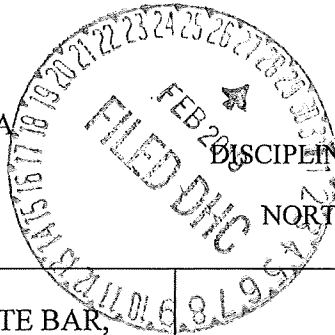


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
18 DHC 42

THE NORTH CAROLINA STATE BAR,
Plaintiff

v.

MEREDITH P. EZZELL, Attorney,
Defendant

CONSENT ORDER OF DISCIPLINE

This matter was considered by a Hearing Panel of the Disciplinary Hearing Commission composed of Allison C. Tomberlin, Chair, and members, Maya Madura Engle and John M. Kane, Jr., pursuant to North Carolina Administrative Code, Title 27, Chapter 1, Subchapter B, § .0115(i). Plaintiff was represented by Joshua T. Walthall and Alex G. Nicely. Defendant, Meredith P. Ezzell, appeared *pro se*. Defendant waives a formal hearing in this matter. The parties stipulate and agree to the findings of fact and conclusions of law recited in this order, and consent to the discipline imposed by this order. By consenting to the entry of this order, Defendant knowingly, freely, and voluntarily waives her right to appeal this consent order or to challenge in any way the sufficiency of the findings and conclusions herein.

Based upon the pleadings in this matter, the parties' stipulations of fact, facts developed during the pending litigation, and with the consent of the parties, the Hearing Panel hereby finds by clear, cogent, and convincing evidence the following:

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar ("State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the rules and regulations of the North Carolina State Bar promulgated thereunder.

2. Defendant, Meredith P. Ezzell ("Defendant"), was admitted to the North Carolina State Bar in 1996 and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the Rules of Professional Conduct.

3. Defendant was properly served with the summons and complaint in this matter.

4. During the relevant period referred to herein, Defendant was actively engaged in the practice of law in the State of North Carolina and maintained a law office in Wilmington.

5. In June 2017, Defendant held out to J.R., a North Carolina resident in need of legal representation before the U.S. Bankruptcy Court for the Eastern District of North Carolina ("the Bankruptcy Court"), that Defendant would provide her with legal services.

6. In June 2017, J.R. retained Defendant and paid to Defendant a \$300.00 retainer fee for representation in a Chapter 7 bankruptcy petition.
7. In September 2017, J.R. paid \$1,600.00 to Defendant, \$373.00 of which was for filing fees and credit counseling fees, and the remainder of which was for attorney's fees.
8. Throughout September and October 2017, J.R. corresponded with Defendant's legal assistant, delivered requested documents, completed a course on credit counseling and took time off work for the date that her petition was scheduled to be filed.
9. On the morning of J.R.'s appointment regarding her petition, Defendant's legal assistant called J.R. and explained that Defendant had cancelled their appointment.
10. J.R. continued to reach out to Defendant's office regarding re-scheduling the appointment.
11. After several months of requesting updates regarding her file and receiving no response, J.R. went to Defendant's office in February 2018 to retrieve her file and request a refund, but Defendant was not there.
12. Defendant did not provide to J.R. the legal services for which Defendant had collected legal fees.
13. In or around February 2018, J.R. terminated her relationship with Defendant and paid another attorney to represent her before the Bankruptcy Court.
14. On April 13, 2018, Defendant refunded to J.R. the \$373.00 that Defendant had collected for filing fees and credit counseling fees.
15. On August 31, 2018, Defendant refunded to J.R. \$100.00 of the attorney's fees collected from J.R.
16. Defendant has not refunded the remaining \$1,427.00 in attorney's fees collected from J.R. for work that was not performed.
17. On November 9, 2017, Defendant was scheduled to appear in the Bankruptcy Court to represent a client, S.H.
18. On November 8, 2017, Defendant filed a motion to continue the November 9, 2017 hearing.
19. The Bankruptcy Court granted Defendant's motion to continue and scheduled the hearing for December 7, 2017.
20. On December 7, 2017, less than one hour prior to the scheduled hearing, Defendant filed another motion to continue the hearing.
21. Defendant did not appear in court on December 7, 2017.

22. On December 8, 2017, the Bankruptcy Court granted the motion to continue and rescheduled the hearing for January 10, 2018.

23. Despite the fact that Defendant did not file a motion to continue the January 10, 2018 hearing, Defendant did not appear at such hearing, forcing S.H. to represent himself.

24. From November of 2017 to May of 2018, Defendant was absent from her law office and failed to adequately communicate with her clients.

25. From November of 2017 to May of 2018, Defendant did not perform, supervise the creation of, or sign monthly or quarterly reconciliations of her trust account.

26. From November of 2017 to May of 2018, Defendant did not review bank statements and cancelled checks or complete or sign transaction reviews of her trust account.

27. From November of 2017 to May of 2018, Defendant failed to supervise her legal assistant and permitted her assistant to engage in the unauthorized practice of law by allowing her assistant to draft and file pleadings without the supervision or involvement of an attorney.

28. From November of 2017 to May of 2018, Defendant, via her website, held herself and her firm out to clients as able to provide them with legal services.

29. From November of 2017 to May of 2018, Defendant claimed on her website, *inter alia*: "I will personally attend to all of the details of your case[.]"

30. From November of 2017 to May of 2018, Defendant did not appear in her office or personally attend to her clients' cases.

31. From November of 2017 to May of 2018, Defendant failed to provide her clients with the legal services for which she had previously been paid.

32. In April of 2018, the Bankruptcy Court entered a consent order in which Defendant's CM/ECF filing privileges were suspended and Defendant was ordered not to represent any bankruptcy clients until further order of the Court.

Based upon the foregoing Findings of Fact and with the consent of the parties, the Hearing Panel makes the following:

CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Panel and the DHC has jurisdiction over Defendant, Meredith P. Ezzell, and over the subject matter of this proceeding.

2. Defendant's conduct, as set out in the stipulated Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct as follows:

- a) By failing to provide J.R. the legal services for which she was retained, Defendant failed to act with diligence in violation of Rule 1.3;

- b) By failing to respond to J.R.'s phone calls and requests for information about her case, Defendant failed to communicate with her client in violation of Rule 1.4(a) and Rule 1.4(b);
- c) By collecting fees from J.R. for legal services she did not provide, Defendant collected illegal or excessive fees in violation of Rule 1.5(a);
- d) By failing to refund unearned fees and failing to communicate with J.R. upon termination of the representation, Defendant failed to take steps to protect her client's interests upon termination in violation of Rule 1.16(d);
- e) By claiming to clients via her website that she would provide them with legal representation and personally attend to their cases during a time when she knew she was not attending to her cases or even going into her law office, Defendant misrepresented the services she would provide in violation of Rule 7.1(a);
- f) By failing to appear in court on behalf of S.H., Defendant engaged in activity that was prejudicial to the administration of justice in violation of Rule 8.4(d);
- g) By allowing her nonlawyer paralegal to provide legal services to J.R., Defendant failed to take reasonable measures to ensure that a nonlawyer assistant acted in accordance with the professional obligations of the profession and aided another in the unauthorized practice of law, a criminal act that reflects adversely on a lawyer's professional fitness in violation of Rule 5.3(b), Rule 5.5(f) and Rule 8.4(b); and
- h) By failing to conduct monthly and quarterly reconciliations, review bank statements and cancelled checks, and complete or sign transaction reviews, Defendant violated Rule 1.15-3(d), Rule 1.15-3(i)(1), and Rule 1.15-3(i)(2).

Based upon the consent of the parties, the Hearing Panel also finds by clear, cogent, and convincing evidence the following:

ADDITIONAL FINDINGS OF FACT REGARDING DISCIPLINE

1. The findings of fact and conclusions of law above are reincorporated as if set forth herein.
2. Defendant has a history of alcohol and marijuana abuse.
3. Defendant was under the influence of alcohol and marijuana at the time of the events described above.
4. After the events described above, Defendant sought treatment for her alcohol and marijuana abuse. Defendant successfully completed a thirty-day inpatient program at The Shores Treatment and Recovery and an eight-week intensive outpatient program with Pavillon by the Sea.
5. In April of 2018, the Bankruptcy Court entered a consent order in which Defendant's CM/ECF filing privileges were suspended and Defendant was ordered not to represent any bankruptcy clients until further order of the Court.

6. In August of 2018, the Bankruptcy Court, after finding that Defendant had sufficiently recovered from her drug-abuse issues so as to no longer be a danger to her clients, entered an order reinstating Defendant's CM/ECF filing privileges and permitting Defendant to represent clients in the U.S. Bankruptcy Court for the Eastern District of North Carolina, subject to certain terms and conditions.

7. Defendant has agreed to repay her client, J.R., \$1,427.00 for unearned and excessive attorney's fees.

8. The Hearing Panel has carefully considered all of the different forms of discipline available to it, including admonition, reprimand, censure, suspension, and disbarment, in determining the appropriate discipline to impose in this case.

Based upon the Findings of Fact, Conclusions of Law, and Additional Findings of Fact Regarding Discipline, and with the consent of the parties, the Hearing Panel also enters the following:

CONCLUSIONS REGARDING DISCIPLINE

1. The Hearing Panel has considered all of the factors enumerated in 27 N.C. Admin. Code 1B.0116(f)(1) of the Discipline and Disability Rules of the North Carolina State Bar and concludes that the following factors that warrant suspension or disbarment are present:

- (a) Elevation of Defendant's own interest above that of the client;
- (b) Negative impact of Defendant's actions on the administration of justice; and
- (c) Impairment of the client's ability to achieve the goals of the representation.

2. The Hearing Panel has considered all of the factors enumerated in 27 N.C. Admin. Code 1B.0116(f)(2) of the Discipline and Disability Rules of the North Carolina State Bar and concludes that no factors are present that would warrant disbarment.

3. The Hearing Panel has considered all of the factors enumerated in 27 N.C. Admin. Code 1B.0116(f)(3) of the Discipline and Disability Rules of the North Carolina State Bar and concludes the following factors are applicable in this matter:

- (a) A pattern of misconduct;
- (b) Interim rehabilitation;
- (c) Defendant's full and free disclosure to the Hearing Panel and cooperative attitude toward the proceedings; and
- (d) Imposition of other penalties or sanctions.

4. The Hearing Panel has considered issuing an admonition, reprimand or censure but concludes that such discipline would not be sufficient. The Hearing Panel concludes that such discipline would fail to acknowledge the seriousness of the violations committed by Defendant and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar in this State.

5. The Hearing Panel has considered all alternatives and concludes that a suspension is necessary to adequately protect the public. The Hearing Panel finds that an order imposing discipline short of suspension would not be appropriate.

Based upon the foregoing Findings of Fact, Conclusions of Law, Additional Findings of Fact Regarding Discipline and Conclusions Regarding Discipline, and based upon the consent of the parties, the Hearing Panel enters the following:

ORDER OF DISCIPLINE

1. Defendant, Meredith P. Ezzell, is hereby suspended from the practice of law for three years, effective thirty days from service of this order upon Defendant.

2. Defendant is taxed with the costs and administrative fees of this action as assessed by the Secretary. Defendant shall pay the costs and administrative fees within thirty days of service of the statement of costs and administrative fees upon her.

3. The three-year suspension is stayed for a period of three years as long as Defendant complies, and continues to comply during the period of the stay, with the following conditions:

- (a) Defendant shall pay the administrative fees and costs of this proceeding as assessed by the Secretary of the State Bar within thirty days of service of the statement of fees and costs upon her;
- (b) Defendant shall inform the U.S. Bankruptcy Court for the Eastern District of North Carolina of this discipline and accept and abide by any and all sanctions or requirements established by that court concerning her practice before that court;
- (c) Each year of the stay, Defendant shall complete three additional hours of Continuing Legal Education ("CLE") courses on the subject of substance abuse. This CLE requirement is in addition to the CLE requirements set out in North Carolina Administrative Code, Title 27, Chapter 1, Subchapter D § .1518. These courses must be completed within the applicable time period for completing the CLE hours required under North Carolina Administrative Code, Title 27, Chapter 1, Subchapter D § .1518 each year of the stay and must be reported on the annual CLE report forms;
- (d) Defendant shall arrange for an active member of the North Carolina State Bar who is in good standing who practices law in the county in which Defendant primarily practices and who has been approved in advance by the State Bar Office of Counsel to serve as her practice monitor. The selected monitor must agree to serve and agree to meet with Defendant monthly to review Defendant's cases. Each month, the monitor must go over at least one case in detail in each area of law in which Defendant is practicing, with discussion including but not limited to identification of applicable statutory and regulatory authorities, identification of potential legal issues, plan of representation, and the appropriate roles of Defendant's nonlawyer assistants in each case. Defendant shall come prepared each month to discuss these topics in her cases with her practice monitor. Defendant shall ensure that the monitor submits written quarterly reports of these meetings and discussions to the Office of Counsel; such reports are due on the following dates as they occur during the stay of this suspension: October 15, January 15, April 15, and July 15. This monitoring must occur for the

duration of the stay of this suspension. Defendant will pay all costs, if any, charged by the monitor. No later than thirty days from service of this Order upon Defendant, Defendant must have made arrangements for this monitoring attorney and supplied the Office of Counsel with a letter from the monitoring attorney confirming her agreement to perform the duties listed above;

- (e) Within the first thirty days of the stay period, Defendant shall execute a three-year contract with the Lawyer's Assistance Program (LAP), and Defendant shall provide a copy of her LAP contract to the Office of Counsel. Defendant shall comply with and complete the terms of her LAP contract. Defendant shall sign a written release authorizing the Office of Counsel to communicate with LAP personnel about Defendant's participation in LAP and Defendant's compliance or noncompliance with the LAP contract, and authorizing the Office of Counsel to obtain copies of records relating to Defendant's participation in and compliance or noncompliance with LAP. Defendant shall ensure that LAP provides to the Office of Counsel quarterly reports indicating the nature of the ongoing treatment and Defendant's compliance or noncompliance with contract. The reports will be due by January 15, April 15, July 15, and October 15 during the period of the stay. It is Defendant's obligation to ensure that the reports are timely submitted. Defendant will sign all necessary releases or documents to authorize LAP to make these reports. If Defendant is referred to a third-party treatment provider through LAP or if Defendant engages with a third-party treatment provider during the stay period, Defendant shall simultaneously sign a written release authorizing the Office of Counsel to communicate with such treatment provider(s) and authorizing the Office of Counsel to obtain copies of records relating to her treatment, including medical records. Defendant shall not revoke any releases required by this paragraph during the period of the stay. Defendant shall comply with any request for information concerning her participation in and compliance with LAP or concerning her pursuit or receipt of treatment from a third-party treatment provider within ten days of receiving such a request. Defendant is solely responsible for all costs associated with compliance with this paragraph;
- (f) Defendant shall not possess, use or consume any alcohol, controlled substances or any prescription drugs other than as authorized by her treating physician and obtained with a lawful prescription from a licensed pharmacy during the entire period of this suspension;
- (g) Defendant shall enroll in FirstLab Professional Health Monitoring Program or other service agreed to in advance by the Office of Counsel of the North Carolina State Bar (hereinafter "monitoring laboratory") within thirty days of the effective date of this Order of Discipline. Such monitoring will be at Defendant's expense. Such monitoring will include daily call-ins and random testing for the substances identified by the North Carolina State Bar. Such monitoring will include at least thirteen random drug screens per year for a period of one year. Compliance shall include having no failures to test and having no positive test results that are not consistent with proper authorized use of a prescribed medication. The monitoring agreement with the monitoring laboratory will require the monitoring laboratory to report to the North Carolina State Bar the following: any failure of Defendant to call in; any failure of Defendant to submit a required testing sample at a location approved by the monitoring laboratory when directed to do so by the monitoring laboratory; any failure of Defendant to pay for a

test; dilution in excess of the parameters set by the monitoring laboratory or any attempt by Defendant to alter the required testing sample or impair the ability of the testing to detect alcohol or controlled substances in the testing sample; and any positive test result. If there is any positive test result, Defendant shall cooperate in any medical review to determine whether the positive test result is consistent or inconsistent with any authorized medications prescribed to Defendant, at Defendant's expense. The monitoring laboratory will report the results of any such medical review to the State Bar. Defendant will sign all necessary releases or documents to allow such reporting and shall not revoke any such releases during the period of the stay;

- (h) Defendant shall keep the North Carolina State Bar Membership Department advised of her current physical business address (not post-office box or drawer addresses), telephone number, and e-mail address and notify the Bar of any change in address within ten days of such change;
- (i) Defendant shall accept all certified mail from the State Bar sent to the address on record with the Membership Department of the North Carolina State Bar;
- (j) Defendant shall provide full and complete responses to all letters of notice and requests for information from the North Carolina State Bar within thirty days of receipt of the communication or by the deadline stated in the communication, whichever is sooner;
- (k) Defendant shall timely comply with all State Bar continuing legal education requirements and pay all fees and costs assessed by the applicable deadline;
- (l) Defendant shall pay all membership dues, fees, costs and assessments, including all Client Security Fund assessments and other charges or surcharges the State Bar is authorized to collect from her, including all judicial district dues and assessments, by the applicable deadline;
- (m) Within one year of the date this Order is entered by the Hearing Panel, Defendant shall refund \$1,427.00 to her client, J.R.;
- (n) Defendant shall not violate any of the Rules of Professional Conduct in effect during the period of the stay; and
- (o) Defendant shall not violate the laws of the United States, or the laws of any state or local government, other than minor traffic violations, during the period of the stay.

4. If Defendant fails to comply with any one or more of the conditions set out above in this Order of Discipline, then the stay of the suspension may be lifted in accordance with 27 N.C. Admin. Code 1B.0118.

5. If the stay of the suspension is lifted and the suspension is activated for any reason, the DHC may enter an order imposing such conditions as it deems proper for the reinstatement of Defendant's license at the end of the suspension. Additionally, Defendant must establish the following by clear, cogent and convincing evidence prior to being reinstated to the practice of law after any period of active suspension:

- (a) That Defendant submitted her law license and membership card to the Secretary of the State Bar within thirty days of the date of the order lifting the stay and/or activating the suspension of her law license;
- (b) That Defendant complied with the provisions of 27 N.C. Admin. Code IB.0128 following entry of the order lifting the stay and/or activating the suspension of her law license;
- (c) That Defendant timely paid all administrative fees and costs assessed against her in this proceeding as reflected on the statement of costs served upon her by the Secretary of the State Bar;
- (d) That within fifteen days of the effective date of the order activating the suspension, Defendant provided the State Bar with an address and telephone number at which clients seeking return of files could communicate with Defendant and obtain such files;
- (e) That Defendant provided the client file to any client who requested it within ten days of Defendant's receipt of such request;
- (f) That, within one year of the date this Order is entered by the Hearing Panel, Defendant refunded to J.R. \$1,427.00 for unearned and excessive fees;
- (g) That Defendant kept the State Bar Membership Department advised of her current business street address (not post-office box or drawer addresses) and notified the State Bar of any change in address within ten days of such change;
- (h) That Defendant responded to all communications from the State Bar, including communications from the Attorney Client Assistance Program, within thirty days of receipt of the communication or by the deadline stated in the communication, whichever is sooner;
- (i) That, throughout the period of the suspension, Defendant accepted all certified mail from the State Bar sent to the address on record with the Membership Department of the North Carolina State Bar;
- (j) That at the time of her petition for reinstatement, Defendant is current in payment of all membership dues, fees and costs, including all Client Security Fund assessments, and other assessments, charges or surcharges the State Bar is authorized to collect from her, including all judicial district dues and assessments;
- (k) That at the time of her petition for reinstatement, there is no deficit in Defendant's completion of mandatory CLE hours, in reporting of such hours, or in payment of any fees associated with attendance at CLE programs;
- (l) That at the time of her petition for reinstatement, Defendant has complied with all of the additional continuing legal education (CLE) requirements established by this Order;
- (m) That at the time of her petition for reinstatement, Defendant is not suffering from any addiction, disability or condition that would impair her current ability to competently engage in the practice of law;

(n) That Defendant has abstained from the consumption of any alcohol and from the consumption of any controlled substance, other than as expressly authorized by a treating physician, continuously for the one year immediately preceding the filing of her petition for reinstatement.

i. This abstinence must continue from the date of the filing of the petition for reinstatement.

ii. Evidence of compliance with this condition must include compliance with the monitoring requirements of FirstLab Professional Health Monitoring Program or other service agreed to in advance by the Office of Counsel of the North Carolina State Bar (hereinafter "monitoring laboratory"). Such monitoring will be at Defendant's expense. Such monitoring will include daily call-ins and random testing for the substances identified by the North Carolina State Bar. Such monitoring will include at least thirteen random drug screens per year. Compliance shall include having no failures to test and having no positive test results that are not consistent with proper authorized use of a prescribed medication. The monitoring agreement with the monitoring laboratory will require the monitoring laboratory to report to the North Carolina State Bar the following: any failure of Defendant to call in; any failure of Defendant to submit a required testing sample at a location approved by the monitoring laboratory when directed to do so by the monitoring laboratory; any failure of Defendant to pay for a test; dilution in excess of the parameters set by the monitoring laboratory or any attempt by Defendant to alter the required testing sample or impair the ability of the testing to detect alcohol or controlled substances in the testing sample; and any positive test result. If there is any positive test result, Defendant shall cooperate in any medical review to determine whether the positive test result is consistent or inconsistent with any authorized medications prescribed to Defendant, at Defendant's expense. The monitoring laboratory will report the results of any such medical review to the State Bar. Defendant will sign all necessary releases or documents to allow such reporting and shall not revoke any such releases prior to Defendant's reinstatement to active status;

(o) That Defendant did not violate the Rules of Professional Conduct, the laws of the United States, or the laws of any state or local government during her suspension; and


(p) That Defendant participated in good faith in the State Bar's fee dispute resolution process for any petition that was pending at the time of entry of this order or of which she received notice after the effective date of this order.

6. If the stay of suspension is lifted and the suspension is activated for any reason, and if Defendant fails to fully comply with 27 N.C. Admin. Code 1B.0128, Defendant shall reimburse the State Bar for any expenses incurred by the State Bar in winding down Defendant's practice. Such expenses may include, but are not limited to, storage facility fees, rent payments, moving expenses, charges for secure disposal of client files, postage or other mailing expenses, and compensation paid to any appointed trustee and/or the trustee's assistant for time and travel associated with the trusteeship. Defendant shall not be eligible for reinstatement until she has reimbursed the State Bar for all wind-down expenses incurred.

7. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C. Admin. Code 1B.0118 until all conditions of the stay of suspension are satisfied.

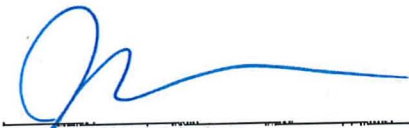
8. Unless Defendant's obligations under this Order are modified by further order of the DHC, Defendant's obligations under this Order end three years from the effective date of the Order provided there are at that time no pending motions and no pending show cause proceedings alleging lack of compliance with the conditions of the stay of the suspension. Pursuant to 27 N.C. Admin. Code 1B.0118, the DHC retains jurisdiction until all conditions of the stay of the suspension have been met. If a motion or show cause proceeding alleging lack of compliance with the conditions for the stay of the suspension is pending when the period of the stay of the suspension would otherwise have terminated, the DHC retains jurisdiction to lift the stay of the suspension and activate the suspension in whole or in part if it finds that any of the conditions of the stay have not been met. The stay of the suspension and Defendant's obligation to comply with the conditions for the stay will continue until resolution of any such pending motion or show cause proceeding.

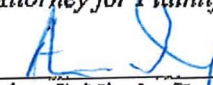
Signed by the Disciplinary Hearing Panel Chair with the consent of the other hearing panel members, this the 28 day of February, 2019.


Allison C. Tomberlin, Chair
Disciplinary Hearing Panel

CONSENTED TO BY:


Meredith P. Ezzell
Defendant


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