

201354-6

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SUPREME COURT
STATE OF WASHINGTON
Sep 04, 2014, 10:43 am
BY RONALD R. CARPENTER
CLERK

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

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In re

Brian Geoghegan,

Lawyer (Bar No. 33416).

Supreme Court No. _____

ODC'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 (ODC) of the Washington State Bar Association petitions this Court for an Order of Interim Suspension of Respondent Brian Geoghegan 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 Brian Geoghegan 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, Geoghegan failed to respond to ODC's letters requesting that he respond to a grievance filed against him, within 30 days, then requiring a response within 10 days of a certified mailing.

ORIGINAL

On August 12, 2014, ODC had Geoghegan personally served with a subpoena duces tecum to appear at a deposition on August 29, 2014, for failing to cooperate with the investigation and to produce files relating to a grievance. On August 29, 2014, Geoghegan did not appear, and has not produced the requested records.

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

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.

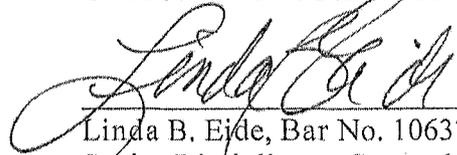
CONCLUSION

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 Brian Geoghegan 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 4th day of September, 2014.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL



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

OFFICE RECEPTIONIST, CLERK

To: Narette Lim
Cc: brian@geomarklaw.com; Linda Eide
Subject: RE: In re Brian Geoghegan bar no 33416

Received 9-4-14

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From: Narette Lim [mailto:narettel@wsba.org]
Sent: Thursday, September 04, 2014 10:35 AM
To: OFFICE RECEPTIONIST, CLERK
Cc: brian@geomarklaw.com; Linda Eide
Subject: In re Brian Geoghegan bar no 33416

Dear Clerk,

Attached for filing are the following documents in the case of In re Brian Geoghegan, Bar No. 33416:

1. September 4, 2014 Disciplinary Counsel Letter;
2. ODC's Petition for Interim Suspension;
3. Disciplinary Counsel Declaration; and
5. 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

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DISCIPLINARY COUNSEL
DECLARATION

I, Linda B. Eide, declare and state:

1. I am the disciplinary counsel assigned to the pending disciplinary matter against lawyer, Brian Geoghegan. I am responsible for a pending grievance investigation file: Office of Disciplinary Counsel (ODC) File No. 14-01026. I make this declaration based on my personal knowledge or my review of that file.

2. On June 17, 2014, ODC mailed a letter to Geoghegan's official address seeking a response within 30 days to a grievance assigned to ODC File No. 14-01026. The grievance alleged diligence and communication issues. We did not receive a response.

3. On July 22, 2014, ODC mailed a certified letter to Geoghegan's official address requiring a response to the grievance assigned to ODC File No. 14-01026 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 12, 2014, I signed a Subpoena Duces Tecum requiring Geoghegan to appear for an August 29, 2014 deposition and to bring his client file for the unanswered grievance. On August 13, 2014, an ODC investigator served Geoghegan at his Tacoma home address.

5. On August 29, 2014, Geoghegan failed to appear for his 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 in May 2014, the Court suspended Geoghegan for failure to pay fees and meet other licensing requirements.

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

Sept. 4, 2014 Seattle WA
Date & Place

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

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Phone: 206.727.8259 | Fax: 206.727.8325

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Lawyer (Bar No. 33416).

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DECLARATION OF MAIL
SERVICE

The undersigned Disciplinary Counsel of the Washington State Bar Association declares that she caused a copy of the ODC's Petition For Interim Suspension to be mailed by regular first class mail with postage prepaid on September 4, 2014 to:

Brian Geoghegan
GeoMark
2522 N Proctor St # 30
Tacoma, WA 98406-5338

And to: Brian Geoghegan
[confidential home address]

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

Sept 4, 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

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