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DISCIPLINARY COMMISSION OF THE
SUPREME COURT OF ARIZONA
BY *M. Smith*

BEFORE THE DISCIPLINARY COMMISSION
OF THE SUPREME COURT OF ARIZONA

IN THE MATTER OF A MEMBER)
OF THE STATE BAR OF ARIZONA,)
JEFFREY MEHRENS,)
Bar No. 019205)
RESPONDENT.)

No. 07-0521

DISCIPLINARY COMMISSION
REPORT

This matter came before the Disciplinary Commission on November 15, 2008, pursuant to Rule 58, Ariz.R.Sup.Ct., for consideration of the Hearing Officer's Report filed August 13, 2008, recommending dismissal.

Decision

Having found no facts clearly erroneous, the nine members of the Disciplinary Commission by a majority of five,¹ recommend accepting and incorporating the Hearing Officer's findings of fact, conclusions of law, and recommendation for dismissal. A copy of the Hearing Officer's Report is attached as Exhibit A.

RESPECTFULLY SUBMITTED this 21st day of November, 2008.

Pamela M. Katzenberg

Pamela M. Katzenberg
Disciplinary Commission Member

Original filed with the Disciplinary Clerk
this 21st day of November, 2008.

Copy of the foregoing mailed

¹ Commissioners Flores, Horsley, Messing, and Osborne were opposed having concluded that Respondent's conduct as found by the Hearing Officer in connection with Counts One and Three, violated Rule 41(g) and that an informal reprimand was the appropriate sanction.

this 21st day of November, 2008, to:

1 Robert J. Stephan Jr.
2 Hearing Officer 9R
3 P.O. Box 500
4 Tempe, AZ 85280-0500

5 Donald M. Peters
6 Respondent's Counsel
7 *Miller, LaSota & Peters, PLC*
8 722 East Osborn, Suite 100
9 Phoenix, AZ 85014-5245

10 Stephen P. Little
11 Bar Counsel
12 State Bar of Arizona
13 4201 North 24th Street, Suite 200
14 Phoenix, AZ 85016-6288

15 by: *M. Smith*

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EXHIBIT A

FILED

AUG 13 2008

HEARING OFFICER OF THE
SUPREME COURT OF ARIZONA
BY

**BEFORE A HEARING OFFICER
OF THE SUPREME COURT OF ARIZONA**

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4 IN THE MATTER OF A MEMBER)
OF THE STATE BAR OF ARIZONA,)
5)
6 JEFFREY C. MEHRENS,)
Bar No. 019205)
7)
8 RESPONDENT.)
9)

No. 07-0521

HEARING OFFICER'S REPORT

PROCEDURAL HISTORY

10
11 The State Bar filed its complaint in this matter on February 22, 2008. Respondent filed
12 an Answer on March 20, 2008. This matter came for hearing on July 8, 2008. Stephen Little
13 appeared on behalf of the State Bar. Jeffrey Mehrens appeared with his counsel, Donald
14 Peters. Witnesses appearing were Jeffrey Mehrens, Lisa Martin, and Kristen Knudsen.

15 Based upon the pleadings, the testimony, and the documentary evidence, the
16 following findings of fact, conclusions of law and recommendations are made.

FINDINGS OF FACT

17
18 1. At all times relevant, Respondent was a lawyer licensed to practice law in the
19 state of Arizona having been first admitted to practice in Arizona on March 23, 1999.

20 2. In April, 2004, Respondent was representing a Defendant in a vehicular
21 manslaughter case.

22 3. The case was being prosecuted by attorneys in the Maricopa County Attorney's
23 Office, Vehicular Crimes Bureau.

24 4. In April, 2004, Respondent visited the Vehicular Crimes Bureau to informally
25 interview two police officers in the case.

1 5. Respondent wore a t-shirt to the interview that had the slogan, "Let the fucking
2 begin," across the front. While it was his intent that the t-shirt would communicate to the
3 police officers his general feeling that his client was at a disadvantage in the judicial system by
4 virtue of the police conduct, neither officer mentioned or responded to the shirt. (Transcript, p
5 26) Ms. Kristen Knudsen, then Assistant Chief of the Maricopa County Attorney's Office
6 Vehicular Crimes Bureau, was present and her supervisor requested security to take pictures of
7 the t-shirt. (Transcript, p 55) Ms. Knudsen was not offended or embarrassed by the t-shirt but
8 felt it was inappropriate. (Transcript, p 59) She also felt Respondent thought it was funny.
9 (Transcript, p 62-63)

10 6. In January, 2006, Respondent represented a Mr. Lane, who was charged with
11 negligent homicide in Maricopa County Superior Court, case #CR2004-020942.

12 7. The trial prosecutor in that case was Jennifer Green, a Deputy County Attorney
13 in the Maricopa County Attorney's Office, Vehicular Crimes Bureau.

14 8. For a special action in the case the prosecutor's office assigned it to Deputy
15 County Attorney Lisa Martin.

16 9. On March 15, 2006, Ms. Martin called Respondent to request a copy of the trial
17 transcript.

18 10. In that conversation, Respondent told Ms. Martin that he did not know her and
19 had no reason to distrust her, but that if it were Ms. Green making the request, he would have
20 given Ms. Green absolutely nothing. He also stated to Ms. Martin that Ms. Green was "an
21 unethical piece of trash." (Transcript, p 39-40) He gave Ms. Martin the transcript. She was not
22 delayed or burdened by the comments, but might have been a little embarrassed. (Transcript, p
23 41-42)

24 11. In November, 2006, Respondent sent a note to Ms. Knudsen, the Chief of the
25 Maricopa County Attorney's Office Vehicular Crimes Bureau, which stated, "Kristen, your

1 waiting room magazines required a better selection. This is a six issue gift subscription to
2 Modern Drunkard Magazine. Sincerely, Jeff Mehrens.”

3 12. Thereafter, Ms. Knudsen began receiving the magazine at her office, but did not
4 put it in the waiting room. (Transcript, p 58) Ms. Knudsen was concerned that her name was
5 on a subscription to such a magazine when her office prosecutes drunk driving cases.
6 (Transcript, p 57-58) But she did not think Respondent sent it to embarrass her or create
7 difficulties for her, but that he intended it as a joke. (Transcript, p. 60)

8 CONCLUSIONS OF LAW AND RECOMMENDATION

9 Respondent was charged with violating Rule 42, *Ariz.R.Sup.Ct.*, specifically ER 4.4,
10 and Rule 41(g), *Ariz.R.Sup.Ct.*, for the 2004 t-shirt, calling Ms. Green an unethical piece of
11 trash to a co-worker in 2006, and the 2006 magazine gift subscription. All three incidents
12 arouse with the Vehicular Crimes Bureau who is an adversary to Respondent and was the
13 complainant.

14 ER 4.4 states in pertinent part:

15 Respect for Rights of Others

16 (a) In representing a client, a lawyer shall not use means that have no substantial
17 purpose other than to embarrass, delay, or burden any other person

18 Rule 41(g) states in pertinent part:

19 The duties and obligations of members shall be:

20 (g) To abstain from all offensive personality. . . .

21 Rule 41(g) is amended effective January 1, 2008 to read, “To avoid engaging in
22 unprofessional conduct.”

23 None of the conduct violates ER 4.4. The t-shirt and the expression of his opinion
24 about Ms. Green to a co-worker was not done to embarrass, delay or burden. The magazine
25 subscription was not done in the representation of a client.

1 In closing Bar Counsel twice characterized Respondent's conduct as "not the most
2 serious but *inappropriate*," (Transcript, 67, 70), seeking an informal reprimand.

3 On the behavioral continuum of inappropriate to unprofessional to unethical, I too can
4 go no farther than inappropriate, at most. It cannot be said to be clearly unethical. And some
5 would argue whether it is unprofessional, which always must be measured within the context
6 of the event and the perception of the observer in a framework of what has been declared so
7 unprofessional as to warrant a sanction.¹ The question is whether this conduct, however
8 characterized, rises to the level of warranting Bar intervention and a Bar sanction. I find it
9 does not and recommend dismissal. Having served as a disciplinary committee member or
10 hearing officer for over 25 years, this is the first case I have recommended complete dismissal.

11 DATED this 13th day of August, 2008.

12
13 Robert J. Stephan, Jr. /W/M
Robert J. Stephan, Jr.
Hearing Officer 9R

14 Original filed with the Disciplinary Clerk
15 this 13th day of August, 2008.

16 Copy of the foregoing was mailed
17 this 14th day of August, 2008, to:

18 Stephen Little
19 State Bar of Arizona
4201 N. 24th Street, Suite 200
Phoenix, AZ 85016-6288

20 Donald M. Peters
21 Respondent's Counsel
722 E. Osborn, Suite 100
22 Phoenix, AZ 85014

23 by: Neeta Murelkar
24 _____

25 ¹ As to whether it is "offensive personality," I am also unwilling to reach that, having had the exposure to the vagaries of litigation lawyers since 1972. It certainly demonstrates no elements of moral turpitude but arises more out of the infirmities or nuances of human nature, paraphrasing *In re Johnson*, 106 Ariz. 73, 471 P.2d 269 (1970).