Dierdorf and Jane Doe that someone had broken into the car belonging to Detective Carroll’s daughter and had stolen Carroll’s daughter’s credit card. (Jane Doe, R. 803-04; Dierdorf, R. 838, 912-13) Ms. Worrell also indicated that later Detective Carroll had “roughed up” or had a physical altercation of some type with the man suspected of stealing the credit card. (Dierdorf, R. 912) Ms. Worrell then left Ms. Dierdorf’s office. Jane Doe described the entire thing as a “statement” by Ms. Worrell about Detective Carroll’s actions, not a conversation. (Dierdorf, R. 803)

Ms. Dierdorf admittedly took no action based upon the information she had learned from Ms. Worrell, that Carroll had assaulted a suspect. (Dierdorf, R. 913) Ms. Dierdorf understood that, if she thought there had been serious police misconduct, she would need to report it to a supervisor right away. (Dierdorf, R. 919) But Ms. Dierdorf felt she did not have adequate information, only a “general statement” of an assault. (Dierdorf, R. 913)

Further, including based upon another recent incident where Ms. Dierdorf reported a police officer's assault of an injured suspect to a supervisor, a report about which that supervisor appeared to take no action, Ms. Dierdorf incorrectly assumed that a statement a police officer had "roughed up" a suspect did not rise to the level where a report was necessary. (Dierdorf, R. 913-16)

Dierdorf walks out of the call where Carroll describes the assault. Approximately two hours later on the morning of Wednesday, July 23, 2014, at approximately 10:00 AM, Ms. Dierdorf was in fellow Associate Circuit Attorney Ambry Schuessler's office. (Dierdorf, R. 920) Ms. Worrell entered the office while speaking on her cell phone with Detective Carroll. (Dierdorf, R. 920) Again leaving the office door wide open, Ms. Worrell turned on the speakerphone, announcing Detective Carroll was on the telephone. (Dierdorf, R. 920) Having previously been irritated with Carroll and Worrell's relationship, Ms. Dierdorf exchanged brief small talk with Detective Carroll and then left Ms. Schuessler's office. (Dierdorf, R. 845-46, 921; Goldsmith, R. 294) Ms. Dierdorf was therefore not present when Detective Carroll apparently described to Ms. Schuessler and Ms. Worrell his assault on the suspect, including using a pistol to assault the suspect. (Dierdorf, R. 846, 921)

Lunch on Wednesday, July 23, 2014. About two hours later, Ms. Dierdorf had lunch with several other young female Assistant Prosecuting Attorney friends, including Ms. Schuessler and Ms. Worrell. (Dierdorf, R. 848) After lunch, Ms. Worrell left the others to visit the warrant office and pick up her running shoes. (Dierdorf, R. 848)

While in the warrant office, unbeknownst to Ms. Dierdorf and the other young female Assistant Circuit Attorneys, Ms. Worrell also prepared charges against the suspect

whom Detective Carroll assaulted. (Dierdorf, R. 852-53; Jane Doe, R. 746) Ms. Dierdorf and the other young Assistant Circuit Attorneys did not learn Ms. Worrell had filed charges against the victim of Detective Carroll's assault until the next morning. (Dierdorf, R. 852-53)

Nothing further happened on July 23 regarding what was then developing into the Carroll-Worrell incident, at least as far as Ms. Dierdorf knew.

Morning of Thursday, July 24, 2014: Dierdorf learns Worrell prepared charges against Carroll's assault victim. On the morning of July 24, 2014, Ms. Dierdorf arrived at work and proceeded to her office, where Jane Doe was again present. (Dierdorf, R. 850, 922) While Ms. Dierdorf and Jane Doe were working in Ms. Dierdorf's office, Ms. Worrell again entered, brashly announcing to Ms. Dierdorf and Jane Doe – with the door open and Ms. Barrett's office next door – that the prior afternoon Ms. Worrell had issued the criminal case against the person suspected of breaking into the car of Detective Carroll's daughter and stealing his daughter's credit card. (Dierdorf, R. 803, 850, 922) Ms. Worrell also shared additional details that Ms. Dierdorf had not previously heard about Detective Carroll's assault of the suspect. (Dierdorf, R. 922-23) Ms. Worrell then left Ms. Dierdorf's office. (Dierdorf, R. 923) Neither Ms. Dierdorf nor Jane Doe had even asked Ms. Worrell a question. (Jane Doe, R. 746; Dierdorf, R. 857)

Dierdorf notifies Collins and Schuessler of Worrell's apparent misconduct. After Ms. Worrell had departed, Ms. Dierdorf went to Ms. Schuessler's office, where Ms. Schuessler and Lauren Collins – another Assistant Circuit Attorney – were present, to alert Ms. Schuessler about the information that Ms. Dierdorf had just learned from Ms. Worrell, specifically that Ms. Worrell had participated in bringing charges against the suspect whom

Detective Carroll had assaulted. (Dierdorf, R. 858, 923-24) Thinking it was improper for a prosecutor to issue charges when the prosecutor knew background information about a case, Ms. Dierdorf told Ms. Schuessler and Ms. Collins that Ms. Worrell had “messed up” in issuing the charges. (Collins, R. 395; Schuessler, R. 630-31)

The three young Assistant Circuit Attorneys – Ms. Dierdorf, Ms. Collins, and Ms. Schuessler – discussed the charges filed by Ms. Worrell, including the possibility of some of the charges being false due to a potential cover up. (Dierdorf, R. 860) Ms. Dierdorf testified that she spoke with Ms. Collins and Ms. Schuessler about the possibility of the charges being false, but Ms. Dierdorf did not know for sure then – or even much later – whether Ms. Worrell had issued a false charge, because Ms. Worrell never told her and Ms. Dierdorf never saw the police report. (Dierdorf, R. 859-60, 924-25) The entire conversation between Ms. Dierdorf, Ms. Collins, and Ms. Schuessler’s misconduct occurred, again, in normal voice with the door open. (Dierdorf, R. 924)

While Ms. Dierdorf was still in Ms. Schuessler’s office, Ms. Schuessler told Ms. Dierdorf her belief that Ms. Worrell could lose her job based upon her actions. (Dierdorf, R. 861) Ms. Schuessler then wondered aloud if any of the others could lose their job just for knowing about this. (Dierdorf, R. 861) Ms. Dierdorf agreed that Ms. Worrell could lose her job, but expressed her belief that she did not think anyone else’s job was in jeopardy because – based upon what Ms. Dierdorf knew and when – no one else knew what had occurred. (Collins, R. 410-11; Dierdorf, R.861)

Ms. Dierdorf did not recall saying anything that expressly or implicitly suggested Ms. Schuessler or Ms. Collins should not report what had happened. (Dierdorf, R. 861-62) On cross-examination, Ms. Collins testified similarly. (Collins, R. 428-29) All testimony

also agreed that, after Ms. Dierdorf questioned how the three of them would get in trouble because no one else knew, Ms. Collins and Ms. Schuessler did not respond to Ms. Dierdorf; instead, Ms. Dierdorf simply left Ms. Schuessler's office. (Collins, R. 398, 427-28) Ms. Schuessler specifically denied that Ms. Dierdorf directed Ms. Collins or Ms. Schuessler to keep Ms. Worrell's misconduct secret. (Schuessler, R. 711) Further, even if Ms. Dierdorf had tried to coax Ms. Schuessler and Ms. Collins to remain silent, the coaxing had no effect, because as soon as Ms. Dierdorf left, Ms. Collins and Ms. Schuessler checked their facts and then went to notify a supervisor. (Schuessler, R. 712-13)

Collins and Schuessler notify their supervisor of Worrell's misconduct. After speaking with Ms. Dierdorf, Ms. Collins and Ms. Schuessler – but not Ms. Dierdorf – checked the Circuit Attorneys' internal case management system to confirm the charges Ms. Worrell had filed against the suspect. (Collins, R. 398-99) Learning that, in addition to charges relating to the suspect's theft of the credit card, the suspect had been charged with fleeing the police, Ms. Collins and Ms. Schuessler then decided to report what they knew to their supervisor Pippa Barrett. (Collins, R. 399; Barrett, R. 577; Schuessler, R. 695) Ms. Dierdorf had not remained while Ms. Collins and Ms. Schuessler checked the case management system, and Ms. Collins and Ms. Schuessler did not invite Ms. Dierdorf to join them in notifying Ms. Barrett about Ms. Worrell's misconduct. (Dierdorf, R. 863, 928)

Around lunchtime on July 24, Ms. Collins and Ms. Schuessler informed Ms. Barrett that Ms. Worrell had participated in issuing charges against a suspect whom Ms. Worrell knew Detective Carroll had assaulted. (Collins, R. 401, 405-06; Barrett, R. 547) Ms. Barrett also recalled that Ms. Collins suspected some charges Ms. Worrell had issued were false.

(Barrett, R. 547) Ms. Dierdorf would not become aware that Ms. Collins and Ms. Schuessler had spoken to Ms. Barrett at lunchtime on July 24, reporting Ms. Worrell's issuing of charges on the suspect Detective Carroll had assaulted, until late on Friday, July 25, 2014. (Dierdorf, R. 934)

Dierdorf is not forthcoming with her supervisors the afternoon of Thursday, July 24, 2014. On the afternoon of July 24, 2014, Ms. Dierdorf was in court when she was summoned to the office of Beth Orwick, who supervised attorneys prosecuting felonies. (Dierdorf, R. 863, 865, 929) Upon learning she had been summoned, Ms. Dierdorf hurried to Ms. Orwick's office where she met with and was questioned by her supervisor Ms. Barrett, the felony attorney supervisor Ms. Orwick, and the warrant office supervisor Ed Postawko. (Dierdorf, R. 929-30)

A supervisor asked Ms. Dierdorf what she knew about the case involving the suspect who was roughed up by Detective Carroll. (Dierdorf, R. 930-31) Ms. Dierdorf provided information that Detective Carroll had assaulted the suspect and that Ms. Worrell had filed charges against the suspect. (Dierdorf, R. 931) Ms. Barrett and Ms. Orwick agree that Ms. Dierdorf disclosed Detective Carroll had assaulted the suspect and that Ms. Worrell prepared charges against the same suspect. (Orwick, R. 441; Barrett, R. 547-48) At the time Ms. Dierdorf made these disclosures, Ms. Dierdorf was not aware that Ms. Collins and Ms. Schuessler had already informed Ms. Barrett about this same information, and also that they suspected Ms. Worrell had manufactured fleeing charge. (Dierdorf, R. 934)

During the July 24 afternoon meeting with her supervisors, Ms. Dierdorf admits, she did not disclose that Ms. Worrell had learned of Detective Carroll's assault the morning

of July 23, before Ms. Worrell had filed charges against the same suspect. (Dierdorf, R. 932)

As soon as the meeting ended, Ms. Dierdorf immediately regretted not making a full of Ms. Worrell's knowledge of the assault prior to filing charges. (Dierdorf, R. 936-37) Ms. Dierdorf has also admitted consistently – including when interviewed by the Federal Bureau of Investigations, in her response to the disciplinary complaint, in her Answer to the Information, and in her testimony at the Hearing – that Ms. Dierdorf had failed to be fully forthcoming to Ms. Barrett, Ms. Orwick, and Mr. Postawko about what Ms. Worrell knew when she filed charges against the suspect Detective Carroll had assaulted. (Dierdorf, R. 863, 891, 893) Nevertheless, the supervisors already knew this information, because Ms. Collins and Ms. Schuessler had told Ms. Barrett this information earlier on July 24. (Collins, R. 407-08; Barrett, R. 547)

After Ms. Dierdorf spoke to Ms. Orwick, Ms. Barrett, and Mr. Postawko, Ms. Dierdorf returned to court and encountered Ms. Schuessler. Ms. Schuessler asked Ms. Dierdorf whether she had been summoned to Ms. Orwick's office to discuss Detective Carroll's and Ms. Worrell's misconduct. (Dierdorf, R. 865) Ms. Dierdorf answered affirmatively. (Dierdorf, R. 865) Ms. Schuessler then asked Ms. Dierdorf what Ms. Dierdorf had said, and Ms. Dierdorf effectively responded, "Not much." (Dierdorf R. 865) Ms. Dierdorf did not discourage Ms. Schuessler from disclosing information to the supervisors; rather, as Ms. Barrett and Ms. Orwick confirmed in their testimony, Ms. Dierdorf herself had already told her supervisors that Detective Carroll had assaulted a suspect and that Ms. Worrell had filed charges against that same suspect. (Orwick, R. 441; Barrett, R. 547-48; Dierdorf, R. 866) Further, Ms. Dierdorf later related to her friend Jane

Doe that Ms. Dierdorf had “told the truth,” and that “as long as [they] both [told] the truth, [they would] be fine.” (Jane Doe, R. 806)

Driving Worrell home after work on Thursday, July 24, 2014. Less than three hours later, Ms. Dierdorf gave Ms. Worrell a ride home from work. (Dierdorf, R. 869) During the entire drive, Ms. Worrell spoke on the phone with Detective Carroll, theorizing how people had found out and how things escalated so quickly. (Dierdorf, R. 870) Ms. Dierdorf also exchanged text messages with Jane Doe, who asked Ms. Dierdorf if Ms. Worrell would be fired, to which Ms. Dierdorf replied “possibly.” (Dierdorf, R. 870) Jane Doe also asked if charges could be brought against Ms. Worrell if false charges had been brought. Ms. Dierdorf confirmed that charges could be brought against Ms. Worrell. (Dierdorf, R. 872)

The morning of Friday, July 25, 2014. On the morning of July 25, 2014, Ms. Dierdorf arrived at the Circuit Attorney’s Office, unaware about how the investigation into Detective Carroll’s and Ms. Worrell’s misconduct was developing. In fact, Ms. Barrett sent Ms. Dierdorf across the street to watch Ms. Worrell handle probation revocations. (Dierdorf, R. 875) Shortly thereafter, however, Ms. Dierdorf was summoned to the Circuit Attorney’s conference room, where Ms. Dierdorf was interviewed by the St. Louis City Metropolitan Police Department’s Internal Affairs Division. (Dierdorf, R. 875)

In addition to the Internal Affairs representatives, Ms. Barrett and Mr. Postawko were also present. (Dierdorf, R. 873)

During this second interview, Ms. Dierdorf was asked questions and provided the same information she had provided to her supervisors the prior afternoon, that Detective Carroll had assaulted a suspect and Ms. Worrell had brought charges against the same

suspect. (Barrett, R. 551; Dierdorf, R. 873-74, 937) Thus, Ms. Dierdorf again omitted information indicating Ms. Worrell knew about Detective Carroll's assault when Ms. Worrell brought criminal charges against the same suspect. (Dierdorf, R. 874) Again, Ms. Dierdorf has admitted her omission on every subsequent occasion, including to the Federal Bureau of Investigations, to the Informant when responding to the disciplinary complaint, in her Answer to the Information, and in her Hearing testimony.

After her interview by Internal Affairs Division, Ms. Dierdorf again returned to work.

Dierdorf is sent home the afternoon of July 25, 2014. Later, on July 25, 2014, after Ms. Dierdorf participated in Jane Doe's mock trial attended by her supervisors, Ms. Dierdorf was summoned to Ms. Orwick's office. (Dierdorf, R. 876) Ms. Orwick and Ms. Barrett were present. Saying they did not believe Ms. Dierdorf had been completely honest, they sent Ms. Dierdorf home early, telling her to return to work on Monday, July 28. (Dierdorf, R. 876, 937-38)

During the meeting on July 25, 2014, Ms. Dierdorf attempted to make a full disclosure of all she knew to Ms. Barrett and Ms. Orwick. Ms. Barrett and Ms. Orwick declined to let Ms. Dierdorf correct her earlier omissions, instead telling Ms. Dierdorf that it was not the appropriate time. (Dierdorf, R. 881, 938, 961)

Voicemail and texts to Barrett on Saturday, July 26, 2014. On July 26, 2014, Ms. Dierdorf again attempted to provide a full disclosure of all she knew, including the information she had not disclosed to her supervisors on July 24 and to Internal Affairs Division on July 25. Ms. Dierdorf contacted Ms. Barrett via telephone to further supplement the information she had provided to her supervisors about the situation by

coming clean about what she knew and when. (Dierdorf, R. 880) Ms. Barrett did not answer the telephone, so Ms. Dierdorf left a voicemail message offering to provide more information. (Barrett, R. 554; Dierdorf, R. 940-41) Ms. Barrett responded with a text message informing Ms. Dierdorf that it was not appropriate for them to talk about it right now, but that Ms. Dierdorf could tell someone additional information on Monday. (Barrett, R. 554; Dierdorf, R. 940-41) Ms. Dierdorf indicated that she wanted to disclose everything from start to finish, whether it was relevant or not. (R. 941)

Neither Ms. Barrett nor any other supervisor followed up with Ms. Dierdorf to learn what additional information Ms. Dierdorf wanted to disclose. (Barrett, R. 554; Orwick, R. 508)

Arrival at work the morning of Monday, July 28, 2014. On Monday July 28, 2014, Ms. Dierdorf reported for work as usual, about 8:00 AM. After several hours sitting in her office working on files, Ms. Dierdorf was sent home. (Dierdorf, R. 882, 942) Ms. Dierdorf was then contacted and asked to return to the Circuit Attorney's Office that afternoon. (Dierdorf, R. 882, 942)

At approximately 4:00 PM, Ms. Dierdorf returned to the office and met with Ms. Orwick and Jane Darst, the First Assistant Circuit Attorney. (Orwick, R. 509-10; Dierdorf, R. 883, 944) Ms. Darst and Ms. Orwick informed Ms. Dierdorf that Ms. Dierdorf could resign or she would be discharged. (Orwick, R. 510; Dierdorf, R. 883) Ms. Dierdorf elected to resign. (Orwick, R. 510; Dierdorf, R. 943)

During this afternoon meeting on Monday, July 28, 2014, Ms. Dierdorf again tried to provide all additional information that she knew about Detective Carroll's and Ms. Worrell's misconduct, as Ms. Barrett had suggested on Saturday, July 26, 2018. But Ms.

Darst and Ms. Orwick indicated they did not want to hear such information – including after she was informed that her employment with the Circuit Attorney was ending. (Dierdorf, R. 883; Orwick, R. 511)

Ms. Dierdorf officially submitted her resignation via email on Tuesday, July 29, 2014, less than a week after Carroll had assaulted the person suspected of stealing his daughter’s credit card. (Dierdorf, R. 943)

Dierdorf voluntarily produces documents and submits to interviews by the Federal Bureau of Investigation and United States Attorney in August and September 2014. In early August 2014, Ms. Dierdorf learned that a federal investigation had commenced into Detective Carroll’s and Ms. Worrell’s misconduct. (R. 885, 945)

Through counsel, Ms. Dierdorf contacted the federal investigators, and on August 11, 2014, Ms. Dierdorf appeared voluntarily and was interviewed by the Federal Bureau of Investigation (“FBI”) and Office of the United States Attorney. (Dierdorf, R. 885-86, 945) During this interview, Ms. Dierdorf answered all questions she was asked truthfully. (Dierdorf, R. 886)

Ms. Dierdorf’s candor and full disclosure to the FBI and United States Attorneys was confirmed by Ms. Dierdorf’s criminal defense counsel Jeffrey Jensen, the current United States Attorney for the Eastern District of Missouri. (Dierdorf, R.995-96) After being reminded and stating that he understood Ms. Dierdorf had waived confidentiality and privileges with regard to Mr. Jensen’s representation (R. 995), current United States Attorney Jensen testified as follows:

Question: Are you aware of any information that Miss Dierdorf intentionally withheld from the FBI and Mr. Goldsmith during that interview on August 11?

USA Jensen: I am not aware of any such information.

Question: Do you believe that she was fully forthcoming and answered all questions to the best of her ability?

USA Jensen: I believe she was and did.

Question: And do you believe that her testimony was truthful?

USA Jensen: Yes, I do.

Question: Are you aware of any misstatement by Miss Dierdorf that was made intentionally during that testimony?

USA Jensen: Not that's material. I don't remember everything that was asked and answered three and a half years ago, but if something were material, I think I would have remembered it.

Question: . . . Are you aware of any information relevant to the Worrell-Carroll incident where Miss Dierdorf was not fully forthcoming?

USA Jensen: I am not.

(R. 995-96)

After her initial voluntary interview on August 11, 2014, Ms. Dierdorf also voluntarily produced to the Federal Bureau of Investigations more than 3,000 pages of text messages, all the text messages that Ms. Dierdorf retained from communications with the

employees of the Circuit Attorney's Office. (Dierdorf, R. 888) United States Attorney Jensen also testified that Ms. Dierdorf had voluntarily provided the Federal Bureau of Investigations with 3,000 pages of text messages, and that no text messages were withheld from the production. (Jensen, R. 998)

Subsequently, after voluntarily producing the 3,000 pages of text messages, Ms. Dierdorf met with the Federal Bureau of Investigation and United States Attorney's Office a second time on September 9, 2014. (Dierdorf, R. 888; Jensen, R. 967) During this second interview, Ms. Dierdorf again answered all questions she was asked truthfully. (Dierdorf R. 889) Even Assistant United States Attorney Goldsmith agreed that Ms. Dierdorf was completely forthcoming during this interview. (Goldsmith, R. 311; Dierdorf, r. 891)

The information that Ms. Dierdorf provided to the Federal Bureau of Investigation and United States Attorney's Office helped advance their investigations. (Jensen, R. 998-99) Those investigations resulted in the convictions of Detective Carroll and Ms. Worrell, and this Court's disbarment of Ms. Worrell.

Practice and conduct since August 2014. After resigning from the Circuit Attorney's Office in August 2014, Ms. Dierdorf ran a solo practice briefly before gaining admission to the Colorado Bar and accepting employment with the Denver Office of the Municipal Public Defender in February 2016. (Dierdorf, R. 954) Ms. Dierdorf has practiced as a Denver public defender for almost three years, receiving – as will be disclosed momentarily – excellent reviews and without any incidents suggesting Mr. Dierdorf should now be prevented from practicing law.

Testimony of good character. Ms. Dierdorf provided substantial testimony to support her good character. Most notably, Ms. Dierdorf's current supervisor Alice Norman

reported that, as a Denver public defender, Ms. Dierdorf was “ethical, professional, and committed to upholding the highest standards of the legal profession,” a “leader and an extraordinarily hard worker” who is a “tireless advocate” for her clients and a lawyer upon whom the office relies. (Dierdorf, R. 955; Norman Letter, R. 1609)

Likewise, Ms. Dierdorf’s former opposing counsel on many Denver criminal cases, Mallory Revel, provided Ms. Dierdorf with high praise for Ms. Dierdorf’s ethics and dedication to her clients:

As opposing counsel, I quickly noted [Ms. Dierdorf] was very skilled and also brought a lot of compassion to her position. Denver has a fairly unique population in municipal court, or at least we believe we do. Ms. Dierdorf’s clients are largely homeless, mentally ill, and many abuse a variety of substances. I have had the opportunity to watch [Ms. Dierdorf] interact with an endless number of clients in court, and she treats everyone with the dignity and respect they deserve, but are often not afforded in our legal system. Aside from her dealings with people on a basic human level, [Ms. Dierdorf] is also a talented advocate and trial attorney. I have dealt with many court-appointed attorneys in my years as a prosecutor, and she truly sets the standard for the knowledge, professionalism, and passion a public defender should have.

(Dierdorf, R. 959; Revel Letter, R. 1610)

Ms. Revel also shared experiences handling cases opposite Ms. Dierdorf on a specialty prosecution docket involving women charged with prostitution offenses or who have trauma-related issues that brought them into the criminal justice system. (R. 960, 1610) Ms. Revel writes, “Working with Ms. Dierdorf to help those women has been one of the great honors of my career.” (Dierdorf, R. 960; Revel Letter, R. 1611)

Relying upon such testimony, the Hearing Panel found support for Ms. Dierdorf’s good character and reputation.

Hearing Panel recommends an admonition. The Hearing Panel heard the case against Ms. Dierdorf and two other respondents – Ms. Schuessler and Jane Doe – over three days, January 30 and 31 and February 9, 2018. Throughout the Hearing, Ms. Dierdorf admitted she had not been forthcoming three-and-a-half years earlier during the interviews with her supervisors and Internal Affairs on July 24 and 25, 2014. (Dierdorf, R. 730) Ms. Dierdorf indicated a reprimand would be an appropriate penalty. (Closing Argument for Dierdorf, R. 1234)

After hearing extensive testimony from nine witnesses, the Hearing Panel recommended that Ms. Dierdorf should receive an admonition. (R. 1819-20) Informant rejected the suggested admonition on June 21, 2018. (R. 1821)

The preferred admonition rejected, the Hearing Panel recommends a reprimand. On July 5, 2018, the Hearing Panel issued a second decision finding Ms. Dierdorf's testimony credible that she was failing to be forthcoming during the July 24 and July 25 interviews, and recommended Ms. Dierdorf receive a reprimand. (R. 1823-27)

Informant rejects the recommendation of a reprimand. Again, Informant the Hearing Panel's recommendation. (R. 1828)

This proceeding followed.

POINTS RELIED UPON

1. THE UNDISPUTED FACTS, COMPELLING EVIDENCE IN MITIGATION, AND APPLICABLE MISSOURI PRECEDENT SUPPORT MS. DIERDORF SHOULD RECEIVE AT MOST A REPRIMAND FOR HER MISCONDUCT.

In re Peter Goss, SC94915 (Mo. June 30, 2015)

In re Thomas Margolis, SC95609 (Mo. May 24, 2016)

In re Sanford Kriegel, 480 S.W.3d 294 (Mo. 2016)

2. THE EVIDENCE DIRECTLY CONTRADICTS INFORMANT'S STALE ASSERTIONS THAT MS. DIERDORF KNEW MS. WORRELL FILED A FALSE CHARGE, THAT MS. DIERDORF INSTRUCTED MS. SCHUESSLER TO LIE, AND THAT MS. DIERDORF LIED TO FEDERAL INVESTIGATORS.

ARGUMENT

Preliminary statement. Ms. Dierdorf has stipulated and consistently admitted that she was less than forthcoming during the July 24, 2014 meeting with Ms. Orwick, Ms. Barrett, and Mr. Postawko, as well as during her July 25, 2014, meeting with the Police Department’s Internal Affairs Division. The undisputed evidence also shows that Ms. Dierdorf promptly sought to correct her errors, later in the day on July 25, as well as on July 26 and July 28, before Ms. Dierdorf was finally able to make a full disclosure to the Federal Bureau of Investigations and Office of the United States Attorney on August 11, 2014.

Standard of review. In lawyer discipline cases, this Court reviews the disciplinary hearing record and the evidence *de novo*. *In re Wiles*, 107 S.W.3d 228 (Mo. 2003). This Court then “decides the facts *de novo*, independently determining all issues pertaining to credibility of witnesses and the weight of the evidence, and draws its own conclusions of law.” *In re Eisenstein*, 485 S.W.3d 759, 762 (Mo. 2016).

Standard for imposition of discipline. The twin aims of the Missouri lawyer discipline system are “to protect the public and maintain the integrity of the legal profession,” not to punish the lawyer. *In re Coleman*, 295 S.W.3d 857, 869 (Mo. 2009). In assessing the proper sanction, this Court has recognized the ABA Standards for Imposing Lawyer Sanctions (the “ABA Standards”) provide useful guidance for appropriate discipline. *In re Madison*, 282 S.W.3d 850, 860 (Mo. 2009). Consideration is given to the nature of the conduct at issue, as well as any evidence in aggravation or mitigation. ABA Standard 9.1.

POINT RELIED #1: The undisputed facts, compelling evidence in mitigation, and applicable Missouri precedent support Ms. Dierdorf should receive at most a reprimand for her misconduct.

This case rests upon serious misconduct. A police officer assaulted a suspect and a prosecutor filed charges – including a possible false charge³ – potentially to help conceal that assault. But the perpetrators of these misdeeds are not before this Court in this proceeding. Rather, Detective Carroll and Ms. Worrell have already suffered significant punishments – criminal convictions and in Ms. Worrell’s case disbarment – for their egregious misconduct. No one believes this case is about imposing penalties for the assault or the filing of potentially false charges.

The case against Ms. Dierdorf instead focuses solely upon her failure to make full disclosures during the interview on the afternoon of July 24, 2014, and the second interview on the morning of July 25, 2014. Ms. Dierdorf has repeatedly admitted she did not disclose all she knew during those two interviews, specifically that she failed to tell her supervisors at the Circuit Attorney’s Office and later the Police Department’s Internal Affairs Division that Ms. Worrell knew of Detective Carroll’s assault when Ms. Worrell filed criminal charges against the same suspect. The question as to Ms. Dierdorf, therefore, is and should be what sanction Ms. Dierdorf should receive for failing on the afternoon of July 24 and

³ As discussed below, it is Ms. Dierdorf’s understanding that Ms. Worrell has always disputed whether she filed a false charge. Ms. Dierdorf does not know about the facts of the underlying criminal case (ultimately dismissed by the Circuit Attorney) to know whether every charge that Ms. Worrell filed was appropriate.

the morning of July 25 to disclose that Ms. Worrell knew Detective Carroll had assaulted the suspect when she filed charges against that suspect.

Objective consideration of all aspects of Ms. Dierdorf's misconduct support imposition of no more than a reprimand. When making this determination, four undisputed facts deserve particular consideration. Those facts are:

First, lacking any knowledge about any prior disclosures by anyone (because Ms. Dierdorf knew nothing about Ms. Collins and Ms. Schuessler's conversation with Ms. Barrett at lunchtime on July 24, 2014), Ms. Dierdorf readily disclosed two significant facts, one adverse to a person she considered a good friend, when Ms. Dierdorf was unexpectedly called into a meeting with her supervisors and asked what she knew about Detective Carroll's and Ms. Worrell's actions. Those disclosed facts were that: (1) Detective Carroll had assaulted the person suspected of stealing his daughter's credit card; and (2) on July 23, 2014, Ms. Worrell had filed charges against this same suspect. (Orwick, R. 441; Barrett, R. 547-48; Dierdorf, R. 863)⁴

Undisputed, Ms. Dierdorf also provided the same two pieces of information – that Detective Carroll had assaulted the suspect and that Ms. Worrell had filed charges against the same suspect – the very next day, July 25, 2014, when unexpectedly (again) interviewed by Internal Affairs before her supervisors.

Notably, when asked similar questions, Jane Doe failed to disclose even the two pieces of information that Ms. Dierdorf disclosed. Yet Informant has agreed charges against Jane Doe should be dismissed.

⁴ Mr. Postawko did not testify at the Hearing.

Second, less than 24 hours after making a less than complete disclosure, Ms. Dierdorf immediately sought to remedy that incomplete disclosure and tell her supervisors everything she knew. Having made the incomplete disclosures on the afternoon of Thursday, July 24, and morning of Friday, July 25, Ms. Dierdorf told her supervisors that she wished to provide additional information regarding the Carroll-Worrell incident (a) during a meeting the afternoon of Friday, July 25; (b) through a voicemail and text messages exchanged with Ms. Barrett on Saturday, July 26; and (c) during another in-person meeting the afternoon of Monday, July 28. Each time, the supervisors declined to let Ms. Dierdorf make a full disclosure. But Ms. Dierdorf certainly deserves credit for this obvious show of remorse, and energetic effort to correct her prior mistake.

Third, as soon as the Federal Bureau of Investigations and Office of the United States Attorney were willing, Ms. Dierdorf came forward voluntarily, without immunity, and appeared for an interview; provided a thorough and truthful disclosure of what she knew, answering all questions truthfully; and turned over 3,000 pages of text messages to the Federal Bureau of Investigation and U.S. Attorney's Office. Ms. Dierdorf's disclosures were made just as federal investigators were beginning their work. Ms. Dierdorf thus provided substantial assistance to the federal investigation that obtained convictions against Detective Carroll and Ms. Worrell (Jensen, R. 998-99).⁵

⁵ A close review of Mr. Goldsmith's testimony reveals one detail he believes Ms. Dierdorf failed to reveal during her initial voluntary interview by the Federal Bureau of Investigations: details of the telephone conference on July 24, 2014.

In light of United States Attorney Jensen's testimony that Ms. Dierdorf was forthcoming and answered all questions asked, it appears no question were asked about this telephone conference during the initial interview. Perhaps the Federal Bureau of Investigations and

Fourth, although Ms. Dierdorf did not know it at the time, the information Ms. Dierdorf had not disclosed the afternoon of July 24 and the morning of July 25 was already known to the people with whom Ms. Dierdorf was speaking. At lunchtime on Thursday, July 24, Ms. Collins and Ms. Schuessler had told their and Ms. Dierdorf's supervisor Ms. Barrett that Ms. Worrell knew of Detective Carroll's assault at the time Ms. Worrell filed the criminal charges. Ms. Collins also apparently told Ms. Barrett that Ms. Worrell might have filed false charges. (Barrett, R. 547) Thus, when Ms. Barrett participated in the meeting with Ms. Dierdorf on the afternoon of July 24, 2014, Ms. Barrett already knew the very information Ms. Dierdorf was later criticized for not disclosing. And Ms. Barrett never disclosed this information or asked Ms. Dierdorf specifically what Ms. Worrell knew or did not know prior to filing the charges. (Barrett, R. 549)

Thus, Ms. Dierdorf had failed to disclose information already known to her supervisors, and then promptly sought to remedy her mistaken failure to make a complete disclosure – only to have the same supervisor, among others, reject Ms. Dierdorf's remedial efforts.

Evidence in mitigation further supports a less severe sanction should be imposed on Ms. Dierdorf. Misconduct like Ms. Dierdorf's certainly does not merit sanctions of the severity Informant's counsel seeks, particularly when all mitigating factors are considered.

Mr. Goldsmith erred and failed to ask an appropriate question to learn about that call. Or perhaps the Federal Bureau of Investigations was no longer focused on that call, because of the other evidence it was receiving, primarily through Ms. Dierdorf's cooperation. In any event, there is no coherent argument Ms. Dierdorf was less than candid during the first FBI interview, particularly when she appeared voluntarily for a second interview without discussing or obtaining immunity.

As noted earlier, this Court has stated that it is appropriate to consider factors in mitigation as set forth in ABA Standard 9.32 when deciding what sanction should be imposed on a lawyer for misconduct. *In re Madison*, 282 S.W.3d at 860. The mitigating factors listed in ABA Standard 9.32 are:

- (a) absence of a prior disciplinary record;
- (b) absence of a dishonest or selfish motive;
- (c) personal or emotional problems;
- (d) timely good faith effort to make restitution or to rectify consequences of misconduct;
- (e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings;
- (f) inexperience in the practice of law;
- (g) character or reputation;
- (h) physical disability;
- (i) mental disability or chemical dependency including alcoholism or drug abuse [];
- (j) delay in disciplinary proceedings;
- (k) imposition of other penalties or sanctions;
- (l) remorse; and
- (m) remoteness of prior offenses.

Ms. Dierdorf offers compelling evidence that, at minimum, eight of these factors support imposition of a less severe sanction. The eight relevant mitigating factors are: (a) absence of a prior disciplinary record; (b) absence of a dishonest or selfish motive; (d)

timely efforts to rectify the consequences of her misconduct; (e) full and free disclosure and cooperation with disciplinary counsel; (f) inexperience in the practice of law; (g) good character and reputation; (k) imposition of other penalties and sanctions; and (l) remorse.

Specifically, first, Ms. Dierdorf has no prior discipline. And, since the Carroll-Worrell incident four-and-a-half years ago, Ms. Dierdorf has not had any further disciplinary issues.

Second, there is no indication that Ms. Dierdorf failed to disclose information to protect or enrich herself. Rather, Ms. Dierdorf apparently omitted information in a misguided effort to help her friend, Ms. Worrell. (Dierdorf, R. 961)

Third, Ms. Dierdorf made timely efforts to remedy her misconduct, including reaching out to her supervisors to offer further information on July 25, July 26, and July 28, as well as voluntarily providing information and cooperating fully with the Federal Bureau of Investigations and Office of the United States Attorney in August and September 2018, as the federal government commenced its investigation into the Carroll-Worrell incident. Such efforts are discussed in full above.

Fourth, Ms. Dierdorf has cooperated fully with disciplinary counsel, admitting her failure to disclose in her initial response to the complaint, in her Answer to the Information, and in her testimony before the Hearing Panel.

Fifth, Ms. Dierdorf had only very limited experience in the practice of law at the time of the Carroll-Worrell incident, in July 2014. Ms. Dierdorf had been licensed for two years, but she had received little meaningful experience or professional development before joining the Circuit Attorney's Office or at the Circuit Attorney's Office. (Dierdorf, R. 962) Ms. Dierdorf's inexperience – as well as her misplaced loyalty to a friend – played

a role in Ms. Dierdorf's mistakes during the Carroll-Worrell incident.

Sixth, Ms. Dierdorf has suffered consequences separate from this disciplinary proceeding. Ms. Dierdorf lost her job at the Circuit Attorney's Office immediately, concurrent with Ms. Worrell losing her job. (Dierdorf, R. 962-63) Further, as the daughter of a well-known St. Louis sports figure, former St. Louis Cardinal football player, Football Hall of Fame Inductee, and major sports announcer Dan Dierdorf, Ms. Dierdorf's involvement in this matter has resulted in significant hostile media coverage, such that Ms. Dierdorf – who had herself served as a role model to young female athletes as one of St. Louis's best female high school athletes – testified about the embarrassment and harm she has brought her family, and her regret for having done so. (R. 901; *see also* R. 895-901 (discussing Ms. Dierdorf's father's football and sports announcing career, Ms. Dierdorf's own sports career, and her upbringing as the daughter of a public figure, a well-known youth athlete, and a role model)).

Seventh, Ms. Dierdorf has demonstrated excellent character and reputation while serving a very valuable role for our society, a public defender. Two Denver attorneys, Ms. Dierdorf's supervisor and former opposing prosecutor – provided written character letters in support of Ms. Dierdorf's character, reputation, and high ethical standards. Ms. Dierdorf's current supervisor, Ms. Norman, reported that Ms. Dierdorf was “ethical, professional, and committed to upholding the highest standards of the legal profession,” a “leader and an extraordinarily hard worker” who is a “tireless advocate” for her clients and a lawyer upon whom the office relies. (R. 955, 1609) Likewise, Ms. Dierdorf's former opposing counsel, former Assistant [Denver] City Attorney, Mallory A. Revel, similarly gave Ms. Dierdorf a very strong recommendation. (R. 1610-11) Additionally, when Ms.

Dierdorf applied for the Colorado Bar and for a position as a public defender in Denver, Ms. Dierdorf had to disclose details pertaining to the July 2014 incident. (R. 979, 981-83) The Colorado bar nevertheless granted Ms. Dierdorf's admission.

Finally, eighth and most important, Ms. Dierdorf obviously feels and has shown considerable remorse for her mistakes in July 2014. (R. 963) Ms. Dierdorf recognizes that there was absolutely no reason for her to not be honest from the start – she was not involved in the filing of false charges, she was not implicating herself. (R. 963) Ms. Dierdorf testified that on a personal level she has struggled with the fact that she was not honest sooner and the chances it created problems for other people. (R. 963-64)

Prior precedent supports a sanction of reprimand (or less). When Ms. Dierdorf's misconduct and evidence and mitigation are compared to Missouri precedent, it becomes clear a reprimand is an appropriate sanction. In *In re Peter Goss*, SC94915 (June 30, 2015), for example, attorney Goss received a reprimand after he misrepresented to a third party that a settlement offer had been received but not accepted, in the hopes that third party would then reduce its lien. Similarly, in *In re Thomas Margolis*, SC95609 (May 24, 2016), attorney Margolis received a reprimand when he misrepresented his location to the court and opposing counsel to avoid appearing in-person for a hearing. Margolis also resolved issues for clients without their proper authorization.

Admittedly Ms. Dierdorf was concealing much more egregious misconduct of other persons, but the misconduct of Detective Carroll and Ms. Worrell, in both *Goss* and *Margolis* the misrepresentations related to the lawyer's handling of a pending case. Further, neither *Goss* nor *Margolis* referenced evidence of prompt efforts akin to Ms. Dierdorf's to remedy the negative consequences of the misconduct, and neither *Goss* nor *Margolis* can

and did marshal such powerful evidence in mitigation as Ms. Dierdorf has done, including limited experience in the practice of law, full cooperation, and the extreme remorse Ms. Dierdorf has exhibited.

Further, cases where a lawyer received a stayed suspension for misconduct involve circumstances much greater than Ms. Dierdorf's conduct. In *In re Kriegel*, 480 S.W.3d 294 (Mo. 2016), a termination of parental rights proceeding, lawyer Kriegel asked questions of his client the mother that caused the court to be misled into believing the father was not interested in appearing at the hearing or asserting parental rights, despite Kriegel's clear knowledge the father had wanted to appear and assert his parental rights. Kriegel's misconduct deprived the father of custody of his son for months. This Court nevertheless imposed a stayed suspension.

Just as Ms. Dierdorf's misconduct is less severe than the conduct at issue in *Goss* and *Margolis*, where the lawyers received reprimands, Ms. Dierdorf's conduct is also considerably less severe – and had less serious ill consequences – than the misconduct in *Kriegel*. Further, again, Kriegel lacks powerful evidence in mitigation, such as Ms. Dierdorf's relative experience in the practice of law, cooperation with disciplinary authorities, prompt efforts to remedy, and remorse. Accordingly, Ms. Dierdorf should receive a sanction no greater than a reprimand.

POINT RELIED #2: The evidence directly contradicts Informant's stale assertion that Ms. Dierdorf knew Ms. Worrell filed a false charge, that Ms. Dierdorf instructed Ms. Schuessler to lie, and that Ms. Dierdorf lied to federal investigators.

Finally, Informant's counsel seeks a more severe penalty against Ms. Dierdorf largely by trying to shape the evidence to fit a preferred but inaccurate narrative. Informant totally omits certain information. For example, it appears uncontroverted Ms. Dierdorf made efforts to reach her supervisors, correct her prior omissions, and make a full disclosure at the meeting on the afternoon of July 25, by voicemail and text on July 26, and at the meeting on the afternoon of July 28, are not mentioned in Informant's brief. But these three efforts appear to receive no notice in Informant's Brief.

Further, Informant's counsel attempts to rely solely on the testimony of Mr. Goldsmith, even on issues about which Mr. Goldsmith is obviously wrong. For example, while certainly everyone reasonably informed suspects Ms. Worrell filed a false fleeing charge to help conceal Detective Carroll's assault, Ms. Worrell has never admitted filing a false charge. In fact, Ms. Worrell pled guilty to misprision of a felony, not filing a false charge. (Ms. Worrell's Plea Agreement, R. 1581; *see also* Dierdorf, R. 806-07) When confronted with the exact nature of Ms. Worrell's guilty plea, Mr. Goldsmith vainly attempts to conflate misprision and the filing of a false charge. (R. 307) Yet Informant takes this further, attacking Ms. Dierdorf for not "admitting" misconduct by Ms. Worrell about which no one (except Ms. Worrell and possibly the police officer who asked her to prepare the charges) can really be certain. Also, in making its push, Informant's brief omits that, when pressed, both Ms. Schuessler and Ms. Collins backed away – under oath – from

their prior conclusive assertions about the filing of false charges, and whether Ms. Dierdorf had indicated she had knowledge or only suspicions regarding whether false charges had been filed. (Collins, R. 412; Schuessler, R. 711)

Informant's counsel also claims that Ms. Dierdorf lied to the Federal Bureau of Investigation on numerous material matters. But this ignores (a) Ms. Dierdorf had already disclosed significant evidence to her own supervisors and Internal Affairs weeks before meeting with Federal Bureau of Investigation; (b) Ms. Dierdorf had also spoken with Ms. Schuessler on the afternoon of July 25, and thus knew investigators already knew Ms. Worrell knew she was filing charges against the suspect Detective Carroll had assaulted. Further, no reasonable criminal defense attorney – as Mr. Jensen certainly was before he became the United States Attorney – would have allowed a client to appear for a voluntary interview by the Federal Bureau of Investigations twice and without immunity, if there was any possibility the client had lied at the first meeting.

Finally, Informant's argument ignores the testimony of Mr. Jensen, the current United States Attorney, that Ms. Dierdorf was completely truthful every time she spoke to federal investigators. (Jensen, R. 995-96) Apparently, such evidence does not fit the narrative Informant's counsel wants you to accept, so such facts are wholly ignored.

Finally, Informant's counsel ignores that Ms. Dierdorf lacked a close relationship with Ms. Collins that would make it likely Ms. Dierdorf could control her testimony; herself disclosed facts adverse to Ms. Worrell and Detective Carroll; and told Jane Doe to be truthful. In light of these facts, it seems highly improbable that Ms. Dierdorf would have told Ms. Collins and Ms. Schuessler to hide what they knew about the Carroll-Worrell

incident, only moments before both Ms. Collins and Ms. Worrell marched down to Ms. Barrett's office and disclosed all their suspicions.

Throughout this entire disciplinary process, Ms. Dierdorf has been candid, remorseful, and admittedly blameworthy in the misconduct she committed. The Hearing Panel heard all the testimony, saw all the evidence, and decided Ms. Dierdorf deserved an admonition, or at most a reprimand.

Conclusion. Proper consideration of all evidence in this case, as well as the applicable precedent, support that Ms. Dierdorf receive a sanction no greater than a reprimand. This Court should therefore follow the Hearing Panel's guidance as to the appropriate sanction. Any more severe sanction against Ms. Dierdorf would unduly inhibit an admirable, young attorney remorseful for her prior misconduct and now demonstrating the highest character, from representing clients who desperately need her passionate, effective representation. Therefore, Ms. Dierdorf asks that this Court impose discipline no greater than a reprimand.

Respectfully submitted,

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The undersigned hereby certifies that a copy of the foregoing document was served via email, this 19th day of December, 2018, to the following:

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CERTIFICATE OF COMPLIANCE

The undersigned certifies that this brief includes the information required by Rule 55.03. It was drafted using Microsoft Word. The font is Times New Roman, proportional 13-point font, which includes serifs. The brief complies with Rule 84.06(b) in that it contains 9640 words.

/s/ Michael P. Downey _____