

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

JAMES P. RINEHART,
Bar No. 018585

Respondent.

PDJ 2016-9093

FINAL JUDGMENT AND ORDER

[State Bar No. 16-0556]

FILED NOVEMBER 8, 2016

The Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on October 17, 2016, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

IT IS ORDERED Respondent, **James P. Rinehart**, is reprimanded 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. Rinehart shall pay restitution to Larry Warnick in the amount of \$1,807.00 within thirty (30) days of entry of the final judgment and order.

IT IS FURTHER ORDERED Mr. Rinehart shall be placed on probation for a period of eighteen (18) months. The period of probation shall commence upon entry of this final judgment and order and will conclude eighteen (18) months from that date.

IT IS FURTHER ORDERED as a term of probation, Mr. Rinehart shall contact the State Bar Compliance Monitor at (602) 340-7258, within ten (10) days from the date of entry of this order. Mr. Rinehart shall submit to a LOMAP examination of his office procedures. Mr. Rinehart shall sign terms and conditions of participation, including reporting requirements, which shall be incorporated herein. The probation period will commence at the time of entry of the final judgment and order and will conclude eighteen (18) months from that date. Mr. Rinehart shall be responsible for any costs associated with LOMAP.

IT IS FURTHER ORDERED as a term of probation, Mr. Rinehart shall complete the CLE program "2016 Advanced Issues in Probate, Trust Law, and Estate Planning" within ninety (90) days from the date of entry of the final judgment and order. Mr. Rinehart shall provide the State Bar Compliance Monitor with evidence of completion of the program by providing a copy of handwritten notes. Mr. Rinehart shall contact the Compliance Monitor at (602) 340-7258 to make arrangements to submit this evidence. Mr. Rinehart shall be responsible for the costs of the CLE.

IT IS FURTHER ORDERED Mr. Rinehart shall pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200.00, within thirty (30) days from the date of entry of this final judgment and 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 8th day of November, 2016.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing emailed
this 8TH day of November, 2016, and
mailed November 9, 2016, to:

James P. Rinehart
Rinehart Law Firm, PLLC
34406 N. 27th Dr., Bldg 6, Ste 140
Phoenix, AZ 85085-6079
Email: jim@rinehartsllc.com
Respondent

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

by: AMcQueen

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

**JAMES P. RINEHART,
Bar No. 018585**

Respondent.

PDJ-2016-9093

**DECISION AND ORDER
ACCEPTING DISCIPLINE BY
CONSENT**

[State Bar No. 16-0556]

FILED NOVEMBER 8, 2016

The probable cause order issued on August 31, 2016 and the formal complaint was filed on September 16, 2016. An Agreement for Discipline by Consent (Agreement) was filed on October 17, 2016 and submitted pursuant to Rule 57(a)(3) Ariz. R. Sup. Ct.¹ 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 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.

Under Rule 53(b)(3), notice of this Agreement was provided to the complainant(s) by letter on September 30, 2016 and the opportunity to file a written objection within five (5) days. No objection has been received.

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

The Agreement details a factual basis to support the admissions to the charges and is briefly summarized. Mr. Rinehart represented a client in a probate matter. The client paid a \$2,000.00 retainer for preparation of estate documents. Thereafter, Mr. Rinehart failed to adequately communicate and diligently represent his client. Mr. Rinehart further misrepresented the status of the matter to the client and failed to timely perform the contracted legal services.

Mr. Rinehart conditionally admits he violated in Count One, Rules 42, ERs 1.1 (competence), 1.2 (scope of representation), 1.3 (diligence), 1.4 (communication), 3.2 (expediting litigation), 8.4(c) (conduct involving dishonesty, fraud, deceit and misrepresentation) and 8.4(d) (conduct prejudicial to the administration of justice).

The parties stipulate to a sanction of reprimand, eighteen (18) months of probation with the State Bar's Law Office Management Assistance Program (LOMAP), restitution, continuing legal education, and costs of these proceedings.

The parties agree that *Standard 4.6, Lack of Candor* of the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* applies to Mr. Rinehart's violation of ER 8.4(c) and provides:

Suspension is generally appropriate when a lawyer knowingly deceives a client, and causes injury or potential injury to a client.

Mr. Rinehart knowingly deceived his client when he stated on May 22, 2015 he had forwarded paperwork to the court for filing. The documents were not filed until June 16, 2015.

Standard 4.4, Lack of Diligence applies to Mr. Rinehart's violation of ER s 1.2, 1.3, and 1.4 and provides:

- Suspension is generally appropriate when:
- (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client, or
 - (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

Mr. Rinehart knowingly failed to perform the contracted legal services for his client and failed to remedy his inaction for six months. Mr. Rinehart violated duties owed to clients and the legal system resulting in actual harm to the client and potential harm to the legal system.

The parties agree there are no aggravating factors and the following mitigating factors are present in the record: 9.32(a) (absence of prior disciplinary record) and 9.32(e) (full and free disclosure to disciplinary board or cooperative attitude toward proceedings). The parties further agree a reduction in the presumptive sanction of suspension is justified based on the lack of aggravating factors and the mitigating circumstances. The PDJ finds that the proposed sanctions of reprimand, probation, restitution, and the payment of costs meet the objectives of attorney discipline and is accepted and incorporated by this reference.

IT IS ORDERED Respondent, **James P. Rinehart, Bar No. 018585**, is reprimanded and placed on eighteen (18) months of probation (LOMAP and CLE) 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. Rinehart shall pay \$1,807.00 in restitution to Larry Warnick within thirty (30) days of the final judgment and order.

IT IS FURTHER ORDERED Mr. Rinehart shall pay the costs and expenses of the State Bar of Arizona for \$1,200.00, 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 with these disciplinary proceedings.

DATED this 8TH day of November, 2016.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing emailed this 8TH day of November, 2016, and mailed November 9, 2016, to:

James P. Rinehart
Rinehart Law Firm, PLLC
34406 N. 27th Drive., Bldg. 6, Suite 140
Phoenix, AZ 85085-6079
Email: jim@rinehartslaw.com
Respondent

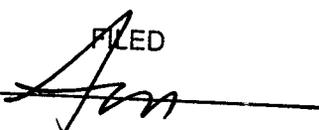
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OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

OCT 17 2016

FILED
BY 

James P. Rinehart, Bar No. 018585
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34406 N. 27th Dr., Bldg 6, Ste 140
Phoenix, AZ 85085-6079
Telephone 623-223-1214
Email: jim@rinehartslaw.com
Respondent

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

**JAMES P. RINEHART
Bar No. 018585**

Respondent.

PDJ 2016-9093

State Bar File Nos. **16-0556**

**AGREEMENT FOR DISCIPLINE BY
CONSENT**

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, James P. Rinehart, 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. 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 September 30, 2016. 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, have been or will be provided to the presiding disciplinary judge.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, Ariz. R. Sup. Ct., ERs 1.1, 1.2, 1.3, 1.4, 3.2, 8.4(c), and 8.4(d). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Reprimand with eighteen (18) months of probation to include participation in the Law Office Management Assistance Program (LOMAP), completion of the CLE "2016 Advanced Issues in Probate, Trust Law, and Estate Planning", and restitution in the amount of \$1,807. 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.¹ 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 February, 11, 2002.

COUNT ONE (File no. 16-0556/ Warnick)

2. On or about May 23, 2014, Larry Warnick (Warnick) retained Respondent to assist him in a probate matter.

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.

3. Warnick's wife ("decedent") died and Respondent drafted the decedent's will shortly before her death.

4. The original will was lost, however.

5. In a letter dated May 23, 2014 to Warnick, Respondent referenced preparing "estate documents for your wife's estate" and wrote: "I have completed the forms for the estate with a will but I need to re-do them because of the lost will as it is a different process. The law in Arizona presumes that she destroyed the will in order to revoke it unless we can prove that she did not intend to revoke it. We can counter that with testimony that she intended for the will to be in effect at her death and did not revoke it but that it was misplaced."

6. Respondent requested a \$2,000 retainer "for the estate representation" and enclosed a "retainer agreement" with his letter.

7. The "retainer agreement" provides for an hourly fee for Respondent in the amount of \$240 per hour.

8. Warnick paid Respondent the \$2,000 "retainer."

9. On August 4, 2014, Respondent sent Warnick a letter and wrote: "Enclosed are forms I have prepared that require your signature. I am filing for an informal appointment of you as personal representative. After that is approved we will file a petition for formal probate of a copy of the lost will. Please sign where indicated. . . . You also need to take a course in being a personal representative."

10. On October 31, 2014, Respondent mailed to the court for filing an application for informal appointment of personal representative, letters of appointment, order of personal representative, statement of informal appointment,

probate court information cover sheet, waiver of bond, and a filing fee in the amount of \$193.

11. On November 19, 2014, Respondent sent Warnick a letter stating: "Enclosed are additional forms I have prepared that require your signature for the court. Only one requires a notary. Please sign where indicated and return to me for filing."

12. Respondent states that Warnick was appointed personal representative on December 10, 2015.

13. On January 5, 2015, Warnick emailed Respondent the following: "It would be nice if you could let me know how long this will drag on. I have been very patient but my patience if [sic] wearing thin and I need to know what is going on. Please let me know."

14. The next day, Respondent responded as follows: "Hopefully not much longer. I am preparing an affidavit for you to try to get the court to rule without having you appear in court to testify. I want to make sure my facts are straight. You misplaced the will after you made copies to send me which was after your wife died correct? If so then she could not have destroyed it in attempting to revoke it. Let me know if I am correct."

15. On January 27, 2015, Warnick emailed Respondent the following: "Come on Jim I don't understand why I never hear from you, I am your client and I paid you a \$2000.00 retainer. I need results now. Do I have to do something drastic to get your attention? Please respond now. Phone or email doesn't [sic] matter!"

16. Warnick sent this email to Respondent because of Respondent's lack of communication, including because Respondent would not return his phone calls.

17. On the same date, Respondent responded as follows: "I just got back to the office from the store as my computer crashed and I had to buy a new one. I will be spending the evening getting it operational and will be sending you some documents tomorrow."

18. On February 2, 2015, not having received the documents, Warnick emailed Respondent and asked him "[w]hat happened to the documents?"

19. Two days later, Respondent responded: "My computer crashed. After working on it the I.T. guy convinced me it was not salvageable so I bought a new one and he took it to get it up and running and transfer what he can. He is delivering it today so I should be able to download documents and send them off. Cab [sic] you receive documents by email and review and print them?"

20. On March 18, 2015, Respondent emailed Warnick an affidavit and wrote: "Please review the attached affidavit and inform me if there are any errors or additions. If not please sign before a notary and return to me by regular mail."

21. The draft affidavit is an affidavit attesting witness on execution of will, stating that the decedent signed the instrument as her last will.

22. On March 19, 2015, Warnick emailed Respondent: "I don't think I was an attesting witness to the signing of the will, I do have knowledge that she signed it. But the attesting witnesses were Vivian K. West and her Son Timothy West. Is this an issue or not? Should this be sent to Mrs. West so she and her Son can sign the affidavit? Please let me know as soon as possible. I did make a copy of the affidavit for my records in case I have to sign it also."

23. Respondent responded on the same date and wrote: "You are correct[.] [Y]ou were not an attesting witness but you were a witness. I only need one person to state that the document is an exact copy of the original and I need you to explain that she could not have intentionally destroyed it. So if the statements are accurate please sign before a notary and mail it to me."

24. On May 7, 2015, Warnick returned to Respondent a revised draft of the affidavit.

25. The revised affidavit states that Warnick is the surviving spouse of the decedent and that the decedent executed a will on January 22, 2014. The revised affidavit further states that Warnick and the decedent executed reciprocal wills before two witnesses and a notary on January 22, 2014 in anticipation of certain medical treatment and that the decedent died on March 4, 2014.

26. The revised affidavit also states: "I examined what purports to be Decedent's will dated March 4, 2014, a copy of which is attached to this affidavit and am well acquainted with her signature. The signature on the copy of the will is that of the [decedent]."

27. The revised affidavit explains that Warnick then lost the original will but that the copy of the will is an exact copy of the original.

28. On May 15, 2015, Warnick emailed Respondent: "Since you did receive my petition for formal probate of a copy of a lost will [a]nd affidavit of witness of signature of testator, can I expect this to happen any time soon? How much longer will it be before I run out of time? If that happens what will be done about it. It has taken what seems to me a very long time to get this far. . . . Expecting to hear from you soon!"

29. Respondent responded on May 22, 2015 and wrote: "I have sent the paperwork to the court for filing and am waiting for them to inform me of the hearing date. I will notify you when I receive it."

30. In contrast to his May 22, 2015 email to Warnick, however, Respondent admitted to the State Bar that he did not file the documents with the court until June 16, 2015.

31. Respondent states that he planned on mailing the documents to the court on May 22, 2015 and that is why he informed Warnick that he "sent the paperwork to the court for filing" but that he was delayed in filing the documents.

32. After he filed the documents, Respondent was informed that a hearing would occur on August 18, 2015.

33. Respondent, however, failed to publish a copy of the notice of hearing.

34. On June 9, 2015, Warnick emailed his financial advisor and wrote: "I am sending you this message to again ask for your help. [Respondent] refuses to keep me updated on the status of my appointment as executor for Linda's will. The last info I got from him was he waiting for a court date and the court has all of the required paperwork. I am beginning to think he is not to be trusted. I also know that there is a time limit on probating the will, I don't know how long I have left and don't know the penalty for not completeIng [sic] it in the time allowed. Do I have any recourse?"

35. On June 24, 2015, the financial advisor emailed attorney Jan Bernardini (Bernardini) stating that Warnick would like to retain her to "take over the probate estate administration through Pima County Court for his deceased wife, Linda. . . ." The financial advisor further wrote: "The current attorney, [Respondent] has

delayed the process and is no longer responding to emails or phone calls. I will ask [Warnick] to respond to his email with an affirmative statement that he wishes to engage your services. As you will see below, [the decedent] died 3/4/14. . . . All of [the decedent's] assets passed by legal title or beneficiary designation except for one investment account . . . that is the only probate asset. According to the Will, this asset passes to [Warnick]. What in our opinion seems like a fairly simple process has turned into a nightmare for [Warnick]. . . . From my last look at the case. . . , nothing has been done since February, 2015."

36. On July 13, 2015, the financial advisor sent Warnick a letter attaching a termination letter to Respondent and a fee agreement with Bernardini.

37. On July 22, 2015, Bernardini sent the financial advisor an email stating that she received an email from Respondent indicating that the "Petition for Formal admission of the copy of Linda's will for probate has been set" for an August 18th hearing, that she obtained the court file, and that she sees "no indication that [Respondent] filed a Notice of Hearing, although it appears he sent letters to the heirs telling them there is an Aug 18th hearing."

38. Bernardini further wrote: "[Respondent] did not publish notice of the hearing in the newspaper as required, nor did he Motion the Court to allow [Warnick] to appear by phone. I've asked [Respondent] for a copy for the Notice of Hearing but have not rec'd it. I can't publish notice of the hearing without it. What we know is that a formal hearing is required to admit the copy of the will. The original application [Respondent] filed . . . failed to mention [the decedent's] will. Therefore the assets of the probate would be split among [Warnick], and [the decedent's] children under the laws of intestacy. The admission of the will changes

that distribution and the estate goes entirely to [Warnick]. . . . Until I receive a valid Notice of Hearing I can't go further. If it's invalid, then I need to start over and get the Petition set for hearing."

39. On July 27, 2015, Bernadini emailed Warnick and the financial advisor and wrote: "Notice of the hearing needs to be published in the newspaper at least 14 days before the hearing but only after its been filed with the Court. [Respondent] never filed the Notice of Hearing with the Court but that's OK because he listed the wrong Judge on his Notice. The Court won't let me file a corrected or amended Notice of Hearing until the Stipulation to Substitute Counsel has been signed. . . . In summary, the Aug 18 hearing will have to be continued until September. Once I have the Order approving the Substitution of Counsel, I will file a Motion to Continue the Aug 18 Hearing bc the Notice of Hearing . . . prepared by [Respondent] was not published timely, then I will publish the amended Notice of Hearing bearing the new hearing date and correct name of the Judge, send it to interested parties, then file a Motion for [Warnick] to appear by phone. Sorry for the long windedness but this is really a mess."

40. Bernadini subsequently completed Warnick's probate matter but Warnick had to pay Bernadini fees for doing so in addition to the fees that he paid Respondent.

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 ERs 1.1, 1.2, 1.3, 1.4, 3.2, 8.4(c), and 8.4(d).

RESTITUTION

Respondent agrees to pay restitution to Warnick in the amount of \$1,807 within thirty (30) days of the final judgment and order. This amount equates to the fees that Warnick paid Respondent less the filing fee Respondent paid to the court. A copy of the receipt for this filing fee is attached hereto as Exhibit B.

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: Reprimand with eighteen (18) months of probation to include participation in the Law Office Management Assistance Program (LOMAP), completion of the CLE "2016 Advanced Issues in Probate, Trust Law, and Estate Planning", and restitution in the amount of \$1,807.

If Respondent violates any of the terms of this agreement, further discipline proceedings may be brought.

LOMAP

Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within ten (10) days from the date of entry of the final judgment and order. Respondent shall submit to a LOMAP examination of his office's procedures. Respondent shall sign terms and conditions of probation, including reporting requirements, which shall be incorporated herein. The probation period will commence at the time of entry of the final judgment and order and will conclude

eighteen (18) months from that date. Respondent will be responsible for any costs associated with LOMAP.

CLE

Respondent shall complete the CLE program "2016 Advanced Issues in Probate, Trust Law, and Estate Planning" within ninety (90) days from the date of entry of the final judgment and order. Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the program by providing a copy of handwritten notes. Respondent shall contact the Compliance Monitor at (602) 340-7258 to make arrangements to submit this evidence. Respondent will be responsible for the costs of the CLE.

NON-COMPLIANCE LANGUAGE

In the event that Respondent fails to comply with any of the foregoing probation terms, and information thereof, is received by the State Bar of Arizona, 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 thirty (30) days to determine whether a term of probation has been breached and, if so, to recommend an appropriate sanction. If there is an allegation 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.

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* 4.62 is the appropriate *Standard* given the facts and circumstances of this matter. *Standard* 4.62 provides: "Suspension is appropriate when a lawyer knowingly deceives a client, and causes injury or potential injury to the client." Respondent knowingly deceived Warnick when he informed Warnick on May 22, 2015 that he "sent the paperwork to the court for filing and am waiting for them to inform me of the hearing date" when he did not actually file the documents with the court until June 16, 2015.

The parties further agree that *Standard* 4.42 is the appropriate *Standard* given the facts and circumstances of this matter. *Standard* 4.42 provides: "Suspension is generally appropriate when: (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client" Warnick retained Respondent in May of 2014. In January of 2015, Warnick informed Respondent that he was not completing the agreed upon services but Respondent waited until June 16, 2015 to file the remaining documents with the court.

Accordingly, Respondent knew as of January of 2015 that he was failing to perform services for Warnick but failed to remedy this for approximately six months.

The duty violated

As described above, Respondent's conduct violated his duty to his client and the legal system.

The lawyer's mental state

For purposes of this agreement, the parties agree that Respondent knowingly misrepresented to Warnick that he filed certain documentation with the court when he had not and knowingly failed to timely complete services for Warnick, and that his conduct was in 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 actual harm to the client in that he had to retain and pay a new attorney to complete services Respondent's agreed to complete for him and that there was potential harm to the legal system.

Aggravating and mitigating circumstances

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

In aggravation:

There are no applicable aggravating factors.

In mitigation:

Standard 9.32, absence of a prior disciplinary record.

Standard 9.32(e), full and free disclosure to disciplinary board or 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 should be mitigated to a reprimand.

This agreement was based on the following: While the presumptive sanction is a suspension, the State Bar gives great weight to Respondent's lack of a disciplinary history and his cooperative attitude towards these proceedings. Given Respondent's lack of disciplinary history, the State Bar believes that the sanction of a reprimand and probation (LOMAP and CLE), and restitution to Warnick will protect the public and serve the purpose of lawyer discipline.

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 a reprimand, restitution, eighteen (18) months of probation (LOMAP and CLE), and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit C.

DATED this 17th day of October, 2016.

STATE BAR OF ARIZONA

Nicole S. Kaset
Staff Bar Counsel

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

DATED this 11th day of October, 2016.

James P. Rinehart
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 17th day of October, 2016.

Copy of the foregoing emailed
this 17th day of October, 2016, 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 17th day of October, 2016, to:

James P. Rinehart
Rinehart Law Firm PLLC
34406 N. 27th Drive, Bldg 6, Ste 140
Phoenix, AZ 85085-6079
Email: jim@rinehartslaw.com
Respondent

Copy of the foregoing hand-delivered
this 17th day of October, 2016, to:

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

by: Karen E. Calcasie
NSK/kec

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,
James P. Rinehart, Bar No. 018585, Respondent

File No. 16-0556

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

Total for staff investigator charges \$ 0.00

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

EXHIBIT B



**Pima County Clerk of Superior Court
Tucson, Arizona**



Received for:	LINDA WARNICK	Receipt Number:	2402594
Received from:	JAMES RINEHART	Date:	11/10/2014
Amount Received:	\$ 193.00	Case Number:	PB20141227
		Clerk Number:	1,515

Caption: Estate of: LINDA L DOBSON-WARNICK

Cash: \$0.00	Check: \$193.00	Charge: \$0.00	ACH: \$0.00
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Begin Financial Docket



Informal Probate

\$193.00 PAID

End Financial Docket

Change Returned: \$0.00

Amount Refunded: \$0.00



* 1 9 5 9 5 4 6 8 *

EXHIBIT C

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

JAMES P. RINEHART,
Bar No. 018585,

Respondent.

PDJ 2016-9093

FINAL JUDGMENT AND ORDER

[State Bar No. 16-0556]

The undersigned Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on October____, 2016, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

IT IS HEREBY ORDERED that Respondent, **James P. Rinehart**, is hereby reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED that Respondent shall pay restitution to Larry Warnick in the amount of \$1,807 within thirty (30) days of entry of the final judgment and order.

IT IS FURTHER ORDERED that Respondent shall be placed on probation for a period of eighteen (18) months. The period of probation shall commence upon entry of this final judgment and order and will conclude eighteen (18) months from that date.

IT IS FURTHER ORDERED that, as a term of probation, Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within ten (10) days

from the date of entry of this Final Judgment and Order. Respondent shall submit to a LOMAP examination of his office procedures. Respondent shall sign terms and conditions of participation, including reporting requirements, which shall be incorporated herein. The probation period will commence at the time of entry of the final judgment and order and will conclude eighteen (18) months from that date. Respondent will be responsible for any costs associated with LOMAP.

IT IS FURTHER ORDERED that, as a term of probation, Respondent shall complete the CLE program "2016 Advanced Issues in Probate, Trust Law, and Estate Planning" within ninety (90) days from the date of entry of the final judgment and order. Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the program by providing a copy of handwritten notes. Respondent shall contact the Compliance Monitor at (602) 340-7258 to make arrangements to submit this evidence. Respondent will be responsible for the costs of the CLE.

NON-COMPLIANCE LANGUAGE

In the event that Respondent fails to comply with any of the foregoing probation terms, and information thereof, is received by the State Bar of Arizona, 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 thirty (30) days to determine whether a term of probation has been breached and, if so, to recommend an appropriate sanction. If there is an allegation 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.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200, within 30 days from the date of entry of this final judgment and 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 entry of this final judgment and order.

DATED this _____ day of October, 2016.

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 October, 2016.

Copies of the foregoing mailed/mailed
this _____ day of October, 2016, to:

James P. Rinehart
Rinehart Law Firm, PLLC
34406 N. 27th Dr., Bldg 6, Ste 140
Phoenix, AZ 85085-6079
Email: jim@rinehartslaw.com
Respondent

Copy of the foregoing emailed/hand-delivered
this ____ day of October, 2016, to:

Nicole S. Kasetta
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 October, 2016 to:

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

by: _____