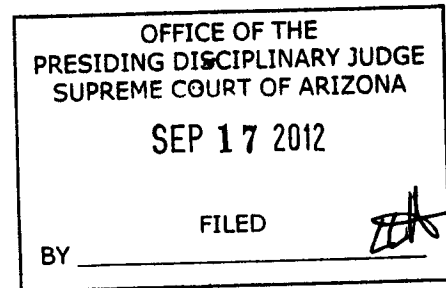


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Respondent

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

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

**Brian K Stanley
Bar No. 004619**

Respondent.

PDJ-2012-9059

**AGREEMENT FOR DISCIPLINE
BY CONSENT**

[State Bar No. 11-3585]

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent Brian K Stanley, 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 his conduct, as set forth below, violated Rule 41(c), Rule 41(g) and Rule 54(i). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Admonition. 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 "A."

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 October 23, 1976.

COUNT ONE (State Bar File No. 11-3585)

2. On or about May 5, 2011, Respondent contacted the Administrative Office of the Court (AOC) support desk and voiced criticisms of AZ TurboCourt and of administrative and/or regulatory determinations or pronouncements of the Arizona Supreme Court pertaining thereto.

3. Respondent was transferred to various court personnel and had a series of telephone conversations regarding criticisms of AZ TurboCourt and of administrative and/or regulatory determinations or pronouncements of the Arizona Supreme Court pertaining thereto.

4. On or about June 23, 2011, Respondent sent a letter to Administrative Director David Byers containing criticisms of AZ TurboCourt and of administrative

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.

and/or regulatory determinations or pronouncements of the Arizona Supreme Court pertaining thereto.

5. In response to the June 23rd letter, Court staff member Jonathan Reeves contacted Respondent in order to provide Respondent with assistance in accessing the desired report referenced by Respondent.

6. On October 14, 2011, Respondent called the AOC support desk and left a voice message stating, among other things:

- a. "It's obviously non-functional, useless, non-functional, useless, non-functional, useless";
- b. "I want it recorded in the log of the Supreme Court of Arizona that I am attempting to file papers that need to be filed in the Superior Court and cannot be filed in the Superior Court any way but through your useless, inoperative system";
- c. "Do you understand what you are doing? It doesn't work. It's just sitting here. It's broken and there's nobody to talk to about it. Nobody to talk to about your wonderful 24 hour system that we are paying 6 dollars a document to support. It's useless!"
- d. "Naturally, I don't expect any kind of response, any kind of help, any kind of anything from you because you are useless! You've never responded to anything that I've told you about your system. All you do is (unintelligible) people off with false information (unintelligible) and it doesn't work that way."
- e. "My number in case by any miracle there is any kind of attempt to respond to user complaints is 602/956-9201! What am I

suppose to do? The paper needs to be filed today, and it can't be filed today because of your system!"

f. "But that doesn't matter to you or anybody 'cause you've gone home. You've collected your fat salaries and gone home. I want answers! But I'm not going to get them am I?"

g. "Now it's an hour that your system has been useless!"

h. "You people are useless and I'm sick of paying your salaries. Do you understand that? Useless!"

7. On October 25, 2011, Administrative Director David Byers called Respondent.

8. In mid-December 2011, Respondent contacted court staff and voiced criticisms of AZ TurboCourt and of administrative and/or regulatory determinations or pronouncements of the Arizona Supreme Court pertaining thereto.

9. Also in mid-December 2011, Respondent again contacted court staff and was transferred to a second person regarding his criticisms of AZ TurboCourt and of administrative and/or regulatory determinations or pronouncements of the Arizona Supreme Court pertaining thereto.

10. When questioned by State Bar ACAP attorney Roberta Tepper, Respondent admitted leaving the voice message and reiterated criticisms of AZ TurboCourt and of administrative and/or regulatory determinations or pronouncements of the Arizona Supreme Court pertaining thereto.

11. If the matter proceeded to formal hearing, the State Bar would also present evidence that during the May 5, 2011 phone call to the AOC, Respondent exhibited a rude demeanor requiring his phone call to be transferred to a number of

supervisors including, but not limited to, Support Center Manager, Angel Bingham and Court Services Division Director, Janet Johnson.

12. If the matter proceeded to formal hearing, the State Bar would also present evidence that later that same day, Respondent called Administrative Director David Byers' Executive Assistant, Shelly Litt, and again engaged in unprofessional and offensive conduct.

13. If the matter proceeded to formal hearing, the State Bar would also present evidence that during his conversation with court staff member Jonathan Reeves, Respondent again engaged in unprofessional and offensive conduct.

14. If the matter proceeded to formal hearing, the State Bar would also present evidence that during the conversation with State Bar counsel Roberta Tepper, Respondent also questioned which ethical rule regulates the decibel level that an attorney can use in expressing his frustrations.

15. If the matter proceeded to formal hearing, the State Bar would also present evidence that in his March 29, 2012 response to the State Bar, Respondent admits to being an "elderly curmudgeon" and that support personnel "would usually characterize (him) as 'demanding,' and might often say that (he) was abrupt, if not actually rude".

16. If the matter proceeded to formal hearing, the State Bar would also present evidence that in addressing his October 14, 2011 voicemail, Respondent believes that " '[s]peaking harshly to an electronic device' is not an offense denounced in Supreme Court Rules 41(a) or 54(i)" and in a related footnote "or anywhere else in the laws of man or God, to the best of (his) knowledge".

17. If the matter proceeded to formal hearing, the State Bar would also present evidence that in his March 29, 2012 response to the State Bar, Respondent alleges that "(David Byers) knows well that if a State Bar Member gets too cranky or obstreperous about *his* service, he can teach the miscreant a lesson and probably make him shut up. He knows that by merely expressing to the State Bar his unhappiness with the Member, he will inflict upon him both anxiety and a huge expenditure of time and effort...It seems to me that this would more logically be interpreted as an expression of doubt concerning my mental or psychological fitness, rather than an accusation that I have breached professional ethics."

18. If the matter proceeded to formal hearing, the State Bar would also present evidence that Respondent further states that "I have some inkling of the backroom deals that apparently led to the invention of the 'bizarre and disingenuous shift' and am very far from lacking sympathy with the Justices and their allies, given the quandary they faced. At least one of their sympathizers, however, should have warned that there is no honor among thieves (not at their level, anyway) and that those who indicated they would tolerate the scheme or even suggested it will be the first to denounce it, using terms at least as strong as 'disingenuous shift' and 'slush fund,' as soon as the chance to gain any advantage by so doing may present itself."

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 his conduct violated Rule 41(c), Rule 41(g) and Rule 54(i).

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 ADMONITION is appropriate sanction:

Respondent is hereby admonished for his substantial and repeated violations of Rule 41(c), Az.R.Sup.Ct., Rule 41(g), Az.R.Sup.Ct., and Rule 54 (i), Az.R.Sup.Ct. As explained in greater detail above, Respondent made several phone calls to the Supreme Court which was "unprofessional conduct" as defined by Rule 31(a)(2)(E). Respondent also made unsupported accusations about the Justices of the Supreme Court and court staff which failed to demonstrate the respect to the courts of justice and judicial officers mandated by the *Arizona Rules of the Supreme Court*.

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 7.4* is the appropriate *Standard* given the facts and circumstances of this matter. *Standard 7.4* provides that Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence in determining whether the lawyer's conduct violates a duty owed as a professional and causes little or no actual or potential injury to a client, the public, or the legal system. By making several phone calls to the Supreme Court which was "unprofessional conduct" as defined by Rule 31(a)(2)(E) and making unsupported accusations about the Justices of the Supreme Court and court staff, Respondent failed to demonstrate the respect to the courts of justice and judicial officers mandated by the *Arizona Rules of the Supreme Court*.

The duty violated

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

The lawyer's mental state

For purposes of this agreement the parties agree that Respondent negligently engaged in disrespectful and "unprofessional conduct" as defined by Rule

31(a)(2)(E) 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 potential but no actual harm to a client, the profession, the legal system and the public.

Aggravating and mitigating circumstances

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

In aggravation:

Standard 9.22(a) prior disciplinary offenses.

1. On February 18, 2001, Respondent received an informal reprimand for violation of ER 5.5, 8.1(b), 8.4(a) and Rule 51 (e) and (h) and was ordered to complete one (1) year probation with LOMAP.

2. In November 1993, Respondent was censured.

Standard 9.22(g) refusal to acknowledge wrongful nature of conduct.

Standard 9.22(i) substantial experience in the practice of law.

1. Respondent has been an Arizona attorney for 36 years (October 23, 1976).

In mitigation:

Standard 9.32(b) absence of a dishonest or selfish motive.

Standard 9.32(m) remoteness of prior offenses.

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's actions were isolated and

caused by one specific set of circumstances related to computer services which have, in large part, been rectified.

Similarly, in *Honchar, Cornelia W.*, DC No. 07-1522 (2009), Respondent accepted an agreement for one year of Probation with MAP [inexplicably, the agreement did not include and was accepted without a censure or reprimand]. In a dissolution proceeding, Respondent engaged in overzealous representation of a client in an area of law with which Respondent was unfamiliar. Respondent's emotional attachment affected her independent professional judgment and tactics pursued. Respondent further engaged in a concurrent conflict of interest and failed to maintain the respect due to courts of justice and judicial officers. There were three aggravating factors: 9.22(d) multiple offenses (h) vulnerability of victim and (i) substantial experience in the practice of law and six mitigating factors: 9.32(a) – absence of prior disciplinary record, (b) absence of dishonest or selfish motive (c) – personal or emotional problems, (e) full and free disclosure, (g) character or reputation and (k) imposition of other penalties or sanctions. Honchar was sanctioned for violation of Rule 42, Ariz.R.S.Ct., specifically ERs 1.1, 1.3, 1.7, 2.1, 3.1, 4.4, 8.4(d) and Rules 41(c) and 41(g).

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.

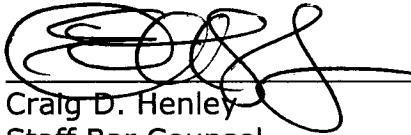
CONCLUSION

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 ADMONITION and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit "B."

DATED this 14th day of September, 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.

DATED this 14th day of September, 2012.



Brian K. Stanley
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 17th day of September, 2012.

Copies of the foregoing mailed/emailed
this 17th day of September, 2012, to:

Brian K Stanley
Law Office of Brian K Stanley PLLC
Phoenix, AZ 85008-5637
Email: bk@brianstanleylaw.com
contact@brianstanleylaw.com
court@brianstanleylaw.com
Respondent

Copy of the foregoing emailed
this 17th day of September, 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 17th day of September, 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"

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,
Brian K Stanley, Bar No. 004619, Respondent

File No(s). 11-3585

Administrative Expenses

The Supreme Court of Arizona has adopted a schedule of administrative expenses to be assessed in lawyer discipline. If the number of charges/complainants exceeds five, the assessment for the general administrative expenses shall increase by 20% for each additional charge/complainant where a violation is admitted or proven.

Factors considered in the administrative expense are time expended by staff bar counsel, paralegal, secretaries, typists, file clerks and messenger; and normal postage charges, telephone costs, office supplies and all similar factors generally attributed to office overhead. As a matter of course, administrative costs will increase based on the length of time it takes a matter to proceed through the adjudication process.

General Administrative Expenses for above-numbered proceedings

\$1,200.00

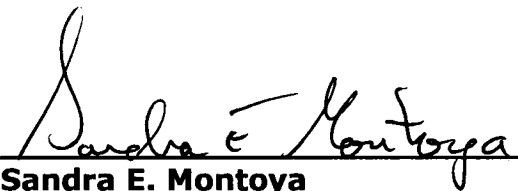
Additional costs incurred by the State Bar of Arizona in the processing of this disciplinary matter, and not included in administrative expenses, are itemized below.

Staff Investigator/Miscellaneous Charges

08/20/12	Computer investigation reports	\$	41.65
	Total for staff investigator charges	\$	41.65

TOTAL COSTS AND EXPENSES INCURRED

\$1,241.65



Sandra E. Montoya
Lawyer Regulation Records Manager

9-17-12

Date

EXHIBIT "B"

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

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

**Brian K. Stanley
Bar No. 004619**

Respondent.

PDJ-2012-9059

FINAL JUDGMENT AND ORDER
[State Bar No. 11-3585]

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

IT IS HEREBY ORDERED that Respondent, **Brian K. Stanley**, is hereby admonished for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$1200.00.

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:

Brian K. Stanley
Law Office of Brian K Stanley PLLC
1422 N 44th St Ste 111
Phoenix, AZ 85008-5637
Email: bk@brianstanleylaw.com
contact@brianstanleylaw.com
court@brianstanleylaw.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: _____