

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re

Barry Alan Keech,
Lawyer (Bar No. 8933).

Supreme Court No. 201277-9

ASSOCIATION'S PETITION
FOR INTERIM SUSPENSION
[ELC 7.2(a)(3)]

Under Rule 7.2(a)(3) of the Rules for Enforcement of Lawyer Conduct (ELC), the Office of Disciplinary Counsel of the Washington State Bar Association (ODC) petitions this Court for an Order of Interim Suspension of Respondent Barry Alan Keech pending cooperation with the disciplinary investigation.

This Petition is based on the Declaration of Disciplinary Counsel Jonathan Burke, filed with this Petition.

STATEMENT OF GROUNDS/ARGUMENT

Respondent Barry Keech failed to respond to ODC's requests that he respond to a grievance filed against him, and failed to comply with a Subpoena for Deposition and Subpoena Duces Tecum (Subpoena) by not appearing at the non-cooperation deposition scheduled for December 23, 2013, and not producing the records subpoenaed. Accordingly, Mr. Keech

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failed to cooperate with ODC's investigation of a grievance as required by former ELC 5.3(e) and former ELC 5.3(f).¹

It is necessary to obtain Respondent's records so ODC can determine whether Mr. Keech's conduct should have an impact on his license to practice law. By refusing to provide the requested records, Mr. Keech has impeded and delayed the disciplinary process. Accordingly, ODC asks this Court to order Mr. Keech's immediate interim suspension pending compliance with ODC's investigation.

STANDARD

Under ELC 7.2(a)(3), a respondent lawyer may be immediately suspended from the practice of law when a lawyer fails without good cause to comply with a request from ODC for information or documents or fails without good cause to comply with a subpoena.² Mr. Keech's

¹ The ELC were amended effective January 1, 2014. The duty to furnish a prompt response and the procedures for failure to cooperate became ELC 5.3(f) and ELC 5.3(h) respectively.

² Former ELC 7.2(a)(3) provided:

Failure to Cooperate with Investigation. When any lawyer fails without good cause to comply with a request under rule 5.3(f) for information or documents, or with a subpoena issued under rule 5.3(f), or fails to comply with disability proceedings as specified in rule 8.2(d), disciplinary counsel may petition the Court for an order suspending the lawyer pending compliance with the request or subpoena. If the lawyer complies with the request or subpoena, the lawyer may petition the Court to terminate the suspension on terms the Court deems appropriate.

Current ELC 7.2(a)(3) is the same as the cited provision, except that the references to ELC 5.3 subsections have been changed.

failure to comply with ODC's requests for documents and subpoena meets this standard.

EFFECT OF RESPONDENT'S FAILURE TO COOPERATE

The lawyer discipline system provides "protection of the public and preservation of confidence in the legal system." In re Disciplinary Proceeding Against McMurray, 99 Wn.2d 920, 930, 655 P.2d 1352 (1983). Given the limited resources available to investigate allegations of lawyer misconduct, "such investigations depend upon the cooperation of attorneys." Id. at 931.

"Compliance with these rules is vital." In re Disciplinary Proceeding Against Clark, 99 Wn.2d 702, 707, 663 P.2d 1339 (1983). Because Mr. Keech has not produced documents, responded to the grievance, or appeared for a deposition, ODC has not been able to determine whether his conduct should have an impact on his license to practice law. ODC's effective and timely investigation of the grievance and protection of the public has been impeded and delayed.

CONCLUSION

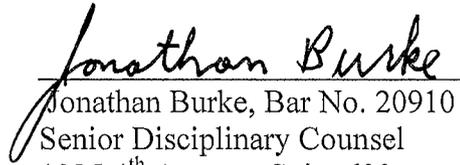
Mr. Keech's failure to cooperate with a disciplinary investigation is an ongoing violation of ELC 5.3. Accordingly, ODC asks the Court to issue an order to show cause under ELC 7.2(b)(2) requiring Mr. Keech to

appear before the Court on such date as the Chief Justice may set, and show cause why this petition for interim suspension should not be granted.

DATED THIS 3RD day of January, 2014.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL OF
THE WASHINGTON STATE BAR
ASSOCIATION


Jonathan Burke, Bar No. 20910
Senior Disciplinary Counsel
1325 4th Avenue, Suite 600
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(206) 733-5916

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re

Barry Alan Keech,
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Supreme Court No. 201277-9
DISCIPLINARY COUNSEL
DECLARATION

I, Jonathan Burke, declare and state:

1. I am the disciplinary counsel assigned to the pending disciplinary matter against lawyer Barry Keech. I am responsible for pending grievance investigation: WSBA File No. 13-01833. I make this declaration based on my personal knowledge or my review of the file.

2. The grievance file reflects that on October 8, 2013, the Office of Disciplinary Counsel of the Washington State Bar Association (ODC) mailed a letter to Mr. Keech's official address seeking a written response within 30 days to a grievance assigned WSBA File No. 13-01833. The grievance alleged lack of diligence and failure to comply with a court order to return attorney fees. Mr. Keech did not respond to ODC's letter to file a written response within 30 days.

3. The grievance file reflects that on November 13, 2013, ODC mailed a certified letter to Mr. Keech's official address requiring a response to the grievance assigned WSBA File No. 13-01833 within 10 days, citing former Rule 5.3(e) of the Rules for Enforcement of Lawyer

Conduct (ELC),¹ which provides that failure to respond may result in a subpoena for the lawyer's deposition. Mr. Keech did not respond to the grievance. The certified mail receipt was returned to ODC with a signed signature showing delivery on November 14, 2013.

4. On November 26, 2013, I called Mr. Keech's office and left a voice mail message to contact me about the grievance. Mr. Keech did not return my call.

5. On November 27, 2013, I signed a Subpoena for Deposition and Subpoena Duces Tecum (the Subpoena) requiring Mr. Keech to appear for a deposition scheduled for December 23, 2013, and produce his client file and all other documentation related to the unanswered grievance.

6. I received a Declaration of Service, dated December 7, 2013, reflecting that Bruce Munro of Apex Legal Services personally served the Subpoena on Mr. Keech on December 2, 2013.

7. Mr. Keech did not appear at the deposition scheduled for December 23, 2013.

¹ The ELC were amended effective January 1, 2014. The duty to furnish a prompt response and the procedures for failure to cooperate became ELC 5.3(f) and ELC 5.3(h) respectively.

8. To date, I have not received any contact from Mr. Keech, and have not received a written response or requested records relating to the referenced grievance file.

9. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

1/3/2014 Seattle, WA
Date & Place

Jonathan Burke
Jonathan Burke, Bar No. 20910
Senior Disciplinary Counsel

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DECLARATION OF MAIL
SERVICE

The undersigned Disciplinary Counsel of the Washington State Bar Association declares that he caused a copy of the Association's Petition for Interim Suspension and Disciplinary Counsel Declaration, to be mailed by regular first class mail with postage prepaid on January 3, 2014 to:

Barry Alan Keech
20126 Ballinger Way NE # 74
Shoreline, WA 98155-1117

I declare under penalty of perjury under the laws of the State of Washington that the foregoing declaration is true and correct.

1/3/14 Seattle, WA
Date and Place

Jonathan Burke
Jonathan Burke
Bar No. 20910
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