

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**SCOTT ALLAN MAASEN,  
Bar No. 018073,**

Respondent.

**PDJ 2016-9088**

**FINAL JUDGMENT AND ORDER**

[State Bar No. 15-1775]

**FILED SEPTEMBER 16, 2016**

The undersigned Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on September 9, 2016, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

**IT IS HEREBY ORDERED** Respondent, **Scott Allan Maasen**, is hereby 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. Maasen is placed on probation on the following terms and conditions: Mr. Maasen shall participate with the State Bar's Law Office Management Assistance Program ("LOMAP") for two (2) years, and complete Fee Arbitration (including payment of any resulting awards) with Complainant Crystal Torres and Mr. Keith Hawk within six (6) months from the date of any award order. Within ten (10) days from the date of this order, Mr. Maasen shall contact the State Bar's Compliance Monitor the State Bar Compliance Monitor at (602) 340-7258, to develop terms and conditions of participation as outlined in the consent documents, which terms are incorporated by this reference. Mr. Masen shall be responsible for any costs associated with participation with compliance.

## **NON-COMPLIANCE WITH PROBATION**

If Respondent fails to comply with any of the foregoing probation terms, and the State Bar of Arizona receives information thereof, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether Respondent breached a term of probation and, if so, to impose 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** Mr. Maasen 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 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 16th day of September, 2016.

*William J. O'Neil*

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

Copies of the foregoing emailed  
this 16th day of September, 2016,  
and mailed September 19, 2016, to:

Scott Allan Maasen  
Maasen Law Firm  
8707 E. Vista Bonita Dr., Ste. 230  
Scottsdale, AZ 85255-3214  
Email: scott@maasenlaw.com  
Respondent

David L. Sandweiss  
Senior Bar Counsel  
State Bar of Arizona  
4201 N 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
Email: [LRO@staff.azbar.org](mailto:LRO@staff.azbar.org)

Fee Arbitration Coordinator  
State Bar of Arizona  
4201 North 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266

by: [AMcQueen](#)

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**SCOTT ALLAN MAASEN,  
Bar No. 018073**

Respondent.

**PDJ-2016-9088**

**DECISION AND ORDER  
ACCEPTING DISCIPLINE BY  
CONSENT**

[State Bar No. 15-1775]

**FILED SEPTEMBER 16, 2016**

A Probable Cause Order issued on July 1, 2016. No formal complaint has been filed. An Agreement for Discipline by Consent (Agreement) was filed on September 9, 2016 and submitted under Rule 57(a)(3) Ariz. R. Sup. Ct.<sup>1</sup> 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 by telephone, email and letter on September 8, 2016. Complainant was informed of the opportunity to file a written objection within five (5) business days. No objection has been received.

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<sup>1</sup> 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 charge. Complainant was an eighteen year old with a 52 IQ, muscular dystrophy and QT, a rare life-threatening heart condition, indicted on ten (10) felony counts. He had no prior criminal record and had spent most of his life in self-contained special education classes. Mr. Maasen was hired to represent Complainant for a paid flat fee of \$15,000. Mr. Maasen delegated the defense of Complainant to his associate, a certified specialist in criminal law. That attorney was evaluating whether the evidence supported a Rule 11 finding when he left Mr. Maasen's firm on May 13. The prosecutor made a plea offer on May 15 for probation with no jail and associated stipulations.

Mr. Maasen negligently thought his associate had already decided that Complainant did not qualify for Rule 11 Ariz.R.Crim.P., treatment. Mr. Maasen also thought that his associate had decided that the school and medical records supported, at best, a mitigation claim as part of a plea bargain for a reduced sentence. The case file left by his associate did not document those decisions had been made. Mr. Maasen permitted his client to enter into the plea agreement on May 19. On June 16 the judge suspended sentencing and placed complainant on probation and ordered him released from jail.

Apparently the mother of Complainant helped him write a handwritten Petition for Post- Conviction Relief in Complainant's name. The court appointed counsel to represent Complainant. That court appointed counsel moved the court for a retroactive Rule 11 determination. The state did not object. Complainant had been jailed from January 2014 to June 16, 2014. Court appointed counsel attached jail logs to a later memorandum showing no lawyer at Mr. Maasen's office visited

Complainant during his time in jail and there were only three two-minute legal calls to Complainant from someone from Mr. Maasen's office. Complainant was a minor when the offenses were committed over the internet. Based on the multiple expert opinions each finding Complainant not competent, the judge found Complainant was not competent currently or at the time of the change of plea and subsequent sentencing nor restorable to competency. The judge vacated the plea agreement and the judgment of guilt and sentencing,

Mr. Maasen conditionally admits he violated Rule 42, ER 1.3 (diligence), ER 1.4 (communication), ER 1.5(a) (fees), and ER 8.4(d) (conduct prejudicial to the administration of justice).

The parties stipulate to reprimand, fee arbitration, and upon reinstatement, two (2) years of probation with the State Bar's Law Office Management Assistance Program (LOMAP) for two years and costs of these proceedings.

Mr. Maasen admits he negligently recommended and proceeded with the guilty plea without familiarizing himself with the status of his associate's evaluation of the Rule 11 prospects. He failed to review the reasonableness of his view and did not account for that fee when the representation ended. The parties stipulate Mr. Maasen negligently violated his duty to his client and the legal system. There was actual harm to the client and the legal system. The parties agree that *Standards* 4.43, 4.63 and 6.13 apply to Mr. Maasen's violations.

The parties further agree that the following aggravating factors are present in the record: 9.22(a) (prior disciplinary offenses), which involves three admonitions with probation and fee arbitration in June 2016; 9.22(b) (selfish motive), 9.22(g), (refusal to acknowledge the wrongful nature of his conduct), 9.22(h) (vulnerability

of victim), 9.22(i) (substantial experience in the practice of law) and 9.22(j) (indifference to making restitution). Agreed upon mitigating factors include: 9.32(a) absence of a prior disciplinary record as his prior record was not prior to the conduct in this case; 9.32(b) absence of a dishonest motive; 9.32(c) (personal problems) relating to lawyer turnover issues during this conduct; and 9.32(e) (full and free disclosure to a disciplinary board or cooperative attitude toward proceedings) are present.

The PDJ finds that the proposed sanctions of reprimand, probation, fee arbitration, and costs meet the objectives of attorney discipline. The Agreement and any attachments are accepted and incorporated by this reference.

**IT IS ORDERED** Respondent, **Scott Allan Maasen, Bar No. 018073**, is reprimanded for 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. Maasen is placed on probation under the Agreement, shall participate in LOMAP for two (2) years and complete fee arbitration (including payment of any resulting awards) as required within the Agreement.

**IT IS FURTHER ORDERED** Mr. Maasen shall pay the costs and expenses of the State Bar of Arizona totaling \$1,200 within thirty (30) days of the date of this order. If costs are not paid within thirty (30) days, interest will begin to accrue at the legal rate. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office with these disciplinary proceedings.

**DATED** this 16<sup>th</sup> day of September, 2016.

*William J. O'Neil*

---

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

Copies of the foregoing emailed  
this 16th day of September, 2016,  
and mailed September 19, 2016, to:

Scott Allan Maasen  
Maasen Law Firm  
8707 E. Vista Bonita Drive Suite 230  
Scottsdale, AZ 8525-3214  
Email: [scott@maasenlaw.com](mailto:scott@maasenlaw.com)  
Respondent

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OFFICE OF THE  
PRESIDING DISCIPLINARY JUDGE  
SUPREME COURT OF ARIZONA

SEP 9 2016

FILED

BY



Scott Allan Maasen, Bar No. 018073  
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Telephone 480-778-1500  
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Respondent

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**SCOTT ALLAN MAASEN,  
Bar No. 018073,**

Respondent.

PDJ 2016-9088

**AGREEMENT FOR DISCIPLINE BY  
CONSENT**

State Bar File No. 15-1775

The State Bar of Arizona through undersigned Bar Counsel, and Respondent Scott Allan Maasen 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.<sup>1</sup> A probable cause order was entered on July 1, 2016, but a formal complaint has not been filed. 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 admissions and proposed form of discipline are approved.

<sup>1</sup> All references to rules are to the Arizona Rules of the Supreme Court unless otherwise stated.

Pursuant to Rule 53(b)(3), notice of this agreement was provided to the complainants by mail, email and telephone on September 8, 2016. Complainants have been notified of the opportunity to file a written objection to the agreement with the State Bar within five (5) business days of bar counsel's notice.

Respondent conditionally admits that his conduct as set forth below violated Rule 42, ERs 1.3, 1.4, 1.5(a), and 8.4(d). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Reprimand and probation (fee arbitration with Complainant Crystal Torres and with Mr. Keith Hawk to be completed (including payment of any award) within six months from the entry of the final judgment, and LOMAP for two years). 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>2</sup> The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

**WARNING RE: NON-COMPLIANCE WITH PROBATION**

If Respondent fails to comply with any of the foregoing probation terms, and the State Bar of Arizona receives information thereof, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5). The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether Respondent breached a term of probation and, if so, to impose an appropriate sanction. If there is an allegation that Respondent failed to comply with

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<sup>2</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.

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.

## **FACTS**

### **COUNT ONE of ONE (File no. 15-1775/Torres)**

1. Respondent was licensed to practice law in Arizona on May 17, 1997.
2. Complainant Austin Torres-Hawk ("Austin") was indicted on 10 felony counts of luring a minor for sex, commercial exploitation of a minor under 15 for sex, and furnishing obscene materials to a minor. Austin was 17 years old when he committed the crimes but was not charged until he was 18.
3. The Prescott Police Department assembled a persuasive case that Austin contacted several 13-15 year old girls on Facebook and engaged in explicit sex talk with them. They arrested him after obtaining by subpoena from Facebook about 2,000 pages of sex-related chats with minor girls.
4. Austin is mildly to moderately mentally retarded with a 52 IQ. He also suffers from muscular dystrophy and QT, a rare life-threatening heart condition. Austin spent most of his life in self-contained special education classes and had no criminal record.
5. Austin was jailed on a \$150,000 bond from January 2014 until he was released following his lifetime probation plea agreement in June 2014.
6. Austin's mother, Complainant Crystal Lee Torres ("Crystal"), who has a power of attorney for Austin, learned that Respondent had experience defending minors in sex crime cases and hired Respondent to represent Austin.
7. Respondent entered into a fee agreement with Austin but Crystal, Austin's father Keith Hawk, and a relative, combined to pay the \$15,000 flat fee for

pre-trial representation (Mr. Hawk later repaid the relative). The fee agreement contains a fee arbitration provision.

8. Respondent delegated Austin's defense to his associate, Todd Coolidge, a certified specialist in criminal law. Mr. Coolidge sought relevant school and medical records and was in the process of evaluating Austin's case when he left Respondent's firm on May 13, 2014.

9. The prosecutor offered a plea agreement on May 15, 2014, that called for lifetime probation with associated stipulations (*e.g.*, sex offender registration; agreement to undergo highly personal physical examinations; fees, fines, and surcharges) and a recommendation to the court of no more jail time.

10. Respondent thought that Mr. Coolidge already had decided that Austin did not qualify for Rule 11<sup>3</sup> treatment. He also thought that Mr. Coolidge decided that the school and medical records supported, at best, a mitigation claim as part of a plea bargain for a reduced sentence. The case file that Mr. Coolidge left for Respondent, however, did not document that Mr. Coolidge had made those decisions.

11. When Mr. Coolidge left Respondent's firm he had not yet decided whether the evidence supported a Rule 11 finding, as he had not yet compiled all of

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<sup>3</sup> Rule 11.1, Ariz. R. Crim. P.: "A person shall not be tried, convicted, sentenced or punished for a public offense . . . while, as a result of a mental illness, defect, or disability, the person is unable to understand the proceedings against him or her or to assist in his or her own defense."

Rule 11.2.a., Ariz. R. Crim. P.: "At any time after an . . . indictment [is] returned, any party may request in writing . . . an examination to determine whether a defendant is competent to stand trial, or to investigate the defendant's mental condition at the time of the offense."

the requested records. Had he decided on the Rule 11 matter one way or the other, he would have documented that fact in the file.

12. Respondent attended court on May 19, 2014, for a change of plea. Crystal appeared with her friend Bernice Landcaster. Crystal asked Respondent why he did not request a Rule 11 examination. According to her, Respondent pushed her away and proceeded with the change of plea.

13. Yavapai County Superior Court Judge Tina Ainley questioned Austin extensively (the transcript is 15 pages) and concluded that his guilty plea was knowing, intelligent, and voluntary. At one point, however, the following dialogue transpired:

THE DEFENDANT: I just want to say one thing.

THE COURT: You'll be given a chance at sentencing, Mr. Hawk, to talk to me. Do you have any questions about this plea, Mr. Torres-Hawk, for me, your attorney or the prosecutor?

MR. MAASEN: Your Honor, could I have a second?

THE COURT: Absolutely. [Austin and Respondent conferred.] Mr. Torres-Hawk, do you have any questions about this plea agreement for me, your attorney or the prosecutor?

THE DEFENDANT: I don't know. I don't know what to say.

THE COURT: Let me ask you, Mr. Torres-Hawk: Is this plea agreement how you want to handle your case?

THE DEFENDANT: (Nodding head affirmatively.)

MR. MAASEN: You need to -

THE DEFENDANT: Yes, Your Honor.

14. Respondent prepared a sentencing memorandum that detailed Austin's disabilities. A Yavapai County senior adult probation officer prepared a pre-sentence

report with many of the same details. Included in the materials was Austin's handwritten note expressing his awareness of and remorse for what he'd done. On June 16, 2014, Judge Ainley suspended sentencing, placed Austin on lifetime probation, and ordered him released from jail.

15. Although the crimes were charged as dangerous offenses, and Austin signed the seven-page single-spaced plea agreement designating the crimes as such, the court ruled that the counts to which Austin pled were nondangerous and nonrepetitive. The transcript is nine pages. At one point the following dialogue transpired:

THE COURT: Mr. Torres-Hawk, is there anything you would like to tell me prior to sentencing?

THE DEFENDANT: Yes. I've been locked down and in jail for 23 and a half hours in protected custody. I have mild intellectual retardation disorder and I have muscular dystrophy problems and I have major feet problems and I have bad heart problems, and every day I sit in jail and people scare me and I'm - every day it's just - I'm scared to go out of my cell ever because I'm scared that -- people scare me. I got serious problems with my heart. It's arrhythmia and it has a lot to do with people, I just stress and everything involved and I got autism. And -

MR. MAASEN: Can I have just a second, please?

THE COURT: Sure.

(Attorney-client off-the-record discussion.)

THE DEFENDANT: I'm sorry, Judge Ainley, for what I did. I know it wasn't right. I'm sorry. I'm very sorry.

16. In September 2014, Austin filed a handwritten Petition for Post Conviction Relief. On a form furnished by the court clerk's office, Austin checked the box indicating that there was an "unconstitutional suppression of evidence by the state" and stated that he had been sentenced "to a term of 25 years." In a different

space, Austin wrote (seemingly for his mother -- errors are as in the original), "They would not recognize my son mild retardation and him a minor. National council state legislater [sic] states AZ does not require a minor to register as sex offender if they act was not physical contact." Judge Ainley appointed counsel, Damon Rossi, to represent Austin.

17. Mr. Rossi believed Austin was not competent to understand his plea. In January 2015 he had Austin undergo neuropsychological testing by Dr. Conner, Ed. D., who agreed. Mr. Rossi moved for production of the audio record of the plea proceedings in order to demonstrate Austin's manner and demeanor that were not discernible from the written transcripts. Unfortunately, when proceedings were reported stenographically, the court system re-used the audio tapes after one week.

18. At a status hearing, Mr. Rossi asked the court for a retroactive Rule 11 determination. The state did not object. Judge Ainley ordered a supplemental examination by Dr. Conner, and a psychiatric evaluation by Dr. Raney, M.D.

19. Based on the reports, Judge Ainley concluded that Austin was not competent but left open the question as to whether he was capable of being restored to competency. At a July 2, 2015 evidentiary hearing Judge Ainley decided that Austin was not restorable and asked for legal memoranda as to whether Austin was competent at the time he entered into the plea.

20. The state anticipated that Mr. Rossi would move to withdraw Austin from the plea. It urged the court to defer ruling until it heard testimony from Respondent and Mr. Coolidge regarding the steps they took to ensure that Austin understood the plea proceedings.

21. Mr. Rossi attached jail logs to his memorandum showing that no lawyer at Respondent's office visited Austin in jail, and Austin had three two-minute legal phone calls with someone from Respondent's office.

22. Dr. Raney testified at the July hearing that Austin might have been competent to enter into a very simple plea agreement in June 2014 but not the one into which Austin actually entered. Dr. Conner had "no difficulty" determining that Austin was incompetent at the time of the plea.

23. Mr. Rossi argued that it was not necessary to take testimony from Mr. Coolidge or Respondent. It was impossible to explain the terms of the plea agreement to Austin at the time of the plea or since. "Even if Clarence Darrow, Atticus Finch and F. Lee Bailey were to somehow represent Austin, it would make no difference."

24. On August 31, 2015, Judge Ainley ruled that during the plea proceedings, "while the Defendant was able to give simple responses to the Court's questions, he was also anxious about being released from jail and was able only to give the most basic responses to the questions asked." She reviewed all of the same materials as those produced during the plea proceedings, plus the doctors' reports and testimony, and concluded that Austin was not competent currently or at the time of the change of plea and subsequent sentencing.

25. Judge Ainley vacated the plea agreement and the judgment of guilt and sentencing, released Austin from all obligations related to his sentencing, and dismissed the Rule 32 PCR proceeding.

### **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, ERs 1.3, 1.4, 1.5(a), and ER 8.4(d).

### **RESTITUTION**

Restitution is not an issue in this matter; the fee dispute will be resolved through fee arbitration as a probationary term.

### **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, probation (fee arbitration with Complainant Crystal Torres and with Mr. Keith Hawk to be completed, including payment of any award, within six months from the entry of the final judgment, and LOMAP for two years), and payment of costs and expenses as set forth above. If Respondent violates any of the terms of this agreement, further discipline proceedings may be brought.

### **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 duty violated**

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

### **The lawyer's mental state**

For purposes of this agreement the parties agree that Respondent negligently recommended and proceeded with the guilty plea without familiarizing himself fully with the status of Mr. Coolidge's evaluation of Austin's Rule 11 prospects; and negligently failed to review the reasonableness of his fee, and account to Crystal and Mr. Hawk for it, when the representation ended.

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

For purposes of this agreement, the parties agree that there was actual harm to the client and the legal system.

The parties agree that the following *Standards* are appropriate:

*Standard 4.43* - Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.

*Standard 4.63* - Reprimand is generally appropriate when a lawyer negligently fails to provide a client with accurate or complete information, and causes injury or potential injury to the client.

*Standard 6.13* - Reprimand is generally appropriate when a lawyer is negligent . . . in taking remedial action when material information is being withheld, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding.

### **Aggravating and mitigating circumstances**

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

#### **In aggravation:**

##### *Standard 9.22--*

(a) prior disciplinary offenses – the following offenses are prior to this consent but were not prior to the conduct in this case:

June 2016, Admonition/Probation for two years (LOMAP, fee arbitration), 15-1787, for violating ERs 1.2, 1.3, 1.4, 1.5(a), and 1.15(d);

June 2016, Admonition/Probation for two years (LOMAP, fee arbitration), 16-0138, for violating ERs 1.3, 1.4, 1.5(a), and 3.2;

and

June 2016, Admonition/Probation for two years (LOMAP, fee arbitration), 16-0606, for violating ERs 1.4, 1.5(a), 1.15(d), and 1.16(d).

(b) selfish motive;

(g) refusal to acknowledge wrongful nature of conduct;

(h) vulnerability of victim;

(i) substantial experience in the practice of law;

(j) indifference to making restitution.

**In mitigation:**

*Standard 9.32--*

(a) absence of a prior disciplinary record – see aggravating factor 9.22(a), above - Respondent has a record prior to entering into this consent but not prior to the conduct in this case;

(b) absence of a dishonest motive;

(c) personal problems – in connection with his LOMAP assessment in 15-1787, 16-0138, and 16-0606, Respondent detailed for the State Bar's LOMAP officer the office administration and lawyer turnover issues he faced during the times relevant to the events in this case;

(e) full and free disclosure to a disciplinary board or cooperative attitude toward proceedings.

**Discussion**

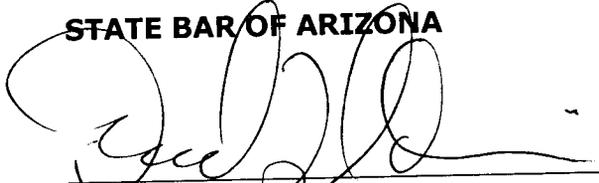
The parties conditionally agree that, upon application of the aggravating and mitigating factors, the presumptive sanction is appropriate and is within the range of appropriate sanctions. The purposes of lawyer discipline will be served by adding the indicated probationary terms to a reprimand, especially when considered with the admonition and probation Respondent currently is serving in the three cases listed in his discipline history.

**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 reprimand and probation, and the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit B.

DATED this 8<sup>th</sup> ~~August~~ <sup>September</sup> day of ~~August~~ 2016.

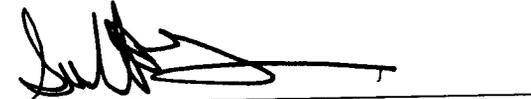
STATE BAR OF ARIZONA



David L. Sandweiss  
Senior Bar Counsel

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

DATED this 7 ~~August~~ <sup>September</sup> day of ~~August~~, 2016.



Scott Allan Maasen  
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 9<sup>th</sup> day of ~~August~~ 2016.

Copy of the foregoing emailed  
this 9<sup>th</sup> ~~August~~ <sup>September</sup> day of ~~August~~, 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](mailto:officepdj@courts.az.gov)

Copy of the foregoing mailed/mailed  
this 9<sup>th</sup> day of ~~August~~, 2016, to:  
September

Scott Allan Maasen  
Maasen Law Firm  
8707 E. Vista Bonita Dr., Ste. 230  
Scottsdale, AZ 85255-3214  
Email: scott@maasenlaw.com  
Respondent

Copy of the foregoing hand-delivered  
this 9<sup>th</sup> day of ~~August~~, 2016, to:  
September

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

by: John Brewer  
DLS: JLB

**EXHIBIT A**

## Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,  
Scott Allan Maasen, Bar No. 018073, Respondent

File No. 15-1775

### 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            |
| <b>TOTAL COSTS AND EXPENSES INCURRED</b> | <b>\$ 1,200.00</b> |

**EXHIBIT B**

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**SCOTT ALLAN MAASEN,**  
**Bar No. 018073,**

Respondent.

**PDJ**

**FINAL JUDGMENT AND ORDER**

State Bar No. 15-1775

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, **Scott Allan Maasen**, is hereby reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective 30 days from the date of this order or \_\_\_\_\_.

**IT IS FURTHER ORDERED** that Respondent is placed on probation on the following terms: He shall participate with the State Bar's Law Office Management Assistance Program ("LOMAP") for two years, and complete Fee Arbitration (including payment of any resulting awards) with Complainant Crystal Torres and Mr. Keith Hawk within six (6) months from the entry of this order.

**WARNING RE: NON-COMPLIANCE WITH PROBATION**

If Respondent fails to comply with any of the foregoing probation terms, and the State Bar of Arizona receives information thereof, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5),

Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether Respondent breached a term of probation and, if so, to impose 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 shall pay the costs and expenses of the State Bar of Arizona in the amount of \$ \_\_\_\_\_, within 30 days from the date of service of this Order.

**IT IS FURTHER ORDERED** that Respondent shall pay the costs and expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings in the amount of \_\_\_\_\_, within 30 days from the date of service of this Order.

**DATED** this \_\_\_\_\_ day of August, 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 August, 2016.

Copies of the foregoing mailed/emailed  
this \_\_\_\_\_ day of August, 2016, to:

Scott Allan Maasen  
Maasen Law Firm  
8707 E. Vista Bonita Dr., Ste. 230  
Scottsdale, AZ 85255-3214  
Email: scott@maasenlaw.com  
Respondent

Copy of the foregoing emailed/hand-delivered  
this \_\_\_\_ day of August, 2016, to:

David L. Sandweiss  
Senior Bar Counsel  
State Bar of Arizona  
4201 N 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
Email: [LRO@staff.azbar.org](mailto:LRO@staff.azbar.org)

Copy of the foregoing hand-delivered  
this \_\_\_\_ day of August, 2016 to:

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

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