

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FOURTH JUDICIAL DEPARTMENT

Matter of Cunningham

2026 NY Slip Op 02584 · Decided April 24, 2026

SUMMARY

The Appellate Division, Fourth Department, found Diana G. Cunningham guilty of professional misconduct involving neglect of two client matters, failure to communicate, inadequate billing, withdrawal without protecting a client, and untimely attorney registration. The court imposed a three-year suspension, stayed on conditions including compliance with attorney-conduct rules, participation in mental health monitoring and attorney mentoring, and submission of quarterly reports. The decision notes respondent's prior disciplinary history and permits the Grievance Committee to seek vacatur of the stay for further misconduct or noncompliance.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
WRITING FOR THE COURT	Per Curiam; Lindley, J.P.; Ogden, J.; Nowak, J.; DelConte, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
DECIDED	April 24, 2026
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding in which the Grievance Committee moved to confirm a referee's report sustaining three charges of professional misconduct and for a final order of discipline.
STANDARD OF REVIEW	The Court independently reviewed and confirmed the referee's factual findings and determined the appropriate disciplinary sanction.
PRECEDENTIAL VALUE	Published
PARTIES	Grievance Committee of the Seventh Judicial District v. Diana G. Cunningham

TOPICS

- appellate procedure
- family law procedure
- family law
- civil procedure

PRACTICE AREAS

legal ethics

attorney discipline

family law

QUESTIONS PRESENTED

1. Whether the referee's factual findings sustaining three charges of professional misconduct should be confirmed.
2. Whether respondent violated the cited New York Rules of Professional Conduct, domestic-relations billing requirements, and attorney-registration requirements.
3. What disciplinary sanction was appropriate in light of respondent's misconduct, mitigation, and prior disciplinary history.

HOLDINGS

1. The Court confirmed the referee's factual findings sustaining the charges against respondent.
2. Respondent was guilty of professional misconduct and violated Rules 1.3(b), 1.4(a)(3), 1.16(e), 8.4(d), and 8.4(h) of the New York Rules of Professional Conduct, 22 NYCRR 1400.2, Judiciary Law § 468-a, and 22 NYCRR 118.1.
3. A three-year suspension from the practice of law, until further order of the Court, was appropriate, but the suspension was stayed subject to respondent's compliance with attorney-conduct requirements, avoidance of further disciplinary proceedings, participation in mental-health monitoring and attorney mentoring, quarterly reporting, and limits on active cases.

KEY QUOTATIONS

“Accordingly, after consideration of all the factors in this matter, we conclude that respondent should be suspended from the practice of law for a period of three years and until further order of this Court.” ([*1])

“We direct, however, that the period of suspension be stayed on condition that respondent comply with the statutes and rules governing the conduct of attorneys and that she not become the subject of any grievance investigation, action, or proceeding or any application for discipline or sanctions in any court.” ([*1])

FACTUAL BACKGROUND

Respondent accepted \$8,000 to pursue an appeal in a domestic relations matter but failed to obtain the appellate record, file the promised extension motion, respond to the client's inquiries, or provide timely billing statements and a refund. In a second domestic relations matter, she failed to prepare a directed settlement agreement, attend a scheduled virtual conference, respond to communications, or continue the representation with notice. She also failed to timely comply with attorney registration requirements for the 2022–2023 biennial period and had a substantial prior disciplinary history, including a public censure and a six-month suspension.

PROCEDURAL HISTORY

The Grievance Committee filed a petition alleging that respondent neglected two client matters, failed to communicate with clients, failed to provide required billing statements, withdrew without protecting a client's

interests, engaged in conduct prejudicial to the administration of justice, and failed to comply with attorney registration requirements. Respondent answered, and the Court appointed a referee. After a hearing, the referee sustained the charges and made findings concerning aggravating and mitigating factors. The Appellate Division confirmed the referee's factual findings, found respondent guilty, and imposed a three-year suspension stayed subject to specified conditions.

DISPOSITION

other

CASES CITED

- Matter of Cunningham, 38 AD3d 138 (4th Dept 2007)
- Matter of Cunningham, 149 AD3d 199 (4th Dept 2017)

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