

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

WARREN M. DENETSOSIE,
Bar No. 019051

Respondent.

PDJ 2021-9096

FINAL JUDGMENT AND ORDER

[State Bar No. 21-0075]

FILED NOVEMBER 22, 2021

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

IT IS THEREFORE ORDERED that Respondent, **WARREN M. DENETSOSIE, Bar No. 019051**, is suspended from the practice of law in Arizona for one (1) year for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective immediately.

IT IS FURTHER ORDERED that Respondent shall pay restitution to Jasper Lake in the sum of \$350.00 within 30 days of the date of the final judgment and order.

IT IS FURTHER ORDERED that, upon reinstatement, Respondent shall be subject to any terms of probation imposed as a result of reinstatement hearings held.

IT IS FURTHER ORDERED that Respondent shall comply with the requirements of Rule 72, Ariz. R. Sup. Ct., including notifying clients, counsel and courts of his suspension.

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

DATED this 22nd day of November, 2021.

Margaret H. Downie

Margaret H. Downie
Presiding Disciplinary Judge

Copies of the foregoing emailed
this 22nd day of November, 2021, to:

Warren M. Denetsosie
4707 E. McDowell Rd., Unit 2136
Phoenix, Arizona 85008
Email: wdenetsosie@gmail.com
Respondent

Sierra M. Taylor
Staff Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

by: SHunt

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

WARREN M. DENETSOSIE,
Bar No. 019051

Respondent.

PDJ 2021-9096

**DECISION ACCEPTING
AGREEMENT FOR DISCIPLINE
BY CONSENT**

[State Bar No. 21-0075]

FILED NOVEMBER 22, 2021

The State Bar is represented in this matter by Sierra M. Taylor. Respondent Warren M. Denetsosie is self-represented. A probable cause order issued on October 8, 2021, but no formal complaint has been filed. On November 2, 2021, the parties filed an Agreement for Discipline by Consent (“Agreement”) pursuant to Rule 57(a), Ariz. R. Sup. Ct. After reviewing the Agreement, the Presiding Disciplinary Judge (PDJ) requested additional information regarding mitigation to determine whether the relatively significant departure from the presumptive sanction was appropriate. The parties provided the requested information, which has been filed under seal because it includes sensitive personal, medical, and mental health information.

Contingent on approval of the proposed form of discipline, Mr. Denetsosie has voluntarily waived the right to an adjudicatory hearing, as well as all motions, defenses, objections, or requests that could be asserted. Pursuant to Rule 53(b)(3), notice of the Agreement was sent to the complainant. The complainant objects because, although the Agreement provides for restitution to the client for unearned fees, it does not include

attorneys' fees paid to successor counsel. The State Bar asserts that there is not clear and convincing evidence that the fees paid to successor counsel were solely the result of Respondent's unethical misconduct. Moreover, the Supreme Court of Arizona has held that consequences such as monetary damages are best left to civil courts. *See In re Murphy*, 188 Ariz. 375, 380 (1997).

The Agreement details a factual basis to support the conditional admissions and is incorporated by reference. *See* Rule 57(a)(4). Mr. Denetsosie admits that he violated Rule 42, ERs 1.2 (scope of representation), 1.3 (diligence), 1.4 (communication), 1.5 (fees) , 1.16 (declining or terminating representation), 5.5 (unauthorized practice of law), 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation) and 8.4(d) (conduct prejudicial to the administration of justice). As a sanction, the parties agree to a one-year suspension, restitution, and the payment of costs to the State Bar.

While suspended for non-payment of bar dues, Mr. Denetsosie accepted representation of a client in a family court proceeding. He did not inform his client of the suspension and charged a \$350.00 retainer. Thereafter, Mr. Denetsosie failed to adequately communicate with and diligently represent the client, resulting in a default judgment against the client. The client hired another attorney to get the default judgment set aside. Mr. Denetsosie did not respond to requests for the client's file.

Based on the conditional admissions, the parties agree that the presumptive sanction is disbarment under § 4.61 of the ABA Standards (lack of candor). Respondent violated duties owed to his client, the profession, and the legal system, resulting in actual harm. The parties stipulate to the existence of aggravating factors 9.22(b) (selfish or dishonest motive)

and 9.22(i) (substantial experience in the practice of law). They further stipulate to the existence of mitigating factors 9.32(c) (personal or emotional problems), 9.32(e) (full and free disclosure to disciplinary board or cooperative attitude toward proceedings), and 9.32(l) (remorse). The parties agree that the mitigating factors justify a reduction in the presumptive sanction to a long-term suspension. After reviewing the supplemental information submitted regarding mitigation, the PDJ concludes that the agreed-upon sanction is appropriate.

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

IT IS FURTHER ORDERED sealing exhibits A and B attached to the supplement filed November 17, 2021.

DATED this 22nd day of November 2021.

Margaret H. Downie
Margaret H. Downie
Presiding Disciplinary Judge

COPY of the foregoing e-mailed
this 22nd day of November 2021 to:

Sierra M. Taylor
Bar Counsel
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4201 N. 24th Street, Suite 100
Phoenix, AZ 85016-6288
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Respondent

by: SHunt

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Respondent

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**WARREN M. DENETSOSIE,
Bar No. 019051,**

Respondent.

PDJ 2021-9096

State Bar File No. **21-0075**

**AGREEMENT FOR DISCIPLINE
BY CONSENT**

The State Bar of Arizona, and Respondent Warren M. Denetsosie 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 October 8, 2021, but no formal complaint has been filed in this matter. 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.

Pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct., notice of this agreement was provided to the complainant(s) by email on October 15, 2021. Complainant has submitted an objection to the agreed upon restitution amount and requests that Respondent's former client receive restitution to cover the attorney's fees for Complainant in addition to the retainer paid to Respondent. A copy of Complainant's objection will be provided to the presiding disciplinary judge and has been provided to Respondent.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ER 1.2, ER 1.3, ER 1.4, ER 1.5, ER 1.16, ER 5.5, ER 8.4(c), ER 8.4(d). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: **one (1) year Suspension and Restitution**. 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.¹ The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

¹ 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.

FACTS

GENERAL ALLEGATIONS

1. Respondent was licensed to practice law in Arizona on October 16, 1998.

COUNT ONE (File no. 21-0075/ Griffiths)

2. On June 26, 2018, Respondent was administratively suspended for non-payment of dues.
3. On February 3, 2020, Respondent reached out to the State Bar to inquire about reinstatement and was informed he needed to pay back dues for 2018 and 2019 before the reinstatement process could begin. Respondent did not arrange for payment.
4. On April 15, 2020, Jasper Lake retained Respondent when Mr. Lake signed an engagement agreement for Respondent's representation in FC2020-094015, a child support proceeding in the Maricopa County Superior Court. Respondent sent Mr. Lake an invoice for \$350.00, which Mr. Lake paid.
5. In April and May of 2020, Respondent and Mr. Lake exchanged emails discussing the case. Mr. Lake sent Respondent documentation and information related to the child's mother. He also requested that Respondent set up a paternity test.

6. On May 8, 2020, Respondent emailed Mr. Lake requesting additional documents and informing Mr. Lake that he would be contacting the Attorney General handling the case to request additional time to investigate and determine paternity.
7. Throughout May 2020, Mr. Lake emailed Respondent multiple times, explaining more background that established justification for a paternity determination, providing information needed for the Affidavit of Financial Information, and providing receipts for money orders that he had paid to the child's mother over the years.
8. All email correspondence from Respondent to Mr. Lake contained "The Law Office of Warren Denetsosie, LLC" header and/or signature. There was no indication in any correspondence that Respondent is suspended from the practice of law in Arizona.
9. On May 27, 2020, Respondent appeared at a hearing telephonically on behalf of Mr. Lake. At the hearing, he requested a continuance so the parties could complete Affidavits of Financial Information.
10. On June 2, 2020, Mr. Lake completed the Parent Information Program required by the courts in all child support matters. Mr. Lake completed the course based on Respondent's advice.

11. On June 15, 2020, Respondent sent Mr. Lake an email with an invoice attached. In the email, Respondent wrote, “Jasper, Please see the attached. Nothing is due at this time.”
12. On July 29, 2020, the Court conducted another hearing. Neither Mr. Lake nor Respondent appeared at the hearing. According to the minute entry, the State had been in touch with Respondent and Respondent had requested another continuance so that the parties could file the Affidavit of Financial Information. In the minute entry, the Court admonished Mr. Lake, warning that an arrest warrant and/or default judgment may be issued if he failed to appear again. The hearing was reset to September 30, 2020.
13. Respondent remained in contact with Mr. Lake and discussed the rescheduled hearing over the phone and via text messages.
14. In August 2020, Mr. Lake began receiving letters from the Department of Child Support Enforcement. As a result, he sent Respondent several emails regarding the status of the case and subsequent brief discussions were had.
15. Respondent prepared and signed an Entrance of Appearance, dated September 30, 2020, and kept it in the client file. It does not appear to have ever been filed.
16. On September 30, 2020, the Court held the rescheduled hearing regarding child support. Neither Respondent nor Mr. Lake were present. However, the

Court continued the hearing to January 6, 2021 due to the child's mother being unable to appear. Mr. Lake received notice of the new date, which he provided to Respondent.

17. Respondent discussed the upcoming hearing with Mr. Lake. But as the hearing date got closer, Respondent stopped responding to Mr. Lake's calls or emails.

18. Mr. Lake contacted the Court to discuss the hearing. Court staff told Mr. Lake they had a phone number for Respondent, but it was not working, so they planned to use Mr. Lake's personal number so that he could appear telephonically for the January 6 hearing.

19. Several hours after the January 6 hearing, Mr. Lake contacted the Court after he had not heard from the Court or Respondent. He was informed that a judgment was issued against him.

20. Mr. Lake then retained attorney Scott Griffiths to assist him in attempting to set aside the default judgment and to get the paternity testing that Respondent failed to arrange.

21. Mr. Griffiths twice requested the file from Respondent. Respondent never responded to the requests.

22. In engaging in the above conduct, Respondent violated the following rules:

- a. ER 1.2 (scope of representation)

- b. ER 1.3 (diligence)
- c. ER 1.4 (communication)
- d. ER 1.5 (fees)
- e. ER 1.16 (terminating representation)
- f. ER 5.5 (unauthorized practice of law)
- g. ER 8.4(c) (dishonest [concealment of suspension])
- h. ER 8.4(d) (prejudice to the fair administration of justice)

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 ER 1.2, ER 1.3, ER 1.4, ER 1.5, ER 1.16, ER 5.5, ER 8.4(c), ER 8.4(d).

CONDITIONAL DISMISSALS

There are no conditional dismissals.

RESTITUTION

Respondent agrees to pay Restitution in the amount of \$350.00 to Jasper Lake within thirty (30) days of entry of the final judgment and order.

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 sanctions are appropriate: **Suspension of one (1) year and Restitution.**

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 4.6 Lack of Candor* is the appropriate *Standard* given the facts and circumstances of this matter: *Standard 4.61 Lack of Candor* provides that disbarment is generally appropriate when a lawyer

knowingly deceives a client with the intent to benefit the lawyer or another and causes serious injury or potential serious injury to a client.

The duty violated

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

The lawyer's mental state

Respondent knowingly was 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 disbarment. The parties conditionally agree that the following aggravating and mitigating factors should be considered:

In aggravation:

- a) 9.22(b) dishonest or selfish motive;
- b) 9.22(i) substantial experience in the practice of law (Respondent was admitted in 1998).

In mitigation:

- a) 9.32(c) personal or emotional problems (Respondent struggles with substance abuse)

- b) 9.32(e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings (Respondent admitted to misconduct in his response to the bar charge and requested to enter into a consent agreement after the probable cause finding)
- c) 9.32(l) remorse.

Discussion

The presumptive sanction mitigated to **a one (1) year Suspension.**

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

DATED this 2nd day of November 2021

STATE BAR OF ARIZONA

Sierra M. Taylor
Sierra M. Taylor
Staff 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 _____ day of November, 2021.

Warren M. Denetsosie
Respondent

DATED this 2nd day of November, 2021.

Approved as to form and content

Maret Vessella
Maret Vessella
Chief Bar Counsel

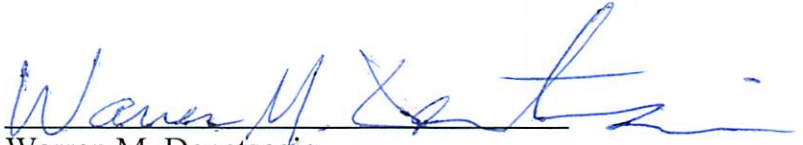
Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 2nd day of November, 2021.

STATE BAR OF ARIZONA

Sierra M. Taylor
Staff 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 26th day of October, 2021.


Warren M. Denetsosie
Respondent

DATED this _____ day of October, 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 ___ day of October, 2021.

Copy of the foregoing emailed

Copy of the foregoing emailed
this 2nd day of November, 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

Copy of the foregoing mailed/emailed
this 2nd day of November, 2021, to:

Warren M Denetsosie
Law Office of Warren Denetsosie, LLC
4707 E. McDowell Rd., Unit 2136
Phoenix, Arizona 85008
Email: wdenetsosie@gmail.com
Respondent

Copy of the foregoing hand-delivered
this 2nd day of November, 2021, to:

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

by: *Jennifer Smith*
SMT/js

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Suspended Member of the State Bar of Arizona
Warren M. Denetsosie, Bar No. 019051, Respondent

File No. 21-0075

Administrative Expenses

The Supreme Court of Arizona has adopted a schedule of administrative expenses to be assessed in lawyer discipline. If the number of charges/complainants exceeds five, the assessment for the general administrative expenses shall increase by 20% for each additional charge/complainant where a violation is admitted or proven.

Factors considered in the administrative expense are time expended by staff bar counsel, paralegal, secretaries, typists, file clerks and messenger; and normal postage charges, telephone costs, office supplies and all similar factors generally attributed to office overhead. As a matter of course, administrative costs will increase based on the length of time it takes a matter to proceed through the adjudication process.

General Administrative Expenses for above-numbered proceedings

\$1,200.00

Additional costs incurred by the State Bar of Arizona in the processing of this disciplinary matter, and not included in administrative expenses, are itemized below.

Additional Costs

Total for additional costs \$ 0.00

TOTAL COSTS AND EXPENSES INCURRED **\$ 1,200.00**

EXHIBIT B

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**WARREN M. DENETSOSIE,
Bar No. 019051,**

PDJ

**FINAL JUDGMENT AND
ORDER**

State Bar No. 21-0075

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, **Warren M. Denetsosie**, is Suspended for one (1) year for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective 30 days from the date of this order.

IT IS FURTHER ORDERED that, upon reinstatement, Respondent shall be subject to any terms of probation imposed as a result of reinstatement hearings held.

IT IS FURTHER ORDERED that Respondent shall be subject to any additional terms imposed by the Presiding Disciplinary Judge as a result of reinstatement hearings held.

IT IS FURTHER ORDERED that, pursuant to Rule 72 Ariz. R. Sup. Ct., Respondent shall immediately comply with the requirements relating to notification of clients and others.

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 November, 2021.

Margaret H. Downie, Presiding Disciplinary Judge

Original filed with the Disciplinary Clerk of the Office of the Presiding Disciplinary Judge of the Supreme Court of Arizona this _____ day of November, 2021.

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

Warren M. Denetsosie
Law Office of Warren Denetsosie, LLC
4707 E. McDowell Rd., Unit 2136
Phoenix, Arizona 85008
Email: wdenetsosie@gmail.com
Respondent

Copy of the foregoing emailed/hand-delivered
this _____ day of November, 2021, to:

Sierra M. Taylor
Staff Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Copy of the foregoing hand-delivered
this _____ day of November, 2021 to:

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

by: _____