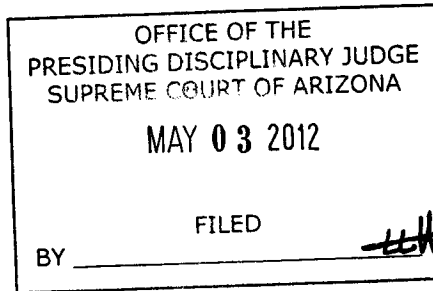


Craig D. Henley, Bar No. 018801
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Miriam Holly Klaiman, Bar No. 024299
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Email: miriamdoc@yahoo.com
Respondent

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

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

**Miriam Holly Klaiman
Bar No. 024299**

Respondent.

PDJ-2012-9039

**AGREEMENT FOR DISCIPLINE
BY CONSENT**

[No. 11-1698]

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent Miriam Holly Klaiman, who has chosen not to seek the assistance of counsel, hereby submit their Tender of Admissions and Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. Respondent voluntarily waives the right to an adjudicatory hearing on the complaint, unless otherwise ordered, and waives all motions, defenses, objections or requests which have been made or raised, or could be asserted thereafter, if the conditional admission and proposed form of discipline is approved.

Respondent conditionally admits that her conduct, as set forth below, violated Rule 42, ER(s) 3.1 and 8.4(d). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: One (1) Year

Suspension, concurrent with suspension in PDJ-2011-9060, followed by Two (2) Years Probation including participation in the State Bar Member Assistance Program (MAP).

The State Bar has agreed to waive their costs and expenses of the disciplinary proceeding.¹

FACTS

GENERAL ALLEGATIONS

1. At all times relevant, Respondent was a lawyer licensed to practice law in the state of Arizona having been first admitted to practice in Arizona on May 2, 2006.

COUNT ONE (State Bar File No. 11-1698)

2. On March 11, 2011, after dismissing the underlying lawsuit some time earlier, the Honorable Charles V. Harrington sanctioned both Respondent and opposing counsel Five Hundred Dollars (\$500.00) each for filing frivolous pleadings throughout the Pima County Superior Court case *In re the Guardianship and Conservatorship of Mary Laverne Allen*, GC20100663.

3. Judge Harrington denied "all pending motions, to the extent that they are true motions" and specifically ordered both attorneys not to pass any of the Five Hundred Dollar (\$500.00) sanction on to the client.

4. This March 2011 ruling followed the denial of several dueling motions that the court deemed either to be not provided for by any fact, statute or rule.

¹ Respondent understands that the costs and expenses of the disciplinary proceeding include the costs and expenses of the State Bar of Arizona, the Disciplinary Clerk, the Probable Cause Committee, the Presiding Disciplinary Judge and the Supreme Court of Arizona.

5. These motions included competing motions for attorney's fees and costs, as well as a "Notice to Court of Recommendation of Court-Appointed Counsel," "Notice to Court (Emergency Relief Requested) and Request to Strike Two Pleadings of Opposing Counsel", "Response to Appoint a Fiduciary," "Motion for Substitution of Counsel of Mary Lavern Allen," "Response to Attorney Klaiman Notice to Court and Request to Strike Two Pleadings of Opposing Counsel," "Motion Re Access to Lavern Allen," "Motion Re Disclosure of Telephone Number of Lavern Allen," and "Response to Appointment of a Fiduciary".

6. Respondent paid the Five Hundred Dollar (\$500.00) sanction.

CONDITIONAL ADMISSIONS

Respondent's admissions are being tendered in exchange for the form of discipline stated below and is submitted freely and voluntarily and not as a result of coercion or intimidation.

Respondent conditionally admits that her conduct violated Rule 42, Ariz. R. Sup. Ct., specifically ER(s) 3.1 and 8.4(d).

CONDITIONAL DISMISSALS

The State Bar has conditionally agreed to dismiss none.

RESTITUTION

Restitution is not an issue in this matter.

SANCTION

Respondent and the State Bar of Arizona agree that based on the facts and circumstances of this matter, as set forth above, the following sanction is appropriate: One (1) Year Suspension, concurrent with suspension in PDJ-2011-9060, followed by Two (2) Years Probation including participation in the State Bar Member Assistance Program (MAP).

LEGAL GROUNDS IN SUPPORT OF SANCTION

In determining an appropriate sanction, the parties consulted the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* pursuant to Rule 57(a)(2)(E). The *Standards* are designed to promote consistency in the imposition of sanctions by identifying relevant factors that courts should consider and then applying those factors to situations where lawyers have engaged in various types of misconduct. *Standards* 1.3, Commentary. The *Standards* provide guidance with respect to an appropriate sanction in this matter. *In re Peasley*, 208 Ariz. 27, 33, 35, 90 P.3d 764, 770 (2004); *In re Rivkind*, 162 Ariz. 154, 157, 791 P.2d 1037, 1040 (1990).

In determining an appropriate sanction consideration is given to the duty violated, the lawyer's mental state, the actual or potential injury caused by the misconduct and the existence of aggravating and mitigating factors. *Peasley*, 208 Ariz. at 35, 90 P.3d at 772; *Standard* 3.0.

The parties agree that *Standard* 6.22 is the appropriate *Standard* given the facts and circumstances of this matter. *Standard* 6.22 provides that suspension is appropriate when a lawyer knowingly violates a court order or rule, and there is injury or potential injury to a client or a party, or interference or potential

interference with a legal proceeding. By continuously filing motions after the case had been dismissed, the underlying court deemed Respondent's actions frivolous and in violation of Rule 11, Ariz.R.Civ.P. As a result of the misconduct, the underlying court imposed a Five Hundred Dollar sanction against Respondent personally and in her individual capacity.

The duty violated

As described above, Respondent's conduct violated his duty to her client, the profession and the legal system.

The lawyer's mental state

For purposes of this agreement the parties agree that Respondent knowingly filed the frivolous motions in violation of Rule 11, Ariz.R.Civ.P. and that her conduct was in violation of the Rules of Professional Conduct.

The extent of the actual or potential injury

For purposes of this agreement, the parties agree that there was potential harm to her client and actual harm to the profession and legal system.

Aggravating and mitigating circumstances

The presumptive sanction in this matter is suspension. The parties conditionally agree that the following aggravating and mitigating factors should be considered.

In aggravation:

Standard 9.22(a) – Prior disciplinary offenses (Respondent has recently received a one year suspension for several counts, including filing frivolous pleadings).

Standard 9.22(c) – A pattern of misconduct (Respondent has previously filed frivolous and incomplete representations in prior cases).

Standard 9.22(d) – Multiple offenses (Respondent has previously filed a lawsuit without merit and failed to comply with discovery rules).

In mitigation:

Standard 9.32(c) – Personal or emotional problems.

Standard 9.32(k) – Imposition of other penalties or sanctions (Respondent was ordered to personally pay \$500.00 in sanctions).

Discussion

The parties have conditionally agreed that a greater or lesser sanction would not be appropriate under the facts and circumstances of this matter. This agreement was based on the following: Respondent was recently suspended for a period of One (1) Year Suspension in PDJ-2011-9060, followed by Two (2) Years Probation for similar misconduct.

Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

CONCLUSION

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. *Peasley, supra* at ¶ 64, 90 P.3d at 778. Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of One (1) Year Suspension, concurrent with suspension in PDJ-2011-9060, followed by Two (2) Years Probation including participation in the State Bar Member Assistance Program (MAP). A proposed form order is attached hereto as Exhibit "A."

DATED this 2nd day of May, 2012.

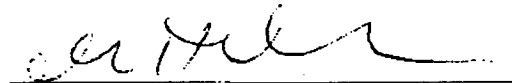
STATE BAR OF ARIZONA



Craig D Henley
Staff Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation. I acknowledge my duty under the Rules of the Supreme Court with respect to discipline and reinstatement. I understand these duties may include notification of clients, return of property and other rules pertaining to suspension.

DATED this _____ day of _____, 2012.



Miriam Holly Klaiman
Respondent

Approved as to form and content

Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk
of the Office of the Presiding Disciplinary Judge
this _____ day of _____, 2012.

Copies of the foregoing mailed/emailed
this _____ day of _____, 2012, to:

Miriam Holly Klaiman, Bar No. 024299
Tucson, AZ 85716-1520
Telephone: 520-323-7291
Email: miriamdoc@yahoo.com
Respondent


DATED this _____ day of _____, 2012.

STATE BAR OF ARIZONA

Craig D Henley
Staff Bar Counsel

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DATED this 2 day of May, 2012.



Miriam Holly Klaiman
Respondent

Approved as to form and content

Maret Vessella
Chief Bar Counsel

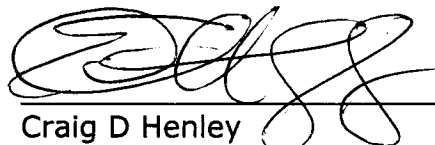
Original filed with the Disciplinary Clerk
of the Office of the Presiding Disciplinary Judge
this ____ day of _____, 2012.

Copies of the foregoing mailed/emailed
this ____ day of _____, 2012, to:

Miriam Holly Klaiman, Bar No. 024299
Tucson, AZ 85716-1520
Telephone: 520-323-7291
Email: miriamdoc@yahoo.com
Respondent

DATED this 2 day of May, 2012.

STATE BAR OF ARIZONA



Craig D Henley
Staff Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation. I acknowledge my duty under the Rules of the Supreme Court with respect to discipline and reinstatement. I understand these duties may include notification of clients, return of property and other rules pertaining to suspension.

DATED this _____ day of _____, 2012.

Miriam Holly Klaiman
Respondent

Approved as to form and content



Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk
of the Office of the Presiding Disciplinary Judge
this 3rd day of May, 2012.

Copies of the foregoing mailed/emailed
this 3rd day of May, 2012, to:

Miriam Holly Klaiman, Bar No. 024299
Tucson, AZ 85716-1520
Telephone: 520-323-7291
Email: miriamdoc@yahoo.com
Respondent

Copy of the foregoing emailed
this 3rd day of May, 2012, to:

William J. O'Neil
Presiding Disciplinary Judge
Supreme Court of Arizona
Email: officepdj@courts.az.gov
lhopkins@courts.az.gov

Copy of the foregoing hand-delivered
this 3rd day of May, 2012, to:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266

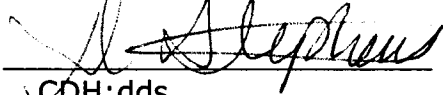
By: 
CDH:dds

EXHIBIT "A"

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

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

**Miriam Holly Klaiman
Bar No. 024299**

Respondent.

PDJ-2012-

FINAL JUDGMENT AND ORDER
[No. 11-1698]

The undersigned Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on April 24, 2012, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

IT IS HEREBY ORDERED that Respondent, **Miriam Holly Klaiman**, is hereby suspended for a period of one (1) year, concurrent with suspension in PDJ-2011-9060 for her conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective April 18, 2012.

IT IS FURTHER ORDERED that, upon reinstatement, Respondent shall be placed on probation for a period of two (2) years and shall participate in the State Bar Member Assistance Program (MAP).

IT IS FURTHER ORDERED that other terms of probation shall be determined by the Presiding Disciplinary Judge at the time of reinstatement.

IT IS FURTHER ORDERED that Respondent shall be subject to any additional terms imposed by the Presiding Disciplinary Judge as a result of reinstatement hearings held.

IT IS FURTHER ORDERED that, pursuant to Rule 72 Ariz. R. Sup. Ct., Respondent shall immediately comply with the requirements relating to notification of clients and others.

IT IS FURTHER ORDERED that Respondent shall pay the costs and expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings in the amount of _____.

DATED this _____ day of _____, 2012.

The Honorable William J. O'Neil
Presiding Disciplinary Judge

Original filed with the Disciplinary Clerk
of the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this _____ day of _____, 2012.

Copies of the foregoing mailed/emailed
this _____ day of _____, 2012, to:

Miriam Holly Klaiman, Bar No. 024299
2626 East Hedrick Drive
Tucson, Arizona 85716-1520
Telephone: 520-323-7291
Email: miriamdoc@yahoo.com
Respondent

Copy of the foregoing hand-delivered/emailed
this _____ day of _____, 2012, to:

Craig D Henley
Staff Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: lro@staff.azbar.org

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266

By: _____

BEFORE THE ATTORNEY DISCIPLINE
PROBABLE CAUSE COMMITTEE
OF THE SUPREME COURT OF ARIZONA



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

No. 11-1698

MIRIAM HOLLY KLAIMAN
Bar No. 024299

PROBABLE CAUSE ORDER

Respondent

The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on March 9, 2012, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation, and Respondent's Response.

By a vote of 8-0-1,¹ the Committee finds probable cause exists to file a complaint against Respondent in File No. 11-1698.

IT IS THEREFORE ORDERED pursuant to Rules 55(c) and 58(a), Ariz. R. Sup. Ct., authorizing State Bar Counsel to prepare and file a complaint with the Disciplinary Clerk.

Parties may not file motions for reconsideration of this Order.

DATED this 9 day of March, 2012.

Lawrence F. Winthrop

Judge Lawrence F. Winthrop
Chair, Attorney Discipline Probable Cause
Committee of the Supreme Court of Arizona

Original filed this 13th day
of March, 2012, with:

Lawyer Regulation Records Department
State Bar of Arizona
4201 North 24th Street, Suite 200
Phoenix, Arizona 85016-6288

¹ Committee member Ben Harrison did not participate in this matter.

Copy mailed this 21st day
of March, 2012, to:

~~Ms. Miriam Holly Klaiman
2626 East Hedrick Drive
Tucson, Arizona 85716-1520
Respondent~~

Timothy J. Burke
3003 N. Central Ave., Ste. 2600
Phoenix, AZ 85012-2913
Respondent's counsel

Copy emailed this 21st day
of March, 2012, to:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 200
Phoenix, Arizona 85016-6288

Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona
1501 West Washington Street, Suite 104
Phoenix, Arizona 85007
ProbableCauseComm@courts.az.gov

by: Al Stephens