

201355-4

RECEIVED
SUPREME COURT
STATE OF WASHINGTON
Sep 08, 2014, 1:19 pm
BY RONALD R. CARPENTER
CLERK

mc

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

RECEIVED BY E-MAIL

<p>In re</p> <p>Kelly Marie Beissel,</p> <p>Lawyer (Bar No. 29239).</p>	<p>Supreme Court No. _____</p> <p>ODC'S PETITION FOR INTERIM SUSPENSION [ELC 7.2(a)(3)]</p>
---	---

Under Rule 7.2(a)(3) of the Rules for Enforcement of Lawyer Conduct (ELC), the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association petitions this Court for an Order of Interim Suspension of Respondent Kelly Marie Beissel pending cooperation with the disciplinary investigation. This Petition is based on the Declaration of Disciplinary Counsel Linda B. Eide, filed with this Petition.

STATEMENT OF GROUNDS/ARGUMENT

Respondent Kelly M. Beissel failed to cooperate with ODC's investigation of a grievance as required by ELC 5.5 and ELC 5.3(f). As detailed in the accompanying Disciplinary Counsel Declaration, Beissel failed to respond to ODC's letters requesting that she respond to a grievance filed against her, within 30 days, and she failed to respond to a second letter requesting a response within 10 days.

On August 20, 2014, ODC had Beissel personally served with a subpoena duces tecum to appear at a deposition on September 5, 2014 to

produce files relating to a grievance. On September 5, 2014, Beissel did not appear, and has not produced the requested records.

It is necessary to obtain the requested records so ODC can determine whether Beissel's conduct should have an impact on her license to practice law. By refusing to provide the requested records, Beissel has impeded and delayed the disciplinary process. Accordingly, ODC asks this Court to order Beissel'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.¹

¹ ELC 7.2(a)(3) provides:

When any lawyer fails without good cause to comply with a request under rule 5.3(g) for information or documents, or with a subpoena issued under rule 5.3(h), 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. A petition may not be filed if the request or subpoena is the subject of a timely objection under rule 5.5(e) and the hearing officer has not yet ruled on that objection. If a lawyer has been suspended for failure to cooperate and thereafter complies with the request or subpoena, the lawyer may petition the Court to terminate the suspension on terms the Court deems appropriate.

Kelly M. Beissel's failure to comply with ODC's 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 Respondent has not produced documents, responded to the grievance, or appeared for a deposition, ODC has not been able to determine whether her conduct should have an impact on her license to practice law. ODC's effective and timely investigation of the grievance and protection of the public has been impeded and delayed.

CONCLUSION

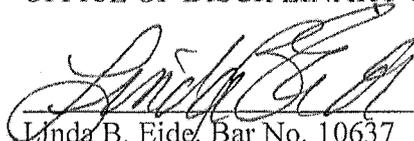
Respondent's failure to cooperate with a disciplinary investigation is an ongoing violation of ELC 7.2(a)(3). Accordingly, ODC asks the Court to issue an order to show cause under ELC 7.2(b)(2) requiring Kelly Marie Beissel to appear before the Court on such date as the Chief Justice

may set, and show cause why this petition for interim suspension should not be granted.

DATED THIS 8th day of September, 2014.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL



Linda B. Eide, Bar No. 10637
Senior Disciplinary Counsel
1325 4th Avenue, Suite 600
Seattle, WA 98101-2539
(206) 733-5902

201355-4

RECEIVED
SUPREME COURT
STATE OF WASHINGTON
Sep 08, 2014, 1:19 pm
BY RONALD R. CARPENTER
CLERK

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

mc

RECEIVED BY E-MAIL

In re

Kelly Marie Beissel,

Lawyer (Bar No. 29239).

Supreme Court No. _____

DISCIPLINARY COUNSEL
DECLARATION

I, Linda B. Eide, declare and state:

1. I am the disciplinary counsel assigned to the pending disciplinary matter against lawyer, Kelly Marie Beissel. I am responsible for a pending grievance investigation file: Office of Disciplinary Counsel (ODC) File No. 14-00752. I make this declaration based on my personal knowledge or my review of that file.

2. On May 8, 2014, ODC mailed a letter to Beissel's official address seeking a response within 30 days to a grievance assigned to ODC File No. 14-00752. The grievance alleged diligence and communication issues. We did not receive a response.

3. On June 26, 2014, ODC mailed a letter to Beissel's lawyer requiring a response to the grievance assigned to ODC File No. 14-00752 within 10 days, citing Rule 5.3(e) of the Rules for Enforcement of Lawyer Conduct (ELC), which provides that failure to respond may result in a subpoena for the lawyer's deposition. We did not receive a response.

ORIGINAL

4. On August 18, 2014, I prepared a Subpoena Duces Tecum requiring Beissel to appear for a September 5, 2014 deposition and to bring her client file for the unanswered grievance. On August 20, 2014, a Registered Process Server with Seattle Legal Messenger Services, LLC., served Beissel at her Seattle home address.

5. On September 5, 2014, Beissel failed to appear for her deposition.

6. To date, I have not received a written response or records relating to the referenced grievance file.

7. The Washington State Bar Association records show that Beissel has previously been interim suspended for failing to cooperate with the investigation of two other grievances. On December 4, 2013, the Court Granted a Petition for Interim Suspension for Beissel's lack of cooperation with ODC's investigation of two grievances. In that matter, in August 2014, the Court suspended Beissel for six months for lack of diligence, failing to respond to ODC's investigation, and failing to appear for a deposition.

///

///

///

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

Sept. 8, 2014 Seattle
Date & Place

Linda B. Eide
Linda B. Eide, Bar No. 10637
Senior Disciplinary Counsel

201355-4

RECEIVED
SUPREME COURT
STATE OF WASHINGTON
Sep 08, 2014, 1:20 pm
BY RONALD R. CARPENTER
CLERK

all

RECEIVED BY E-MAIL

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re

Kelly Marie Beissel,

Lawyer (Bar No. 29239).

Supreme Court No. _____

DECLARATION OF MAIL
SERVICE

The undersigned Disciplinary Counsel of the Office of Disciplinary Counsel of the Washington State Bar Association (ODC) declares that she caused a copy of ODC's Petition for Interim Suspension to be mailed by regular first class mail with postage prepaid on September 8, 2014 to:

Kurt M. Bulmer
Attorney at Law
740 Belmont Pl E Apt 3
Seattle, WA 98102-4442

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

Sept. 8, 2014 Seattle WA
Date and Place

Linda B. Eide
Linda B. Eide,
Bar No. 10637
Senior Disciplinary Counsel
1325 4th Avenue, Suite 600
Seattle, WA 98101-2539
(206) 733-5902

ORIGINAL

OFFICE RECEPTIONIST, CLERK

To: Narette Lim
Subject: RE: In re Kelly Beissel bar no 29239

All received.

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Narette Lim [mailto:narettel@wsba.org]
Sent: Monday, September 08, 2014 1:08 PM
To: OFFICE RECEPTIONIST, CLERK
Cc: kbulmer@comcast.net; Linda Eide
Subject: In re Kelly Beissel bar no 29239

Dear Clerk,

Attached for filing are the following documents in the case of In re Kelly Marie Beissel, Bar No. 29239:

1. September 8, 2014 Disciplinary Counsel Letter;
2. ODC's Petition For Interim Suspension;
3. Disciplinary Counsel Declaration; and
4. Declaration of Service by Mail.

Please send confirmation that these documents have been received. Thank you.

Narette Lim
Paralegal | Office of Disciplinary Counsel
Washington State Bar Association | 1325 Fourth Avenue, Suite 600, Seattle, WA 98101-2539
Phone: 206.727.8259 | Fax: 206.727.8325

Confidentiality Statement: The information in this e-mail and in any attachment may contain information that court rules or other authority protect as confidential. If this e-mail was sent to you in error, you are not authorized to retain, disclose, copy or distribute the message and/or any of its attachments. If you received this e-mail in error, please notify me and delete this message. Thank you.