

**BEFORE THE PRESIDING DISCIPLINARY JUDGE
OF THE SUPREME COURT OF ARIZONA**

IN THE MATTER OF A MEMBER OF THE
STATE BAR OF ARIZONA,

WILLIAM B. FORTNER,
Bar No. 004923

Respondent.

No. PDJ-2012-9115

**ORDERS RE APPLICATION FOR
STAY PENDING APPEAL**

[State Bar Nos. 11-3792]

FILED JULY 16, 2013

On June 11, 2013, Mr. Fortner filed an Application for Stay Pending Appeal pursuant to Rule 59(c), Ariz. R.Sup.Ct. By Order dated June 26, 2013 the Hearing Panel granted Mr. Fortner until July 5, 2013 to submit proposed terms of probation for the consideration of the Hearing Panel that he believed sufficient to overcome the significant concerns the panel expressed. Respondent's effective date of suspension was also extended until July 19, 2013. No proposed terms were submitted.

The Hearing Panel attempted to alleviate its concern that the comments of Mr. Fortner may have intended a desire for a short term stay, sufficient for the transition of clients. The order detailed the information required of him if that was his intent. While a list of clients was untimely submitted, little else within the order was complied with.

Contemporaneously Mr. Fortner filed with his application for stay an Affidavit of Compliance with Rule 72, Ariz.R.Sup.Ct. That affidavit stated he had served a copy of the Affidavit on bar counsel, Chief Judge of the Ninth Circuit Court of

Appeals, Chief Judge and Chief Deputy Clerk of the Arizona District Court and Chief Judge and Division Manager of the Bankruptcy Court of the Federal District of Arizona. There was however, no mention of notification to his clients, opposing parties and other counsel.

On July 10, 2013, Respondent belatedly filed¹ a list of his existing five (5) clients, generally stating the status of his existing clients' matters and a request to continuing working on those matters during the pendency of his appeal of the Panel's Report and Order imposing a six month and one day suspension and upon reinstatement, two years of Probation (LOMAP). Respondent however, did not include case numbers, court names, how much additional time he seeks, nor the efforts he has made to seek alternate counsel. Further he did not set forth any proposed terms of probation that would assist in the transition of existing clients to new counsel.

The State Bar filed its response on July 10, 2013 opposing the stay arguing that Mr. Fortner's continued practice of law would pose a great danger to the public. We agree. We note Mr. Fortner listed as clients, the Peels, which formed the basis of the discipline matter. He states he has recommended they sue him for negligence and requests he be permitted to continue representing them. It appears he wants to continue to represent the Peel family while his appeal is pending. Mr. Fortner by email sent the Motion to Strike/Dismiss Improperly and Untimely Filed Document Entitled "Amended Complaint" and Motion to Dismiss Case of another filed against another client he desires to continue representing. That motion begin "This is the third time in the past year that Plaintiff (name withheld by hearing

¹ Respondent emailed a copy of the pleading to the Disciplinary Clerk July 5, 2013.

panel) has tried to file this very same untimely and improper document entitled "Amended Complaint"... The Motion further alleges that the Court "recognized and expressly notes nearly a year ago, this particular document is not actually even a proper or viable "Amended Complaint." Mr. Fortner clearly does not understand the gravity of his situation and the Panel's concern for his clients.

We do not take his request likely. We were hopeful he would give us an orderly process by which he would withdraw from active client work. He did not. Under the circumstances proven at hearing, we find that no terms of probation will be sufficient to protect the public while the appeal is pending.

After due consideration, the Panel orders as follow:

IT IS ORDERED denying Mr. Fortner's Application for Stay Pending Appeal.

IT IS FURTHER ORDERED affirming Mr. Fortner's July 19, 2013 effective date of suspension.

IT IS FURTHER ORDERED that Mr. Fortner shall not accept any new clients and immediately notify any active clients, including but not limited to his existing clients, of this Order pursuant to Rule 72, Ariz.R.Sup.Ct.

DATED this 16th day of July, 2013.

/s/ William J. O'Neil

**William J. O'Neil, Presiding Disciplinary Judge
On Behalf of the Hearing Panel**

Original filed with the Disciplinary Clerk
this 16th day of July, 2013.

COPY of the foregoing e-mailed/mailed
this 16th day of July, 2013, to:

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