

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**SABINUS A. MEGWA
Bar No. 011266**

Respondent.

PDJ 2018-9132

**FINAL JUDGMENT AND
ORDER**

[State Bar No. 17-3204 & 17-3742]

FILED MAY 30, 2019

The Presiding Disciplinary Judge accepted the Agreement for Discipline by Consent as modified by the parties. Accordingly:

IT IS ORDERED Respondent, **SABINUS A. MEGWA**, is suspended for six (6) months and one (1) day for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective thirty (30) days from the date of this order, with the suspension retroactive to April 9, 2019. Mr. Megwa shall only handle the two client cases he disclosed separately.

IT IS FURTHER ORDERED upon reinstatement, Respondent shall be placed on probation for eighteen (18) months.

IT IS FURTHER ORDERED Respondent shall be subject to any additional terms imposed by the Presiding Disciplinary Judge resulting from any reinstatement hearings held.

IT IS FURTHER ORDERED pursuant to Rule 72 Ariz. R. Sup. Ct., Respondent shall immediately comply with the requirements relating to notification of clients and others and sealing Respondent's active client list, attached to the Modified Agreement for Discipline by Consent as Exhibit C, from the public.

IT IS FURTHER ORDERED Respondent shall pay the costs and expenses of the State Bar of Arizona for \$1,547.80, within thirty (30) days from the date of this order. There are not costs incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office with these disciplinary proceedings.

DATED this 29th day of May 2019.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/emailed
this 30th day of May 2019, to:

Rebecca Nicole Kennelly
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Sabinus A. Megwa
6811 S. Central Ave.
Phoenix, AZ 85042-5451
Email: Megwalaw@yahoo.com
Respondent

by: MSmith

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

SABINUS A. MEGWA,
Bar No. 011266

Respondent.

PDJ-2018-9132

**DECISION ACCEPTING
AGREEMENT FOR DISCIPLINE
BY CONSENT**

[State Bar Nos. 17-3204 & 17-3742]

FILED MAY 30, 2019

Under Rule 57(a), Ariz. R. Sup. Ct., an Agreement for Discipline by Consent was filed and then modified on May 29, 2019, (“Agreement”). The formal complaint was filed on October 21, 2018. The State Bar of Arizona is represented by Bar Counsel Rebecca Nicole Kennelly. Mr. Megwa represents himself.

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. Megwa 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. Under Rule 53(b)(3), notice of this Agreement and the

opportunity to object was given to complainant by email on April 11, 2019. No objections have been received.

The Agreement details a factual basis to support the admissions. It is incorporated by this reference. Mr. Megwa was first admitted to practice in Arizona on May 9, 1987. The parties agree Mr. Megwa acted knowingly and that the presumptive sanction is suspension. Mr. Megwa admits violating Rule 42, ERs 1.2, 1.3, 1.4, 1.5(c), 3.2, 8.4(d) and Rule 41(g). The parties agree to a six month and one day suspension. The Agreement is accepted. The facts are summarized.

In Count One, a client was involved in an automobile collision on November 21, 2012 and retained Mr. Megwa to represent her for her personal injury claim. The insurance company offered to settle for \$11,346. On August 8, 2013, that client requested an update and an appointment with Mr. Megwa. Neither occurred. She contacted his office again and was informed he was unavailable for two weeks but would be notified upon his return. She was not notified.

On October 9, 2013, the client against requested an update and appointment with Mr. Megwa. Mr. Megwa failed to communicate with her, In June 2014 she again contacted his office requesting an update. On November 20, 2014 Mr. Megwa filed the complaint on behalf of the client but did not inform her of that until February 10, 2015. Mr. Megwa failed to provide defense with a disclosure statement or response to discovery requests. A deadline was given for those to be provided of August 7, 2015.

Mr. Megwa did not begin drafting them until August 10, 2015. On December 1, 2015, the client appeared at his office and again asked for an update. An arbitration was thereafter set. Mr. Megwa did not prepare his client for the arbitration hearing until they were on the way to the arbitration. On April 21, 2016 the arbitrator awarded client \$5,800. Mr. Megwa failed to submit his verified statement of costs and as a result each party was ordered to bear their own costs. Mr. Megwa filed an untimely appeal after the appeal deadline.

The defense sent Mr. Megwa a check for the \$5,800. It was documented in Mr. Megwa's client log that a letter was sent to client informing her of the receipt of the check. She came in on September 1, 2016 but was not told of the check or given any information about it. On March 5, 2018 the client came to the office and still was not given the check. The medical liens totaled over \$13,000. Mr. Megwa agreed to waive his fees and costs.

In Count Two client's husband died following a confrontation with Phoenix Police in his home. In October 2014, Client agreed to retain Megwa and was provided an intake form but did not complete or sign a contingent fee agreement. Mr. Megwa filed a complaint on October 5, 2015. Mr. Megwa disclosed no expert witness. The defense listed four experts. Mr. Megwa disclosed no rebuttal witnesses. On March 23, 2017, ten days before the discovery deadline Mr. Megwa requested an extension to depose the police officers. He had not previously made such a request. It was denied.

The defense moved for summary judgment on April 21, 2017. The client was not informed of the motion. The defense prevailed on most of the issues raised. Substitute counsel took over the case. That attorney tried to communicate with Mr. Mega. He never responded. The court found Mr. Mega “failed to pursue reasonable discovery and failed to represent Plaintiffs adequately.”

The misconduct stated in Count 1 of this Agreement was occurring while Mr. Megwa was on LOMAP probation in State Bar File 12-2516. That matter remained pending and continued during and after PDJ 2014-9106 was concluded. Mr. Megwa knew this conduct was occurring at that time. He failed to provide defense with a disclosure statement or response to discovery *after* that prior matter was concluded. His misconduct continued into 2019 in that Count.

In State Bar File No.89-1808, he received an informal reprimand for representing both the buy and seller in a contract for the sale of a business. He was put on LOMAP. Mr. Megwa received diversion in State Bar File 10-0327 for failing to disburse funds owed to his client and was put on LOMAP and probation. He received another diversion in State Bar File 10-0435 regarding his office procedures. In State Bar File No. 11-2646, Mr. Megwa took no substantive action on behalf of his client in a medical malpractice action resulting in its dismissal. He was admonished and given LOMAP and TAEPP as terms of probation. He was admonished in State Bar File 12-2516, and again completed probation under TAEPP and LOMAP.

Mr. Megwa was then reprimanded under an agreement for discipline by consent in PDJ 2014-9106. In that matter he was retained regarding a dog bite case. Mr. Megwa claims the defendant was served. He failed to apply for default for years. The case was dismissed due to his inaction. This judge in accepting an agreement for discipline by consent cautioned that "Such acts of consistent negligence rise to a knowing state that one is negligent in their office practices." That case concluded in 2015.

Count 2 was also occurring while PDJ 2014-9106 was being litigated. The judge remarked in March 2017 that Mr. Megwa had done no discovery. In December 2017 the judge found Mr. Megwa had still failed to pursue reasonable discovery.

"Knowledge" is "the conscious awareness of the nature or attendant circumstances of the conduct." *ABA Standards* at 12. Mr. Mega "knows" the nature and circumstances of his misconduct and yet repeatedly engages in it. This is not a repeated occurrence where a respondent *should* have known but wasn't aware of his misconduct. Mr. Megwa either intentionally ignores what he has been taught on four separate occasions through LOMAP or has some undisclosed weakness, absence of fitness, or lack of competence or combination of these that assures his ethical failings. *See* Rule 65(b)(2). A six (6) month and one (1) day suspension is appropriate.

IT IS ORDERED accepting the Agreement as modified. The Agreement and modification are incorporated by reference and state the aggravating and mitigating factors. If reinstated, Mr. Megwa shall be placed on probation for eighteen (18) months

and shall adhere to the terms within the Agreement. Costs are stipulated to be \$1,547.80. All hearings dates, reviews and prehearing orders are vacated.

DATED this 30th day of May 2019.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

COPY of the foregoing e-mailed/mailed
on this 30th day of May 2019, to:

Counsel for State Bar

Rebecca N. Kennelly
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, AZ 85016-6266
Email: LRO@staff.azbar.org

Respondent

Sabinus A. Megwa
The Megwa Law Office
6811 South Central Ave.
Phoenix, AZ 85042
Email: megwalaw@yahoo.com

by: MSmith

MAY 28 2019

BY @

FILED

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Respondent

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**SABINUS A. MEGWA
Bar No. 011266**

Respondent.

PDJ 2018-9132

State Bar File Nos. 17-3204, 17-3742

**MODIFIED AGREEMENT FOR
DISCIPLINE BY CONSENT**

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Sabinus A Megwa, who has chosen not to seek the assistance of counsel, hereby submit their Modified Agreement for Discipline by Consent, pursuant to this Court's May 20, 2019, Order Setting Hearing and Deadlines. The parties incorporate their

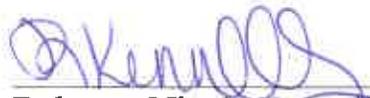
previously filed Agreement for Discipline by Consent and Statement of Costs and Expenses, submitted to the Presiding Disciplinary Judge on May 8, 2019, but with a modified agreement to a six month and one day suspension effective 30 days from today's date, with a retroactive date for that suspension to April 9, 2019.

While Respondent has substantially transferred his practice to his son, his remaining active cases are listed in the attached Exhibit C, which the parties request be sealed and remain confidential pursuant to Rule 70(g), Ariz. R. Sup. Ct.

The State Bar and Respondent believe that the objectives of discipline will be met by the imposition of the proposed modified sanction of suspension for six months and one day, with terms of probation to be determined upon reinstatement, and the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit B to replace the previously submitted proposed order Exhibit B.

DATED this 28th day of May, 2019.

STATE BAR OF ARIZONA



Rebecca Nicole Kennelly
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 28th day of May, 2019.


Sabinus A. Megwa
Respondent

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 28th day of May, 2019.

Copy of the foregoing emailed
this 28th 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/mailed
this 28th day of May, 2019, to:

Sabinus A. Megwa
6811 S. Central Ave.
Phoenix, AZ 85042-5451
Email: Megwalaw@yahoo.com
Respondent

Copy of the foregoing hand-delivered
this 28th day of May, 2019, to:

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

by:

RNK/sab

