BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A MEMBER OF THE STATE BAR OF ARIZONA, **RYAN M. FERRELL,** **Bar No. 028429** Respondent.	**PDJ 2019-9023** **JUDGMENT OF DISBARMENT** [State Bar Nos. 18-1415 and 19-0040] **FILED MAY 22, 2019**

Pursuant to Rule 57, Ariz. R. Sup. Ct., the parties filed with the disciplinary clerk a Consent to Disbarment (Consent) dated May 20, 2019. The Consent complies with Rule 57(a)(5) and is accepted by the Presiding Disciplinary Judge. The acceptance of a consent to disbarment constitutes a final disposition of all pending proceedings. Under Rule 57(a)(5) any future application for reinstatement "will be treated as an application by a member who has been disbarred for professional misconduct, as set forth in the complaint..."

Now therefore,

IT IS ORDERED accepting the Consent and disbarring Respondent, **RYAN M. FERRELL, Bar No. 028429**, from the State Bar of Arizona effective immediately. His name is stricken from the roll of lawyers and he is no longer entitled to the rights and privileges of a lawyer but remains subject to the jurisdiction of the court.

IT IS FURTHER ORDERED Respondent shall immediately comply with the requirements of Rule 72, Ariz. R. Sup. Ct., which include but are not limited to notification of clients and others and filing all notices and affidavits required.

IT IS FURTHER ORDERED under Rule 57(a)(5)(C), Ariz. R. Sup. Ct., no further disciplinary action shall be taken regarding the matters that are the subject of the charges upon which the Consent and this judgment of disbarment are based.

IT IS FURTHER ORDERED Respondent shall pay the costs and expenses of the State Bar of Arizona in the amount of $1,200.00.

DATED this 22nd day of May 2019.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/emailed
this 22nd day of May 2019.

James D. Lee
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Ryan M. Ferrell
4934 South Hemet Street
Gilbert, Arizona 85298
Email: rferrell@apextrial.com
Respondent

by: MSmith

James D. Lee, Bar No. 011586
Senior Bar Counsel
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OFFICE OF THE PRESIDING DISCIPLINARY JUDGE SUPREME COURT
MAY 22 2019
FILED
BY

BEFORE THE PRESIDING DISCIPLINARY JUDGE

In the Matter of a Member of the State Bar of Arizona, **RYAN M. FERRELL,** Bar No. 028429, Respondent.	**PDJ-2019-9023** **CONSENT TO DISBARMENT** [State Bar Nos. 18-1415 and 19-0040]

I, Ryan M. Ferrell, residing at 4934 South Hemet Street, Gilbert, Arizona 85298, voluntarily consent to disbarment as a member of the State Bar of Arizona and consent to the removal of my name from the roster of those permitted to practice before this court, and from the roster of the State Bar of Arizona.

I acknowledge that charges have been made against me. I have read the charges made against me. I further acknowledge that, though I disagree with the allegations against me, I do not desire to contest or defend against the charges, but wish to consent to disbarment. I have been advised of and have had an opportunity to exercise my right to be represented in this matter by a lawyer. I consent to disbarment freely and voluntarily and not under coercion or intimidation. I am aware

of the rules of the Supreme Court with respect to discipline, disability, resignation and reinstatement, and I understand that any future application by me for admission or reinstatement as a member of the State Bar of Arizona will be treated as an application by a member who has been disbarred for professional misconduct, as set forth in the charges made against me. The misconduct of which I am accused is described in a summary of the charges bearing the numbers referenced above, a copy of which is attached hereto as Exhibit "A."

The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit "B," which must be paid within thirty (30) days from the date of service of the Judgment of Disbarment.

A proposed form of Judgment of Disbarment is attached hereto as Exhibit "C."

DONE AT Gilbert, ~~California~~ Arizona, on May 20, 2019.

Ryan M. Ferrell
Respondent

SUBSCRIBED AND SWORN TO before me this 20 day of May, 2019, by Ryan M. Ferrell, who satisfactorily proved his identity to me.

OFFICIAL SEAL
RHONDA URBANEK
Notary Public State of Arizona
MARICOPA COUNTY
My Comm. Expires June 14, 2020

Notary Public

My Commission expires:
June 14, 2020

Approved as to Form:

James D. Lee
Senior Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 22nd day of May, 2019.

Copy of the foregoing emailed
this 22nd day of May, 2019, 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

Copy of the foregoing mailed/emailed
this 22nd day of May, 2019, to:

Ryan M. Ferrell
4934 South Hemet Street
Gilbert, Arizona 85298
Email: rferrell@apextrial.com
Respondent

Copy of the foregoing hand-delivered
this 22nd day of May, 2019, to:

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

by: Karen E Calleja
JDL/jlb KEC

EXHIBIT "A"

Summary of Charges in Arizona

The summary of charges set forth below pertain to Ryan M. Ferrell only. The charges, defined as allegations of misconduct, have been reviewed by bar counsel at the State Bar of Arizona. Mr. Ferrell is defending against the same or similar allegations raised in a California U.S. District Court case. He asserts he has always acted appropriately and in the best interest of his clients, and looks forward to vindication. Mr. Ferrell does not wish to afford any litigation advantage to opposing parties in California by contesting the allegations filed with the State Bar of Arizona.

Mr. Ferrell's law practice is based in California. He has maintained an Arizona bar license primarily so he could provide *pro bono* assistance to those in need. Despite Mr. Ferrell's assertion that he has not violated the Rules of Professional Conduct, he is willing to relinquish his license to practice law in Arizona because he has no desire to contest the allegations in two states simply so he can continue to provide *pro bono* assistance in Arizona.

Summary of the Charge in State Bar File No. 18-1415

Miro Posavec, the owner of Bestmade Natural Products, alleged that Respondent Ryan M. Ferrell sent a letter to him on March 7, 2018, stating his law firm had been hired to prosecute a class action lawsuit against his company for violations of the California Business & Professions Code. Mr. Posavec alleged that the letter falsely stated that Mr. Ferrell had a California client who had purchased BM "25 Insomnia Relief." Mr. Ferrell's letter stated he intended to file a class action lawsuit 30 days from the date of the letter, and that he was willing to discuss a confidential pre-filing resolution of this case. Attached to Mr. Ferrell's March 7 letter was a draft complaint, which did not disclose the identity of his client.

Mr. Ferrell avows that the California Legal Remedies Act (CLRA) ~~makes~~ includes no requirement that the name of the claimant be revealed at the time of the initial notice; however, the CLRA does require that a violator be given advance~~d~~ notice of the alleged violations in order to be given the opportunity to cure such alleged violations. The CLRA notice letter provided to Mr. Posavec asserted that Mr. Posavec's company was selling a supplement that contained strychnine (aka rat poison) without identifying the true nature of the ingredient. The CLRA notice letter highlighted that violation by not using the common name of strychnine. Mr. Ferrell believed that Mr. Posavec's company was deceiving the consuming public and putting forth a dangerous product. Mr. Ferrell asserts that Mr. Posavec's company no longer sells its product that contained strychnine.

Mr. Posavec alleges that the draft complaint, which was prominently labeled as a draft and which was never filed with any court, included a number of false allegations. Among the allegedly false statements were statements that (a) Bestmade had deceived "thousands of California consumers," who had paid money to obtain the product; (b) "25 Insomnia Relief" had been sold to someone in Riverside County, and that Bestmade had "obtain[ed] substantial benefits from [its] scheme"; (c) Best Made had "wrongfully taken hundreds of thousands of dollars from California consumers"; (d) the putative class consisted of "at least in the tens of thousands and that members of the Class are numerous and geographically dispersed across California"; and (e) the asserted plaintiff had "suffered injury in fact and ha[d] lost money as a result of [Bestmade]'s actions." Mr. Ferrell asserts that Mr. Posavec never informed him about any of the allegedly false statements during several telephonic conversations they had.

Mr. Posavec alleged that the factual allegations in the draft complaint were objectively false because Bestmade had not completed any sales of its "BM 25 Insomnia Relief" product to anyone located in California during the period of time that Mr. Ferrell's client allegedly purchased the product. Mr. Posavec asserted that since the beginning of 2016, Bestmade had completed a total of only five sales of "BM 25 Insomnia Relief" nationwide, four of which were to a single customer, and that none of those sales was made to a California consumer. Mr. Posavec never informed Mr. Ferrell of those assertions.

Mr. Posavec also alleged that in March 2018, after receiving Mr. Ferrell's letter and draft complaint, he spoke with Mr. Ferrell, who suggested that he resolve the matter through settlement. Mr. Posavec asserted that on April 5, 2018, Mr. Ferrell contacted him, at his request, with a proposed settlement offer. Mr. Posavec stated that ~~Respondent~~ Mr. Ferrell offered to resolve the matter if he paid $16,500 to his client. In email correspondence, Mr. Posavec agreed to the settlement amount without raising any additional concerns, and requested that Mr. Ferrell draft the settlement for Mr. Posavec to review.

Mr. Posavec further alleged that on April 6, 2018, Mr. Ferrell provided a draft settlement agreement in which he identified his client as "Robert Abril." Mr. Posavec said Bestmade, however, had never made a sale of any of its products to someone named Abril. The settlement agreement would have required Mr. Posavec to waive (i.e., to "releas[e] and forever discharge[]") all claims against Mr. Ferrell and "related persons and other representatives." Mr. Ferrell contends that such language is standard in settlements and that such language is codified in California.

Mr. Posavec informed the State Bar that he chose not to settle the claim asserted by Mr. Ferrell, but instead hired legal counsel. He said his attorney requested proof that the asserted plaintiff was a legitimate client, but Mr. Ferrell failed to respond or file a lawsuit against Bestmade or Mr. Posavec.

The charge submitted by Mr. Posavec included allegations which, if true, could lead to a finding that Mr. Ferrell committed the following violations of the

California Business & Professions Code: §§6068(c),[1] (d)[2] and (g)[3] and §6106.[4] Mr. Ferrell contends he was acting on behalf of his client and that Mr. Posavec never disclosed highly relevant information, which would have given Mr. Ferrell no reason to doubt his client or his allegations.

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[1] "It is the duty of an attorney to do all of the following: . . . (c) To counsel or maintain those actions, proceedings, or defenses only as appear to him or her legal or just, except the defense of a person charged with a public offense."

[2] "It is the duty of an attorney to do all of the following: . . . (d) To employ, for the purpose of maintaining the causes confided to him or her those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law."

[3] "It is the duty of an attorney to do all of the following: . . . (g) Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest."

[4] "The commission of any act involving moral turpitude, dishonesty or corruption, whether the act is committed in the course of his relations as an attorney or otherwise, and whether the act is a felony or misdemeanor or not, constitutes a cause for disbarment or suspension. If the act constitutes a felony or misdemeanor, conviction thereof in a criminal proceeding is not a condition precedent to disbarment or suspension from practice therefor."

Summary of the Charge in State Bar File No. 19-0040

On December 7, 2015, Arizona attorney Peter Arhangelsky filed a complaint on Natural Immunogenics Corporation's behalf against various parties, including Respondent Ryan M. Ferrell, his former law firm (Newport Trial Group) and others,[5] in the U.S. District Court for the Central District of California (*Natural Immunogenics Corp. v. Newport Trial Group, et al.*, No. 8:15-cv-02034-JVS-JCG) ("*NIC v. NTG* case"). The complaint included claims covered by the federal Racketeer Influenced and Corrupt Organizations Act (RICO).

Natural Immunogenics Corporation (NIC) alleged in the complaint that Mr. Ferrell routinely recruited individuals to sponsor contrived and baseless lawsuits against corporations. The District Court judge summarized the allegations in a minute entry ruling on various motions as follows: "NIC alleges that NTG routinely fabricated class-action litigation to extort money from defendants nationwide." The complaint included predicate acts for mail fraud, wire fraud, bribery, extortion, and obstruction of justice. The mail fraud and wire fraud allegations were predicated on NTG and the individual lawyers filing documents they knew contained false allegations using the courts' ECF systems and the mail in order to initiate and maintain baseless class actions for their own personal gain. A Special Discovery

[5] For purposes of this summary of the charge, Respondent Ryan M. Ferrell, his former law firm (Newport Trial Group (NTG)) and the other defendants are referred to collectively as the NTG defendants.

Master ("Special Master") issued at least four orders invoking the crime-fraud exception to the attorney-client privilege against Mr. Ferrell and/or NTG. The Special Master found that certain documents were created in furtherance of the NTG defendants' attempts to cover-up the fraudulent scheme.

NIC alleged in its Second Amended Complaint that the NTG defendants perpetrated two litigation schemes: a false advertising scheme; and, an unauthorized recording or "wiretapping" scheme.

The false advertising claim alleged that NTG and its investigator, Andrew Baslow, would identify individuals to serve as lead plaintiffs in consumer fraud class actions against companies selling products in California. NTG would then pay/bribe those individuals to make intentionally false representations that (a) they had purchased the defendant's product in reliance on the representations made in defendant's product advertisements; (b) the product did not work as advertised; and (c) they were injured as a result of their reliance on the advertisements. NTG would then use those false allegations to threaten companies with statewide class action lawsuits under various California consumer protection statutes. Before the companies could discover that the allegations were false, Mr. Ferrell and NTG would attempt to extort out-of-court settlements from those companies.

The "wiretapping" claims alleged that NTG and Baslow would identify individuals to serve as potential lead plaintiffs in consumer privacy class actions. NTG would then pay/bribe those individuals to stage private phone calls to various

companies, and then later make intentionally false representations that (a) they were not aware that the call was being recorded; (b) they did not consent to the recording; and (c) they later learned that the company recorded all incoming calls only after completing the call. Using those false allegations, NTG would threaten companies with statewide class action lawsuits under the California Invasion of Privacy Act (Cal. Pen. Code §§ 632 *et seq.*). Before the companies could discover that the allegations were false, Mr. Ferrell and NTG would attempt to extort out-of-court settlements from those companies. Mr. Ferrell avows he has never been counsel of record in any claim involving recorded conversations and that he is not alleged to have participated in the alleged wiretapping suits.

On June 12, 2018, U.S. District Court Judge James V. Selna held in a minute entry ruling that the crime-fraud exception to the attorney-client privilege applied and that otherwise privileged documents had to be disclosed to NIC. That ruling was based on evidence that the NTG defendants, collectively, had orchestrated "a vast scheme or conspiracy to commit fraud on the court." The Court found by a preponderance of the evidence that the NTG defendants "operated a fraudulent scheme to manufacture litigation." Mr. Ferrell contends that his communications, which have been ordered to be disclosed, will vindicate him as none of the them demonstrate inappropriate conduct on his part or on the part of NTG. Mr. Ferrell has provided a detailed summary of the few communications of his that were covered

by the court's order and offered to provide the entirety of his communications. Mr. Ferrell contends that the communications show no wrongdoing on his part.

The U.S. District Court found there was evidence that two plaintiffs in the underlying cases "may have admitted that they were recruited to participate in the scheme, were incentivized by the potential to make money, and were aware of the false and contrived nature of their claims." Mr. Ferrell denies this allegation as it refers to him, any action/inaction taken by him, his behavior, or his knowledge. The Court also stated that a third lead plaintiff in the underlying cases posted a message online stating he purchased the product because his attorneys told him to do so, that he knew the product did not work as advertised when he purchased the product, and that his motive for participating was making money. Mr. Ferrell asserts that he was not involved in that matter. Mr. Ferrell avows that the "investigator" who secured the evidence, Clark Baker, has been ordered into custody for contempt related to his coercion of evidence from witnesses, destruction of evidence, witness tampering, and attempts to intimidate a sitting federal district court judge, as set forth in an *Order Holding Defendant Clark Warren Baker in Civil Contempt and Directing that he be Incarcerated until he Performs Certain Acts, Making Additional Findings and Imposing Additional Sanctions,"* Case No. 2:15-bk-20351-BB (Central District of California, April 24, 2019).

The Court found that the NTG defendants falsely represented to the courts that the lead plaintiffs in the underlying cases purchased the products at issue in

reliance on the defendants' marketing claims and that the lead plaintiffs would not have purchased the products but for the defendant's claims. The court made that finding because the defendants concealed the fact that the real reason for the lead plaintiffs' purchases was that they were directed to make the purchases by the NTG defendants for the purpose of contriving injuries for litigation. The District Court stated:

> [T]he evidence indicates that Defendants' actions were part of a vast scheme or conspiracy to manufacture litigation. Therefore, the Court must consider Defendants' actions as a whole. Altogether, the evidence indicates that the NTG Defendants had a practice of identifying companies vulnerable to lawsuit, recruiting individuals, including the Non-NTG Defendants, to serve as lead plaintiffs, instructing the lead plaintiffs on exactly how to contrive actionable injuries, and holding them out to their adversaries in the courts not as individuals who acted at the direction of NTG for the purpose of filing lawsuits, but as bona fide plaintiffs with legitimate injuries. Such conduct taken as a whole indicates that Defendants were engaged in a pattern or scheme of manufacturing litigation, which threatens to harm the integrity of the judicial process.

Complainant Arhangelsky also alleged that Mr. Ferrell made false statements to the State Bar during its investigation and submitted materially and intentionally false statements to the court in the *Nilon v. NIC* case. Mr. Ferrell denies all those allegations.

The U.S. District Court concluded in the *NIC v. NTG* case that the evidence against the NTG defendants revealed a "pattern of manufacturing litigation, which involves the NTG Defendants identifying companies vulnerable to false advertising or wiretap litigation, recruiting individuals to serve as lead plaintiffs, instructing the

individuals on exactly what steps to take to give them the appearance of having suffered actionable injuries, and concealing and misrepresenting the contrived nature of the lawsuits from the courts." As previously noted, Mr. Ferrell contends he has never been part of the telephone recording cases.

The charge submitted by Mr. Arhangelsky included allegations which, if true, could lead to a finding that Mr. Ferrell committed the following violations of the California Business & Professions Code: §§6068(c),[6] (d)[7] and (g)[8] and §6106.[9]

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[6] "It is the duty of an attorney to do all of the following: . . . (c) To counsel or maintain those actions, proceedings, or defenses only as appear to him or her legal or just, except the defense of a person charged with a public offense."

[7] "It is the duty of an attorney to do all of the following: . . . (d) To employ, for the purpose of maintaining the causes confided to him or her those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law."

[8] "It is the duty of an attorney to do all of the following: . . . (g) Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest."

[9] "The commission of any act involving moral turpitude, dishonesty or corruption, whether the act is committed in the course of his relations as an attorney or otherwise, and whether the act is a felony or misdemeanor or not, constitutes a cause for disbarment or suspension. If the act constitutes a felony or misdemeanor, conviction thereof in a criminal proceeding is not a condition precedent to disbarment or suspension from practice therefor."