

David E. Wood, Bar No. 021403  
Staff Bar Counsel  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
Telephone (602)340-7269  
Email: LRO@staff.azbar.org

Jose De La Luz Martinez, Bar No. 024943  
Law Offices of Jose De La Luz Martinez PLLC  
11811 N Tatum Blvd Ste 3031  
Phoenix, AZ 85028-1632  
Telephone 602-953-6651  
Email: josemartinezlaw@gmail.com  
Respondent

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**JOSE DE LA LUZ MARTINEZ,  
Bar No. 024943,**

Respondent.

**PDJ 2021-9050**

State Bar File No. **20-2026**

**AGREEMENT FOR DISCIPLINE  
BY CONSENT**

The State Bar of Arizona, and Respondent Jose De La Luz Martinez who has chosen not to seek the assistance of counsel, hereby submit their Agreement for Discipline by Consent pursuant to Rule 57(a), Ariz. R. Sup. Ct. A probable cause order was entered on May 19, 2021. A formal complaint was filed June 23, 2021.

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 admission and proposed form of discipline is approved.

The State Bar is the complainant in this matter, therefore no notice of this agreement is required pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct. Because the original screening came about from review of the minute entry issued by the Honorable Sara Agne, the State Bar did notify Judge Agne of this agreed upon sanction by message left with her staff on September 23, 2021.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ERs 1.7, 8.4(d). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: **Admonition with Probation**. 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.<sup>1</sup> The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

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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

## FACTS

### GENERAL ALLEGATIONS

1. Respondent was licensed to practice law in Arizona on December 11, 2006.

#### COUNT ONE (File no. 20-2026/ Judicial Referral)

2. The State of Arizona instituted a juvenile dependency proceeding for the infant child of M.W. and G.J.<sup>2</sup>

3. Overlapping with those proceedings, in November 2019 the State of Arizona began criminal proceedings against M.W.

4. The Indictment charged M.W. with: (1) Use of an Electronic Device to Terrify, Threaten or Harass (Class 1 Misdemeanor and Domestic Violence Offense); (2) possession of dangerous drugs, and (3) possession of drug paraphernalia.

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Disciplinary Clerk, the Probable Cause Committee, the Presiding Disciplinary Judge and the Supreme Court of Arizona.

<sup>2</sup> Because M.W. and G.J. were participants in a child dependency proceeding and G.J. is an identified victim of multiple offenses, the parties have abbreviated their names to prevent their public identification. The Parties agree that neither M.W. nor G.J. had common names.

5. Count 1 of the Indictment expressly lists G.J. as the victim: “with intent to terrify, intimidate, threaten, or harass G.J., did threaten to inflict physical harm to G.J.”

6. M.W.’s release questionnaire in the criminal case lists all three charges, M.W.’s relationship to the victim as “spouse/husband”, and a probable cause statement reciting that officers responded to a call from the victim reporting threats by M.W. to choke her with the text message, “You fucking bitch when I see you I’m gonna choke you the fuck out.”

7. On June 1, 2020, Respondent entered a notice of appearance for G.J. in the dependency case.

8. On June 3, 2020, M.W. sent text messages to Respondent about appearing for him at two scheduled city court cases that day. Respondent directly asked M.W. if G.J. was the listed victim for those cases and received a negative answer.

9. On June 10, 2020, Respondent filed his notice of appearance as counsel for M.W. in the Superior Court criminal case. On June 15, 2020, the court issued the order substituting Respondent as counsel.

10. On June 10, 2020, the assigned public defender called Respondent to update him on the case and inform him that she had a recording of G.J for the case.

11. On June 16, 2020, Respondent on G.J.'s behalf filed a Motion pursuant to Arizona Rule of Juvenile Procedure 59 seeking the return of the dependent child to her custody. After one day of the related evidentiary hearing, Respondent withdrew G.J.'s Motion.

12. On June 17, 2020, the Public Defender's Office emailed a link to Respondent to download the case discovery. That discovery included all departmental reports, body camera videos, including a video of G.J. reporting as the victim. The discovery also included a "Domestic Violence Checklist Report" and a "SANE Exam for Victim."

13. The departmental reports available to Respondent on June 17, 2020, included two reports. One report repeatedly listed G.J. as the victim and caller to 911 that led to M.W.'s arrest for both the domestic violence threats and the drugs and paraphernalia in his possession. The second report listed G.J. as the victim and throughout the narrative as the victim of a sexual assault by M.W.

14. Respondent did not retrieve the file and discovery until August 14, 2020.

15. On August 17, 2020, Respondent filed a Motion to Withdraw from representation of G.J. On August 28, 2020, the court held a status conference on the Motion to Withdraw, identified the conflict of interest, and submitted the minute entry to the State Bar. As part of the minute entry, the judge directed that new counsel for G.J. should determine whether to renew the Rule 59 request.

16. On September 9, 2020, Respondent transmitted to the assigned prosecutor for M.W.'s case the recorded interview with G.J. conducted by a public defender's office investigator prior to Respondent taking the case.

17. On September 17, 2020, Respondent filed a Motion to Withdraw as counsel for M.W. citing as the basis a potential conflict of interest. On September 22, 2020, the court granted that motion.

18. Respondent's conduct violated Arizona Rules of Supreme Court 42, ER's 1.7, and 8.4(d).

### **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, Ariz. R. Sup. Ct., specifically 1.7, 8.4(d).

## CONDITIONAL DISMISSALS

There are no conditional dismissals.

## 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: Admonition with Probation for eighteen (18) months, **the terms of probation which will consist of:**

1. LOMAP: Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from the date of service of this Order. Respondent shall submit to a LOMAP examination of his office procedures. Respondent shall sign terms and conditions of participation, including reporting requirements, which shall be incorporated herein. Respondent will be responsible for any costs associated with LOMAP.

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. The *Standards* provide guidance with respect to an appropriate sanction in this matter.

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 parties agree that the following Standard 4.3 *Failure to Avoid Conflicts of Interest* is the appropriate Standard given the facts and circumstances of this matter. The facts of this matter ordinarily warrant a Reprimand for negligence in determining whether the representation of a client will adversely affect another client and causes injury or potential injury to a client. *Standard* 4.33. Standard 4.34, in contrast, provides that Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence in determining whether the

representation will adversely affect another client and causes little or no actual or potential injury to a client. The parties agree that the mitigating factors in this matter support the lesser sanction of Admonition with probation.

Respondent was negligent in this matter by failing for two months to review the charging document for his client or retrieve the client file to perform a conflict check. Upon review of either; a direct, material conflict was readily shown in the representation of a criminal defendant and the listed domestic violence victim who Respondent represented in a separate proceeding with domestic violence an issue. The conflict caused harm to G.J. as a client.

**The duty violated**

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

**The lawyer's mental state**

Respondent acted with negligence in violation of the Rules of Professional Conduct.

**The extent of the actual or potential injury**

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

### **Aggravating and mitigating circumstances**

The presumptive sanction is Reprimand. The parties conditionally agree that the following aggravating and mitigating factors should be considered to reduce that sanction to an Admonition with probation:

#### **In aggravation:**

- a) 9.22(i) substantial experience in the practice of law as Respondent has practiced law for more than fifteen years;

#### **In mitigation:**

- a) 9.32(a) absence of a prior disciplinary record;
- b) 9.32(b) absence of a dishonest or selfish motive;
- c) 9.32(e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings demonstrated by Respondent's continued provision of documents to substantiate his version of events and continued participation in discussion about what happened in the underlying matter.

### **Discussion**

The parties conditionally agree that upon application of the aggravating and mitigating factors the lesser sanction of Admonition with probation is appropriate. This agreement is based on the following: Respondent was continually

forthcoming with information to support events demonstrating his negligence and acknowledging the same. Respondent has additionally agreed to participate in a full term of the Law Office Management Assistance Program.

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

**DATED** this 27<sup>th</sup> day of September 2021

**STATE BAR OF ARIZONA**

  
\_\_\_\_\_  
David E. Wood  
Staff Bar Counsel

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

**DATED** this 27<sup>th</sup> day of September, 2021.



\_\_\_\_\_  
Jose De La Luz Martinez  
Respondent

**DATED** this 27<sup>th</sup> day of September, 2021.

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 27<sup>th</sup> day of September, 2021.

Copy of the foregoing emailed  
this 27<sup>th</sup> day of September, 2021, to:

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](mailto:officepdj@courts.az.gov)

Copy of the foregoing emailed  
this 27<sup>th</sup> day of September, 2021, to:

Jose De La Luz Martinez  
Law Offices of Jose De La Luz Martinez PLLC  
11811 N Tatum Blvd Ste 3031  
Phoenix, AZ 85028-1632  
Email: [josemartinezlaw@gmail.com](mailto:josemartinezlaw@gmail.com)  
Respondent

Copy of the foregoing hand-delivered  
this 27<sup>th</sup> day of September, 2021, to:

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

by:   
DEW/dpd

**EXHIBIT A**

## Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona  
Jose De La Luz Martinez, Bar No. 024943, Respondent

File No. 20-2026

### 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	<u>\$ 0.00</u>
<b>TOTAL COSTS AND EXPENSES INCURRED</b>	<b><u>\$ 1,200.00</u></b>

**EXHIBIT B**

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**JOSE DE LA LUZ MARTINEZ,  
Bar No. 024943,**

**PDJ 2021-9050**

**FINAL JUDGMENT AND  
ORDER**

State Bar No. 20-2026

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, **Jose De La Luz Martinez**, is **Admonished** for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

**IT IS FURTHER ORDERED** that Respondent is placed on probation for a period of eighteen (18) months. The terms of probation are:

- a) LOMAP: Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from the date of service of this Order.

Respondent shall submit to a LOMAP examination of his office procedures. Respondent shall sign terms and conditions of participation, including reporting requirements, which shall be incorporated herein. Respondent will be responsible for any costs associated with LOMAP.

**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 September, 2021.

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**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 September, 2021.

Copies of the foregoing mailed/mailed  
this \_\_\_\_\_ day of September, 2021, to:

Jose De La Luz. Martinez  
Law Offices of Jose De La Luz Martinez PLLC  
11811 N Tatum Blvd Ste 3031  
Phoenix, AZ 85028-1632  
Email: josemartinezlaw@gmail.com  
Respondent

Copy of the foregoing emailed/hand-delivered  
this \_\_\_\_ day of September, 2021, to:

David E Wood  
Staff Bar Counsel  
State Bar of Arizona  
4201 N 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
Email: [LRO@staff.azbar.org](mailto:LRO@staff.azbar.org)

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this \_\_\_\_ day of September, 2021 to:

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

by: \_\_\_\_\_

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**JOSE DE LA LUZ MARTINEZ,**  
**Bar No. 024943**

Respondent.

**PDJ 2021-9050**

**DECISION ACCEPTING  
AGREEMENT FOR DISCIPLINE  
BY CONSENT**

[State Bar Nos. 20-2026]

**FILED October 4, 2021**

A probable cause order issued on May 19, 2021, and the formal complaint was filed on June 23, 2021. On September 27, 2021, the parties filed an Agreement for Discipline by Consent pursuant to Rule 57(a), Ariz. R. Sup. Ct. The State Bar is represented by David E. Wood, and Mr. Martinez is self-represented.

Contingent on approval of the proposed form of discipline, Mr. Martinez has voluntarily waived the right to an adjudicatory hearing, as well as all motions, defenses, objections, or requests that could be asserted. Notice of the consent agreement is not necessary, as the State Bar is the complainant. *See* Rule 53(b)(3).

The Agreement details a factual basis to support the conditional admissions and is incorporated by reference. *See* Rule 57(a)(4). Mr. Martinez admits that he negligently violated Rule 42, ER 1.7 (conflict of interest) and 8.4(d) (conduct prejudicial to the administration of justice). As a sanction, the parties agree to

issuance of an admonition, probation with LOMAP terms, and the payment of costs to the State Bar in the sum of \$1,200.00 within 30 days of the date of service of the final judgment and order.

Based on the conditional admissions, the presumptive sanction is a reprimand under § 4.33 of the ABA Standards. The parties stipulate that only one aggravating factor applies: 9.22(i) -- substantial experience in the practice of law. They further stipulate to the existence of three mitigating factors: 9.32(a) (absence of a prior disciplinary record), 9.32(b) (absence of selfish or dishonest motive), and 9.32(e) (full and free disclosure to disciplinary board or cooperative attitude towards proceedings). After balancing the one aggravating factor against the three mitigating factors, the PDJ agrees with the parties that the presumptive sanction of reprimand is properly mitigated to an admonition plus probation.

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

**DATED** this 4<sup>th</sup> day of October, 2021.

Margaret H. Downie  
**Margaret H. Downie**  
**Presiding Disciplinary Judge**

COPY of the foregoing e-mailed  
this 4<sup>th</sup> day of October, 2021 to:

David E. Wood  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, AZ 85016-6288  
Email: LRO@staff.azbar.org

Jose De La Luz Martinez  
11811 N. Tatum Blvd. Suite 3031  
Phoenix, AZ 85028-1632  
Email: josemartinezlaw@gmail.com

by: MSmith

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**JOSE DE LA LUZ MARTINEZ,**  
**Bar No. 024943**

Respondent.

**PDJ 2021-9050**

**FINAL JUDGMENT AND ORDER**

State Bar No. 20-2026

**FILED October 4, 2021**

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

Accordingly:

**IT IS ORDERED** that Respondent, **JOSE DE LA LUZ MARTINEZ, Bar No. 024943**, is admonished for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

**IT IS FURTHER ORDERED** that Respondent is placed on probation for a period of eighteen (18) months. The terms of probation are:

a) Law Office Management Assistance Program (LOMAP): Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from the date of service of this order. Respondent shall submit to a LOMAP examination of his office procedures. Respondent shall sign terms and conditions of participation, including

reporting requirements, which shall be incorporated herein. Respondent shall be responsible for any costs associated with LOMAP.

**IT IS FURTHER ORDERED** that Respondent shall pay the costs and expenses of the State Bar of Arizona in the sum 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 disciplinary proceedings.

**DATED** this 4<sup>th</sup> day of October, 2021.

Margaret H. Downie  
Margaret H. Downie  
Presiding Disciplinary Judge

Copies of the foregoing mailed/emailed  
this 4<sup>th</sup> day of October, 2021, to:

Jose De La Luz. Martinez  
Law Offices of Jose De La Luz Martinez PLLC  
11811 N Tatum Blvd Ste 3031  
Phoenix, AZ 85028-1632  
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Respondent

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Staff Bar Counsel  
State Bar of Arizona  
4201 N 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
Email: [LRO@staff.azbar.org](mailto:LRO@staff.azbar.org)

by: MSmith