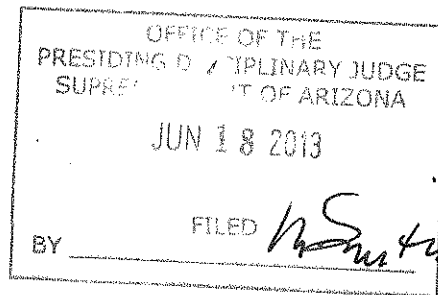


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Respondent's Counsel

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

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

**John W. Dorris,  
Bar No. 020436,**

Respondent.

PDJ-2013- 9054

**AGREEMENT FOR DISCIPLINE  
BY CONSENT**

[State Bar No. 12-0673]

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent John W Dorris, who is represented in this matter by counsel, Thomas A. Zlaket, 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, ER 8.4(b) and Rule 54(c), Ariz. R. S. Ct. Upon acceptance of this

agreement, Respondent agrees to accept imposition of the following discipline: Reprimand and probation for up to one year; Respondent will submit to an assessment by the State Bar's Member Assistance Program (MAP); Respondent will also complete any follow-up treatment recommended by MAP and agrees to pay the costs and expenses of the disciplinary proceeding.<sup>1</sup> 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 May 24, 2001.

### **COUNT ONE (State Bar File No. 12-0573)**

2. In April 2011, Respondent was charged with a misdemeanor in Tucson City Court after having damaged his wife's cell phone during a domestic dispute.

3. Respondent was provided a pre-trial conference date of May 24, 2011, in the Honorable Thomas J. Berning's courtroom.

4. On May 24, 2011, Respondent appeared *pro se* and entered into an agreement with the Tucson City Prosecutor to participate in their diversion program. Upon completion of the program, the charge against Respondent was to be dismissed.

5. Respondent's case was continued pending completion of the diversion program.

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<sup>1</sup> 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.

6. Respondent failed to complete the intake process for enrollment in the diversion program so the prosecutor moved to terminate Respondent's participation in the diversion program. A pretrial conference was scheduled to be held on August 23, 2011.

7. Respondent failed to appear in court for the pretrial conference on August 23, 2011, and a warrant was issued for his arrest. Later the same day, Respondent filed a motion to continue. The warrant was quashed and the matter reset for October 28, 2011.

8. On October 28, 2011, Respondent's secretary called the Court and said that he would be filing a motion to continue. The matter was reset by the Court for November 21, 2011.

9. Respondent failed to appear for the pre-trial conference on November 21, 2011, and his case was rescheduled for December 27, 2011.

10. Respondent failed to appear on December 27, 2011, and a warrant was issued for his arrest. Later that day, Respondent filed a motion to continue. The warrant was quashed and the pre-trial conference was rescheduled to February 9, 2012. The Court's minute entry from the December 27, 2011, pre-trial conference recounted Respondent's prior history of failing to appear and stated that no further continuances would be granted.

11. Respondent failed to appear for the February 9, 2012, pre-trial conference and a warrant was issued. The following day, notwithstanding the Court's previous ruling that no further continuances would be granted, Respondent filed a motion to continue. Respondent's motion was denied and the warrant remained in effect.

If this matter proceeded to hearing, Respondent would affirmatively assert that he was not advised by the staff member responsible for calendaring notices that the Court had stated that no further continuances would be granted. The State Bar does not stipulate to this assertion.

12. Respondent eventually completed the required treatment program on May 30, 2012, after failing to appear at five pre-trial conferences, having filed three motions to continue and warrants having been issued on three separate occasions.

### **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 42, Ariz. R. Sup. Ct., specifically ERs 8.4(d) and Rule 54(c).

### **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: reprimand with probation for up to one year; Respondent will submit to an assessment by the State Bar's Member Assistance Program (MAP); Respondent will also complete any follow-up treatment or comply with any conditions recommended by MAP and agrees to pay the costs and expenses of the disciplinary proceeding.

Respondent shall contact the Director of the State Bar's Member Assistance Program (MAP), at 602-340-7334 or 800-681-3057, within thirty (30) days of the date of the final judgment and order. Respondent shall submit to a MAP assessment. The director of MAP shall develop "Terms and Conditions of Probation" if he determines that the results of the assessment so indicate, and the terms shall be incorporated herein by reference. The probation period will begin to run at the time of the entry of the final judgment and order and will conclude one year from that date. Probation may be terminated prior to the one-year date upon completion of the MAP assessment if no follow-up treatment or conditions are recommended or deemed necessary by MAP. Respondent shall be responsible for any costs associated with 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* 6.23 is the appropriate *Standard* given the facts and circumstances of this matter. *Standard* 6.23 provides that reprimand is generally appropriate when a lawyer negligently fails to comply with a court order or rule, and causes interference or potential interference with a legal proceeding.

**The duty violated**

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

**The lawyer's mental state**

For purposes of this agreement the parties agree that Respondent knowingly engaged in conduct prejudicial to the administration of justice 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 reprimand. The parties offer the following aggravating and mitigating factors, but conditionally agree that the sanction remains appropriate after consideration of those factors.

**In aggravation:**

*Standard* 9.22(i) Substantial experience in the practice of law. Respondent was admitted to practice in New York in 1997, and in Arizona in 2001.

**In mitigation:**

*Standard 9.32(a)* Absence of 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 following: Respondent's misconduct arose in his own case. Although the justice system was harmed, and the public's perception of the integrity of the profession might be impacted were Respondent's conduct to become widely known, the misconduct was not so egregious to require a more severe sanction.

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 [Probable Cause Committee] [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 [describe sanction] and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit "B."

**DATED** this 18 day of June, 2013.

STATE BAR OF ARIZONA

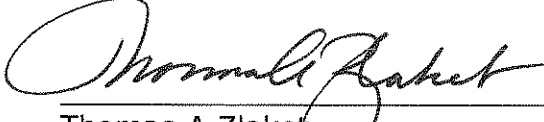
\_\_\_\_\_  
Roberta L Tepper  
Senior Bar Counsel

**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 18<sup>th</sup> day of June, 2013.

  
\_\_\_\_\_  
John W Dorris  
Respondent

DATED this 18 day of June, 2013.

  
\_\_\_\_\_  
Thomas A Zlaket  
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 \_\_\_\_ day of \_\_\_\_\_, 2013.

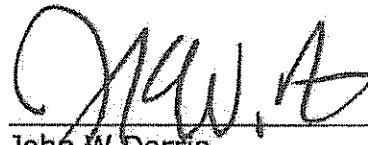


STATE BAR OF ARIZONA

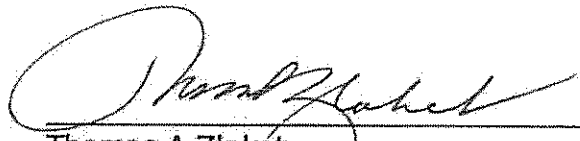
  
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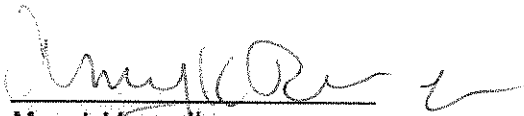
DATED this 18<sup>th</sup> day of June, 2013.

  
\_\_\_\_\_  
John W Dorris  
Respondent

DATED this 18 day of June, 2013.

  
\_\_\_\_\_  
Thomas A Zlaket  
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 18<sup>th</sup> day of June, 2013.

Copies of the foregoing mailed/emailed  
this 18<sup>th</sup> day of June, 2013, to:

Thomas A Zlaket  
Thomas A Zlaket PLLC  
310 S Williams Blvd Ste 170  
Tucson, AZ 85711-7700  
Email: tom@zlaketlaw.com  
Respondent's Counsel

Copy of the foregoing emailed  
this 18<sup>th</sup> day of June, 2013, to:

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

Copy of the foregoing hand-delivered  
this 18<sup>th</sup> day of June, 2013, to:

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

By: Ariana Quiroz  
RLT:aq

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

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

**JOHN W. DORRIS  
Bar No. 020436**

Respondent.

**PDJ-2013-9054**

**FINAL JUDGMENT AND ORDER**

[State Bar No. 12-0673]

**FILED JULY 2, 2013**

The Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent "(Agreement)" filed on June 18, 2013, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed Agreement. Accordingly:

**IT IS HEREBY ORDERED** that Respondent, **John W. Dorris**, is hereby reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective the date of this Order.

**IT IS FURTHER ORDERED** that Respondent shall be placed on probation for a period of one (1) year.

**IT IS FURTHER ORDERED** that, Respondent will submit to an assessment by the State Bar's Member Assistance Program (MAP); Respondent will also complete any follow-up treatment or comply with any conditions recommended by MAP and agrees to pay the costs and expenses of the disciplinary proceeding.

## **MAP**

Respondent shall contact the director of MAP, at 602-340-7334 or 800-681-3057, within thirty (30) days of the date of the final judgment and order. Respondent shall submit to a MAP assessment. The director of MAP shall develop "Terms and Conditions of Probation" if he determines that the results of the assessment so indicate, and the terms shall be incorporated herein by reference. The probation period will begin to run at the time of the entry of the final judgment and order and will conclude one (1) year from that date. Should MAP determine that no treatment is necessary, MAP may recommend termination of Respondent's probation prior to the expiration of the one (1) year term. Respondent shall be responsible for any costs associated with MAP.

## **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 thirty (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 pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200.00. There are no costs or

expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings.

**DATED** this 2<sup>nd</sup> day of July, 2013.

*/s/ William J. O'Neil*

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**Hon. 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 2<sup>nd</sup> day of July, 2013.

Copies of the foregoing mailed/emailed  
this 2<sup>nd</sup> day of July, 2013, to:

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310 South Williams Boulevard, Suite 170  
Tucson, Arizona 85711-7700  
Email: tom@zlaketlaw.com  
Respondent's Counsel

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Roberta L. Tepper  
Senior Bar Counsel  
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Phoenix, Arizona 85016-6266  
Email: [lro@staff.azbar.org](mailto:lro@staff.azbar.org)

Sandra Montoya  
Lawyer Regulation Records Manager  
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by: MSmith