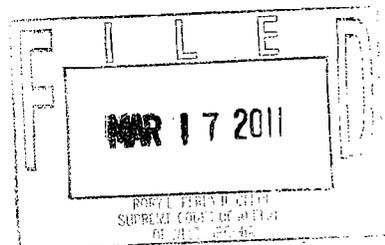


**BEFORE THE SUPREME COURT OF APPEALS  
STATE OF WEST VIRGINIA**

**OFFICE OF DISCIPLINARY COUNSEL,**

**Petitioner,**



**vs.**

**No. 11-0480**

**John A. Grafton, a member  
of the West Virginia State Bar,**

**Respondent.**

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**PETITION SEEKING IMMEDIATE SUSPENSION  
OF RESPONDENT'S LAW LICENSE PURSUANT TO RULE 3.27 OF  
THE RULES OF LAWYER DISCIPLINARY PROCEDURE AND  
APPOINTMENT OF TRUSTEE TO PROTECT CLIENT INTERESTS  
PURSUANT TO RULES 3.27 AND 3.29 OF  
THE RULES OF LAWYER DISCIPLINARY PROCEDURE**

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**NOW COMES** the Office of Disciplinary Counsel by Jessica H. Donahue, Senior Lawyer Disciplinary Counsel, pursuant to Rule 3.27 of the West Virginia Rules of Lawyer Disciplinary Procedure, and moves the Court to immediately suspend Respondent from the practice of law. Respondent has committed violations of the West Virginia Rules of Professional Conduct, poses a substantial threat of irreparable harm to the public, and has effectively abandoned his clients and his law practice.

Furthermore, pursuant to Rules of Lawyer Disciplinary Procedure Rules 3.27(c) and 3.29, the Office of Disciplinary Counsel requests the Court appoint or authorize the Chief

Judge of Putnam County to appoint another lawyer to serve as Trustee to protect the interests of Respondent's clients. In support of this Petition, Office of Disciplinary Counsel states as follows:

**STATEMENT OF FACTS**

1. John A. Grafton (hereinafter "Respondent") is a lawyer last known practicing in Winfield, West Virginia. Respondent was admitted to the West Virginia State Bar on October 2, 1995, and is therefore subject to the lawyer disciplinary jurisdiction of the Supreme Court of Appeals of West Virginia and the Lawyer Disciplinary Board.
2. Respondent maintained a general practice in Winfield, West Virginia, and his last known address is 3655 Winfield Road, Suite 1, Winfield, West Virginia 25213.
3. On or about October 1, 2007, Respondent was reprimanded by this Honorable Court for his failure to respond to Disciplinary Counsel and failure to communicate with clients.
4. On or about October 23, 2009, a new Statement of Charges was filed against Respondent based, in part, on Respondent's failure to respond to the Office of Disciplinary Counsel and failure to communicate with clients. In that case, Respondent failed to respond to any letters sent by the Office of Disciplinary Counsel and failed to respond to a subpoena served upon him. On or about February 23, 2010, Respondent did appear at the hearing in the matter. Thereafter, Respondent has failed to participate in the case. The case is currently pending before this Honorable Court on a briefing schedule. An oral argument has not been set at this time.

5. Respondent currently has eight (8) formal ethics complaints open and under investigation by the Office of Disciplinary Counsel. All of these complaints generally allege a lack of diligence, lack of communication, and failure to expedite litigation. Six (6) of these complaints were received on or after July 22, 2009. Respondent has not provided a response to six (6) of these complaints. A second request for a response has been sent in six (6) of these cases, but Respondent has not provided a response or contacted Disciplinary Counsel requesting an extension to respond.
6. Disciplinary Counsel has attempted to telephone Respondent's law office on several occasions and the phone number has been disconnected.
7. Respondent's clients have also contacted the Office of Disciplinary Counsel to advise of the same.
8. Disciplinary Counsel has attempted to contact Respondent at his law office and the front door was locked. No one answered after knocking on the door.
9. Respondent's clients have also contacted the Office of Disciplinary Counsel to advise of the same.
10. The Office of Disciplinary Counsel was advised that on Thursday, March 17, 2011, a default judgment was entered against Respondent in Putnam County, West Virginia Magistrate Court, Case No. 11-C-48. The default judgment orders Respondent to vacate his law office located at 3655 Winfield Road, Suite 1, Winfield, West Virginia, 25213 at 5:00 p.m. It is assumed that client files are housed in Respondent's law office and therefore, client files need to be protected if eviction is accomplished.

11. It is evident that Respondent has abandoned his law office. Such abandonment, along with Respondent's recent pattern of misconduct, demonstrates that his clients' interests are at substantial risk. Respondent's conduct has caused irreparable injury and he currently poses a continued significant threat to the public.

**APPLICABLE RULES OF LAWYER DISCIPLINARY PROCEDURE**

12. Rule 3.27(a) of the Rules of Lawyer Disciplinary Procedure provides that upon receipt of sufficient evidence demonstrating that a lawyer has committed a violation of the Rules of Professional Conduct and poses a substantial threat of irreparable harm to the public, the Office of Disciplinary Counsel shall conduct an immediate investigation. Upon completion of the investigation, Rules of Lawyer Disciplinary Procedure Rule 3.27(b) provides that the Office of Disciplinary Counsel shall file a report with this Court indicating whether, in the opinion of Disciplinary Counsel, the lawyer's commission of a violation poses a substantial threat of irreparable harm to the public.
13. Pursuant to Rule 3.27(c), upon receipt of this report, the Court, upon determining the existence of good cause, shall provide notice of the charges to the lawyer with the right to a hearing in not less than thirty (30) days before the Court. After such hearing, the Court may temporarily suspend the lawyer or may order such other action as it deems appropriate until underlying disciplinary proceedings before the Lawyer Disciplinary Board have been completed.

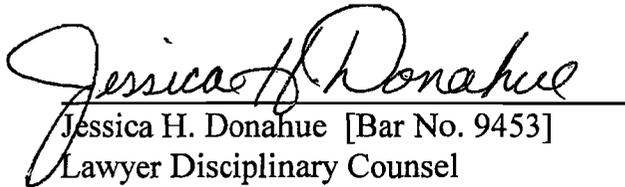
14. With this report, Disciplinary Counsel expresses the opinion that Respondent has apparently committed numerous violations of the Rules of Professional Conduct including, but not limited to: abandonment of his law office; neglect of cases; failure to respond to inquiries from his clients; failure to expedite litigation; and failure to respond to requests for information from Disciplinary Counsel. This misconduct poses a substantial threat of irreparable harm to the public.
15. The leading emergency suspension case in West Virginia notes that a pattern of deceitful activity toward clients constitutes evidence of a substantial threat of irreparable harm to the public. Office of Disciplinary Counsel v. Battistelli, 193 W.Va. 629, 638, 457 S.E.2d 652, 661 (1995) (immediate suspension granted pending outcome of disciplinary charges).
16. To protect his clients and the public, Respondent should be immediately suspended pending the outcome of the disciplinary matters currently pending against him.
17. Furthermore, to protect his clients, a lawyer should be appointed or authorized to serve as Trustee pursuant to Rules 3.27(c) and 3.29 of the Rules of Lawyer Disciplinary Procedure

**WHEREFORE**, the Office of Disciplinary Counsel moves that this Honorable Court:

1. Immediately suspend Respondent's license pending review of these matters; and

2. Appoint or authorize the appointment of a Trustee to protect Respondent's clients' interests and take other such steps as deemed necessary.

*Respectfully submitted,*  
Office of Disciplinary Counsel  
By Counsel



Jessica H. Donahue [Bar No. 9453]  
Lawyer Disciplinary Counsel

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4700 MacCorkle Avenue, S.E.  
Charleston, West Virginia 25304  
(304) 558-7999  
(304) 558-4015 Facsimile

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**CERTIFICATE OF SERVICE**

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This is to certify that I, **Jessica H. Donahue**, Lawyer Disciplinary Counsel for the Office of Disciplinary Counsel, have this day, the 17<sup>th</sup> day of March, 2011, served a true copy of the foregoing **"PETITION SEEKING IMMEDIATE SUSPENSION OF RESPONDENT'S LAW LICENSE PURSUANT TO RULE 3.27 OF THE RULES OF LAWYER DISCIPLINARY PROCEDURE AND APPOINTMENT OF TRUSTEE TO PROTECT CLIENT INTERESTS PURSUANT TO RULES 3.27 AND 3.29 OF THE RULES OF LAWYER DISCIPLINARY PROCEDURE "** upon Respondent, John A. Grafton, by mailing the same via United States Mail, with sufficient postage, to the following addresses:

John A. Grafton, Esquire  
3655 Winfield Road, Suite 1  
Winfield, West Virginia 25213

John A. Grafton Esquire  
Post Office Box 738  
Winfield, West Virginia 25213

  
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Jessica H. Donahue