

**Arizona Supreme Court
State Bar Disciplinary - Appeal**

SB-23-0083-AP

In the Matter of JAMES R. ECKLEY

Appellate Case Information

Case Filed: 30-Nov-2023
Case Closed:

Dept/Composition

**Side 1. In the Matter of JAMES R. ECKLEY, Respondent
(Litigant Group) In the Matter of JAMES R. ECKLEY**

- J Robert Eckley
AZ Bar No. 10854
[Current Member]
Admitted 1/5/88

Attorneys for: Respondent
Dennis I Wilenchik, Esq. (AZ Bar No. 5350)
Ross P Meyer, Esq. (AZ Bar No. 28473)

(Litigant Group) STATE BAR OF ARIZONA

- State Bar of Arizona

Attorneys for: State Bar of Arizona
Kelly J Flood, Esq. (AZ Bar No. 19772)

CASE STATUS

Nov 30, 2023....Pending

| PREDECESSOR CASE(S) | Cause/Charge/Class | Judgment/Sentence | Judge, Role <Comments> | Trial | Dispo |
|---------------------|--------------------|-------------------|----------------------------|-------|-------|
| PDJ PDJ20229044 | | | Margaret H Downie, Hearing | | |

32 PROCEEDING ENTRIES

- 30-Nov-2023 FILED: Record on Appeal - PDJ (Notice of Appeal)
(State Bar filed Cross-Appeal)
- 30-Nov-2023 FILED: Record (CD)
- 8-Dec-2023 FILED: Special Action with Request for Stay; Certificate of Service; Certificate of Compliance (Respondent Eckley)
- 8-Dec-2023 FILED: Appendix - Vol. I Excerpts of Record; Certificate of Service (Respondent Eckley)
- 8-Dec-2023 FILED: Appendix - Vol. II Excerpts of Record; Certificate of Service (Respondent Eckley)
- 8-Dec-2023 FILED: Appendix - Vol. III Excerpts of Record; Certificate of Service (Respondent Eckley)
- 18-Dec-2023 FILED: Notice of Record on Appeal; Certificate of Service (Respondent Eckley)
- 19-Dec-2023 FILED: State Bar of Arizona's Response to Petition for Special Action and Request for Stay; Certificate of Service; Certificate of Compliance (State Bar of Arizona)
- 19-Dec-2023 FILED: State Bar of Arizona's Appendix; Certificate of Service (State Bar of Arizona)
- 29-Dec-2023 FILED: Petitioner's Reply in Support of his Special Action and Request for Stay; Certificate of Service; Certificate of Compliance (Respondent Eckley)

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11. 3-Jan-2024 On November 6, 2023, the Hearing Panel entered its Decision and Order finding that Respondent violated two ethical rules by making certain representations to the Bar and the Hearing Panel, but found that the Bar did not prove by clear and convincing evidence that Respondent violated ethical duties as alleged in Count I or Count II of the Bar's original complaint. The Panel imposed a sanction of suspension. Respondent sought a stay of the sanction, which the Panel denied, finding that Respondent had not met his burden of proof required for the requested stay. The Panel also agreed with the State Bar that the record in the case demonstrated there were no appropriate conditions of supervision sufficient to protect the public.
- On December 8, 2023, the Court received Respondent's "Special Action with Request for Stay," which the Court has filed in Respondent's appeal. Respondent argues that the Hearing Panel abused its discretion in denying Respondent's request for a stay of his suspension while an appeal is pending. Respondent requests that the Court stay the sanction imposed by Hearing Panel until thirty days after the Court's ruling on the appeal. On December 19, 2023, the State Bar filed a "Response to Petition for Special Action and Request for Stay." The State Bar asserts that Respondent failed to satisfy the elements required to warrant a stay and specifically failed to establish a likelihood of success on the merits. On December 29, 2023, Respondent filed a reply.
- Upon consideration, the Court finds that Respondent did not in his request for stay before the Acting Presiding Disciplinary Judge or in this Court sufficiently address the elements of a stay. However, Rule 59(c) provides that an "application for stay pending appeal shall be granted subject to appropriate conditions of supervision, except when an interim suspension has been ordered or when the hearing panel, in its discretion, determines that no conditions of supervision will protect the public while the appeal is pending." (Emphasis added.) In this case, the discipline imposed was not based on Respondent's representation of clients but his statements made during the disciplinary proceedings. Under those circumstances, it is not clear that the public needs protection. Therefore, the Panel erred in denying the request for stay.
- IT IS ORDERED that the request for stay of the Hearing Panel's November 6, 2023 Decision and Order Imposing Sanctions is granted pending resolution of Respondent's appeal. The suspension is stayed without conditions and without prejudice to the State Bar seeking a modification of the stay and submitting proposed recommendations for conditions it believes to be reasonable based on the found ethical violations. (Hon. Ann A. Scott Timmer)
12. 4-Jan-2024 BRIEFING SCHEDULE
- NOTICE IS HEREBY GIVEN pursuant to Rule 59(f), Ariz. R. Sup. Ct., that the transcripts have been filed in this matter.
- The following is the schedule for the filing of the briefs. The briefs shall be eFiled with the Arizona Supreme Court Clerk's Office:
- Respondent's opening brief shall be filed no later than February 5, 2024;
- State Bar of Arizona's answering brief shall be filed no later than thirty (30) days after service of the opening brief; and
- Respondent's reply brief may be filed no later than fifteen (15) days after the service of the answering brief.
- The parties are encouraged to review Rule 59(h), Ariz. R. Sup. Ct., as to the form, length, and content of the briefs. (Tracie K. Lindeman, Clerk)
13. 5-Jan-2024 AMENDED BRIEFING SCHEDULE
- Pursuant to Rule 59(f), Ariz.R.Sup.Ct,
- NOTICE IS HEREBY GIVEN that the Notice of Appeal filed by Respondent James R. Eckley and the Arizona State Bar's Notice of Cross-Appeal have been docketed along with the Record and Transcripts.
- The following is the briefing schedule for the filing of the briefs. The briefs shall be eFiled with the Arizona Supreme Court Clerk's Office:
- Respondent's and the State Bar's opening brief are due no later than February 5,2024;
- Respondent's and the State Bar's answering briefs shall be filed no later than thirty (30) days after service of the opening brief. The State Bar may combine in one brief the opening cross-appeal brief and answering brief. If the State Bar elects to file a combined brief, it shall be filed no later than thirty (30) days after service of Respondent's opening brief; and
- Reply briefs may be filed no later than fifteen (15) days after the service of the answering brief.
- The parties are encouraged to review Rule 59(h), Ariz. R. Sup. Ct., as to the form, length, and content of the briefs. (Tracie K. Lindeman, Clerk)
14. 24-Jan-2024 FILED: Joint Motion for Procedural Order; Certificate of Service (State Bar of Arizona)

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15. 26-Jan-2024 The state Bar of Arizona has filed a "Joint Motion for Procedural Order," requesting a 30-day extension for the parties to submit their opening briefs. Upon consideration,

IT IS ORDERED granting the motion to extend the date for filing the opening briefs in this matter.

IT IS FURTHER ORDERED that both parties' opening briefs shall be filed no later than March 6, 2024. No further extensions will be granted absent extraordinary circumstances.

IT IS FURTHER ORDERED that Respondent's and the State Bar's answering briefs shall be filed no later than thirty (30) days after service of the opening brief. The State Bar may combine in one brief the opening cross-appeal brief and answering brief, it shall be filed no later than thirty (30) days after service of Respondent's opening brief, and Reply briefs may be filed no later than fifteen (15) days after the service of the answering brief. (Tracie K. Lindeman, Clerk)
16. 6-Mar-2024 FILED: Opening Brief; Certificate of Service; Certificate of Compliance (Respondent Eckley)
17. 6-Mar-2024 FILED: Appendix Vol I; Certificate of Service; Appendix Vol II (Respondent Eckley)
18. 6-Mar-2024 FILED: Appendix Vol III; Certificate of Service; Appendix Vol IV (Respondent Eckley)
19. 6-Mar-2024 FILED: State Bar of Arizona's Cross Appeal Opening Brief; Certificate of Service; Certificate of Compliance; Appendix Volume 1 (State Bar of Arizona)
20. 6-Mar-2024 FILED: Appendix Volume 2A; Certificate of Service; Appendix Volume 2B; Appendix Volume 2C (State Bar of Arizona)
21. 6-Mar-2024 FILED: Appendix Volume 2D; Certificate of Service; Appendix 3A; Appendix Volume 3B (State Bar of Arizona)
22. 7-Mar-2024 FILED: Notice of Errata and Submission of Corrected Appendix; Certificate of Service; Appendix Vol. 1; Appendix Vol. 2 (State Bar of Arizona)
23. 7-Mar-2024 FILED: Appendix Vol 3; Certificate of Service; Appendix Vol. 4; Appendix Vol. 5 (State Bar of Arizona)
24. 7-Mar-2024 FILED: Appendix Vol. 6; Certificate of Service (State Bar of Arizona)
25. 5-Apr-2024 FILED: State Bar of Arizona's Answering Brief; Certificate of Service; Certificate of Compliance; Appendix Index and Exhibits (State Bar of Arizona)
26. 5-Apr-2024 FILED: Stipulation for Procedural Order to Extend Date for Filing of Answering Brief; Certificate of Service (Respondent Eckley)
27. 9-Apr-2024 On April 5, 2024, Respondent Eckley filed a "Stipulation for Procedural Order to Extend Date for Filing of Answering Brief." Respondent requests an extension of one (1) business until April 8, 2024 to file Answering Brief.

IT IS ORDERED granting an extension of time, and the brief shall be deemed filed as of April 8, 2024. (Tracie K. Lindeman, Clerk)
28. 8-Apr-2024 FILED: Answering Brief to the State Bar of Arizona's Cross-Appeal Opening Brief; Certificate of Service; Certificate of Compliance (Respondent Eckley)
29. 8-Apr-2024 FILED: Appendix - Supplemental Excerpts of Record (SER); Certificate of Service (Respondent Eckley)
30. 22-Apr-2024 FILED: Reply Brief; Certificate of Service; Certificate of Compliance (Respondent Eckley)
31. 22-Apr-2024 FILED: Reply Brief Appendix- Vol. V Excerpts of Record; Certificate of Service (Respondent Eckley)
32. 23-Apr-2024 FILED: State Bar of Arizona's Cross Appeal Reply Brief; Certificate of Service; Certificate of Compliance (State Bar of Arizona)