

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**BRADLEY D. WEECH,**  
**Bar No. 011135,**

Respondent.

**PDJ 2017-9017**

**FINAL JUDGMENT AND  
ORDER**

[State Bar No. 16-0285]

**FILED JULY 12, 2017**

The Presiding Disciplinary having reviewed the Agreement for Discipline by Consent filed on June 27, 2017, pursuant to Rule 57(a), Ariz. R. Sup. Ct., accepts the parties' proposed agreement. Accordingly:

**IT IS ORDERED** imposing an Order of Admonition on Respondent, **Bradley D. Weech, Bar No. 011135**, for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents effective the date of this order.

**IT IS FURTHER ORDERED** Mr. Weech shall pay the costs and expenses of the State Bar of Arizona in the amount of \$1,221.60, within thirty (30) days from the date of this order. There are no costs or expenses incurred by the disciplinary

clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings.

**DATED** this 12th day of July, 2017.

*William J. O'Neil*

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

Copies of the foregoing emailed this 12th day of July, 2017, and mailed July 13, 2017, to:

J. Scott Rhodes  
Jessica L. Beckwith  
Jennings Strouss & Salmon, PLC  
One East Washington Street, Suite 1900  
Phoenix, Arizona 85004-2554  
Email: [srhodes@jsslaw.com](mailto:srhodes@jsslaw.com)  
[jbeckwith@jsslaw.com](mailto:jbeckwith@jsslaw.com)  
Respondent's Counsel

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

by: AMcQueen



**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**BRADLEY D. WEECH,**  
**Bar No. 011135**

Respondent.

**PDJ-2017-9017**

**DECISION ACCEPTING  
AGREEMENT FOR DISCIPLINE  
BY CONSENT**

[State Bar No. 16-0285]

**FILED JULY 12, 2017**

An Agreement for Discipline by Consent (Agreement) was filed on June 27, 2017 and submitted under Rule 57(a) Ariz. R. Sup. Ct.<sup>1</sup> A probable cause order issued from the Attorney Discipline Probable Cause Committee, (“ADPCC”), on December 28, 2016 and the formal complaint was filed on February 13, 2017. Upon filing such Agreement, the presiding disciplinary judge, “shall accept, reject, or recommend the agreement be modified.” Rule 57(a)(3)(b).

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

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<sup>1</sup> Unless otherwise stated, all rule references are to the Rules of the Supreme Court of Arizona.

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.

Pursuant to Rule 53(b)(3), notice of this Agreement was provided to the complainant by letter on June 21, 2017. Complainant was 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. No objection has been received.

The Agreement details a factual basis to support the admissions to a violation of Rule 42, ER 1.4(b) (communication/informed decisions). Mr. Weech agrees to accept the sanction of admonition and the payment of costs and expenses totaling \$1,221.60 shall be paid within thirty (30) days or interest will accrue at the lawful rate.

#### **LEGAL GROUNDS STATED IN SUPPORT FOR ADMONITION**

As required under Rule 57(a)(2)(E), the parties referenced the American Bar Association’s *Standards for imposing Lawyer Sanctions*. The parties stipulate *Standard 4.44* (Lack of Diligence) applies to Mr. Weech’s violation of ER 1.4(b). *Standard 4.44* provides admonition is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes little or no actual or potential injury to a client. Mr. Weech negligently failed

to explain the client's potential personal financial liability in a civil matter. His misconduct caused potential injury to the client.

The parties submit there are no factors present in aggravation and that the following factors are present in mitigation: *Standard* 9.32(a) absence of prior disciplinary record, 9.32(b) absence of dishonest or selfish notice, and 9.32(e) cooperative attitude to the Bar.

Upon consideration, the Presiding Disciplinary Judge finds the proposed sanctions of admonition and the payment of costs meets the objectives of attorney discipline. Now therefore,

**IT IS ORDERED** accepting and incorporating the Agreement and any supporting documents by this reference. The agreed upon sanctions are: admonition and costs and expenses of the disciplinary proceeding totaling \$1,221.60, to be paid within thirty (30) days from this date. There are no costs incurred by the office of the presiding disciplinary judge. A final judgment and order is signed this date.

**DATED** this 12<sup>th</sup> day of July, 2017.

*William J. O'Neil*  

---

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

///

Copies of the foregoing emailed  
this 12th day of July, 2017, and  
mailed July 13, 2017, to:

J. Scott Rhodes  
Jessica L. Beckwith  
Jennings Strouss & Salmon, PLC  
One East Washington Street, Suite 1900  
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[jbeckwith@jsslaw.com](mailto:jbeckwith@jsslaw.com)  
Respondent's Counsel

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by: AMcQueen

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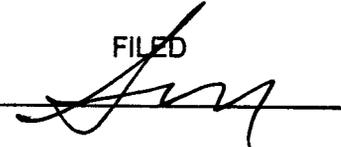
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Respondent's Counsel

OFFICE OF THE  
PRESIDING DISCIPLINARY JUDGE  
SUPREME COURT OF ARIZONA

JUN 27 2017

FILED

BY



**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**BRADLEY D. WEECH  
Bar No. 011135**

Respondent.

**PDJ 2017-9017**

State Bar File No. 16-0285

**AGREEMENT FOR DISCIPLINE  
BY CONSENT**

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Bradley D Weech, who is represented in this matter by counsel, J. Scott Rhodes and Jessica L. Beckwith, hereby submit their Agreement for Discipline by Consent,

pursuant to Rule 57(a), Ariz. R. Sup. Ct. A probable cause order was entered on December 28, 2016. A formal complaint was filed on February 13, 2017, and an Answer was filed on March 13, 2017. 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 by letter on June 21, 2017. Complainant has 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 Complainant's objections, if any, will be provided to the Presiding Disciplinary Judge.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ER 1.4 (Communication). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Admonition. Respondent also agrees to pay the costs and expenses of the disciplinary proceeding, within 30 days from the date of this order, and 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 October, 25, 1986.

#### COUNT ONE (File no. 16-0285/ Marrero)

2. Joseph Marrero and Gregory Hughes, as the only managers of Empyrean Construction, LLC, hired Respondent in March 2007 to represent Empyrean Construction as needed, including in the *CHE Electrical v. Empyrean Construction* CV2007-090100 lawsuit.

3. In June 2007, Mr. Marrero told Respondent that Mr. Hughes, in the presence of at least seven people, had verbally resigned as a manager of Empyrean Construction. The resignation was confirmed to Respondent by those seven people. A dispute had arisen between Mr. Hughes, Mr. Marrero, Empyrean Construction and

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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.

these other people regarding Mr. Hughes' actions as a manager of Empyrean Construction. Respondent immediately advised Mr. Marrero that he could only continue representing Empyrean Construction and that he could not represent Mr. Marrero or his wife, personally. Mr. Marrero immediately retained separate personal legal counsel.

4. In July 2007, Mr. Marrero, as the only remaining manager of Empyrean Construction, entered into a new representation agreement with Respondent on behalf of Empyrean Construction. Mr. Hughes was not a signatory to the new agreement. Respondent felt this new representation agreement was necessary due to Mr. Hughes' resignation as a manager of Empyrean Construction and the disputes that had arisen.

5. Respondent provided legal services to Empyrean Construction in or in relation to the following matters: *CHE Electrical v. Empyrean Construction* CV2007-090100, *Marrero v. Hughes* CV2007-010653, and *Marrero v. Empyrean Construction, et al* CV2007-092967.

6. In *Marrero v. Hughes* CV2007-010653 Mr. Marrero was personally represented by Roger Decker of Udall Shumway, PLC. In *Marrero v. Empyrean Construction, et al* CV2007-092967, at the outset of the litigation, Mr. Marrero was

personally represented by Roger Decker of Udall Shumway, PLC and later was represented by Greg Gillis of Nussbaum Gillis & Dinner, P.C., and then by Richard J. McDaniel. Mr. Decker also personally represented Mr. Marrero in *CHE Electrical v. Empyrean Construction*, CV 2007-090100. Mr. Marrero also represented himself at times in these and other civil lawsuits not listed here.

7. Respondent's representation of Empyrean Construction in the above-referenced matters generated significant fees for which Mr. Marrero, as a personal signatory to the July 2007 representation agreement, could be required to pay.

8. In hindsight, Respondent acknowledges that he did not anticipate that Mr. Marrero and his wife, as signatories of the representation agreement, might eventually be required to pay for legal fees due to unforeseen intervening events such as the inability of Empyrean Construction to complete certain major projects due to lost financial resources resulting from subsequent events, including Mr. Hughes' unexpected taking of loan proceeds, and the Great Recession. Accordingly, because he had not anticipated these intervening events, Respondent did not fully explain these possibilities to Mr. Marrero in relation to Mr. Marrero's decisions regarding representation of Empyrean Construction.

9. Years later, Mr. Marrero disputed the fees Respondent's firm charged to Empyrean Construction. Part of Mr. Marrero's argument was that he should not be personally liable for fees generated by Respondent's firm's representation of Empyrean Construction after a certain date in 2008. This dispute arose after Respondent was no longer part of the law firm where he had practiced during the representation. He did not participate in the firm's decisions regarding the dispute between Marrero and the firm.

#### **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 his conduct violated Rule 42, Ariz. R. Sup. Ct., specifically ER 1.4(b).

#### **CONDITIONAL DISMISSALS**

The State Bar has conditionally agreed to dismiss allegations that Respondent's conduct violated ERs 1.7, 1.9, 8.1(a), 8.4(c), and 8.4(d).

## RESTITUTION

Restitution is not an issue in this matter, because Mr. Marrero did not pay Respondent's firm the fees he disputed.

## SANCTION

Respondent and the State Bar of Arizona agree that, based on the facts and circumstances of this matter, as set forth above, and the agreements herein, the following sanction is appropriate: Admonition.

## 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 re Peasley*, 208 Ariz. 27, 33, 35, 90 P.3d 764, 770 (2004); *In re Rivkind*, 162 Ariz. 154, 157, 791 P.2d 1037, 1040 (1990).

In determining an appropriate sanction, consideration is given to 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. *Peasley*, 208 Ariz. at 35, 90 P.3d at 772; *Standard 3.0*.

The parties agree that *Standard 4.44* is the appropriate *Standard* given the facts and circumstances of this matter. *Standard 4.44* provides that an admonition is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes little or no actual or potential injury to a client.

**The duty violated**

As described above, Respondent's conduct violated his duty to his client.

**The lawyer's mental state**

For purposes of this agreement the parties agree that Respondent negligently failed to fully anticipate that Empyrean Construction would be unable to pay the legal fees due, in large part, to the intervening events of Mr. Hughes' actions and the Great Recession, and thus that he did not fully explain Mr. Marrero's potential personal financial liability and that his conduct was an inadvertent violation of the Rules of Professional Conduct.

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

For purposes of this agreement, the parties agree that there was potential injury to the client.

**Aggravating and mitigating circumstances**

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

**In aggravation:**

None

**In mitigation:**

*Standard 9.32 (a)* – Absence of a prior disciplinary record.

*Standard 9.32 (b)* – Absence of a dishonest or selfish motive.

*Standard 9.32 (e)* – Cooperative attitude toward proceedings.

**Discussion**

The parties have conditionally agreed that, upon application of the aggravating and mitigating factors to the facts of this case, the presumptive sanction is appropriate.

The parties have conditionally agreed that a greater or lesser sanction would not be appropriate under the facts and circumstances of this matter. This agreement is based on the following:

The difference between a reprimand and admonition pursuant to *Standard 4.4* is whether the offending conduct caused “injury or potential injury” or caused “little or no actual or potential injury.” Here, Respondent’s conduct caused little potential injury and no actual injury. Had Respondent explained Mr. Marrero’s potential personal financial liability more explicitly, including potential events that could trigger such liability, Mr. Marrero may have reduced the amount of work Empyrean Construction requested of Respondent thereby limiting the amount potentially owed by Empyrean Construction and/or Mr. Marrero and his wife. However, Mr. Marrero’s conduct during the litigation showed he wanted to aggressively pursue Empyrean Construction’s claims and it is unlikely that further explanation of Mr. Marrero’s and his wife’s potential personal financial liability would have significantly reduced the work Mr. Marrero requested of Respondent on behalf of Empyrean Construction.

While it is unlikely that further explanation of Mr. Marrero’s personal financial liability would have significantly altered Mr. Marrero’s decisions on behalf

of Empyrean Construction, the parties agree that further explanation could have had some impact on the amount of work Mr. Marrero requested of Respondent on behalf of Empyrean Construction, thereby causing a small potential for injury. An admonition is appropriate because potential injury existed.

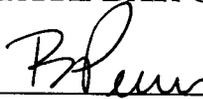
Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

### CONCLUSION

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. *Peasley, supra* at ¶ 64, 90 P.3d at 778. 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 and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit B.

DATED this 21 day of June 2017

STATE BAR OF ARIZONA

  
\_\_\_\_\_  
Bradley F Perry  
Staff Bar Counsel

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

DATED this \_\_\_\_\_ day of June, 2017.

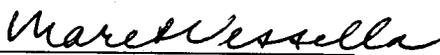
\_\_\_\_\_  
Bradley D Weech  
Respondent

DATED this \_\_\_\_\_ day of June, 2017.

Jennings Strouss & Salmon PLC

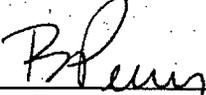
\_\_\_\_\_  
J Scott Rhodes  
Jessica L. Beckwith  
Counsel for Respondent

Approved as to form and content

  
\_\_\_\_\_  
Maret Vessella  
Chief Bar Counsel

DATED this 21 day of June 2017

STATE BAR OF ARIZONA

  
\_\_\_\_\_  
Bradley F Perry  
Staff Bar Counsel

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

DATED this 23 day of June, 2017.

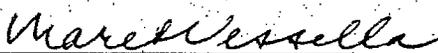
  
\_\_\_\_\_  
Bradley D Weech  
Respondent

DATED this \_\_\_\_\_ day of June, 2017.

Jennings Strouss & Salmon PLC

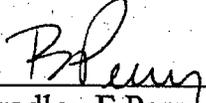
\_\_\_\_\_  
J Scott Rhodes  
Jessica L. Beckwith  
Counsel for Respondent

Approved as to form and content

  
\_\_\_\_\_  
Maret Vessella  
Chief Bar Counsel

DATED this 21 day of June 2017

**STATE BAR OF ARIZONA**

  
\_\_\_\_\_  
Bradley F Perry  
Staff Bar Counsel

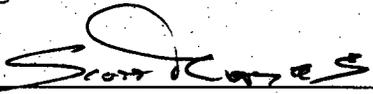
**This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation.**

DATED this \_\_\_\_\_ day of June, 2017.

\_\_\_\_\_  
Bradley D Weech  
Respondent

DATED this 23rd day of June, 2017.

Jennings Strouss & Salmon PLC

  
\_\_\_\_\_  
J Scott Rhodes  
Jessica L. Beckwith  
Counsel for Respondent

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 June, 2017.

Copy of the foregoing emailed  
this 27<sup>th</sup> day of June, 2017, to:

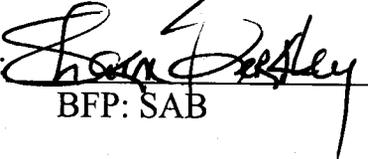
The Honorable William J. O'Neil  
Presiding Disciplinary Judge  
Supreme Court of Arizona  
1501 West Washington Street, Suite 102  
Phoenix, Arizona 85007  
E-mail: [officepdj@courts.az.gov](mailto:officepdj@courts.az.gov)

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J Scott Rhodes  
Jessica L. Beckwith  
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One E Washington St Ste 1900  
Phoenix, AZ 85004-2554  
Email: [srhodes@jsslaw.com](mailto:srhodes@jsslaw.com)  
Respondent's Counsel

Copy of the foregoing hand-delivered  
this 27<sup>th</sup> day of June, 2017, to:

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

by:   
BFP: SAB

**EXHIBIT A**

## Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,  
Bradley D. Weech, Bar No. 011135, Respondent

File No. 16-0285

### 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.

### Staff Investigator/Miscellaneous Charges

08/22/16	Investigator Mileage to Obtain Electronic Recording of Hearing	\$ 21.60
	Total for staff investigator charges	\$ 21.60
<b><u>TOTAL COSTS AND EXPENSES INCURRED</u></b>		<b><u>\$1,221.60</u></b>

**EXHIBIT B**

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**BRADLEY D WEECH,**  
**Bar No. 011135,**

Respondent.

**PDJ 2017-9017**

**FINAL JUDGMENT AND  
ORDER**

[State Bar No. 16-0285]

The undersigned Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on \_\_\_\_\_, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

**IT IS HEREBY ORDERED** that Respondent, **Bradley D Weech**, is hereby issued an Order of Admonition for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

**IT IS FURTHER ORDERED** that Respondent 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.

**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 June, 2017

---

**William J. O'Neil, 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 June, 2017.

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