

Matter of Mike Singh SETHI, Attorney

Decided October 1, 2026¹

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

An attorney suspended for submitting a brief containing artificial intelligence hallucinations and making false statements to the court regarding his use of artificial intelligence is properly subject to reciprocal discipline and is therefore suspended from practicing before the Board, the Immigration Courts, and the Department of Homeland Security.

FOR THE RESPONDENT: Salma A. Attia, Esquire, Union, New Jersey

FOR EXECUTIVE OFFICE FOR IMMIGRATION REVIEW, OFFICE OF GENERAL COUNSEL: Nathan S. Henriksen, Disciplinary Counsel

FOR THE DEPARTMENT OF HOMELAND SECURITY: Catherine M. O’Connell, Disciplinary Counsel

BEFORE: Board Panel: MULLANE and CREPPY, Appellate Immigration Judges, WHITE, Temporary Appellate Immigration Judge.

MULLANE, Appellate Immigration Judge:

The respondent will be suspended from practice before the Board of Immigration Appeals, the Immigration Courts, and the Department of Homeland Security (“DHS”) for 6 months, effective June 13, 2026.

On June 3, 2026, the United States Court of Appeals for the Ninth Circuit issued a decision suspending the respondent from the practice of law in the Ninth Circuit for a period of 6 months, effective 10 days from the date of its decision, or on June 13, 2026. *Malkeet Lnu v. Blanche*, 177 F.4th 1014 (9th Cir. 2026). On June 15, 2026, the Disciplinary Counsel for the Executive Office for Immigration Review (“EOIR”) and the Disciplinary Counsel for DHS filed a Joint Notice of Intent to Discipline (“Initial NID”), as well as a Joint Petition for Immediate Suspension, based upon the respondent’s suspension in the Ninth Circuit. On July 1, 2026, the Board granted the Joint Petition for Immediate Suspension. *See*

¹ The Board has designated as precedent this decision, which was previously issued unpublished on September 15, 2026. Editorial changes have been made consistent with the designation of the case as a precedent.

8 C.F.R. §§ 1003.103(a)(1), (4) (2026) (discussing grounds for immediate suspension).

On July 6, 2026, the respondent filed a Motion to Set Aside the Board's immediate suspension order ("Motion to Set Aside"). On July 15, 2026, Disciplinary Counsels for EOIR and DHS filed an Amended Joint Notice of Intent to Discipline ("Amended NID").² On July 16, 2026, the respondent filed an Answer to the Initial NID. On July 28, 2026, Disciplinary Counsels for EOIR and DHS filed a response to the respondent's Motion to Set Aside and a Motion for Summary Adjudication on the amended NID. On August 14, 2026, the respondent filed an Answer to the Amended NID, which we deem to supersede his July 16, 2026, Answer to the Initial NID. Finally, on August 24, 2026, the respondent filed an Omnibus Brief in Further Support of the Motion to Set Aside and Reply in Opposition to Counsels' Motion for Summary Adjudication ("Omnibus Brief").

I. MOTION TO SET ASIDE THE IMMEDIATE SUSPENSION

The respondent argues that the Board's immediate suspension order should be set aside by regulation based on good cause and in the interest of justice. Specifically, the respondent argues that (1) his continued practice of law before EOIR and DHS does not pose an undue risk of harm to the public; (2) the risk identified by the Ninth Circuit can be addressed through disclosure or verification requirements; (3) the likelihood of a broader final sanction is not established in the present record; (4) the balance of injuries strongly favors avoiding immediate suspension; (5) there is a substantial dispute regarding his knowing lack of candor before the Ninth Circuit—a factor that was key to his suspension by that court; (6) he has made extensive remedial efforts to reduce future risks of misconduct; and (7) there are significant consequences of a suspension to his clients. The respondent further contends that the public interest favors a tailored protective response to the disciplinary charges in lieu of an automatic system-wide suspension.

² The Amended NID omitted the allegation in the Initial NID that the respondent had not timely notified EOIR or DHS Disciplinary Counsels of the Ninth Circuit's suspension order, as required by 8 C.F.R. § 292.3(c)(4) (2026) and § 1003.103(c). In lieu of that allegation, the Amended NID newly alleged that the respondent had timely notified Disciplinary Counsels of the Ninth Circuit's suspension order on July 2, 2026. The Amended NID also newly proposed that Disciplinary Counsels' proposed suspension period should run from the effective date of the Ninth Circuit's suspension order, instead of from the date of issuance of the Board's immediate suspension order. The Amended NID did not otherwise substantively change the contents of the Initial NID.

We are unpersuaded by these arguments. The regulations require the Board to enter an order immediately suspending a practitioner upon the filing of a petition for immediate suspension that is supported by a certified copy of a court record finding that the practitioner has been suspended or disbarred by any Federal court. 8 C.F.R. § 1003.103(a)(1), (4). The record includes a certified copy of the June 3, 2026, decision suspending the respondent from practice before the Ninth Circuit. Therefore, entry of an order immediately suspending the respondent from practice before the Board, the Immigration Courts, and DHS is proper. *Id.*

As advanced by the respondent the regulations state that the Board may set aside an order of immediate suspension upon a showing of good cause and when it appears in the interest of justice to do so. 8 C.F.R. § 1003.103(a)(4).

We have carefully considered the respondent's arguments and evidence provided with his Motion to Set Aside and his Omnibus Brief. We conclude that the respondent has not established good cause for setting aside the immediate suspension order or that it would be in the interest of justice to do so.

As set forth below in our discussion of his answer to the Amended NID, the respondent has not rebutted the regulatory presumption that disciplinary sanctions before EOIR and DHS should follow the Ninth Circuit's suspension order. *See* 8 C.F.R. § 1003.103(b)(2)(i)–(iii); *Matter of Truong*, 24 I&N Dec. 52, 54 (BIA 2006). Given the specific findings of misconduct and sanctions imposed by the Ninth Circuit, we are unpersuaded that the respondent's continued practice of law before EOIR and DHS does not pose an undue threat to the public or that lesser sanctions than suspension suffice.

Further, the respondent's claims of hardship to his clients are conclusory, lacking in detail, and speculative in nature, and they are insufficient to warrant setting aside the immediate suspension order. We also conclude that the imposition of restrictions on the respondent's practice before EOIR and DHS is consistent with the provision of a tailored response to his misconduct before the Ninth Circuit. That is particularly so given that our period of suspension will not exceed that of the Ninth Circuit's, as set forth below.

An "attorney" who may represent individuals is defined in the regulations as

any person who is eligible to practice law and is a member in good standing of the bar of the highest court of any State, possession, territory, or Commonwealth of the

United States, or of the District of Columbia, and is not under any order suspending, enjoining, restraining, disbaring, or otherwise restricting him in the practice of law.

8 C.F.R. § 1001.1(f) (2026). It is undisputed that the respondent is under an order restricting him from practicing law in the Ninth Circuit. It is not in the interest of justice to set aside the immediate suspension order where there is a current final order of suspension against the respondent that renders him ineligible to satisfy the regulatory definition of an “attorney” under 8 C.F.R. § 1001.1(f). *See Matter of Rosenberg*, 24 I&N Dec. 744, 746 (BIA 2009). Should the respondent obtain a stay or other relief from the Ninth Circuit’s order of suspension, this issue may be revisited and reconsidered. *See Professional Conduct for Practitioners—Rules and Procedures, and Representation and Appearances*, 73 Fed. Reg. 76914, 76920 (Dec. 18, 2008) (“If an immediate suspension was solely predicated upon a state bar suspension that was vacated, it would be in the interests of justice for the Board to set aside its immediate suspension order.”). But at this time and on this record, the respondent has not made a showing that the Ninth Circuit’s suspension order has been vitiated or otherwise altered in any way since its issuance. Accordingly, we will not set aside or vacate the immediate suspension order in this case.

II. RESPONDENT’S ANSWER TO AMENDED NID AND DHS’ MOTION FOR SUMMARY ADJUDICATION

The Amended NID charges the respondent with being subject to summary discipline based on his 6-month suspension before the Ninth Circuit. In his response, the respondent has admitted the factual allegations in the Amended NID.

In his Answer to the Amended NID, and again in his Omnibus Brief, the respondent claims that a hearing before an adjudicating official is required based on disputes in material facts as to whether (1) there is “an infirmity of proof,” as described in 8 C.F.R. § 1003.103(b)(2)(ii), for the Ninth Circuit’s determination that he knowingly exhibited a lack of candor before the court—a factor that played an important role in the sanction imposed; and (2) the imposition of discipline by our own tribunal would result in a “grave injustice.” 8 C.F.R. § 1003.103(b)(2)(iii). Specifically, the respondent contests the sufficiency of the evidence that he knew that certain errors in his filings were caused by the use of artificial intelligence (“AI”) and that he knowingly attempted to deceive the court about the AI use. The respondent further contends that his disputed lack of knowledge is relevant to whether discipline would result in a “grave injustice,” as described in 8 C.F.R. § 1003.106(b)(2)(iii), as is a factual dispute between himself and

Disciplinary Counsels concerning his present staffing level and his firm's related ability to handle immigration matters during his suspension.

The respondent has not made a *prima facie* showing that there is a material issue of fact in dispute that would warrant a hearing. *See* 8 C.F.R. § 1003.106(a)(1) (2026). The respondent's various assertions regarding his lack of knowledge of the use of AI in his court filings are not and have never been in dispute. The Ninth Circuit acknowledged the respondent's claimed subjective lack of knowledge and belief that the errors in his initial brief were innocent errors and/or typographical mistakes and not made by AI. *Makeet Lnu*, 177 F.4th at 1023, 1029–31. The court also considered the respondent's ultimate concession, after his repeated denials of AI use, that it was "more likely than not" that AI had, in fact, been used. *Id.* at 1023. However, the court still inferred the respondent's actual knowledge of the AI errors in the brief and his related knowing provision of false statements to the court from the circumstances presented. *Id.* at 1029-31. The court specifically cited the respondent's (1) implausible claim in the Motion to Correct that a nonexistent case cited in the initial brief was merely a "typographical error;" (2) admitted practice of not reading the cases in the firm's brief writers' briefs prior to filing; (3) continued insistence in his response to an Order to Show Cause why he should not be sanctioned that at the time of the Motion to Correct, he believed the errors were products of innocent typographical mistakes; and (4) the respondent's filing of a "Notice of Errata" in another case before the court wherein he had (a) identified two erroneous citations in prior filings and requested to replace them with real citations, but (b) failed to disclose that the two erroneous citations were actually AI hallucinations. *Id.*

The respondent has not identified any specific material, disputed facts concerning his knowledge of the use of AI or his candor to the court that would warrant further hearing. The respondent's arguments are effectively a collateral attack on the findings of fact and conclusions of law of the Ninth Circuit on these issues, which we have no authority to entertain in these proceedings. We only address the Ninth Circuit's order within the context of deciding whether the respondent can meet his heavy burden of showing by clear and convincing evidence a fundamental error in the court's proceedings, or a grave injustice that would result from further discipline, that would warrant rebuttal of the presumption that summary discipline should be imposed. *See* 8 C.F.R. § 1003.103(b)(2)(i)–(iii). Mere disagreement with the reasoning and result of the originating disciplinary court does not trigger the requirement for a hearing before an adjudicating official under 8 C.F.R. § 1003.106(a).

Additionally, we are authorized to determine an appropriate sanction in summary discipline proceedings given the circumstances presented. The respondent's conclusory, vague, and unsubstantiated claims concerning the burdens of suspension upon his practice and his clients are by themselves insufficient to warrant further fact-finding in a proceeding before an adjudicating official. Accordingly, we will retain jurisdiction and proceed in summary discipline proceedings. *See* 8 C.F.R. § 1003.106(a).

We agree with Disciplinary Counsels that summary discipline is appropriate. The certified copy of the June 3, 2026, decision from the Ninth Circuit ordering the respondent suspended from the practice of law in the Ninth Circuit for a period of 6 months creates a "rebuttable presumption of the professional misconduct" and that disciplinary sanctions should follow. 8 C.F.R. § 1003.103(b)(2); *see also Matter of Kronegold*, 25 I&N Dec. 157, 160 (BIA 2010); *Matter of Truong*, 24 I&N Dec. at 54; *Matter of Ramos*, 23 I&N Dec. 843, 845 (BIA 2005). This presumption can be rebutted only if the attorney demonstrates with "clear and convincing evidence" that the underlying disciplinary proceedings resulted in a deprivation of due process, that there was "an infirmity of proof" establishing the misconduct, or that discipline would result in "grave injustice." *Matter of Kronegold*, 25 I&N Dec. at 160 (citation omitted); *accord Matter of Gadda*, 23 I&N Dec. 645, 648 (BIA 2003). The respondent has not satisfied his burden of rebutting the presumption of misconduct and the imposition of disciplinary sanctions, including suspension.

The respondent has not demonstrated a deprivation of his due process rights to notice and an opportunity to be heard in his Ninth Circuit disciplinary proceedings. Thus, this avenue for rebuttal of the presumption does not apply.

As indicated previously, the respondent claims that there is an "infirmity of proof" as to his knowing use of AI and related lack of candor before the Ninth Circuit. He relies on the absence of (1) direct evidence of an admission by him that he knew a brief writer had used AI in the initial brief; (2) an admission by the writer identifying an AI tool or output; (3) draft history or metadata tracing the brief's language to AI; (4) a prompt or response; (5) evidence that he was responsible for separate statements made by a subordinate attorney during oral argument before the Ninth Circuit; (6) witness testimony that he was informed that AI had been used prior to his filing of the Motion to Correct; and (7) direct evidence of his deliberate concealment of the use of AI. To support his claims, the respondent submits as evidence a copy of his Declaration in Response to the Ninth Circuit's Order to Show Cause that he submitted with the court.

To rebut the presumption of professional misconduct in this regard, the respondent must show by clear and convincing evidence that there is “such an infirmity of proof establishing [his] professional misconduct as to give rise to the clear conviction that the adjudicating official could not, consistent with his or her duty, accept as final the conclusion on that subject.” 8 C.F.R. § 1003.103(b)(2)(ii). That burden has not been met here. As the Ninth Circuit explained, the respondent’s actual knowledge of the use of AI could be inferred from the circumstances under applicable law. *Malkeet Lnu*, 177 F.4th at 1029. The Ninth Circuit inferred from the circumstances that the respondent knew when he filed his Motion to Correct that the errors in the initial brief were not innocent typographical or copy-paste errors because there was no plausible explanation for how the fake citations he provided to the court in the initial brief could have been the result of innocent typographical or copy-paste errors. *Id.* at 1029–30. The Ninth Circuit also inferred the respondent’s knowledge from his prior admission that he did not normally vet citations used by brief writers, which itself created an “inherent risk” of citing fake cases and authorities. *Id.* (citation omitted). As further evidence of the respondent’s actual knowledge and related lack of candor to the court, the Ninth Circuit cited (1) the respondent’s continued insistence in his response to an Order to Show Cause that at the time of the Motion to Correct he believed the errors were products of innocent typographical mistakes, as well as (2) similar misconduct by the respondent in another case before the court. *Id.* The respondent does not meaningfully challenge these determinations. On this record, the respondent has not met his heavy burden of establishing by clear and convincing evidence that there was such an infirmity of proof of his actual knowledge of the AI use and his related lack of candor before the Ninth Circuit such that we cannot accept the court’s decision as final on those issues. *See* 8 C.F.R. § 1003.103(b)(2)(ii).

Finally, the respondent asserts that imposing the reciprocal definition of suspension would result in “grave injustice.” 8 C.F.R. § 1003.103(b)(2)(iii). Specifically, he claims that (1) suspending him at DHS and EOIR would be duplicative, disregard lesser forms of remediation, and impose a materially broader disability on his ability to practice and greater hardships than the sanction imposed by the Ninth Circuit; (2) reciprocal discipline for misconduct related to the use of AI is an “unprecedented sanction” that has not been used by the Board; (3) no other Federal circuit courts have suspended attorneys for actions related to their use of generative AI; and (4) automatically extending a suspension sanction within the context of AI usage would “magnify an outlier penalty rather than simply giving ordinary reciprocal effect to a routine disciplinary judgment.”

We are unpersuaded by any of these arguments. First, the claims of financial hardship and other difficulties that accompany a suspension from the practice of law do not equate to grave injustice. *See, e.g., Matter of Kronegold*, 25 I&N Dec. at 162 (“If the financial hardship that accompanies suspension from the practice of law was in itself adequate to establish grave injustice, then almost any attorney whose livelihood was based on his legal practice could avoid reciprocal discipline.”).

Additionally, an attorney must conduct himself or herself in accordance with governing rules of professional conduct regardless of the tools he or she uses to prepare and present cases. The Ninth Circuit disciplined the respondent for citing cases that did not exist, attributing quotations to opinions in which the quoted language did not appear, misrepresenting the content of real legal authority, failing to identify existing law he claimed supported his arguments, knowingly making false statements of law to the court, and failing to correct false statements of law previously made to the tribunal. *Malkeet Lnu*, 177 F.4th at 1027–31. Any or all of these actions can be taken with or without regard to the use of AI, and any or all of them may render an attorney subject to discipline by an authorized tribunal. As such, the application of our rules of attorney discipline to misconduct related to the use of AI is not an “outlier penalty,” as the respondent claims.

Disciplinary Counsels have established that the respondent is subject to reciprocal discipline due to his suspension in the Ninth Circuit. *See* 8 C.F.R. § 1003.103(b)(2); *see also* 8 C.F.R. § 1003.102(e) (2026). Disciplinary Counsels’ proposed sanction of a 6-month suspension, effective from the effective date of the Ninth Circuit’s order, is appropriate in light of the respondent’s suspension in the Ninth Circuit. *See Matter of Kronegold*, 25 I&N Dec. at 161 (discussing our deferential approach and the imposition of identical reciprocal discipline against practitioners who have been suspended or disbarred). The respondent will therefore be suspended from practice before the Board of Immigration Appeals, the Immigration Courts, and DHS for 6 months. The respondent’s suspension will be effective as of June 13, 2026, the effective date of the Ninth Circuit’s order of discipline. Accordingly, the following orders will be entered.

ORDER: The Board hereby suspends the respondent from practice before the Board of Immigration Appeals, the Immigration Courts, and DHS for 6 months, effective June 13, 2026.

FURTHER ORDER: The respondent must maintain compliance with the directives set forth in our prior order. The respondent must notify the Board of any further disciplinary action against him.

FURTHER ORDER: The contents of the order shall be made available to the public, including at the Immigration Courts and appropriate offices of DHS.

FURTHER ORDER: The respondent may petition this Board for reinstatement to practice before the Board, the Immigration Courts, and DHS under 8 C.F.R. § 1003.107.