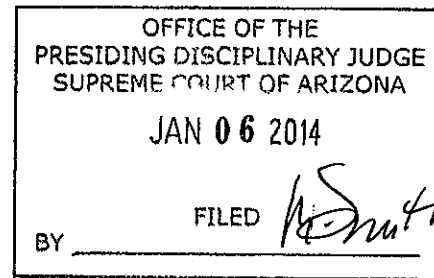


Hunter F. Perlmeter, Bar No. 024755
Staff Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Telephone: 602-340-7250
Email: LRO@staff.azbar.org



Ralph W. Adams, Bar No. 015599
Adams & Clark PC
520 East Portland Street
Phoenix, AZ 85004-1843
Telephone: 602-258-3542
Email: Ralph@AdamsClark.com
Respondent's Counsel

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

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

**Christopher L. Scileppi,
Bar No. 021591,**

Respondent.

PDJ-2013-9073

**AGREEMENT FOR DISCIPLINE BY
CONSENT**

[State Bar No. 13-1001]

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent Christopher L. Scileppi, who is represented in this matter by counsel, Ralph W. Adams, 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 his conduct, as set forth below, violated Rule 42, ERs 1.3, 1.4, 3.4(c) and 8.4(d). Upon acceptance of this agreement,

Respondent agrees to accept imposition of the following discipline: Suspension of 60 days and probation for a period of six months, during which he is to consult with the State Bar Law Office Management Program ("LOMAP") concerning ERs 1.3 and 1.4. Respondent requests that the suspension period begin on April 1, 2014 based on the trial schedule attached hereto as Exhibit A. The dates reflected on the trial calendar are firm trial dates. Respondent also agrees to pay the costs and expenses of the disciplinary proceeding.¹ The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit "B."

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 December 16, 2012.

COUNT ONE (State Bar File No. 13-1001)

2. On June 18, 2012, in Santa Cruz County Superior Court case number CR201200070, Respondent filed a Motion to Continue a plea negotiations hearing. The motion was filed at 10:53 a.m. in advance of a 1:30 p.m. hearing. Respondent failed to appear for the scheduled hearing even though he had not received a ruling on the motion. In a minute entry continuing the hearing following Respondent's failure to appear, the court stated, "It is the Order of the Court that Defense Counsel makes sure that his motion is granted before he decides not to appear in Court." The hearing was continued until July 30, 2012.

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.

3. On July 30, 2012, Respondent arranged for attorney Charles La Grand to appear in his place for the rescheduled plea negotiations hearing. Mr. La Grand appeared and requested a continuance that was granted. In the corresponding minute entry, the court rescheduled the plea negotiations hearing for August 20, 2012, and advised the parties that no further continuances would be granted before setting the matter for trial.

4. On August 20, 2012, Respondent appeared without his client and indicated that a plea agreement had not been reached. If this matter were to proceed to hearing, Respondent would produce evidence that the parties were extremely close to a resolution and requested a final continuance. This matter was a felony case where the defendant had been arraigned merely three months before and disclosure received by Respondent only two months prior. The court denied Respondent's request, set a *Donald* hearing for September 17, scheduled a deadline for motions in limine, jury instructions, and voir dire of September 20, and scheduled an argument on pending motions, voir dire and jury instructions for September 24, 2012.

5. On September 14, 2012, Respondent filed a Motion to Continue the September 17, *Donald* Hearing, indicating that he would be in trial in another county on the day of the hearing. The court granted the motion and issued an order continuing the hearing until September 24, the same date as the previously scheduled argument on pending motions. On the face of the order granting the motion, the court hand-wrote: "No additional continuance will be allowed. A bench warrant will issue if fail to appear."

6. According to Respondent, his office did not receive the order until September 20, at which time he had already left to New York on vacation. Respondent, however, scheduled his vacation in a manner that would not have allowed him to appear for the previously scheduled hearing on pending motions that was to take place on September 24. The State filed proposed jury instructions and proposed voir dire on September 20. Respondent did not file such documents nor did he intend to as he believed the matter would not proceed to trial.

7. On September 24, Respondent did not appear with his client for the *Donald* hearing, but instead obtained last minute court coverage from attorney James Miller. Miller was contacted on the morning of the hearing immediately after Respondent learned his Motion to Continue had not been granted and knew nothing about the case or the plea agreement when he appeared in court.

8. During the hearing, the court noted that Respondent had failed to file jury instructions or voir dire prior to the *Donald* hearing. Respondent's client told the court that Respondent had never informed him that a plea agreement had been extended by the State. If this matter were to proceed to hearing Respondent would contest the client's statement. The prosecutor informed the court that the plea agreement had been provided to Respondent in June of 2012, three months earlier.

9. The client further explained that Respondent had not informed him of the subject of that day's hearing and that when he called Respondent the morning of the hearing (one week before trial) Respondent told him for the first time that he was in New York on vacation. If this matter were to proceed to hearing, Respondent would contest the client's statements in this regard.

10. James Miller confirmed to the Bar that when he visited with the defendant in the hallway, it was clear that the defendant had no idea what a *Donald* hearing was and specifically, had no idea that the State had the right to revoke its plea offer at the conclusion of the *Donald* Hearing. Miller went back on the record and informed the court that the defendant had not been informed by his attorney of what was to transpire in court that day and had not been advised of the plea agreement. He also explained to the court that when he explained the plea to the defendant, it sounded as though the defendant was interested in taking the offer, but that a continuance should be granted to give him time to meet with Respondent.

11. Respondent did not show a copy of the written plea agreement to his client or go over the specific written terms of the plea. His position is that he did, however, have some discussions with his client concerning the plea. Respondent further asserts that the fact that the client participated in programs suggested by Respondent in furtherance of negotiating a better plea demonstrates that he did discuss the plea with him. Respondent explained that on September 20, at 5:15 PM, Respondent's assistant faxed a Motion to Appear Telephonically to the court. The motion, however, was not ruled upon prior to the start of the hearing.

12. On the date of the September 28, hearing, Respondent was admonished by the court for his poor communication and his failure to comply with court obligations.

13. The court set a hearing for September 28, 2012 to give the defendant more time and to address Respondent's failure to attend the September 24, 2012, *Donald* hearing and failure to discuss the State's plea offer with his client.

14. Respondent appeared on September 28 and admitted to having failed to show a physical copy of the plea offer to his client. He explained that he did not file pretrial motions because he knew that a plea agreement would be reached. Respondent stated to the court, "I thought getting coverage was sufficient."

15. In a second matter, DO-07-292, Respondent failed to appear for an October 22, 2012, hearing in a family law matter. Respondent has indicated that he filed a Motion to Withdraw on the Friday before a Monday hearing and assumed the motion would be granted. The motion, however, was not granted prior to the hearing. Respondent, in his response to the Bar, stated, "I believed that my appearance at the October 22, 2012, hearing was unnecessary, as I believed my motion to withdraw would be granted perfunctorily, and I had not heard otherwise from the court."

16. In a third matter, DO-12-200, Respondent failed to appear at a settlement conference on April 4, 2013, after the settlement conference had previously been continued at his request. In explaining his failure to appear for the settlement conference, Respondent indicated that he had filed a motion to continue in advance of the hearing. Respondent stated, "I did not receive an Order in response to this motion, however I assumed that the April 4, 2013 hearing would be continued"

17. Respondent was ordered to cover the cost of the mediator who appeared for the settlement conference that he failed to attend. Respondent paid such costs.

Rule Violations

18. ER 1.3 requires a lawyer to act with reasonable diligence in representing his client. Respondent failed to appear for hearings in three different matters. In the Romero matter, Respondent failed to file pre-trial motions and failed to show Mr. Romero a copy of the plea agreement that had been extended by the State.

19. ER 1.4 requires a lawyer to reasonably communicate with his client. Respondent failed, for a period of months, to show a plea offer to his client, Mr. Romero. Respondent also failed to notify Mr. Romero that he would be out of town for a September 24 hearing and failed to explain to the nature of the hearing—specifically, its impact upon the plea offer.

20. ER 3.4(c) prohibits a lawyer from knowingly disobeying an obligation under the rules of a tribunal. Respondent, on multiple occasions either failed to appear for a court hearing or settlement conference or failed to obtain coverage from an attorney who had sufficient knowledge of the case to participate in a scheduled hearing.

21. ER 8.4(d) prohibits a lawyer from engaging in conduct prejudicial to the administration of justice. Respondent failed to show a copy of a plea agreement to his client, failed to appear for court hearings and a settlement conference and failed to obtain prepared court coverage.

CONDITIONAL ADMISSIONS

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

Respondent conditionally admits that his conduct violated Rule 42, Ariz. R. Sup. Ct., specifically ERs 1.3, 1.4, 3.4(c) and 8.4(d).

CONDITIONAL DISMISSALS

The State Bar has conditionally agreed to dismiss violations of ER 8.1(a) and 8.4(c) alleged in the Complaint, as additional information provided by Respondent has lead the State Bar to believe that there is not clear and convincing evidence to support such violations.

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: Suspension of 60 days and 6 months probation.

PROBATION (LOMAP)

Respondent shall contact the director of the State Bar's Law Office Management Assistance Program (LOMAP), at 602-340-7332, within 30 days of the date of the final judgment and order. Respondent shall submit to a LOMAP examination of his office's procedures, including, but not limited to, compliance with ERs 1.3 and 1.4. The director of LOMAP shall develop "Terms and Conditions of Probation" and those terms shall be incorporated herein by reference. The probation period will commence at the time of the entry of the judgment and order and will conclude six months from that date. Respondent shall be responsible for any costs associated with LOMAP.

NON-COMPLIANCE LANGUAGE

In the event that Respondent fails to comply with any of the foregoing probation terms, and information thereof is received by the State Bar of Arizona, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether a term of probation has been breached and, if so, to recommend an appropriate sanction. If there is an allegation that Respondent failed to comply with any of the foregoing terms, the burden of proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

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 generally appropriate when a lawyer knows that he or she is violating a court order or rule, and causes injury or potential injury to a client or a party, or causes interference or potential interference with a legal proceeding.

Respondent, on multiple occasions, either failed to appear for a court hearing or settlement conference or failed to obtain coverage from an attorney capable of competently participating in a scheduled hearing. As described above, Respondent's conduct violated his duty to his clients, the profession and the legal system.

The lawyer's mental state

For purposes of this agreement the parties agree that Respondent knowingly failed to appear for court hearings and a settlement conference and that his 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 actual harm to the 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:

Standards

9.22(c): A pattern of misconduct

9.22(d): Multiple offenses

9.22(i): Substantial experience in the practice of law

In mitigation:

Standard

9.32(a): Lack of a prior disciplinary record

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 *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.

NOTICE TO COMPLAINANT


By letter of November 27, 2013, the State Bar provided notice to the Complainant of the settlement terms contained herein and advised the Complainant of her right to file an objection to the proposed settlement. The Complainant has not filed an objection.

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 suspension of 60 days, 6 months probation and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit "C."

DATED this 6th day of January, 2014.


STATE BAR OF ARIZONA



Hunter F. Perlmeter
Staff Bar Counsel

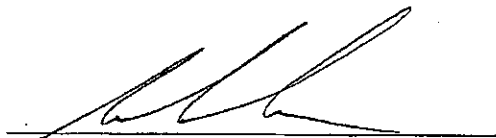
This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation. I acknowledge my duty under the Rules of the Supreme Court with respect to discipline and reinstatement. I understand these duties may include notification of clients, return of property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

DATED this 6th day of January, 2014.




Christopher L. Scileppi
Respondent

DATED this 6th day of January, 2014.



Ralph W. Adams
Counsel for 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 6 day of January, 2014.

Copies of the foregoing mailed/emailed
this 6 day of January, 2014, to:

Ralph W. Adams
Adams & Clark PC
520 East Portland Street
Phoenix, AZ 85004-1843
Email: Ralph@adamsclark.com
Respondent's Counsel

Copy of the foregoing emailed
this 6 day of January, 2014, 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 6 day of January, 2014, to:

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

By: 

HFP/jd

IN THE
SUPREME COURT OF THE STATE OF ARIZONA
BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE
1501 W. WASHINGTON, SUITE 102, PHOENIX, AZ 85007-3231

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

Christopher L. Scileppi
Bar No. 021591

Respondent.

PDJ-2013-9073

FINAL JUDGMENT AND ORDER

State Bar No. 13-1001

FILED: JANUARY 14, 2014

The undersigned Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on January 6, 2014 pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

IT IS HEREBY ORDERED that Respondent, **Christopher L Scileppi**, is hereby suspended for a period of sixty (60) days for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective on April 1, 2014.

IT IS FURTHER ORDERED that, upon reinstatement, Respondent shall be placed on probation for a period of six months.

IT IS FURTHER ORDERED that, Respondent shall contact the director of the State Bar's Law Office Management Assistance Program (LOMAP), at 602-340-7332, within 30 days of the date of the final judgment and order. Respondent shall submit to a LOMAP examination of his office's procedures, including, but not limited

to, compliance with ERs 1.3 and 1.4. The director of LOMAP shall develop "Terms and Conditions of Probation", and those terms shall be incorporated herein by reference. The probation period will commence at the time of the entry of the judgment and order and will conclude 6 (six) months from that date. Respondent shall be responsible for any costs associated with LOMAP.

NON-COMPLIANCE LANGUAGE

In the event that Respondent fails to comply with any of the foregoing probation terms, and information thereof is received by the State Bar of Arizona, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether a term of probation has been breached and, if so, to recommend an appropriate sanction. If there is an allegation that Respondent failed to comply with any of the foregoing terms, the burden of proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

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 pay the costs and expenses of the State Bar of Arizona in the amount of \$1,216.95. There are no costs incurred by the Office of the Presiding Disciplinary Judge.

DATED this 14th day of January, 2014.

William J. O'Neil

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 14th day of January, 2014.

Copies of the foregoing mailed/emailed
this 14th day of January, 2014, to:

Ralph W. Adams
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520 East Portland Street
Phoenix, AZ 85004-1843
Email: Ralph@adamsclark.com
Respondent's Counsel

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Lawyer Regulation Records Manager
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Phoenix, Arizona 85016-6266

By: s/slHopkins