

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**KAREN L. KILLION,  
Bar No. 021865**

Respondent.

**PDJ-2015-9048**

**FINAL JUDGMENT AND ORDER**

[State Bar No. 14-2564]

**FILED APRIL 13, 2016**

This matter was heard by a Hearing Panel which rendered its decision under Rule 58, Ariz. R. Sup. Ct. The appeal filed by Respondent was dismissed by the Supreme Court on April 7, 2016 and the decision of the hearing panel was ordered final.

Accordingly,

**IT IS ORDERED** Respondent, **KAREN L. KILLION, Bar No. 02185**, is suspended from the practice of law for a period of six (6) months and one (1) day effective December 9, 2015, for conduct in violation of her duties and obligations as a lawyer as stated in the Hearing Panel's Decision and Order Imposing Sanctions filed November 9, 2015.

**IT IS FURTHER ORDERED** Ms. Killion shall pay the costs and expenses of the State Bar of Arizona in the amount of \$4,016.95. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings.

**IT IS FURTHER ORDERED** under Rule 72 Ariz. R. Sup. Ct., Ms. Killion shall immediately comply with the requirements relating to notification of clients and others.

**DATED** this 13th day of April, 2016.

*William J. O'Neil*

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**William J. O'Neil, Presiding Disciplinary Judge**

COPY of the foregoing mailed/e-mailed  
this 13<sup>th</sup> day of April, 2016, to:

Hunter F. Perlmeter  
State Bar of Arizona  
4201 N. 24th Street, Suite 100  
Phoenix, AZ 85016-6266  
Email: lro@staff.azbar.org

Karen L. Killion  
4227 South Meridian, Ste 393  
Puyallup, WA 98373-3603  
Email: killionkl@gmail.com  
Respondent

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

by: AMcQueen

SUPREME COURT OF ARIZONA

In the Matter of a Member of the ) Arizona Supreme Court  
State Bar of Arizona ) No. SB-16-0006-AP  
)  
KAREN L. KILLION, ) Office of the Presiding  
Attorney No. 21865 ) Disciplinary Judge  
) No. PDJ20159048  
Respondent. )  
)  
\_\_\_\_\_ ) **FILED 04/07/2016**

**O R D E R**

Pursuant to Rule 59, Rules of the Supreme Court, Karen L. Killion filed a notice of appeal from the hearing panel's Decision and Order Imposing Sanctions. The briefing schedule for the appeal required Killion to file her opening brief no later than March 21, 2016. Killion has not filed an opening brief. Accordingly,

**IT IS ORDERED** dismissing Killion's appeal. Pursuant to Rule 58(k), the decision of the hearing panel is final.

DATED this 7th day of April, 2016.

\_\_\_\_\_/s/  
SCOTT BALES  
Chief Justice

TO:

Karen L Killion

Hunter F Perlmeter

Amanda McQueen

Sandra Montoya

Don Lewis

Beth Stephenson

Mary Pieper

Netz Tuvera

Raziel Atienza

Lexis Nexis

Maret Vessella

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**KAREN L. KILLION,**

**Bar No. 021865**

Respondent.

**No. PDJ-2015-9048**

**DECISION AND ORDER  
IMPOSING SANCTIONS**

[State Bar No. 14-2564]

**FILED: NOVEMBER 9, 2015**

On October 8, 2015, the Hearing Panel ("Panel"), composed of Betty J. Davies, volunteer public member, James M. Marovich, volunteer attorney member, and Presiding Disciplinary Judge, William J. O'Neil ("PDJ"), held a one (1) day hearing under Rule 58(j), Ariz. R. Sup. Ct. Hunter Perlmeter appeared on behalf of the State Bar of Arizona ("State Bar"). Karen L. Killion ("Ms. Killion") appeared *pro per*.

The Panel carefully considered the Complaint, Answer, Separate Pre-Hearing Statements, Respondent's Pre-Trial Memorandum, the State Bar's Pre-Trial Memorandum, admitted exhibits, and testimony.<sup>1</sup> The Panel now issues the following "Decisions and Order Imposing Sanctions," under Rule 58(k), Ariz. R. Sup. Ct.

**I. SANCTION IMPOSED:**

**SIX MONTHS AND ONE DAY SUSPENSION AND COSTS OF THESE  
DISCIPLINARY PROCEEDINGS.**

**II. BACKGROUND AND PROCEDURAL HISTORY**

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<sup>1</sup> The Panel considered the testimony of Karen Killion, Bart Barrett, and Carolyn Barrett

The single count complaint arose out of Ms. Killion's actions over several years. The actions revolve around the unrefuted extreme abuse of alcohol by Ms. Killion, her threats to have Complainant Bart Barrett killed, a man with whom she had occasional sexual relations, her threats to misuse her position as an attorney to intimidate or cause him harm, and her long term and wide reaching harassment of him, his family members, and associates. A Probable Cause Order was issued on May 21, 2015, and the State Bar filed its complaint on June 3, 2015, alleging the following violations of three (3) different Ethical Rules ("ERs") and one (1) Arizona Supreme Court Rule: 3.4(c) (knowingly disobey an obligation under rules of tribunal); 8.4(b) (engage in criminal act); 8.4(c) (engage in conduct involving dishonesty, fraud, deceit or misrepresentation); and Rule 41(g), Ariz. R. Sup. Ct. (engage in unprofessional conduct).

Ms. Killion filed her answer on June 24, 2015. [See Response to Complaint filed June 24, 2015.] In her answer she requested: "protection against the State Bar of Arizona and any and all persons associated with the State Bar of Arizona"; "reasonable attorney salaries that Respondent could have earned but for Complainant's actions from the year 2005 to retirement age"; "for all retirement funds that Respondent could have accrued but for Complainant's actions from the year 2005 forward"; and "for all reasonable attorney salaries and law school tuition and costs that Respondent could have earned or has expended if the State Bar of Arizona admitted Respondent to practice law imprudently and/or with malicious or careless intent." She also sought general, special, and punitive damages against the State Bar. [Response to Complaint, ¶¶ A-G, pp. 2-3.]

On July 7, 2015, an initial case management conference was held and orders issued setting the hearing and establishing case management deadlines. On July 8, 2015, the State Bar filed an amended complaint. On July 20, 2015, Ms. Killion filed a Response to Amended Complaint. In paragraphs 9, 10 and 11 of that response, Ms. Killion referred the PDJ to case number CV-2015-005070, but did not explain what the purpose of the referral was nor did she indicate what court, county, or state the action was filed in. [Response to Amended Complaint, p. 3.] Ms. Killion repeated the same demands for substantially the same damages as stated in her initial answer to the original complaint.

Ms. Killion filed a "Status Report" on August 10, 2015, partially to inform the PDJ of the rejection of the State Bar's first proposed settlement officer and her concerns with the initial stages of discovery with the State Bar. She additionally asserted, "Respondent also has a separate lawsuit pending against The Law Offices of David Michael Cantor, *et al*, for *inter alia* legal malpractice and negligent infliction of emotional distress." [Status Report, p. 2, lines 24-26.] She did not explain this assertion or its relevance to the proceedings before the PDJ.

She also sought clarification of the request of the PDJ to electronically forward, in WORD format, any copies intended for the PDJ of filed pleadings "because e-mailing in Word Format potentially permits the pleading to be changed en route to the Presiding Discipline Judge where PDF does not." [Underscoring in the original, Status Report, page 3, lines 8-10.] The PDJ issued an Order on August 17, 2015, regarding the Status Report.

On September 8, 2015, Ms. Killion filed a motion *in limine* to exclude the testimony of Complainant Bart Barrett ("Mr. Barrett"), his mother, Carolyn Barrett

("Ms. Barrett"), and herself, among others. Also on September 8, 2015, Ms. Killion filed a Motion For Summary Judgment and a Separate Statement of Facts in Support of Motion for Summary Judgement. Ms. Killion filed a Subpoena *Duces Tecum* to compel the appearance of Dominique Barrett at the October 8, 2015 hearing, but never served it.<sup>2</sup>

In her motion for summary judgment, Ms. Killion argued in part, "a civil action filed by Respondent is pending in Superior Court of Maricopa County against Complainant for Malicious Prosecution, Abuse of Process and Defamation." Nothing was stated in the motion regarding the lawsuit, nor was anything argued by Ms. Killion to explain why the filing of that lawsuit related to her motion. The single explanation she offered was: "Complainant may or may not wish to testify regarding this Order of Protection." [Motion for Summary Judgment, p. 3, third paragraph.]

Ms. Killion testified before the Hearing Panel that she filed this suit in August, 2015, just before filing her motion for summary judgment. However, the testimony of Mr. Barret was uncontested regarding Ms. Killion's prosecution of her lawsuit. Ms. Killion waited to serve Mr. Barret with the lawsuit until the day before his testimony. [Testimony of Mr. Barrett.] We conclude Ms. Killion sued and waited to serve the suit to further intimidate Mr. Barret.

Ms. Killion testified she also recently sued the attorney who represented her for a 2005 DUI charge to which she ultimately pled guilty. Ms. Killion argued any

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<sup>2</sup> Dominique Barrett did not appear for the hearing. While the Subpoena was filed with the Disciplinary Clerk, there was no attempt at service of the subpoena under Civil Rule 45(d) made applicable to these proceedings under Supreme Court Rule 47(c) and 48(b). At the hearing Ms. Killion acknowledged she made no attempt, but rather had the clerk forward the subpoena in an preaddressed envelope. The subpoena used was not compliant with Supreme Court Rule 47(i). There was no reasonable expectation of this witness appearing before the Panel.

testimony regarding her DUI case in the course of the disciplinary proceedings, "is arguably premature in light of the pending civil action" against her prior attorney. [Motion for Summary Judgment, p. 4, first full paragraph.] That attorney was listed on the signature page of the summary judgment motion as having been sent a "courtesy" copy by Ms. Killion. These two lawsuits have in common a similar statement by Ms. Killion: "Respondent has filed two civil actions as detailed above. Any testimony relating to these matters is premature during their pendency." [Motion for Summary Judgment, p. 7, third paragraph.]

A settlement conference was conducted before Settlement Officer Gary L. Stuart. No settlement was reached. On September 21, 2015, the State Bar filed its Response to Respondent's Motion for Summary Judgment. On September 22, 2015, a final case management conference was held.

On September 25, 2015, Ms. Killion filed a reply to the State Bar's response to her summary judgment motion which included a "Request for Order that Respondent Testify after State Bar of Arizona's Case-in-Chief." The PDJ denied the request for an order that Ms. Killion testify after the State Bar's case-in-chief.<sup>3</sup>

On September 28, 2015, Ms. Killion moved for Protective Order Re Complainant and Witness (Non-Party) Written Discovery. Arguing under Supreme Court Rule 70(g), Ms. Killion submitted she had served discovery upon "Complainant and witnesses..." She then stated, bar counsel "refused to entertain the written discovery to Complainant Barrett and these witnesses." She concluded, "Therefore, because the written discovery was essentially discarded, it should not become part of the public record in this matter **and** should also be shielded from electronic view

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<sup>3</sup> Order filed on October 6, 2015.

of the general public.” (Emphasis included.) As apparently nothing was disclosed by Complainant or the unnamed witnesses, and as nothing existed to be sealed, the request was denied as untimely and as an improper tactical pleading.

On October 5, 2015, Ms. Killion filed a “Resignation Under Protest” with the PDJ. Ms. Killion announced her resignation from the State Bar of Arizona and “protests [sic] the adequacy of the due process standards in place for the hearing.” On October 6, 2015, the PDJ acknowledged the pleading as filed; however, noted due to the pending discipline case, such resignation could not be accepted under Rule 32, Ariz. R. Sup. Ct. The following day the Motion for Summary Judgment was denied by written order.

On the day of the hearing, Ms. Killion filed a “Respondent’s Motion for Reconsideration of: Motion for Protective Order (Redactions of) Respondent’s Initial Rule 58(e) Disclosure Statement.” The motion being past the deadline for filing motions, was denied. In addition, motions for reconsideration are not authorized under the Supreme Court rules applicable to discipline proceedings.

### **III. FINDINGS OF FACT**

Ms. Killion was licensed to practice law in the State of Arizona on October 22, 2002. [Pre-Hearing Statement, p. 1.] Ms. Killion has no prior disciplinary sanctions. She testified she has no home address, resides in Arizona but sleeps in Washington. She stated she has been unemployed since December 2014, and last worked at Barnes and Noble. She also testified she obtained a Master’s Degree in taxation from the University of Washington School of Law but last practiced law in January 2009. [Killion Testimony.]

Ms. Killion testified she thinks she met Bart Barrett as a child. [Testimony of Killion.] We find Ms. Killion first met Bart Barrett (“Mr. Barrett”) in or around 2000, while attending an Arizona Cardinal’s home football game. [Testimony of Mr. Barrett and Killion Testimony; SB Ex. 1, SBA0001.] After this initial meeting, the two maintained minimal contact. At a later meeting—around March 2002—with mutual friends to watch a baseball game, the two exchanged email addresses and for a time, communicated regularly. [Testimony of Mr. Barrett and Killion.] At some later point in time, Mr. Barrett took and passed a border patrol exam, enabling him to apply for the United States Border Patrol academy. [Id. and SB Ex. 1.]

Shortly after passing his border patrol exam, Mr. Barrett asked Ms. Killion, who was then an associate attorney at Lewis & Roca, if he could list her as a reference on a United States Border Patrol application as he thought it would help his application to have an attorney listed as a reference. [Id.] The F.B.I. contacted Ms. Killion to do a follow-up interview regarding the application, which she provided. [Id.] Shortly after Ms. Killion told Mr. Barrett he could use her name as a reference, she expressed an interest in pursuing a romantic relationship with Mr. Barrett. [Id.] Mr. Barrett initially declined Ms. Killion’s advances, which resulted in Ms. Killion being outraged, stating that she would call the F.B.I. to withdraw her name as a reference and contact his current employer—the United States Post Office—to have him fired. [Id.] Concerned with her status as a lawyer and the potential impact on his application these threatened actions would have, Mr. Barrett testified he began a relationship with Ms. Killion.<sup>4</sup> [Testimony of Mr. Barrett.] Both Mr. Barrett and Ms. Killion agreed

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<sup>4</sup> While Ms. Killion presented a vastly different version of the beginning of their relationship, involving a “game” played by Mr. Barrett to lure her away from an existing relationship just to break up with her after being successful. [SB Ex. 5, SBA000009-26.] The Panel finds no

they began a sexual relationship on June 11, 2002. [Testimony of Mr. Barrett and Killion; SB Ex. 5, SBA000010.]

In late 2004 or early 2005, Mr. Barrett was offered a position in the Border Patrol academy and left to train in Artesia, New Mexico. [Testimony of Mr. Barrett.] We find during his training, Ms. Killion repetitively called, leaving numerous voicemails filling his voicemail box. Unable to leave more messages on his voicemail, Ms. Killion contacted Mr. Barrett's family and friends. [Id.; SB Ex. 1 SBA0001] Mr. Barrett testified Ms. Killion acted in such a manner when excessively drinking. [Testimony of Mr. Barrett.] This testimony was not refuted by Ms. Killion. In his charge to the State Bar, Mr. Barrett briefly outlined these events. [Exhibit 1, SBA000001.]

Because of this harassment, Mr. Barrett testified he obtained an Order of Protection against Ms. Killion in 2005.<sup>5</sup> [Testimony of Mr. Barrett; SB Ex. 1, SBA000001.] When Mr. Barrett came back to Arizona for surgery on a broken leg, he filed that petition at the Dreamy Draw Courthouse. Mr. Barrett believed he had Ms. Killion served with this petition at Lewis & Roca and she was ultimately suspended because of these actions. [Id.] Ms. Killion did not dispute she was served with the petition. However, she disputed the service of the petition was at her place of employment. [SB Ex. 5, ¶ XIX, SBA000012.]

In her response to the State Bar's investigation of the bar charge by Mr. Barrett, Ms. Killion acknowledged Mr. Barrett's "actions launched an internal

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credibility to her version of events. The reason they began a relationship is not relevant to us. We do find Ms. Killion's version to be a made up story meant to paint Mr. Barret in a bad light. It is otherwise immaterial and not relevant.

<sup>5</sup> There is no evidence in the record of this protective order, but we have no dispute by Ms. Killion of such protective order existing.

investigation by the firm.” She also acknowledged that investigation included “six tapes” of her alleged voicemails, two of which were listened to by one of the firm’s investigatory partners. While Ms. Killion disagreed when and where she was served, she did not dispute these actions led to her suspension from the firm. [SB Ex. 5, ¶ XIX, SBA000012; Testimony of Killion.] She also acknowledged she soon thereafter left Arizona and went to Massachusetts for a time to avoid being served:

“I finally telephoned the partner at the firm to ask if my mother and I might take a small vacation given that Mr. Barrett was interest in only serving me at the firm and creating workplace drama and hardship for me.”

[SB Ex. 5, SBA00013.] We find her statement that the firm agreed to this avoidance unreliable hearsay. She also acknowledged she was served with the order of protection when she wrote, “After service of process...” in her response to the bar charge. [SB Ex. 5, ¶¶ XXII, XXV, SBA000013.]

In the same written response Ms. Killion wrote of her conjecture of what led to her suspension from her former employer. [Id. ¶ XIX, SBA00012.] As with much of her testimony, we found the content of her written response non-reliable. The entirety of Ms. Killion’s written statement of a purported discussion with a police officer we find to be unreliable hearsay and her conjectures regarding her suspension, speculative. [Id. ¶ XXVI, SBA 00013.] While existent within an exhibit admitted for the purpose of evidencing Ms. Killion received the State Bar’s charge and request for information, the statements in the October 2014 letter were not otherwise admissible. However, Ms. Killion’s statements against interest we do consider. What her statements clarify is her actions led to her suspension and she was served with the protective order. Regardless, Mr. Barrett testified the Order of Protection resulted in Ms. Killion ceasing any harassment until 2012. [Testimony of Mr. Barrett.]

Ms. Killion acknowledged she and Mr. Barret had no contact from sometime in 2005 until late 2011. [Testimony of Killion; SB Ex. 5.] She swore she initiated contact with Mr. Barrett directly due to her curiosity about Mr. Barrett no longer working for Border Patrol, indicating, "Particularly because I knew Mr. Barrett could not have mathematically achieved the twenty (20) years of federal government service required for a full pension, which had been his goal or so I thought." [Exhibit 5, ¶ XXXI, SBA000013 and Testimony of Killion.]

In or around late 2011 or early 2012, Mr. Barrett's friend and business partner received a voicemail message from a woman. [Testimony of Mr. Barrett.] The call was from an unknown Washington phone number. Shortly after this voicemail, Mr. Barrett received a text message from Ms. Killion expressing her feelings that he had "ruined her life." [Id., SB Ex. 1, SBA000002.]

Mr. Barrett testified he contacted Ms. Killion in a conciliatory effort. She told him she was coming to Arizona to work with the Justice Project. [Testimony of Mr. Barrett.] Ms. Killion and the residential leasing entity of which Mr. Barrett was an owner entered into an agreement for the rental of a home, so long as Mr. Barrett and Ms. Killion's relationship remained civil. [Id.; Respondent's Prehearing Statement, R. Ex. 5 (monthly rent checks).] Ms. Killion testified at the time she entered the agreement, she owned minimal possessions, had them in her car, and was unsure what she would do or where she would reside. While she swore she had assets in storage, we found no corroboration and discounted that testimony. [Testimony of Killion.] Issues arose between Mr. Barrett and Ms. Killion, resulting in Ms. Killion

calling the police in early November 2012. The police told Ms. Killion to vacate the property.<sup>6</sup> [Testimony of Mr. Barrett and Killion.]

We find Ms. Killion told Mr. Barrett she was the attorney on a high profile Justice Project case that would be televised. This is contradicted by her written response to the State Bar. There she stated she was being interviewed by a California law firm for its Scottsdale office. She wrote she considered the trip “a ‘reconnaissance’ trip of sort, i.e. catch up with old friends and colleagues, see the changes in Phoenix, see Mr. Barrett for the first time in seven (7) years and see the rental house at 844 East Diana Avenue that he had been promoting as my residence should I decide to return to Phoenix.” [Exhibit 5, ¶ XXXVI, SBA000017.] Whether Ms. Killion ever worked for Justice Project is unknown to us. However, we find the testimony of Mr. Barrett regarding these events persuasive.

On November 8, 2012, Ms. Killion was arrested for DUI in Tempe, Arizona. She pled guilty and was convicted. [Testimony of Killion; SB Ex. 17, SBA000136.] Ms. Killion blamed Mr. Barrett for her DUI and testified the cause of her DUI was her being kicked out of Mr. Barrett’s rental property. However, Ms. Killion had been out of the property for several days at the time of her DUI, which under cross-examination she acknowledged. Under cross-examination she also acknowledged Mr. Barrett did not cause her to drink and drive that day. She has little recollection of the events which led to her conviction, but she knows the officer accused her of being uncooperative. [Id.] We previously noted herein, Ms. Killion has recently sued the attorney who represented her and pre-hearing, she argued this should delay the

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<sup>6</sup> The Panel notes no police report in the record, but neither party disputes the police were called.

proceedings. Ms. Killion offered the pleadings of that lawsuit as her exhibit 3; that exhibit was not admitted. What is clear is she was convicted of DUI and she blamed Mr. Barrett for her conduct. While Ms. Barrett swore the timing of the lawsuit against her former attorney was related to the statute of limitations, we find the timing to be more than coincidental and not related to the statute of limitations.

In her prehearing memorandum to this hearing panel Ms. Killion admits, and we therefore find, she was “charged and pled guilty to a DUI in November 2012 and April 2013 respectively.” It is clear from her testimony and these positions Ms. Killion also blames her attorney for her conviction, not her decision to drink and drive. We find of no assistance her speculation Officer “Long” caused some impropriety in her conviction as evidenced by her attachment of multiple articles to support this position in her response to the State Bar charge. [See SB Ex. 5, Bates000038-40.] It appears Ms. Killion argues Officer Long may have been an associating officer but that appears to only be because he has been the subject of news articles. [Respondent Prehearing Memorandum, p. 3, second, third and fourth sentences under subtitle II.] State Bar Exhibit 16 establishes Officer Trader was the arresting officer. No contrary evidence was submitted by Ms. Killion. We focus on the conviction and her plea of guilty. Her testimony before us that she was drinking and driving that night was clear. The remainder of her conflicting testimony was consistently of concern to us.

After being arrested, Ms. Killion contacted Mr. Barrett asking permission to return to his rental property. [Testimony of Mr. Barrett; SB Ex. 1.] Mr. Barret testified he did not want to help Ms. Killion or get involved, but eventually granted her permission to return to his rental property as she was homeless. [Id.] We find Ms. Killion asked Mr. Barrett if she could serve as his company’s attorney, because having

a job would reduce required jail time. Ms. Killion also told Mr. Barrett she did not want to report the DUI to the Justice Project managers. [Id., SB Ex. 1, SBA000002.]

When Ms. Killion moved back—after a short jail sentence—into the rental property, she continued heavily drinking and causing issues for Mr. Barrett with threats against him. [Id.] For a brief period, this behavior receded. [Id.] However, their relationship soured again in the summer of 2014 when Ms. Killion told Mr. Barrett she knew a Vietnam veteran who owed her a favor and could have him killed. [Id., SB Ex. 1, SBA000002.] Ms. Killion, acknowledged she had spoken to a Vietnam veteran and informed Mr. Barrett of this, but denied she made a threat. We make no determination of whether any such individual offered to or was asked to assault Mr. Barrett. We find Ms. Killion made the threat to Mr. Barrett.

Around July 2014, when Ms. Killion did not pay the July rent, she told Mr. Barrett she had amassed a “large file” on him and if he tried to evict her for not paying rent, she would use her prowess as a lawyer to have him arrested. [Testimony of Mr. Barrett; SB Ex. 1, SBA0002.] Ms. Killion’s mother paid the July rent to prevent eviction. [Id.; R. Ex. 5; SB Ex. 5, ¶ L, SBA000019-20.<sup>7</sup>]

In the middle of August, 2014, Ms. Killion was again emailing Mr. Barrett’s friends and family for the purpose of harassment. [SB Ex. 18-22.] Ms. Killion also sent several offensive text messages to a woman who Ms. Killion believed to have been of interest to Mr. Barrett. [SB Ex. 18.] Ms. Killion sent messages under her real name and under an alias, “Lori Kinder”. Many of the recipients had never met Ms. Killion and were targeted solely because of their relationships with Mr. Barrett. [SB Ex. 18-22.] Examples of the messages include: “Oh you can call the cops. I’ve been

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<sup>7</sup> We note the missing July 2014 rent check was explained as paid by Ms. Killion’s mother.

down that road before with him” and “I will destroy everything you got”. [SB Ex. 18, SBA000142.]

Carolyn Barrett (“Ms. Barrett”), the mother of Mr. Barrett, testified consistent with her notification to the State Bar. [Testimony of Ms. Barrett; Ex. 19; Amended Complaint, p. 4, ¶ 20.] Ms. Barrett swore she received lewd, sexually derogatory messages about her son by text messages and through Facebook from Ms. Killion. She testified they were upsetting and made her sick to her stomach. We note in her answer, Ms. Killion certified she “has not met Complainant Barrett’s mother in this century to her knowledge or understanding.” Yet in her testimony she testified she believed she had met her but didn’t know where. Regardless of whether she met Ms. Barrett, Ms. Killion admits she sent the derogatory messages to her and she did not deny in her answer that allegation. In her testimony Ms. Killion did not refute the testimony of Ms. Barrett, which we conclude to be true. We find Ms. Killion wrote repeated lewd and obscene communications to the mother of Mr. Barrett intending to injure both Ms. Barrett and Ms. Barrett and Ms. Killion’s actions injured both. [Testimony of Killion; Response to Amended Complaint, p. 4, lines 15-16.]

In her amended answer, Ms. Killion repeatedly asserted that her freedom of speech protects such communications and enables her insulting and injurious statements. She does not deny those communications but instead “requests corroboration that an actual being has actually been harmed.” [Response to Amended Complaint, p. 5, ¶¶ 26, 27.] We find the injuries corroborated.

Mr. Barrett filed a petition for protective order in August 2014. Ms. Killion stated it was Mr. Barrett who was harassing her. Yet Ms. Killion, in her response to the State Bar, presented a different image of the relationship between her and Mr.

Barrett when she stated during this same time period, "Mr. Barret willingly installed bedroom curtains for me on August 15, 2014...." [SB Ex. 5, ¶ L1, SBA000020.] Ms. Killion also denied she knew anything of the petition until she was served in early September 2014. Her position was undermined by her own written statement that she knew of the order of protection before it was served in September, 2014. She stated, "Mr. Barrett had an order of protection so we had not spoken since August 22, 2014." [SB Ex. 5, ¶ LXVIII, SBA00024.] Mr. Barrett also filed for a forcible detainer to have Ms. Killion removed from his property. [Testimony of Mr. Barrett; SB Ex. 5, SBA000045-47.] Ms. Killion moved out of the rental property in early September 2014.

#### **IV. CONCLUSIONS OF LAW AND DISCUSSION OF THE DECISION**

The *American Bar Association Standards for Imposing Lawyer Discipline* ("ABA Standards") are a "useful tool in determining the proper sanction" to be imposed on a lawyer found in violation of the Ethical Rules. *In re Cardenas*, 164 Ariz. 149, 152, 791 P.2d 1032, 1035 (1990). We give consideration to the following factors: (1) the duty violated; (2) the lawyer's mental state; (3) the actual or potential injury caused by the misconduct; and (4) the existence of aggravating and mitigating factors. *ABA Standards, Standard 3.0, In re Peasley*, 208 Ariz. 27, 32, 90 P.3d 764, 769 (2004). A lawyer's misconduct may violate a duty owed to a client, the public, the legal system, or the profession. *Commentary, ABA Standards Standard 3.0, See also ABA Standards Theoretical Framework*. When disciplinary proceedings are brought against lawyers alleged to have engaged in ethical misconduct, the State Bar must prove misconduct by clear and convincing evidence. *Commentary, ABA Standards Standard 1.3*.

## **DUTY VIOLATED**

The Panel considered the charges alleged by the State Bar in its single count complaint and finds clear and convincing evidence that Ms. Killion violated ERs 8.4(b), 8.4(c), and Arizona Supreme Court Rule 41(g).

- **ER 3.4(c) (Knowingly disobey obligation under rules of tribunal)**

Arizona Supreme Court Rule 42, specifically, ER 3.4(c) provides, “[a] lawyer shall not . . . knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists.”

The Panel fails to find a coherent argument pursued by the State Bar for a finding of an ER 3.4(c) violation. The Panel notes two protective orders were entered against Ms. Killion and she admits both were served upon her. She did not request a hearing in the earlier order but requested a hearing regarding the 2014 protective order. She did not appear for the hearing. While issuing this protective order may give potential insight into Ms. Killion’s behavior, and we note she stated she knew of its issuance prior to it being served, this offers no legal support for this charge as the events appear to have occurred prior to service of the Order of Protection. Clear and convincing evidence is required. Therefore, the Panel finds the State Bar did not meet its burden of proof to find a violation of ER 3.4(c).

- **ER 8.4 (Misconduct)**

ER 8.4(b) states, “[i]t is professional misconduct for a lawyer to . . . commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects.” A comment to ER 8.4 states: “Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law

practice. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation.”

Not all misdemeanors warrant discipline and only those instances of misconduct “involving a serious crime . . . may independently support discipline.” *In the Matter of Beren*, 178 Ariz. 400, 402, 874 P.2d 320, 322 (1994). The proper designation of offenses for disciplinary purposes is crucial where the mere fact of the conviction is the sole basis for discipline. *Id.* The Court further stated that “[a]lthough we use criminal convictions in the realm of lawyer discipline to shortcut the process of proving professional misconduct, disciplinary actions are sui generis proceedings that have no other connection with the criminal law.” *Id.*; Rule 48(a), Ariz. R. Sup. Ct. Rules of substantive criminal law and lawyer discipline therefore are not, and should not be, interchangeable. *Beren*, 178 Ariz. at 402, 874 P.2d at 322.

However, the State Bar has not argued, nor did the Panel assume, the misconduct for which Ms. Killion is being accused of is automatically deemed misconduct in the realm of professional ethics because of the guilty plea to the DUIs.

A complete factual analysis guides the Panel in determining what ethical violations have occurred. We typically would not find a misdemeanor DUI conviction to be misconduct in a disciplinary proceeding. However, the unique nature of disciplinary actions requires the Panel to consider the guilty plea with all the other evidence, facts, and testimony in their determination of whether there was an ethical violation. See Commentary, *ABA Standards, Standard 9.1*. The Panel is guided by the notion that “not all misdemeanors warrant discipline” and is tasked with determining if this DUI conviction, combined with all surrounding events, warrants discipline. *Beren*, 178 Ariz. at 402, 874 P.2d at 322.

Ms. Killion speculates the DUI was wrongfully administered and that she may have been given inadequate legal defense. [SB Ex. 5, SBA000038-40 (“Officer Misconduct threatens dozens of DUI prosecutions” article); Karen Killion’s Testimony (Not allowed to admit into record exhibit showing malpractice complaint due to relevance).] But it is uncontested the arresting officer was not the officer that had been accused of misconduct. Regardless of these issues, the Panel fails to see how Ms. Killion’s cited article relates to her or how she might be one of the dozens of individuals targeted for improper DUI administration. She offered no testimony and makes no argument that the arresting officer in her case was the officer in her cited report—he was not—and appears to expect the Panel to assume all DUI arrests should be suspect during this period of time. [SB Ex. 16, SBA000094 (Officer Trader conducted the arrest); *but see* SB Ex. 5, SBA000038-40 (Officer Long questioned about improper DUI procedures).] Further, we fail to see how pleading guilty on advice of counsel—while she herself has training as an attorney—has any effect other than distraction from the matters before us.

What the Panel has on record is an extreme DUI police report and testimony describing her excessive alcohol consumption. [SB Ex. 16, SBA000128 (independent blood analysis showing .228 BAC); SB Ex. 17, SBA000136 (Report), Bart Barrett’s Testimony.] We are concerned by Ms. Killion’s side-tracking the issue to place blame on other individuals. This included blaming Mr. Barrett for the DUI because he kicked her out of his rental property. [Testimony of Killion.]

The Panel considered the threats against Mr. Barrett regarding the alleged hitman and the “large file.” While we do not understand whether a Vietnam veteran would kill Mr. Barrett if Ms. Killion so desired, the Panel finds these threats were

made. The Panel does not care if there was a physically “large file” but we do find Ms. Killion threatened to use her skills or connections as a lawyer to harass or control Mr. Barrett’s actions. [Testimony of Mr. Barrett.] What the Panel remains concerned with and finds is these threats were made while Ms. Killion presented herself as an attorney. The Panel does not ignore the totality of issues before us given the clear evidence of DUI violation, as it is a corroborating factor supporting the testimony of Mr. Barret that her conduct escalated with drinking. The harassment of Mr. Barrett, threats of—real or imagined—litigation, and the claim of having a hitman-friend available to kill Mr. Barrett, and the service of the lawsuit the day before the hearing in this matter present us with clear and convincing evidence. The Panel finds Ms. Killion in violation of ER 8.4(b).

ER 8.4(c) provides “[i]t is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.” The Restatement (Third) of the Law Governing Lawyers points to this “catchall” ethical rule in stating that:

Such provisions are written broadly both to cover a wide array of offensive lawyer conduct and to prevent attempted technical manipulation of a rule stated more narrowly. On the other hand, the breadth of such provisions creates the risk that a charge using only such language would fail to give fair warning of the nature of the charges to a lawyer respondent ... and that subjective and idiosyncratic considerations could influence a hearing panel or reviewing court in resolving a charge based only on it.

*In re Alcorn*, 202 Ariz. 62, 73-74, 41 P.3d 600, 611-12 (2002) (citing 1 *Restatement (Third) of the Law Governing Lawyers*, § 5 cmt. c (2000)).

We find Ms. Killion’s harassing and threatening Mr. Barrett with criminal charges based on her “large file” of evidence in an effort to intimidate him is wrongful,

with or without an existing attorney-client relationship. She also harassed others in order to further harass him. Attorneys bear ethical responsibility to the public and profession. When a member of the public knows someone is an attorney and is subsequently threatened by that attorney, the Panel cannot see how this would not be a misrepresentation of an attorney's power or a dishonest use of legal knowledge. Ms. Killion used her status as an attorney as a tactic to encompass her target in fear of legal ramifications. [Testimony of Mr. Barrett, stating his fear of Ms. Killion using her abilities as an attorney because she was "potent with the pen".] Ms. Killion also used an alias to harass individuals. [SB Ex. 18.] The Panel finds Ms. Killion violated ER 8.4(c).

- **Supreme Court Rule 41 (Grounds for Discipline)**

Rule 41(g) states that lawyers are "[t]o avoid engaging in unprofessional conduct."<sup>8</sup> The comment to Rule 41(g) prescribes that "[l]awyers, whether or not engaged in the practice of law, should act honorably and treat others with courtesy and respect." Rule 31(a)(2)(E) defines "unprofessional conduct" as "substantial or repeated violations of the Oath of Admission to the Bar or the Lawyer's Creed of Professionalism of the State Bar of Arizona."

As a lawyer I must strive to make our system of justice work fairly and efficiently. In order to carry out that responsibility, I will comply with the letter and spirit of the disciplinary standards applicable to all lawyers and I will conduct myself in accordance with the following Creed of Professionalism when dealing with my client, opposing parties, their counsel, tribunals and the general public.

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<sup>8</sup> In 2007, the Court adopted Rule 31(a)(2)(E), which defines "unprofessional conduct" as "substantial or repeated violations of the Oath of Admission to the Bar or the Lawyer's Creed of Professionalism of the State Bar of Arizona." In conjunction with the adoption of a definition of "unprofessional conduct," the Court modified Rule 41(g), where the Court replaced the requirement that lawyers "abstain from all offensive personality" with a requirement that lawyers "avoid engaging in unprofessional conduct." Jim Lee & Patricia Sallen, *New Professionalism and Lawyer Discipline Rules Adopted*, Ariz. Att'y, December 2007, at 30.

Preamble to the Lawyer's Creed of Professionalism ("Creed").

A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials.

Preamble to Rule 42, Arizona's Rules of Professional Conduct.

Here, we are presented with multiple acts of harassment and offensive, unprofessional conduct by Ms. Killion. [See *e.g.*, SB Ex. 18 (Harassment of Ms. Schueller), SB Ex. 19 (Harassment of Mr. Barrett's mother), SB Ex. 20-21 (Email to Ms. Mahoney about inviting Mr. Barrett to her wedding)]. Based on the evidence, the Panel finds Ms. Killion in violation of Rule 41, Ariz. R. Sup. Ct.

## **MENTAL STATE**

ER 1.0(f) states that "knowingly," "known," or "knows" denotes actual knowledge of the fact in question and a person's knowledge may be inferred from circumstances. The *ABA Standards* define "knowledge" as "the conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result." *ABA Standards* Definitions. The *ABA Standards* define "intent" as "the conscious objective or purpose to accomplish a particular result." *Id.*

The Panel acknowledges a higher standard beyond mere negligence for many ethical rules must be found because "[h]olding otherwise would support an allegation in every case that, because lawyers are expected to be familiar with the Rules of Professional Conduct, they 'should have known' of their infractions, thereby

effectively reducing the actual knowledge requirement to a nullity.” *In re Tocco*, 194 Ariz. 453, 457, 984 P.2d 539, 543 (1999).

The Panel finds Ms. Killion went beyond negligence in her misconduct and acted knowingly, if not intentionally: her harassing behavior toward Mr. Barrett and those associated with him; the litigation threats toward Mr. Barrett through the use—and abuse—of her legal training; and abuse of her position as an attorney to impose fear on individuals.

The actions of Ms. Killion were obsessive. Whether caused solely by her use of alcohol or for some other underlying cause, Ms. Killion fixated on Mr. Barrett and acted out that fixation with harassing behavior to others to control him. These behaviors were apparent to us throughout the hearing. We are concerned at the imbalance demonstrated and her conduct in this proceeding. We find the evidence clear and convincing she violated the Ethical Rules failing her duty to the public and legal profession. The commentary to ER 8.4 states a “lawyer may refuse to comply with an obligation imposed by law upon a good faith belief that no valid obligation exists.”

The commentary points to ER 1.2(d) in assessing a good faith challenge to the validity, scope, meaning or application of the law apply to challenges of legal regulation of the practice of law. While Ms. Killion asserts she acted in good faith on the claims made before the court and in her pleadings, the Panel disagrees noting:

Although “good faith argument” is not a self-defining term, it has come to mean an argument that responsible lawyers would regard as being seriously arguable. Adoption of this standard does not mean that a lawyer's state of mind is irrelevant, for due process concerns dictate that a lawyer not be punished unless his conduct is knowing, and therefore culpable. On the other hand, an objective standard assumes that a genuinely frivolous claim will be known to be frivolous by most lawyers.

Indeed, the definition of “knowing” set forth in the Terminology section of the Model Rules states that knowledge “may be inferred from the circumstances.” In many cases, therefore, it will be possible to “infer from the circumstances” of a frivolous litigation maneuver that the lawyer had actual knowledge of its frivolous character.

*Matter of Levine*, 174 Ariz. 146, 154, 847 P.2d 1093 1101 (1993) (*reinstatement granted*, 176 Ariz. 535, 863 P.2d 254) (*citing* Geoffrey C. Hazard, Jr., & W. William Hodes, *The Law of Lawyering: A Handbook on the Model Rules of Professional Conduct* 331 (Student Ed. 1985)).

Ms. Killion took an oath to act in accordance to the higher standards of the legal profession. The Panel only sees her behavior as a knowing, if not intentional effort by Ms. Killion to bring harm to Mr. Barrett.

## **INJURY**

The *ABA Standards* define “injury” as harm to a client, the public, the legal system, or the profession which results from a lawyer’s misconduct. Whether a lawyer’s actions caused harm is a question of fact. *Van Dox*, 214 Ariz. 300, 305, 152 P.3d 1183, 1188. The *ABA Standards* note that the level of injury can range from “serious” injury to “little or no” injury, while a reference to “injury” alone indicates any level of injury greater than “little or no” injury. *ABA Standards* Definitions. A “potential injury” is the harm to a client, the public, the legal system or the profession reasonably foreseeable at the time of the lawyer’s misconduct, and which, but for some intervening factor or event, would probably have resulted from the lawyer’s misconduct. *Id.*

Here, we have actual injury to Mr. Barrett which began, in part, due to Ms. Killion’s unprofessional behavior. The root cause is not an issue before us when there is actual damage. Further, Mr. Barrett and those associated with this disciplinary

matter now view attorneys in a different light. [Testimony of Mr. Barrett, stating he feared Ms. Killion because she was an attorney and worried what threats could be carried out against him; Testimony of Ms. Barrett, could not understand how an attorney would act in the harassing way Ms. Killion did.] The Panel finds Ms. Killion also caused potential injury to Mr. Barrett through her pervasive harassment. We recognize the frailties of human relationships and speculate Mr. Barrett and Ms. Killion were unkind towards one another and at the different times caring for one another. Regardless, the evidence is clear and convincing. Ms. Killion refuted little of the testimony of Mr. Barrett. We disregarded the hearsay and speculative aspects of the exhibits but weighed the statements against interest made by her.

### **DISCUSSION**

Having considered the testimony and exhibits, the Panel finds the State Bar has shown by clear and convincing evidence knowing, if not intentionally dishonest misconduct by Ms. Killion. The Panel was not persuaded by Ms. Killion's evasive and inconsistent testimony.

Maintaining the public's faith in the profession requires maintaining the professional integrity of the judicial system. The misconduct by Ms. Killion will require imposition of sanctions conducive and just to her culpable mental state and injury caused by her misconduct.

### **PRESUMPTIVE SANCTIONS**

The Panel looks to the *ABA Standards* to determine the presumptive sanctions for imposing lawyer sanctions. Absent aggravating or mitigating circumstances and upon application of the factors set out in 3.0, cases involving commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a

lawyer in other respects, or in cases with conduct involving dishonesty, fraud deceit, or misrepresentation are considered under *Standard 5.0, Violations of Duties Owed to the Public*. *Standard 5.1, Failure to Maintain Personal Integrity*, applies to Ms. Killion's violation of ERs 8.4(b) and 8.4(c). *Standard 5.12* provides:

Suspension is generally appropriate when a lawyer knowingly engages in criminal conduct which does not contain the elements listed in *Standard 5.11* and that seriously adversely reflects on the lawyer's fitness to practice.

*Standard 7.0, Violations of Other Duties owed as a Professional* is applicable to Ms.

Killion's violation of Rule 41(g). *Standard 7.2* provides:

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.

## **AGGRAVATION AND MITIGATION**

Each disciplinary case involves unique facts and circumstances. In striving for fair disciplinary sanctions, consideration must be given to the facts pertaining to the professional misconduct and to any aggravating or mitigating factors. *Commentary, ABA Standards Standard 9.1*. The Panel determined the following aggravating factors are supported by the record:

- **9.22(c) (pattern of misconduct)**

The case *In re Alexander*, 232 Ariz. 1, 15, 300 P.3d 536, 550 (2013), "found patterns when a lawyer had a prior disciplinary record concerning similar misconduct, and a lawyer engaged in misconduct involving multiple parties in different matters that often occurred over an extended period of time." However, multiple offenses will not necessarily equate to a "pattern of misconduct." The "pattern of misconduct"

aggravator applies to lawyers who repeatedly engage in ethical misconduct in different contexts. *Id.* In *Alexander*, the misconduct arose from her actions in a single matter, involved the same people, and spanned approximately ninety days. Further, she had no prior disciplinary record. Under these circumstances, the Court found that *Alexander* did not engage in a pattern of misconduct.

Here, we have several members of the public who suffered from Ms. Killion's harassing or threatening behavior. The behavior stretched over many years and involved multiple individuals. The Panel finds a pattern of misconduct and gives this aggravating factor weight.

- **Standard 9.22(d) (Multiple offenses)**

While the Panel is presented with only one complainant, we find multiple incidences unique to Mr. Barrett. We find there were ongoing threats and harassment by Ms. Killion. We find multiple offenses in terms of an aggravating factor for this sanction, but only give adequate weight where it is not duplicitous of the "pattern of misconduct" section.

- **9.22(f) (submission of false evidence, false statements, or other deceptive practices during the disciplinary process)**

The Panel does not assert there was false evidence, but can point to misleading evidence, which was wholly distracting to the matters before us. However, this evidence was ultimately not admitted. The Panel notes Ms. Killion's attempts to expand these proceedings and avoid her own misconduct by shifting blame and changing the storyline. We are troubled by her assertion that the DUI was caused by Mr. Barrett kicking her out of his rental property when the events were separated by several days.

- **9.22(g) (refusal to acknowledge wrongful nature of conduct)**

The Panel is concerned about Ms. Killion's refusal to acknowledge the wrongful nature of her misconduct. A great difficulty was imposed on this Panel in filtering through not only the extensive history undergirding this case, but also the sidetracking by Ms. Killion in assigning or shifting blame to other individuals. The Panel finds Ms. Killion has shown no remorse for her misconduct. We give weight to this aggravating factor in determining Ms. Killion's sanctions.

The Panel determined that the following mitigating factors are supported by the record:

- **9.32(a) (absence of a prior disciplinary record)**

The Panel notes this is Ms. Killion's first disciplinary hearing since obtaining her license in 2002.

- **9.32(c) (personal and emotional problems)**

The Panel expresses concern for Ms. Killion's apparent abuse of alcohol and obsessive behaviors.

## **V. CONCLUSION**

The object of lawyer discipline is to protect the public, the legal profession, the administration of justice, and to deter other attorneys from engaging in unprofessional conduct. *Van Dox*, 214 Ariz. at 303, 152 P.3d at 1186; *Peasley*, 208 Ariz. at 38, 90 P.3d at 775. Attorney discipline is not intended to punish the offending attorney, although the sanctions imposed may have that incidental effect. *Id.* The Panel finds Ms. Killion committed professional misconduct by violating ERs 8.4(b), 8.4(c), and Rule 41, Ariz. R. Sup. Ct.

The State Bar requested suspension for six (6) months and one (1) day as the sanction for Ms. Killion's unethical actions. Based on the facts, conclusions of law, and application of the *ABA Standards*, including both aggravating and mitigating factors, the Panel agreed with this assessment. We are concerned with whatever the underlying issues are that enable these actions of Ms. Killion and the wide breadth of her misconduct. Ms. Killion violated the trust of multiple members of the public. Many more individuals beyond the original complainant were harmed by Ms. Killion's behavior. Accordingly,

**IT IS ORDERED** Ms. Killion is suspended from the practice of law for six months (6) and one (1) day, effective thirty (30) days from this Decision and Order. Ms. Killion shall remain suspended until the court enters an order reinstating her to the practice of law in Arizona or upon order of the presiding disciplinary judge under Rule 64(e)(2)(B). Rule 60(a)(2), Ariz. R. Sup. Ct.

**IT IS FURTHER ORDERED** Ms. Killion shall obtain a Member Assistance Program (MAP) assessment prior to applying for reinstatement.

**IT IS FURTHER ORDERED** that Ms. Killion shall pay costs and expenses under Rule 60(b), Ariz. R. Sup. Ct.

A final judgment and order will follow.

**DATED** this 9th day of November, 2015

*William J. O'Neil*

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**William J. O'Neil, Presiding Disciplinary Judge**

*Betty J. Davies*

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**Betty J. Davies, Volunteer Public Member**

*James M. Marovich*

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**James M. Marovich, Volunteer Attorney  
Member**

Copies of the foregoing mailed/emailed  
this 10th day of November, 2015.

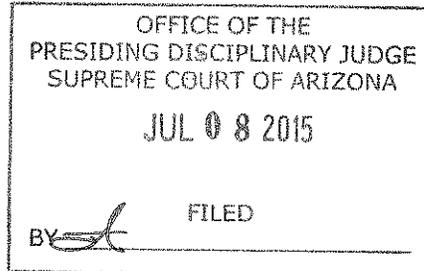
Hunter Perlmeter  
Staff Bar Counsel  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, AZ 85016-6266  
Email: lro@staff.azbar.org

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

Karen L. Killion  
4227 South Meridian, Ste 393  
Puyallup, WA 98373-3603  
Email: killionkl@gmail.com  
Respondent

by: JAlbright

Hunter F. Perlmeter, Bar No. 024755  
Staff Bar Counsel  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
Telephone (602)340-7278  
Email: LRO@staff.azbar.org



**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**KAREN L. KILLION,  
Bar No. 021865,**

Respondent.

**PDJ 2015-9048**

**AMENDED COMPLAINT**

[State Bar No. 14-2564]

Complaint is made against Respondent as follows:

**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 22, 2002

**COUNT ONE (File no. 14-2564/Barrett)**

2. Complainant, Bart Barrett ("Barrett") and Respondent met through a mutual friend in the year 2000. Thereafter, Barrett listed Respondent as a reference on his U.S. Border Patrol application.

3. Around the same time, Respondent indicated to Barrett that she was interested in a romantic relationship with him. When Barrett indicated that he was not interested, Respondent threatened to call the FBI and retract her

recommendation. Respondent also threatened to write a negative letter to his current employer in an attempt to have him terminated.

4. Because Barrett was concerned about Respondent's threat, he began spending time with Respondent.

5. Barrett was then hired by the U.S. Border Patrol and left Phoenix. After he departed, Respondent repeatedly called his cell phone and left drunken voice messages until his inbox was full. Respondent also repeatedly made drunken phone calls to his family and friends.

6. As a result of Respondent's conduct, Barrett obtained a Letter of Protection in approximately 2005. Thereafter, he attempted to have Respondent served at her law firm, Lewis and Roca, with a protective order. An internal investigation by the firm of her behavior resulted, but Respondent ultimately retained her job.

7. Barrett did not hear from Respondent again until approximately 2012, when Respondent anonymously contacted his business partner from a phone with a Washington area code. A few days later, Barrett received a text message from Respondent indicating that he had ruined her life.

8. In 2012, Respondent moved back to Phoenix from Washington, and began drinking heavily. On November 7, 2012, she was arrested for DUI in Tempe.

9. Respondent initially recorded a breathalyzer reading of .220, but later refused to blow hard enough into the instrument to register a BAC. A warrant was obtained for a blood draw, and Respondent's BAC was confirmed to be in excess of .20. Respondent would plead guilty to Extreme DUI.

10. When Respondent was arrested, her vehicle was full, nearly to the ceiling, with her possessions. When asked whether she had been drinking, Respondent told the arresting officer that she had consumed one Dos Equis beer that evening. When removing Respondent's purse for towing, officers found an open beer can with liquid inside.

11. After being arrested, Respondent called Barrett and begged him to allow her to live in his rental property, indicating that she was homeless. According to Barrett, he felt sorry for her and allowed her to live in the property. She asked Barrett to allow her to serve as his company's attorney because having a job would allow her to serve less jail time. Barrett refused.

12. After moving into the rental property, Respondent told Barrett that she knew a Vietnam veteran who owed her a favor and would have him killed.

13. On July 15, 2014, Respondent again brought up the Vietnam veteran when Barrett attempted to get Respondent to pay her rent. She also indicated that if Barrett forced her to move she would have him arrested indicating that she had developed a large "file" on him.

14. Thereafter, Barrett filed a Letter of Protection and brought a forcible detainer action against Respondent.

15. Barrett then received a phone call from Respondent's mother who indicated that she would pay Respondent's rent and that Respondent had quit drinking.

16. On August 15, 2014, however, Respondent began drinking again, began contacting Barrett's friends and family members, and filed a fake complaint with the Better Business Bureau against Barrett's company.

17. Barrett returned to court on September 4, 2014, to report Respondent's failure to comply with the Letter of Protection. Respondent moved out of the house shortly thereafter.

18. Leading up to that date, on August 18, 2014, Respondent sent the following email to a friend of Barrett's: "You are the ugliest bitch I've seen on the computer. I emailed all you (sic) kids to tell them what an on-line ho you are. Sink it in sister."

19. Respondent sent the following emails to friends of Barrett's on August 19, 2014:

- a. I will make sure your life is ruined. Because he made sure my life is ruined. And somehow despite the sex we have once a week, he has a fetish for the ugliest woman on Tagged?
- b. But he's a good match for you. Because you are both internet hos and you are both are fucking ugly. Trust me. Your kids will know the whore that is there mother.
- c. Oh you can call the cops. I've been down that road before with him. But I got stuck with his lardass because of his own fault. My life is miserable b/c of him. I'll help you along. You ugly MF online whole.
- d. That pic you have Tagged? Old. His Dick? Small. But did I love him? Yes. But you undid that. And now I will undo your life Missy Schueller. Oh you can be 'Loving Life'. I'll leave it with your kids and the rest of you state. And plus his dick barely works anyway. But you want to destroy relationships in AZ. I will destroy everything you got.

20. Barrett's mother emailed the State Bar on August 21, 2014:

I am Bart Barrett's mother... Karen Killion has been sending me offensive, disgusting, upsetting emails

regarding Bart. I have never met this woman. The messages seem to be harmful and hurtful . I have deleted and tried to block her. She also has texted the same kind of messages on my phone which I have blocked. Sorry I cannot forward any to you at this time but will if she continues to contact me, Thank you.

21. Barrett provided an August 22, 2014, email sent by Respondent to one of his friends stating, "Do you know your buddy Bart Barrett was busy after your woman? That man his (sic) an ASSHOLE. He is just looking for the next one."

22. ER 3.4(c) prohibits a lawyer from knowingly disobeying an obligation under the rules of a tribunal.

23. ER 8.4(b) prohibits a lawyer from committing a criminal act that reflects adversely on her fitness as a lawyer.

24. ER 8.4(c) prohibits a lawyer from engaging in conduct involving dishonesty.

25. Rule 41(g) requires a lawyer to avoid engaging in unprofessional conduct.

**DATED** this 8<sup>th</sup> day of July, 2015.

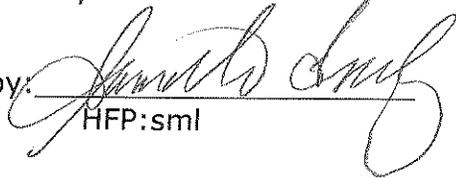
**STATE BAR OF ARIZONA**



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Hunter F. Perlmeter  
Staff Bar Counsel

Original filed with the Disciplinary Clerk of  
the Office of the Presiding Disciplinary Judge  
of the Supreme Court of Arizona  
this 17<sup>th</sup> day of July, 2015

by:   
HFP:sml