

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**DANIEL R. RAYNAK,**  
**Bar No. 010098**

Respondent.

**PDJ 2020-9038**

**FINAL JUDGMENT AND ORDER**

State Bar No. 19-3307

**FILED MARCH 23, 2021**

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

Accordingly:

**IT IS ORDERED** Respondent, **DANIEL R. RAYNAK, Bar No. 010098**, is admonished for his conduct prejudicial to the administration of justice in violation of ER 8.4(d).

**IT IS FURTHER ORDERED** Mr. Raynak is placed on probation concurrent with the terms of his one year of probation imposed in PDJ 2018-9071.<sup>1</sup>

Respondent shall commit no further violations of the Rules of Professional Conduct.

**IT IS FURTHER ORDERED** Mr. Raynak shall pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200.00, within thirty (30) days from

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<sup>1</sup>The probation term terminates on November 17, 2021.

the date of this Order. There are no costs or expenses incurred by the Office of the Presiding Disciplinary Judge's Office in these proceedings.

**DATED** this 23<sup>rd</sup> day of March, 2021.

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

Copies of the foregoing emailed  
this 23<sup>rd</sup> day of March, 2021, to:

Daniel R. Raynak  
Daniel R. Raynak, P.C.  
2601 N 16th St  
Phoenix, AZ 85006-1404  
Email: Dan@raynaklaw.com  
Respondent

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)

by: SHunt

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**DANIEL R. RAYNAK,**  
**Bar No. 010098**

Respondent.

**PDJ 2020-9038**

**DECISION ACCEPTING  
DISCIPLINE BY CONSENT**

[State Bar No. 19-3307]

**FILED MARCH 23, 2021**

Under Rule 57(a), Ariz. R. Sup. Ct., an Agreement for Discipline by Consent (“Agreement”), was filed on March 18, 2021. A Probable Cause Order issued on April 24, 2020 and the complaint was filed on April 30, 2020. The State Bar of Arizona is represented by Bar Counsel David E. Wood. Mr. Raynak is self-represented.

Rule 57 requires admissions be tendered solely “...in exchange for the stated form of discipline...” Under that rule, the right to an adjudicatory hearing is waived only if the “...conditional admission and proposed form of discipline is approved...” If the agreement is not accepted, those conditional admissions are automatically withdrawn and shall not be used against the parties in any subsequent proceeding. Mr. Raynak has voluntarily waived the right to an adjudicatory hearing, and waived all motions, defenses, objections or requests that could be asserted upon approval of the proposed form of discipline.

Notice of the Agreement was sent to Complainant by email on February 23, 2021. No objection has been filed. The Agreement details a factual basis to support the conditional admissions. It is incorporated by this reference and accepted.

Mr. Raynak admits he violated Rule 42, ER 8.4(d) conduct prejudicial to the administration of justice. Specifically, Mr. Raynak failed to acknowledge the minute entry from a prior settlement conference and a previous email regarding the rotation of the assigned prosecutor assigned to the case prior to filing moving papers and lodging arguments with claims about those subjects.

The parties stipulate to an admonition, a one-year concurrent probation set forth in PDJ 2018-9071 and the payment of costs of \$1,200.00 within 30 days from this Order. If costs are not paid within that time the parties stipulate that sum will accrue interest at the legal rate.

The parties also stipulate that *ABA Standard 7.4 (Admonition) Violations of Other Duties Owed as a Professional* is the presumptive sanction given the stipulated facts and circumstances. Respondent negligently violated his duty to the legal system causing potential injury to the court proceeding and opposing party. The parties agree in aggravation is factor 9.22(a) prior discipline and in mitigation is factor 9.32(b) absence of dishonest or selfish motive.

**IT IS ORDERED** accepting the Agreement. A final judgment and order of

admonition is signed this date.

**DATED** this 23<sup>rd</sup> day of March 2021.

*William J. O'Neil*  

---

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

COPY of the foregoing e-mailed  
on this 23<sup>rd</sup> day of March 2021 to:

Daniel R. Raynak  
Daniel R. Raynak, PC  
2601 N. 16<sup>th</sup> Street  
Phoenix, AZ 85006-1404  
Email: Dan@raynaklaw.com  
Respondent

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by: SHunt

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Respondent

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**DANIEL R. RAYNAK,  
Bar No. 010098,**

Respondent.

**PDJ 2020-9038**

State Bar File No. **19-3307**

**AGREEMENT FOR DISCIPLINE  
BY CONSENT**

The State Bar of Arizona, and Respondent Daniel R. Raynak 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 April 24, 2020. A formal complaint was filed April 30, 2020. 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 and telephone on February 23, 2021. Complainant(s) have been notified of the opportunity to file a written objection to the agreement with the State Bar within five (5) business days of bar counsel's notice. Copies of Complainants' objections, if any, have been or will be provided to the presiding disciplinary judge.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ER 8.4(d). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: **Admonition with Probation** terms of which are set in Sanctions below. 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.

## **FACTS**

### **GENERAL ALLEGATIONS**

1. Respondent was licensed to practice law in Arizona on May 18, 1985.

#### **COUNT ONE (File no. 19-3307/ Marshall)**

2. Respondent represented a defendant charged with felony criminal offenses.

3. Respondent filed a Motion to Disqualify the prosecuting office based on allegations of vindictiveness reflected in alleged improper statements by the assigned prosecutor and an unwillingness to listen to a judge in good faith settlement discussions. Another attorney overheard the conversation between the prosecutor and Respondent. Upon being interviewed as part of the disciplinary proceedings, that attorney confirmed some of Respondent's allegations, but could not recall others

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<sup>1</sup> Respondent understands that the costs and expenses of the disciplinary proceeding include the costs and expenses of the State Bar of Arizona, the Disciplinary Clerk, the Probable Cause Committee, the Presiding Disciplinary Judge and the Supreme Court of Arizona.

based upon the passage of time. The attorney witness did not directly refute any of Respondent's allegations.

4. Prior to Respondent's filing of the Motion to Disqualify, the assigned prosecutor informed Respondent that a different prosecutor would take over the case due to office rotations.

5. The newly assigned prosecutor informed Respondent and the court that she would consider mitigation provided by Respondent in support of a requested lowering of a plea offer and attend a settlement conference.

6. The new prosecutor and Respondent met for a settlement conference. The new prosecutor informed Respondent that she reviewed the provided mitigation but would not lower the plea offer. Respondent states that the new prosecutor made that statement prior to the settlement conference starting, outside the presence of the commissioner. The new prosecutor states that she made that comment at the inception of the settlement conference and in response to Respondent's question.

7. The following exchange took place on the record between the settlement commissioner and Respondent:

Judge: Mr. Raynak anything else you want me to put on the record, sir?

DR: Just that we went back in chambers and the state did not listen to a single word the court said when they indicated they were not going to make a new offer which again, I just wanted that on the record because I don't believe that good faith settlement negotiations, I believe the idea is that the neutral arbiter provides input and then they at least potentially reconsider that, that did not happen in this case so I just wanted that on the record and to reflect in the minute entry.

Judge: That record is made

8. The settlement commissioner issued a minute entry from the settlement conference that contained no finding about the prosecutors' decision about the plea offeror willingness to consider input from the court.

9. Respondent thereafter filed a supplement to the request for disqualification with the claim that the settlement commissioner expressed that he would put in the minute entry "the fact that the State did not even wait to hear the position of the judicial officer on this matter" that he asserts was his interpretation of the Commissioner's statements reflected above that after requesting that it be put in a minute entry that the Commissioner indicated "that record is made."

10. Respondent further alleged in that supplement that “the prosecutor’s office switched out prosecutors solely to provide window dressing and the illusion of operating in good faith.”

11. Respondent was negligent in failing to either or both review and acknowledge the minute entry from the settlement conference which was different than his professed interpretation of the settlement commissioner’s statements.

12. Respondent was negligent in failing to acknowledge to the Court the prior notice given to him that the new prosecutor was assigned as part of a regular office rotation and in stating that her assignment was “window dressing.” Respondent asserts that his statement was his opinion, formed from prior dealings with the prosecuting agency.

### **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 8.4(d) only to the extent outlined above.

## CONDITIONAL DISMISSALS

The State Bar has conditionally agreed to dismiss allegations of ER 3.1, ER 3.3, and ER 8.4(c) because of the acceptance of the mens rea defense provided by Respondent explaining the circumstances of the offense.

## 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 sanctions are appropriate: Admonition with Probation concurrent with and to terminate with the term of probation in PDJ20189071<sup>2</sup> (State Bar Case #17-0195), **the terms of probation which will consist of:**

1. Respondent shall commit no further violations of the Rules of Professional Conduct.

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<sup>2</sup>The probation term in the other matter terminates on November 17, 2021.

## **NON-COMPLIANCE WITH PROBATION**

If Respondent fails to comply with any of the foregoing probation terms and the State Bar of Arizona receives information thereof, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether Respondent breached a term of probation and, if so, to recommend an appropriate sanction. If the State Bar alleges that Respondent failed to comply with any of the foregoing terms the burden of proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

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 7.0 Violations of Other Duties as a Professional* is the appropriate *Standard* given the facts and circumstances of this matter: *Standard 7.0, Section 7.4* provides that an admonition is appropriate if a lawyer engages in an isolated instance of negligence that is a violation of a duty owed as a professional and causes little or no injury to a party, the public, or the legal system.

**The duty violated**

Respondent's conduct violated his duty to the legal system.

**The lawyer's mental state**

Respondent negligently was in violation of the Rules of Professional Conduct.

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

There was potential injury to the court proceedings and opposing party.

**Aggravating and mitigating circumstances**

The presumptive sanction is admonition. The parties conditionally agree that the following aggravating and mitigating factors should be considered:

**In aggravation:**

- a) 9.22(a) prior disciplinary offenses:
  - SB #14-3413 Informal Admonition with ordered probation
  - PDJ 2018-9071 Reprimand with ordered probation

**In mitigation:**

- a) 9.32(b) absence of a dishonest or selfish motive:

**Discussion**

The presumptive sanction is Admonition. 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, 41 ¶ 64 (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 Admonition with Probation and the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit B.

**DATED** this 18<sup>th</sup> day of March 2021

**STATE BAR OF ARIZONA**

/s/ *David E. Wood*  
David E. Wood  
Staff Bar Counsel

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

**DATED** this 18<sup>th</sup> day of March, 2021.

/s/ *David Wood for Daniel Raynak*  
Daniel R. Raynak  
Respondent

**DATED** this 18<sup>th</sup> day of March, 2021.

Approved as to form and content

/s/ *Amy Rehm for 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 18<sup>th</sup> day of March, 2021.

Copy of the foregoing emailed  
this 18<sup>th</sup> day of March, 2021, to:

The Honorable William J. O'Neil  
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 mailed/emailed  
this 18<sup>th</sup> day of March, 2021, to:

Daniel R Raynak  
Daniel R. Raynak, P.C.  
2601 N 16th St  
Phoenix, AZ 85006-1404  
Email: [Dan@raynaklaw.com](mailto:Dan@raynaklaw.com)  
Respondent

Copy of the foregoing hand-delivered  
this 18<sup>th</sup> day of March, 2021, to:

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

by: /s/ Lori Palmer  
DEW/llp

**EXHIBIT A**

## Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona  
Daniel R. Raynak, Bar No. 010098, Respondent

File No. 19-3307

### 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**

The State Bar of Arizona is not requesting additional costs in the processing of this disciplinary matter, and not included in administrative expenses.

TOTAL COSTS AND EXPENSES INCURRED

\$ 1,200.00

**EXHIBIT B**

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**DANIEL R. RAYNAK,  
Bar No. 010098,**

**PDJ 2020-9038**

**FINAL JUDGMENT AND  
ORDER**

State Bar No. 19-3307

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, **Daniel R. Raynak**, is **Admonished** for his conduct prejudicial to the administration of justice in violation of ER 8.4(d). Respondent negligently failed to acknowledge the minute entry from a prior settlement conference and a previous email regarding the rotation of the assigned prosecutor assigned to the case prior to filing moving papers and lodging arguments with claims about those subjects.

**IT IS FURTHER ORDERED** that Respondent is placed on probation concurrent with and to terminate with the term of probation in PDJ20189071<sup>3</sup> (State Bar Case #17-0195). The terms of probation are:

a)

Respondent shall commit no further violations of the Rules of Professional Conduct.

**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 March, 2021.

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

\_\_\_\_\_  
<sup>3</sup> The probation term in the other matter terminates on November 17, 2021.

Original filed with the Disciplinary Clerk of  
the Office of the Presiding Disciplinary Judge  
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by: \_\_\_\_\_

