

David L. Sandweiss, Bar No. 005501
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Telephone (602) 340-7386
Email: LRO@staff.azbar.org

Jonathan S. Collins, Bar No. 022391
Collins & Collins LLP
3240 E. Union Hills Drive, Suite 139
Phoenix, Arizona 85050-2652
Telephone (602) 788-7227
Email: joncollins@collinslaw.net
Respondent's Counsel

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**JOSEPH E. COLLINS,
Bar No. 018289,**

Respondent.

State Bar File No. 20-2121

PDJ 2021-9094

**AGREEMENT FOR DISCIPLINE
BY CONSENT**

The State Bar of Arizona, and Respondent Joseph S. Collins who is represented by Jonathan S. Collins, hereby submit their Agreement for Discipline

by Consent pursuant to Rule 57(a), Ariz. R. Sup. Ct.¹ A probable cause order was entered on October 8, 2021, but a formal complaint has not been filed. Respondent voluntarily waives the right to an adjudicatory hearing, 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 admissions and proposed form of discipline are approved.

Pursuant to Rule 53(b)(3), notice of this agreement was provided to the complainants by email on October 20, 2021. Complainants have been notified of the opportunity to file a written objection to the agreement with the State Bar within five (5) business days of bar counsel's notice. Copies of Complainants' objections, if any, have been or will be provided to the presiding disciplinary judge.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ERs 1.2, 1.3, 1.4, 1.5, 3.1, 3.3, and 8.4(c). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: **Reprimand with Probation**, the terms of which are set forth in "Sanctions"

¹ All references to rules are to the Arizona Rules of the Supreme Court unless stated otherwise.

below. Respondent also agrees to pay the costs and expenses of the disciplinary proceeding, within 30 days from the date of this order. If costs are not paid within the 30 days interest will begin to accrue at the legal rate.² The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

COUNT ONE of ONE (File no. 20-2121/ Hougen)

FACTS

1. Respondent was licensed to practice law in Arizona on October 18, 1997.

2. In 2018 James Eubanks filed for divorce from Laura Eubanks in Gila County Superior Court. Laura was in prison at the time serving a 2½ year sentence for aggravated DUI (her third such conviction). In October 2018 Laura's mother retained Respondent to represent Laura and paid Respondent \$2,000. No concerned party produced a written communication of the scope of representation and fees specific to the case. Respondent says he sent his customary intake sheet to Laura's mom along with a customary statement of his firm's charges but none of

² 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.

the blanks or check-boxes identifying the client's name, address, contact information, type of case, etc., were completed. Respondent's rate was \$300/hr. but he billed Laura \$250/hr. Later, Laura paid him \$886.00.

3. In July 2019 Laura was released from prison and the case proceeded through customary preliminary steps. Temporary orders gave James exclusive use of the home while Laura lived with her mom, and James paid Laura \$250 every two weeks. The judge set a settlement conference for August 21, 2019, at which the case seemingly settled. The parties recited a Family Court Rule 69 agreement into the record that included these terms: James was to pay Laura \$6,000 as an advance against her share of future proceeds of sale of the home; James's retirement plans were to be "divided"; James's lawyer Dennis Bassi would prepare the written decree to include reference to a Qualified Domestic Relations Order ("QDRO") to cover retirement funds; and Respondent would prepare the QDRO. There were other terms, including disposition of cars, personal property, responsibility for debts, and other usual things. James and Laura verbally acknowledged their agreement with the on-the-record recitation. Bassi agreed to lodge a form of decree by September 30, 2019.

4. One of the retirement funds was a Federal Employee Retirement System (“FERS”) plan that may not be divided in a QDRO. A QDRO applies to private industry retirement plans governed by the Employee Retirement Income Security Act (“ERISA”) under which the ex-spouse of a plan member may receive benefits when the plan member reaches retirement age even if he doesn’t retire. Under a FERS benefits are not payable until the plan member actually retires and applies for benefits, and must be accounted for in a divorce decree not with a QDRO but with a DRO and subsequent Court Order Acceptable for Processing (COAP) submitted to the U.S. Office of Personnel Management (OPM). The parties referred to the FERS in their verbal presentation of the settlement on the record.

5. James delivered a \$6,000 check to Respondent’s office and Respondent called Laura to come get it. According to Respondent, rather than get her check Laura implored Respondent to withhold signatures on the forthcoming divorce decree as leverage to extract better terms than those to which they’d already agreed on the court record. Respondent told her they could not do that.

6. Laura was confused by what happened in court on August 21 and did not realize there was to be a settlement conference. She hardly had any interaction

with Respondent both before and after the court date. She asked Respondent to explain what happened and to what she agreed. On August 27, Respondent sent Laura a letter explaining the deal: She and James would sell the house and split the proceeds, or James would keep the house and buy her out for half of an appraised value; James would be exclusively liable on the mortgage; James would get life insurance, four vehicles and two trailers; a QDRO or DRO would divide James's four retirement plans and the FERS; James would pay the joint credit debt; James would get the credit union account; James would pay Laura (and already sent the check) \$6,000 as an advance against the home sale proceeds; Laura could retrieve her personal property; and each party pays their own legal expenses.

7. Laura wanted to tell Respondent the outcome was unfair and unacceptable. She and James had been married 23 years, she had never worked, he made \$130,000 annually, the decree did not provide for support, and the reference to the FERS omitted survivor benefits. Laura lives in a trailer with electricity but no plumbing. Her bathroom is a Portapotty. She says had she known what she would end up with in the decree, meaning had Respondent talked to her about what she ostensibly was agreeing to, she would not have agreed to it. She tried to reach Respondent by phone but he did not return her calls. So, she prepared a

handwritten letter dated September 25, 2019, and walked it over to Respondent's office. In her letter she explained that had she known what she would end up with under the settlement she would not have given up all the vehicles; they did not discuss who would remain in the residence; they did not discuss that James would get the credit union account; and she had no idea what the life insurance was about. She also did not understand what a QDRO or DRO is, and what things fall under the definition of "personal property." She concluded: "I can't move forward with this until I have no more questions considering my future financially and personally. . . . If we would have disgust [sic] what was on that paper sent to me on August 27, 2019 before the 20th [sic] 2019 we wouldn't be having this discussion. I'm in confusion on exactly what is going on." Respondent received and read Laura's letter on September 25, proven by his billing statement entry to that effect on that date.

8. On September 30, 2019, "after a number of personal conversations" with Laura (per Respondent), Respondent filed a motion to withdraw due to an ethical conflict. In the same motion, Respondent asked the court for an order imposing a charging lien against funds to be paid to Laura based on "a valid agreement with [Laura]. The contract creates the intention of the parties to create a

charging lien” He also asked the court to impose a retaining lien against Laura’s papers “and other chattels” as security for the balance due for fees and costs.

9. Respondent says he does not have billing entries for phone calls or the motion to withdraw (in fact, on September 26 and 27, 2019, Respondent did bill one hour for preparing the motion to withdraw and order). “There were so many calls and messages that recording them was not worth the payment [Respondent] could have expected to receive and because [Respondent] does not routinely charge to withdraw from a case or to resolve disputes that lead to his withdrawal.” Respondent added that Laura often called when she was intoxicated that “made real communication virtually impossible She was not incompetent; she was just intoxicated on a number of occasions.”

10. Bassi did not complete a draft consent decree by September 30, 2019. On October 8 he emailed the court’s JA he would finish it, get it signed, and lodge it in the next few days. On October 9, the JA said the case would go on the nonappearance calendar for October 21. On October 9, 2019, Bassi sent Respondent a draft of the decree. Respondent still was counsel of record for Laura. After exchanging and agreeing to some edits, both counsel signed it approving it as

to form, and sent it to their respective clients to approve as to form and content. The form of decree almost comported with the Rule 69 agreement (that Laura told Respondent she did not understand and to which she did not agree). One exception was that although it referred to a QDRO (to be prepared separately) covering the QDRO-eligible retirement plans (valued at about \$395,000) it did not refer to the FERS plan (that Complainant later valued at monthly payments to Laura of \$1,200). It did state that the retirement plans were to be divided equally.

11. On October 24, 2019, Respondent wrote to Laura and told her to come to his office to sign the decree. Laura tried to reach Respondent by phone but he did not return her calls. On October 28, Laura called the judge's JA and told her she disagreed with and objected to the consent decree. The JA relayed this to Bassi and Respondent, and also told them in an email the judge had not yet signed the order to withdraw. Respondent told the JA and Bassi he would try to find out what was going on.

12. On October 29, 2019, Laura filed a pro per motion asking the court to stop and review the divorce decree. She disagreed with the proposed decree's content because (among other reasons) Respondent withdrew, property was not

divided equally, she hadn't been given the opportunity to pick up her personal property from the home, and the QDRO had not yet been established.

13. On November 4, 2019, Respondent emailed Bassi, "You should just lodge this decree."

14. On November 5, 2019, the court signed an order on a form Respondent prepared allowing Respondent to withdraw as Laura's counsel. On the same form the court ordered that any funds James paid to Laura either satisfy Respondent's lien before paying Laura "or do not violate his lien rights." Respondent billed Laura for time spent from December 2019 through the spring of 2020, after his withdrawal.

15. On November 15, Bassi responded to Laura's Motion to Stop and Review, and lodged the form of divorce decree which he, Respondent, and James all approved as to form (and James as to content, too). On December 11, the court denied Laura's motion and signed the consent decree.

16. Laura retained Complainant to fix the decree. On December 27, 2019, Laura in pro per filed a Motion to Alter or Amend Judgment Complainant wrote for her. She objected to the missing FERS in the divorce decree and that Respondent signed off on the form of the decree without noticing that the FERS

was missing. On December 30 Complainant notified Bassi and Respondent that the FERS was missing and Laura wanted it fixed. Bassi and Respondent agreed, and Bassi acknowledged “there is no problem” fixing it. However, Complainant raised other issues such as that Laura claimed James withheld her personal property from the home. The agreement recited on the record in court was that Laura was to list things she wanted and James was to make them available. Laura had not yet prepared the list.

17. On January 15, 2020, Respondent emailed Complainant, “Please stop emailing me, I have withdrawn. I just want to know when my lien will be paid.” On January 17, 2020, Respondent offered to reduce his bill 40%. On February 21, 2020, Complainant entered a limited scope appearance. Her purpose was to amend the judgment “related to the marital residence and the retirements,” the latter to cover the FERS. She lodged a form of “Amended Consent Decree” etc. that called for the FERS to be split equally, like the other retirement assets covered in the divorce decree and to be included in the QDRO, and asked the court to sign it.

18. In March Bassi objected. He acknowledged the parties omitted the FERS from the divorce decree but confirmed his prior communication that “there would be no problem” including it with the QDROs for the other retirement

accounts, obviating any need to amend the decree. To the extent he thought the parties could include the FERS in the yet-to-be created QDRO, he was wrong. Also, he denied the parties intended to split the FERS equally. Whereas the QDRO-eligible retirement plans were created and funded during marriage, the FERS originated before marriage such that only a portion of it was community property. Bassi argued the parties agreed to split equally only the community property portion of the retirement funds.

19. Complainant replied, reminding the court that Bassi omitted the FERS from the decree he volunteered to draft, and now claims greater entitlement for James than an equal share of the retirement funds. She also asserted the parties agreed to split the cost of preparing the QDRO, which is untrue. The decree says the parties would share equally “any costs associated with the division of [the retirement] accounts.” This refers to internal costs of administration of the plans, not the cost of preparing the QDRO that in the Rule 69 agreement Respondent agreed to do. Both sides asked for attorney’s fees.

20. In a May 1, 2020 filing, Bassi said Respondent confirmed the parties intended to equally divide only the community property part of the retirement plans. Laura denies she intended this.

21. The judge set and continued various status conferences and hearings but a hearing eventually was set for October 2020. In pretrial briefing, Bassi notified the court and parties Respondent would testify that the parties' intent at the Rule 69 settlement conference was to divide equally the community property portion of the retirement accounts, not to divide the accounts equally notwithstanding their separate or community character.

22. Bassi served Respondent with a subpoena to appear and testify. The subject matter of testimony was to be "your knowledge of the settlement conference that took place between the parties on August 21, 2019, including but not limited to your understanding of the agreement that you entered into on your client's behalf as well as both your responsibilities and those of your client under the agreement." The subpoena also "commanded" Respondent "to bring your case file and notes for this matter"

23. The parties briefed their respective positions in separate "joint" pretrial statements, and disclosed witnesses and exhibits. Complainant argued in the alternative that because there was insufficient meeting of the minds the entire divorce decree should be vacated, as opposed to amending it to correct omissions. As before, both parties requested attorney's fees. The hearing began on October 2,

2020 before Judge Wolak and continued on October 8. Respondent appeared as a witness on October 8, represented by his brother Jonathan Collins. Excerpts from the minute entry for that day give an idea of what transpired (Ex. 4 was the settlement conference transcript of August 21, 2019):

1:33 p.m. Joseph Collins is sworn and examined.

Ms. Hougen requests to have a standing objection re attorney client/privilege.

Ms. Hougen objects re subjectiveness. Court examines witness.

Exhibit 4 is provided to witness for review.

Objection made by witness's counsel, Jonathan Collins, with reason provided for the record. Discussion.

Court addresses witness re Exhibit 4 reflecting an accurate statement of settlement that was previously placed on the record.

Court addresses Ms. Hougen re stop interrupting as to pending question before the witness and orderly conduct as to speaking objections made. Witness continues review of Exhibit 4. Witness confirms accurate statement of settlement placed on the record. Court inquires of witness placing terms of settlement on the record. Witness confirms. Court inquires what terms of settlement re Petitioner's federal pension. Ms. Hougen objects with reason provided for the record. Jonathan Collins objects with understanding of Court to achieve clarity with reason provided. Witness speaks. Jonathan Collins requests witness to stop speaking. Request is made by witness to conduct an in-camera interview. Court stops the witness as his counsel has requested him to stop speaking. Mr. Bassi speaks re objection to in-camera interview. Mr. Hougen objects with reason provided for the record. Discussion. The Court directs Mr. Bassi to ask another question.

Exhibit 3 is provided to Witness.

The Court warns Ms. Hougen to stop interruptions with possible sanctions being imposed. Ms. Hougen speaks for the record. The Court will not allow witness to testify as to offers.

Page 1 of 2

The Court excuses witness to refer to file notes and to confer with his counsel. Ms. Hougen requests a copy of the information being reviewed by witness. Jonathan Collins speaks for the record. Ms. Hougen is not waiving any privileged nor ethical conflict and neither is Respondent. Discussion re Rule 49 Disclosure. Upon Court's inquiry, witness reports there was no email communication re community debt.

Objections made by Jonathan Collins and Ms. Hougen re work product.

The Court will strike witness's commentary exceeding scope of question re community debt.

2:20 p.m. Witness is excused and released from subpoena.

Respondent insists he divulged no attorney/client privileged information or information related to his former representation of Laura.

24. Judge Wolak denied Complainant's request for him to sign the proposed amended decree. He ordered Bassi to draft an amended consent decree to address ownership of several cars, and to add the "community share" of the FERS to the other retirement accounts. As before, Laura was ordered to pay for the QDRO. The court awarded her \$2,000 in attorney's fees. Complainant withdrew as Laura's counsel. In November Bassi prepared a form of decree he, James, and Laura signed, and which the judge signed on December 1, 2020.

25. In November 2020 Laura submitted an SBA fee arbitration petition. Respondent included in his claimed fees charges for communications with Bassi after Respondent withdrew. On January 29, 2021, arbitrator Harry Howe conducted a pre-arbitration mediation. The parties agreed that Respondent may keep the \$2,886.00 already paid, waives collection of his claimed balance due of \$6,700, and must release any filed or recorded liens to secure his fees. On February 9, 2021, Respondent filed a lien release.

26. In March and April 2021, pension attorney Jessica Cotter lodged a DRO for the FERS and a QDRO for one of the ERISA plans.

27. Respondent billed 30.7 hours from October 8, 2018-September 25, 2019, before he moved to withdraw, and the services are not unreasonable.

28. In her charge Complainant observed Laura's "presentation and communication of issues is confusing to me throughout to date" but substantiated these ethics violations: Approving the consent decree even only as to form and encouraging Bassi to lodge it knowing Laura objected to and disagreed with it (ER 1.2, which incorporates ER 1.4); lack of a written communication of fees and scope of representation (ER 1.5(b)); unreasonable fees after withdrawing (ER 1.5(a)); failure to catch the missing FERS on the draft decree (ER 1.3); frivolous lien claim (ER 3.1); and misrepresenting to the court that his lien claim was supported by a contract with the client (ERs 3.3 and/or 8.4(c)).

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 he violated Rule 42, ERs 1.2-1.5, 3.1, 3.3, and 8.4(c).

RESTITUTION

Restitution is not an issue; financial disputes were resolved through fee arbitration.

SANCTION

Respondent and the State Bar of Arizona agree that the following sanctions are appropriate: **Reprimand with Probation for two years**, the terms of which are:

1. CLE: In addition to annual MCLE requirements, Respondent shall complete three CLE programs of three hours each on topics appropriate to this case, subject to bar counsel's advance approval. Bar counsel will not withhold approval unreasonably, and already has approved two of Respondent's requested State Bar-sponsored programs: 1. "2021 Ethical Trends Today!" (original program date June 30, 2021); and 2. "Family Law 2021: Twists and Turns" (original program date June 17, 2021). Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the programs by providing a copy of handwritten notes and certificate of completion. Respondent shall contact the Compliance Monitor at 602-340-7258 to make arrangements to submit this evidence. Respondent will be responsible for the cost of the CLE;

2. Respondent shall commit no further violations of the Rules of Professional Conduct.

NON-COMPLIANCE WITH PROBATION

If Respondent fails to comply with any of the foregoing probation terms and the State Bar of Arizona receives information thereof, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5). The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether Respondent breached a term of probation and, if so, to recommend an appropriate sanction. If the State Bar alleges 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.

If Respondent violates any of the terms of this agreement, the State Bar may bring further discipline proceedings.

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.

In determining an appropriate sanction the Court considers 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. *Standard 3.0.*

The duty violated

Respondent's conduct violated his duties to the client, the profession, and the legal system.

The lawyer's mental state

Respondent conducted himself negligently as to some violations and knowingly as to others.

The extent of the actual or potential injury

There was actual harm to the client, the profession, and the legal system.

The following *Standards* are relevant:

**ER 1.2. Scope of Representation and Allocation of Authority
Between Client and Lawyer**

(a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter.

Standard 4.43 - Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.

ER 1.3. Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

Standard 4.43 above.

ER 1.4. Communication

(a) A lawyer shall:

(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in ER 1.0(e), is required by these Rules;

(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) keep the client reasonably informed about the status of the matter; [and]

(4) promptly comply with reasonable requests for information

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Standard 4.43 above.

ER 1.5. Fees

(a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. . . .

(b) The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate.

Standard 7.2 - Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

Standard 4.63 - Reprimand is generally appropriate when a lawyer negligently fails to provide a client with accurate or complete information, and causes injury or potential injury to the client.

ER 3.1. Meritorious Claims and Contentions

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a good faith basis in law and fact for doing so that is not frivolous, which may include a good faith and nonfrivolous argument for an extension, modification or reversal of existing law.

Standard 6.22 - 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.

ER 3.3. Candor Toward the Tribunal

(a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer

Standard 6.12 - Suspension is generally appropriate when a lawyer knows that false statements or documents are being submitted to the court or that material information is improperly being withheld, and takes no remedial action, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding.

ER 8.4. Misconduct

It is professional misconduct for a lawyer to: . . . (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

Standard 4.62 - Suspension is generally appropriate when a lawyer knowingly deceives a client, and causes injury or potential injury to the client.

Aggravating and mitigating circumstances

The presumptive sanction is Suspension. The following aggravating and mitigating factors should be considered:

In aggravation:

9.22(a) prior disciplinary offenses – In 2006, in SBA file no. 05-1424, Respondent received an informal reprimand (currently, admonition) for violating ER 1.15. The parties agree this factor should be weighted less

heavily given its remoteness (see Mitigating Factor 9.32(m), below) and because the violation involved an ER not implicated in this case.

9.22(b) dishonest or selfish motive;

9.22(d) multiple offenses;

9.22(h) vulnerability of victim; and

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

In mitigation:

9.32(d) timely good faith effort to make restitution or to rectify consequences of misconduct;

9.32(e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings;

9.32(k) imposition of other penalties or sanctions; and

9.32(m) remoteness of prior offenses – see Aggravating Factor 9.22(a) above.

Discussion

The charge of greatest concern to the State Bar was Respondent's mistaken assertion of entitlement to a lien for fees. To his credit he participated in the State Bar's fee arbitration proceedings voluntarily, and acceded to the fee arbitration mediator's recommendations that he waive his asserted balance due from the client and vacate his asserted lien. Also, the client's successor counsel (Complainant

herein) acknowledged that clear communication with the client was difficult. The communication problem likely impaired the attorney/client relationship between Respondent and the client and should be considered an unlisted mitigating factor. Coupled with probation, it is appropriate to reduce the presumptive sanction to reprimand with probation. Based on the *Standards* and in light of the facts and circumstances, the parties conditionally agree that the stated sanction is within the range of appropriate sanctions 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. *In re Peasley, 208 Ariz. 27 (2004)*. 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 Reprimand with Probation and the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit B.

DATED this 27th day of October 2021.

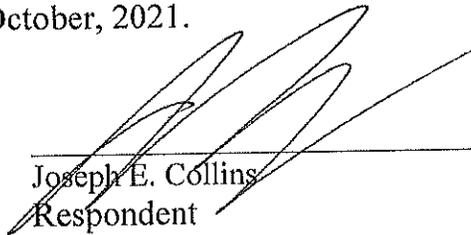
STATE BAR OF ARIZONA



David L. Sandweiss
Senior Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation.

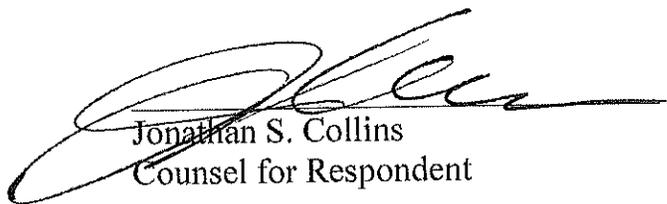
DATED this 27 day of October, 2021.



Joseph E. Collins
Respondent

DATED this 28 day of October, 2021.

Collins & Collins LLP



Jonathan S. Collins
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
of the Supreme Court of Arizona
this 29th day of October, 2021.

The Honorable Margaret H. Downie
Presiding Disciplinary Judge
Supreme Court of Arizona
1501 West Washington Street, Suite 102
Phoenix, Arizona 85007
E-mail: officepdj@courts.az.gov

Copy of the foregoing mailed/mailed
this 29th day of October, 2021, to:

Jonathan S. Collins
Collins & Collins LLP
3240 E. Union Hills Drive, Suite 139
Phoenix, Arizona 85050-2652
Email: joncollins@collinslaw.net
Respondent's Counsel

Copy of the foregoing emailed
this 29th day of October, 2021, to:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th St., Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

by: /s/Miriam Robinson
DLS/mgr

EXHIBIT A

Statement of Costs and Expenses

In the Matter of, a Member of the State Bar of Arizona
Joseph E. Collins, Bar No. 018289, Respondent

File No. 20-2121

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.

Additional Costs

Total for additional costs \$ 0.00

Total Costs and Expenses for each matter over 5 cases where a violation is admitted or proven.

(# over 5 x (20% x Gen. Admin cost)): \$ 0.00

TOTAL COSTS AND EXPENSES INCURRED \$ 1,200.00

EXHIBIT B

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**JOSEPH E. COLLINS,
Bar No. 018289,**

PDJ

**FINAL JUDGMENT AND
ORDER**

State Bar No. 20-2121

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

Accordingly:

IT IS ORDERED that Respondent, **Joseph E. Collins**, is **Reprimanded** for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED that Respondent is placed on probation for two years. The terms of probation are:

1. CLE: In addition to annual MCLE requirements, Respondent shall complete three CLE programs of three hours each on topics appropriate to this

case, subject to bar counsel's advance approval. Bar counsel will not withhold approval unreasonably, and already has approved two of Respondent's requested State Bar-sponsored programs: 1. "2021 Ethical Trends Today!" (original program date June 30, 2021); and 2. "Family Law 2021: Twists and Turns" (original program date June 17, 2021). Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the programs by providing a copy of handwritten notes and certificate of completion. Respondent shall contact the Compliance Monitor at 602-340-7258 to make arrangements to submit this evidence. Respondent will be responsible for the cost of the CLE;

2. Respondent shall commit no further violations of the Rules of Professional Conduct.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$ _____, within 30 days from the date of service of this Order.

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 _____, within 30 days from the date of service of this Order.

DATED this _____ day of October, 2021.

**Margaret H. Downie, 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 October, 2021.

Copies of the foregoing mailed/mailed
this _____ day of October, 2021, to:

Jonathan S. Collins
Collins & Collins LLP
3240 E. Union Hills Drive, Suite 139
Phoenix, Arizona 85050-2652
Email: joncollins@collinslaw.net
Respondent's Counsel

Copy of the foregoing emailed
this _____ day of October, 2021, to:

David L. Sandweiss
Senior Bar Counsel
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

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,**

**JOSEPH E. COLLINS
Bar No. 018289**

Respondent.

No. 20-2121

PROBABLE CAUSE ORDER

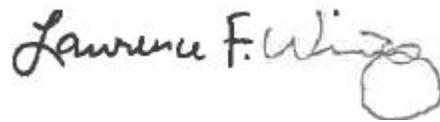
The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on October 8, 2021, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation.

By a vote of 8-0-1¹, the Committee finds probable cause exists to file a complaint against Respondent in File No. 20-2121.

IT IS THEREFORE ORDERED pursuant to Rule 55(c) and 58(a), Ariz. R. Sup. Ct., authorizing the 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 8 day of October, 2021.



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

¹ Committee member Genene Dyer did not participate in this matter.

Original filed this 8th day
of October, 2020, with:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th St., Suite 100
Phoenix, Arizona 85016-6266

Copy emailed this 12th day
of October, 2021, to:

C. Robert Collins
Collins & Collins, LLP
3240 E. Union Hills Dr., Suite 139
Phoenix, AZ 85050-2652
Email: bobcollins@collinslaw.net
Respondent's Counsel

Copy emailed this 12th day
of October, 2021, to:

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

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th St., Suite 100
Phoenix, Arizona 85016-6266
E-mail: LRO@staff.azbar.org

By: /s/Jackie Brokaw

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

JOSEPH E. COLLINS,
Bar No. 018289

Respondent.

PDJ 2021-9094

**DECISION ACCEPTING
AGREEMENT FOR DISCIPLINE
BY CONSENT**

[State Bar No. 20-2121]

FILED November 3, 2021

On October 29, 2021, the parties filed an Agreement for Discipline by Consent (“Agreement”) pursuant to Rule 57(a), Ariz. R. Sup. Ct. The State Bar is represented by David L. Sandweiss, and Respondent Joseph E. Collins is represented by Jonathan S. Collins. A probable cause order issued on October 8, 2021, but no formal complaint has been filed.

Contingent on approval of the proposed form of discipline, Mr. Collins has voluntarily waived the right to an adjudicatory hearing, as well as all motions, defenses, objections, or requests that could be asserted. Pursuant to Rule 53(b)(3), notice of the Agreement was sent to the complainant. The complainant has advised that she has no objection to the Agreement; complainant’s client – who was Mr. Collins’ client in the underlying matter – did not specifically object to the Agreement, but reiterated complaints about his representation.

The Agreement details a factual basis to support the conditional admissions and is incorporated by reference. *See* Rule 57(a)(4). Mr. Collins admits that he violated Rule 42, ERs 1.2 (scope of representation), 1.3 (diligence), 1.4 (communication), 1.5 (fees) , 3.1

(meritorious claims and contentions), 3.3 (candor towards tribunal), and 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). As a sanction, the parties agree to a reprimand, two years of probation, and the payment of costs to the State Bar.

In the underlying domestic relations matter, Mr. Collins failed to provide a written communication regarding the scope of representation and his fees. He failed to adequately communicate with and diligently represent his client and entered into a Rule 69 agreement the client did not understand and later objected to. Mr. Collins advised opposing counsel to lodge the agreement/decreed despite his client's objections, withdrew from the representation, billed for tasks performed after he withdrew, and asserted a lien to recover outstanding fees. He erroneously advised the court that the lien was supported by a contract with the client. The client was required to hire another attorney to address her concerns with the agreement/decreed.

Based on the conditional admissions, the parties agree that the presumptive sanction is a suspension under §§ 4.62, 6.12, 6.22, and 7.2 of the ABA Standards. Respondent violated duties owed to his client, the profession, and the legal system, resulting in actual harm. The parties stipulate to the existence of aggravating factors 9.22(a) (prior disciplinary offense), 9.22(b) (selfish or dishonest motive), 9.22(d) (multiple offenses), 9.22(h) (vulnerability of victim), and 9.22(i) (substantial experience in the practice of law). They further stipulate to the existence of mitigating factors 9.32(d) (timely good faith effort to make restitution or rectify consequences of misconduct), 9.32(e) (full and free disclosure to disciplinary board or cooperative attitude toward proceedings), 9.32(k) (imposition of other penalties or sanctions), and 9.32(m) (remoteness of prior offenses).

The parties agree that the mitigating factors justify a reprimand and probation, rather than a suspension. The record supports their agreement, particularly because the prior disciplinary offense is quite old and involved conduct different from that at issue in these proceedings. Additionally, Mr. Collins proactively participated in fee arbitration and waived fees he had previously claimed.

IT IS ORDERED accepting the Agreement for Discipline by Consent. A final judgment and order is signed this date.

DATED this 3rd day of November, 2021.

Margaret H. Downie
Margaret H. Downie
Presiding Disciplinary Judge

COPY of the foregoing e-mailed
this 3rd day of November, 2021 to:

David L. Sandweiss
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, AZ 85016-6288
Email: LRO@staff.azbar.org

Jonathan S. Collins
Collins & Collins LLP
3240 E. Union Hills Drive, Suite 139
Phoenix, AZ 85050-2652
Email: joncollins@collinslaw.net
Respondent's Counsel

by: MSmith

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

JOSEPH E. COLLINS,
Bar No. 018289

Respondent.

PDJ 2021-9094

FINAL JUDGMENT AND ORDER

[State Bar No. 20-2121]

FILED November 3, 2021

The Presiding Disciplinary Judge accepted the parties' Agreement for Discipline by Consent submitted pursuant to Rule 57(a), Ariz. R. Sup. Ct.

IT IS THEREFORE ORDERED that Respondent, **JOSEPH E. COLLINS, Bar No. 018289**, is reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED that Respondent is placed on probation for two years. The terms of probation are as follows:

1. Continuing Legal Education (CLE): In addition to annual MCLE requirements, Respondent shall complete three CLE programs of three hours each on topics appropriate to this case, subject to bar counsel's advance approval. Bar counsel will not withhold approval unreasonably and has already approved two of Respondent's requested State Bar-sponsored programs: (1) "2021 Ethical Trends Today!" (original program date June 30, 2021); and (2) "Family Law 2021: Twists and Turns" (original program date June 17,

2021). Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the programs by providing a copy of handwritten notes and certificates of completion. Respondent shall contact the Compliance Monitor at 602-340-7258 to make arrangements to submit this evidence. Respondent will be responsible for the costs of the CLE;

2. Respondent shall commit no further violations of the Rules of Professional Conduct.

IT IS FURTHER ORDERED that Respondent shall pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200.00, within 30 days from the date of service of this order. There are no costs or expenses incurred by the Office of the Presiding Disciplinary Judge in these proceedings.

DATED this 3rd day of November, 2021.

Margaret H. Downie
Margaret H. Downie
Presiding Disciplinary Judge

Copies of the foregoing emailed
this 3rd day of November, 2021, to:

Jonathan S. Collins
Collins & Collins LLP
3240 E. Union Hills Drive, Suite139
Phoenix, Arizona 85050-2652
Email: joncollins@collinslaw.net
Respondent's Counsel

David L. Sandweiss
Senior Bar Counsel
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

by: [MSmith](#)