

SUPREME COURT OF ARIZONA

IN THE MATTER OF A MEMBER OF THE STATE BAR OF ARIZONA,)	Supreme Court No. SB-04-0147-D
)	
)	Disciplinary Commission
)	Nos. 02-0281, 02-0703, 02-1170
MICHAEL L. GERTELL,)	02-1294, 02-1324, 02-1623
Bar No. 009458)	
)	
RESPONDENT.)	JUDGMENT AND ORDER

This matter having come on for hearing before the Disciplinary Commission of the Supreme Court of Arizona, it having duly rendered its decision and no discretionary or *sua sponte* review occurring,

IT IS ORDERED, ADJUDGED AND DECREED that **MICHAEL L. GERTELL**, a member of the State Bar of Arizona, is hereby suspended from the practice of law for a period of ninety (90) days, effective thirty (30) days from the date of this judgment and order, for conduct in violation of his duties and obligations as a lawyer, as disclosed in the Disciplinary Commission Report.

IT IS FURTHER ORDERED that **MICHAEL L. GERTELL** shall be placed on probation for a period of two (2) years. The terms of probation are as follows:

- 1) Respondent shall contact the director of the State Bar’s Law Office Management Assistance Program (LOMAP) within thirty (30) days of the date of this judgment and order. Respondent shall submit to a LOMAP audit of his office’s client communications, billing and accounting practices. The Director of LOMAP shall develop a probation contract, and its terms shall be incorporated herein by reference.

- 2) Respondent shall find a qualified practice monitor (PM), approved by Bar Counsel and the LOMAP director, within thirty (30) days of the effective date of probation. The practice monitor shall be an attorney who will supervise Respondent’s law practice and monitor Respondent’s caseload, the quality of the services rendered by Respondent, and his communication with clients. The practice monitor will report to the State Bar any manifestations of relapse, unusual behavior or conduct falling below minimum standards of the profession as set forth in the Rules of Professional Conduct, Rule 42, Ariz. R. S. Ct.

- 3) Respondent shall obtain and maintain contact with the practice monitor for the duration of his probation.
- 4) Respondent shall have contact with the practice monitor on a weekly basis and the practice monitor will report to the State Bar the Respondent's activities on a monthly basis.
- 5) In the event that Respondent fails to comply with any of the foregoing conditions, and the State Bar receives information, bar counsel shall file with the Hearing Officer a Notice of Non-Compliance, pursuant to Rule 60(a)5, Ariz. R. S. Ct. The Hearing Officer shall conduct a hearing within thirty days after receipt of said notice, to determine whether the terms of probation have been violated and if an additional sanction should be imposed. In the event there is an allegation that any of these terms have been violated, the burden of proof shall be on the State Bar of Arizona to prove non-compliance by clear and convincing evidence.

IT IS FURTHER ORDERED that Respondent shall comply with all the provisions of Rule 72, Rules of the Supreme Court of Arizona, including, but not limited to, Rule 72(a), which requires that Respondent notify all of his clients, within ten (10) days from the date hereof, of his inability to represent them and that he should promptly inform this Court of his compliance with this judgment and order as provided in Rule 72(e).

IT IS FURTHER ORDERED that Respondent shall comply with all rule provisions regarding reinstatement proceedings.

IT IS FURTHER ORDERED that pursuant to Rule 60(b), the State Bar of Arizona is granted judgment against **MICHAEL L. GERTELL** for costs and expenses of these proceedings in the amount of \$743.33, together with interest at the legal rate from the date of this judgment and order.

DATED this _____ day of _____, 2005.

Noël K. Dessaint
Clerk of the Court

TO:

Michael L. Gertell, Respondent (Certified Mail, Return Receipt)

John A. Furlong, Bar Counsel

Robert J. Stephan, Jr., Hearing Officer 9R

Patricia Seguin, Acting Disciplinary Clerk (Cert. Copy)

Cathy Catterson, Clerk, United States Court of Appeals for the Ninth Circuit (Cert. Copy)

Sandra Montoya, Lawyer Regulation Records Manager, State Bar of Arizona (Cert. Copy)

Richard Weare, Clerk, United States District Court, District of Arizona (Cert. Copy)

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