

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re

Todd V. Harms,

Lawyer (Bar No. 31104).

Supreme Court No. _____

ODC'S PETITION FOR
INTERIM SUSPENSION
UNDER 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 Todd V. Harms pending cooperation with the disciplinary investigation.

This Petition is based on the Declaration of Disciplinary Counsel Francesca D'Angelo, filed with this Petition.

STATEMENT OF GROUNDS/ARGUMENT

Respondent Todd V. Harms failed to respond to ODC's requests that he respond to a grievance filed against him, and failed to appear at a non-cooperation deposition to which he was subpoenaed.

It is necessary to obtain Respondent's response so ODC can determine if the grievance has merit. By refusing to respond to ODC's requests that he provide a written response to a grievance filed against him, Respondent has impeded and delayed the disciplinary process.



Accordingly, ODC asks this Court to order Respondent'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 Respondent's failure to comply with ODC's requests for a response or the subpoena for his deposition 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

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.

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 responded to the grievance and did not appear for a deposition, the Association has not been able to determine whether or not the grievance has merit. ODC’s effective and timely investigation of the grievance and protection of the public has been impeded and delayed.

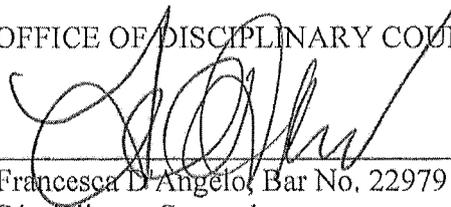
CONCLUSION

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 Respondent 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 31 day of May, 2016.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL



Francesca D'Angelo, Bar No. 22979

Disciplinary Counsel
1325 4th Avenue, Suite 600
Seattle, WA 98101-2539
(206) 727-8294

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Lawyer (Bar No. 31104).

Supreme Court No. _____

DECLARATION OF MAIL
SERVICE

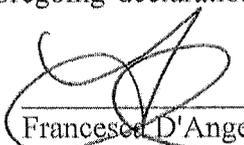
The undersigned Disciplinary Counsel of the Washington State Bar Association declares that she caused a copy of the ELC 7.2(a)(3) Petition for Interim Suspension to be mailed by regular first class mail with postage prepaid on May 31, 2016 to:

Todd V. Harms
503 Knight St Ste A
Richland, WA 99352-4257

Todd V. Harms


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

Seattle, WA 5/31/16
Date and Place



Francesca D'Angelo,
Bar No. 22979
Disciplinary Counsel
1325 4th Avenue, Suite 600
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OFFICE RECEPTIONIST, CLERK

From: OFFICE RECEPTIONIST, CLERK
Sent: Wednesday, June 01, 2016 8:35 AM
To: 'Carol Kinn'
Cc: Chandler, Desiree R.; Francesca D'Angelo; Allison Sato
Subject: RE: Documents for filing In re Todd V. Harms (CORRECTED COPY)

Received 6/1/2016.

Supreme Court Clerk's Office

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: Carol Kinn [mailto:carolk@wsba.org]
Sent: Tuesday, May 31, 2016 4:43 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Chandler, Desiree R. <Desiree.Chandler@courts.wa.gov>; Francesca D'Angelo <Francescad@wsba.org>; Allison Sato <Allisons@wsba.org>
Subject: Documents for filing In re Todd V. Harms (CORRECTED COPY)

Attached for filing are the following documents In re Todd V. Harms, Bar # 31104, Proceeding No. 16#00048.

1. Letter to Supreme Court Clerk
2. ODC's Petition for Interim Suspension
3. Disciplinary Counsel Declaration
4. Declaration of Mail Service

Thank you.

Carol M. Kinn
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Washington State Bar Association
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