

1
2 **BEFORE A HEARING OFFICER**
3 **OF THE SUPREME COURT OF ARIZONA**

FILED
AUG 18 2008
THE SUPREME COURT OF ARIZONA
BY *me*

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

No. 07-0521

HEARING OFFICER'S REPORT

9
10 **PROCEDURAL HISTORY**

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

17 **FINDINGS OF FACT**

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 sanction¹ 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. INM
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 Nesta M. Neffkas

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).