

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
ESTABLISHMENT OF THE AD HOC) Administrative Order
COMMITTEE ON ATTORNEY) No. 2002- 44
DISCIPLINE AND APPOINTMENT OF)
MEMBERS)
_____)

The Supreme Court, having inherent power over members of the legal profession as officers of the Court, has adopted Rules 46 through 75, Arizona Rules of the Supreme Court, governing disciplinary action against attorneys admitted to practice in Arizona. In 1999, the Court amended the Rules of the Supreme Court to separate the investigative and prosecutorial functions of the State Bar of Arizona from the adjudicatory functions of the hearing officers and Disciplinary Commission. In addition, the amended rules significantly reduced times frames for resolving cases in an effort to better serve the public.

The Court has determined that it is beneficial to again review the state of the discipline process for purposes of identifying areas in need of further refinement and improvement. Specifically, the Court wants to ensure the process provides complainants with notice and reasonable opportunity to be heard in discipline proceedings; that restitution is being investigated and determined by Bar Counsel and included in Bar Counsel's complaints and consent agreements, and ordered by the hearing officers and the Commission where appropriate; that discipline by consent agreements address all counts in the complaint, contain specific and enforceable terms of probation where requested, include restitution where appropriate, are supported by a sufficient factual basis, and are processed in a timely manner; and that the record on appeal is complete and in proper form. Finally, the Court believes it is time to re-examine the necessity of proportionality reviews in each case as a way of ensuring that sanctions imposed are fair.

Now, therefore, pursuant to Article VI, Section 3 and 7 of the Arizona Constitution, and Rules 46 through 75, Arizona Rules of the Supreme Court,

IT IS ORDERED that the Ad Hoc Committee on Lawyer Discipline is established as follows:

1. **PURPOSE:** The Committee shall review the discipline process and draft rules and policy and procedural changes as required to specifically address the issues previously identified by the Court in this Order. In addition, the Court asks that the Committee recommend any other changes which will clarify and simplify the process while reducing any unnecessary delay in the resolution of cases. All proposed rule changes shall be submitted to the Court for review at the September, 2002 rules

agenda or as soon as possible thereafter.

2. MEMBERSHIP: The membership of the Committee is attached as an appendix.
3. MEETINGS: Meetings shall be scheduled at the discretion of the Committee Chair. All meetings shall comply with the Public Meeting Policy of the Arizona Judicial Department.
4. STAFF: The Administrative Office of the Courts shall provide staff for the Committee and, as feasible, shall conduct or coordinate research as requested by the Committee.
5. ADJOURNMENT: The Committee shall complete its work and adjourn by December 31, 2002.

Dated this 22 day of May, 2002.

CHARLES E. JONES
Chief Justice

APPENDIX

MEMBERS OF THE AD HOC COMMITTEE ON ATTORNEY DISCIPLINE

Peter J. Cahill, Esq., Chairperson
Disciplinary Commission Member
Gila County

Loren J. Braud, Esq.
State Bar Representative
Maricopa County

Douglas Brooks, Esq.
Disciplinary Clerk
Maricopa County

Kathleen Curry, Esq.
Staff Attorney's Office,
Arizona Supreme Court
Maricopa County

Jessica Funkhouser, Esq.
Disciplinary Commission Member
Maricopa County

Richard N. Goldsmith, Esq.
Hearing Officer and Former
Disciplinary Commission Member
Maricopa County

Mark I. Harrison, Esq.
Respondent's Counsel
Maricopa County

Craig B. Mehrens, Esq.
Disciplinary Commission Member
Maricopa County

William L. Rubin, Esq.
Respondent's Counsel and
Former Disciplinary Commission Chair
Pima County

Nancy Swetnam
Division Director, AOC
Maricopa County

Charles Wirken, Esq.
1st Vice President,
State Bar of Arizona Board of Directors
Maricopa County

Cindy Zwick
Executive Director, State Bar of Arizona
Maricopa County