IN THE SUPREME COURT OF THE STATE OF NEVADA

In Re: Discipline of JEREMY T. BERGSTROM, Nevada Bar No. 6904	)	Case No.

PETITION FOR RECIPROCAL DISCIPLINE PURSUANT TO SCR 114

Petitioner, State Bar of Nevada ("State Bar"), Supreme Court Rule ("SCR") 114(3), hereby petitions this Honorable Court for an order imposing reciprocal discipline upon Jeremy T. Bergstrom ("Bergstrom"), Nevada Bar No. 6904, arising out of discipline imposed by the State Bar of Arizona ("AZ Bar").

I. SUMMARY OF THE MATTER.

On February 19, 2021, AZ Bar notified the State Bar of a disciplinary proceeding in Arizona[1] that resulted in a two-year suspension order entered on February 17, 2021. The State Bar investigated the matter pursuant to SCR114(2) and obtained a certified copy of the Order and pleadings.[2]

---

[1] *In the Matter of Suspended Member of the State Bar of Arizona Jeremy Todd Bergstrom,* Before the Presiding Disciplinary Judge, Case No. PDJ 2020-9075, **Exhibit 1.**

[2] To facilitate electronic filing, Exhibit 1 is a true and correct copy of the certified documents obtained from the Office of Presiding Disciplinary Judge of Arizona Supreme Court.

Bergstrom failed to notify the State Bar of the Arizona suspension as required by SCR 114(1).

II. BACKGROUND

Bergstrom was admitted to practice law in Nevada in October 1999, making him subject to this Court's jurisdiction.[3] Bergstrom is currently suspended in Nevada. This Court suspended Bergstrom on November 14, 2019, for a period of six-months and one day.[4] The last 60 days of the suspension were stayed for a period of one year subject to conditions including: (1) payment of $34,422.88 restitution during the actual suspension; (2) mentor; (3) stay out of trouble; and (4) request for reinstatement hearing to determine if conditions were met. Bergstrom has not complied with the conditions, nor has he applied for reinstatement.

Bergstrom was also admitted to practice law in Arizona in May 1999. His AZ Bar Number is 019399.

The State Bar received notice of Bergstrom's discipline in Arizona. An investigation was opened. The State Bar notified Bergstrom that a petition would

---

[3] Supreme Court Rule ("SCR") 99.

[4] *In the Matter of Discipline of Jeremy T. Bergstrom,* Nev. Supreme Court, Case No. 79205, Nov. 14, 2019.

be filed and that he failed to report the Arizona discipline to Nevada as required by SCR 114(1).

This case involves one count with nine violations of the Arizona Supreme Court Rules and Ethics Rules ("ER"). Bergstrom participated in the Arizona discipline process.

On September 9, 2020, AZ Bar served Bergstrom with a Complaint noticing him disciplinary charges. Bergstrom filed an Answer to the Complaint on October 20, 2020.

On February 5, 2021, an Agreement for Discipline by Consent was filed. Bergstrom reviewed and signed the Agreement. The Decision Accepting Discipline by Consent was entered on February 17, 2021.

The Final Judgment and Order was also entered on February 17, 2021, suspending Bergstrom for a period of two years, and ordered restitution in the amount of $2,249 to be paid to the grievant.

The following findings and conclusions were detailed in the Decision.[5]

1. Count One

Bergstrom represented Client Company in collections cases over the course of several years. Bergstrom failed to: (1) properly account for recovered

[5] *See* Exhibit 1.

funds; (2) update Client on case statuses; (3) failed to attend an arbitration hearing resulting in judgment against Client; and (4) failed to notify the Client of the judgment.

In addition, Bergstrom's signature block erroneously identified that he was licensed in California and Illinois, when he is only licensed in Nevada and Arizona.

2. Violations[6]

Bergstrom was found to have violated duties owed to clients, the legal profession, and the legal system:

- Rule 42. Nevada's comparable rule is RPC 1.0A (Guidelines for Interpreting the Nevada Rules of Professional Conduct).
- ER 1.3 (Diligence). Nevada's comparable rule is RPC 1.3 (Diligence).
- ER 1.4 (Communication). Nevada's comparable rule is RPC 1.4 (Communication).
- ER 3.2 (Expediting Litigation). Nevada's comparable rule is RPC 3.2 (Expediting Litigation).
- ER 5.5 (Unauthorized Practice of Law). Nevada's comparable rule

[6] A copy of the relevant Arizona Rules and ERs are attached at **Exhibit 2.**

is RPC 5.5 (Unauthorized Practice of Law).

- ER 8.1 (Failure to respond). Nevada's comparable rule is RPC 8.1 (Bar admission and disciplinary matters).
- ER 8.4(d) (conduct prejudicial to the administration of justice). Nevada's comparable rule is RPC 8.4(d) (Misconduct: prejudicial to the administration of justice).
- Rule 54(d) (Failure to cooperate/furnish information). Nevada's comparable rule is RPC 8.1 (Bar admission and disciplinary matters).
- Rule 57(b) (reciprocal discipline). Nevada's comparable rule is SCR 114 (Reciprocal Discipline).

3. Discipline

The Presiding Disciplinary Judge ordered Bergstrom to be suspended from the practice of law for two (2) years and pay restitution to the grievant in the sum of $2,249.

III. STATEMENT OF THE LAW

SCR 114(4) provides for the imposition of the identical discipline imposed by another jurisdiction provided it has been demonstrated the proceedings were not lacking of due process, lacking of proof, the misconduct warrants substantially different discipline under the standards of Nevada or the misconduct

does not violate any of the Nevada Rules of Professional Conduct. Upon such a showing, the discipline shall conclusively establish the misconduct and warrants imposition of discipline in the State.[7]

Bergstrom had the opportunity and did respond to the charges against him. Bergstrom voluntarily waived his right to an adjudication hearing when he entered into the Agreement for Discipline by Consent. Therefore, the AZ Bar process was fair. AZ Bar duly gave Bergstrom notice and the opportunity to a hearing to dispute the charges.

IV. ABA STANDARDS ANALYSIS

The American Bar Association Standards for Imposing Lawyer Sanctions suggest an analysis of four factors to be considered in determining an appropriate disciplinary sanction: (1) the duty violated (to a client, the public, the legal system, and/or the legal profession); (2) the lawyer's mental state (negligent, knowing, or intentional; (3) the actual or potential injury or serious injury caused by the lawyer's misconduct; and (4) the existence of aggravating or mitigating factors.[8]

---

[7] *See* SCR114(5).

[8] *See* ABA STANDARDS FOR IMPOSING LAWYER SANCTIONS, Standard 3.0 (2014); *see also In re Lerner*, 197 P.3d 1067 (Nev. 2008).

Duties and Violation: Bergstrom was found to have violated his duties to his clients, legal profession, and legal system.

Mental State: Bergstrom's mental state was found to be knowingly regarding some violations and negligently regarding others.

Injury: Bergstrom was found to have caused actual serious harm to the client, legal profession potential harm to the public.

Standards: As such, the AZ Bar found that ABA standard 4.1, *Lack of Diligence*, and 7.1, *Violations of Duties Owed as a Professional* applied. The parties stipulated to the presence of aggravating and mitigating factors.

1. Aggravating/Mitigating Circumstances

The following aggravating factors were stipulated to and approved by the court: (a) prior disciplinary offenses; (c) a pattern of misconduct; (d) multiple offense; (i) substantial experience in the practice of law; and (j) indifference in making restitution.

In mitigation, the parties stipulated to personal or emotional problems, specifically Bergstrom's separation from a prior law firm and lack of administrative/managerial skills.

V. STATE BAR OF NEVADA CONCLUSION

A review of the record demonstrates the disciplinary proceedings held in Arizona were not lacking in notice or opportunity to be heard or due process,

lacking in establishment of proof nor would the misconduct warrant substantially different discipline under the standards of Nevada. Additionally, the conduct that is the subject of the discipline in Nevada clearly violates provisions of the Nevada Rules of Professional Conduct.

Finally, after applying the appropriate baseline and aggravating factors, disbarment is appropriate in this matter and is consistent with the discipline sanction imposed in Arizona.

WHEREFORE, Bar Counsel respectfully brings this matter to the Court's attention in accordance with SCR 114 (Reciprocal Discipline).

DATED this 4th day of March, 2021.

Respectfully submitted,

STATE BAR OF NEVADA

/s/ Gerard Gosioco

DANIEL M. HOOGE
Bar Counsel
Nevada Bar No. 10620
GERARD GOSIOCO
Assistant Bar Counsel
Nevada Bar No. 14371
3100 W. Charleston Boulevard, #100
Las Vegas, Nevada 89102

Attorneys for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies a true and correct copy of the attached **PETITION FOR RECIPROCAL DISCIPLINE PURSUANT TO SCR 114,** was sent via email and deposited in the United States Mail at Las Vegas, Nevada, postage fully pre-paid thereon for first class certified mail addressed to:

Jeremy T. Bergstrom
Bergstrom Law, Ltd.
9555 S. Eastern Avenue Ste. 200
Las Vegas, NV 89123
jbergstrom@jbergstromlaw.com

Certified Mail No. 7019 2280 0001 8733 2432

Dated this 4th day of March, 2021.

Belinda Felix
An Employee of the State Bar of Nevada

EXHIBIT 1

EXHIBIT 1

David L. Sandweiss, Bar No. 005501
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Telephone (602)340-7272
Email: LRO@staff.azbar.org

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A MEMBER OF THE STATE BAR OF ARIZONA,	**PDJ 2020-9075**
	COMPLAINT
JEREMY TODD BERGSTROM, Bar No. 019399,	**State Bar No. 19-2932**
Respondent.	

For its Complaint against Respondent the State Bar of Arizona alleges:

COUNT ONE of ONE (File no. 19-2932/Farmer)

1. At all times relevant, Respondent was a lawyer licensed to practice law in the state of Arizona having been first admitted to practice in Arizona on May 21, 1999.

2. Respondent also was a lawyer licensed to practice law in the state of Nevada having been first admitted to practice in Nevada in 1999.

3. In December 2018, Respondent was suspended from the practice of law in Nevada for six months stayed for one year subject to completing Continuing Legal Education on law office management, obtaining an experienced practice mentor on law office management, and payment of costs. Respondent violated Nevada's Rules of Professional Conduct (equivalent to Arizona's ERs) 1.1, 1.3, 1.4, 3.2, and 8.1(b).

4. In November 2019, Respondent was suspended from the practice of law in Nevada for six months and one day 60 days of which were stayed for one year. The stay was subject to these conditions: Respondent had to pay $34,422.88 in restitution, obtain an experienced mentor in law office management, commit no more violations, request reinstatement within 30 days of expiration of his actual suspension to prove he met these conditions such that the stayed 60 days ought not be imposed, and payment of costs. Respondent violated Nevada's Rules of Professional Conduct (equivalent to Arizona's ERs) 1.1 (two violations); 1.3, 1.4, and 3.2 (four violations each); 5.1 (one violation); and 8.4.

5. On April 24, 2020, Respondent was suspended from practicing law in the United States District Court for the District of Nevada.

6. Complainant owns Farmers Financial Services (FFS), a collections company.

7. Respondent has been Complainant's company attorney since Respondent worked for a law firm and continued to represent Complainant after starting his own firm.

8. Respondent handled Complainant's Arizona litigation.

9. "For years" Respondent failed to account to Complainant properly for recovered funds and failed to furnish updates on cases or answer Complainant's questions about cases and accountings.

10. In one case, Respondent failed to appear for an arbitration or notify Complainant of it, resulting in the arbitrator issuing a judgment against Complainant.

11. Respondent did not tell Complainant about the judgment.

12. Tired of having his questions go unanswered, Complainant learned from the clerk of the court that there was a judgment and assumed it was in his favor.

13. Thereafter, Complainant exhorted Respondent to garnish, execute, conduct a debtor's exam, and do whatever was necessary to collect on the judgment.

14. After about two years of being put off, Complainant checked again with the court clerk and learned that the judgment was against FFS.

15. Obviously disturbed about that case, Complainant investigated the status of other cases entrusted to Respondent and discovered that they had not been aggressively litigated and were dismissed.

16. One of Respondent's checks to FFS for collected funds bounced – check no. 120733 for $10,433.16, on July 25, 2019.

17. Bar counsel sent Respondent a screening letter in early November 2019.

18. Bar counsel asked Respondent to supply client files and trust account records.

19. Respondent did not respond so bar counsel asked State Bar of Arizona ("SBA") investigator Rose Ackerman to find him.

20. Through information supplied by Nevada bar authorities, Ms. Ackerman found Respondent and he replied in late December.

21. Respondent explained that his delay in responding was occasioned by network issues, bronchitis, and the holidays.

22. However, as stated in Respondent's Nevada discipline history above, November 2019 was when he was finalizing his suspension from the practice of law.

23. Respondent did not inform the SBA of his then-two suspensions.

24. The SBA discovered Respondent's suspensions through communications with a Nevada bar investigator.

25. In his initial response, Respondent furnished copies of some reports and spreadsheets accounting for some funds collected for and remitted to Complainant, but he did not furnish all of the information bar counsel requested.

26. One lawsuit that eluded Respondent's attention was *FFS v. Anaya.*

27. In *FFS v. Anaya*, the court entered judgment following an arbitration award for attorney's fees and costs totaling $2,249.00 against FFS due to Respondent's inattention to the case.

28. In his initial response to this charge Respondent claimed that Complainant could still appeal the arbitration result because although judgment

was entered the judgment creditor has not filed a Notice of Entry of Judgment, which triggers the start of the appeal period.

29. Bar counsel asked Respondent to reconcile that claim with certain rules of civil and civil appellate procedure, and Respondent conceded that although his claim is correct under Nevada rules, Arizona rules are different.

30. Respondent agreed to pay the judgment against Complainant but has failed to do so.

31. Bar counsel asked Respondent if, in his effort to substitute in as counsel for FFS following his firm's breakup, he complied with Rules 5.1(a)(2) (substitution is ineffective without a court order) and 5(j) (one must submit a proposed order with a motion), Ariz. R. Civ. P. (in effect in 2015).

32. Respondent answered that a 2017 Arizona Court of Appeals memorandum decision holds that if the client, former counsel, and new counsel all sign the notice, substitution may proceed *ex parte*.

33. Respondent's answer was frivolous; the rules required presentation of a form of order, he did not present one, that is why the court did not issue one, and that is why he did not receive court notices.

34. The fact that the opposing party is not entitled to notice of or to object to a party's choice of counsel is irrelevant.

35. Respondent blamed the court and the arbitrator for his lack of notice of significant case events, claiming that they had constructive notice of his involvement in the case on behalf of FFS based on certain of his court filings.

36. Respondent did not explain why he failed to determine the status of the case for two years, during which time Complainant periodically pressed him for information.

37. Respondent's response to Complainant's bar charge is the first time in four years that Respondent provided Complainant information explaining the *Anaya* case.

38. Complainant never hired Respondent's former partner Steve Stern to work for his firm in any capacity.

39. Complainant hired Respondent exclusively and when Respondent's firm closed Complainant wanted all accounts placed at Respondent's new firm, Bergstrom Law.

40. Respondent was to substitute in on all cases.

41. Complainant lost many accounts because Respondent failed to file proper documents once his substitutions were filed.

42. The following six cases, at least, were dismissed due to Respondent's lack of prosecution:

a. *FFS v. Radford*, Pima County Consolid. Justice Court, CV18-036450-RC. This is a breach of a student loan contract case to collect $7,422.00;

b. *FFS v. Garcia*, Maricopa County South Mountain Justice Court, CC2019-005555. This is a breach of a student loan contract case to collect $4,030.50;

c. *FFS v. Williams*, Maricopa County North Valley Justice Court, CC2019-025590. This is a breach of a student loan contract case to collect damages of $2,204.59;

d. *FFS v. Prince*, Pima County Consolid. Justice Court, CV19-000896-RC. This is a breach of a student loan contract case to collect $3,401.00;

e. *FFS v. Duran*, Pima County Consolid. Justice Court, CV18-036446-RC. This is a breach of a student loan contract case to collect $3,636.00; and

f. *FFS v. Ballesteros*, Pima County Consolid. Justice Court, CV19-000895-RC.

43. Respondent's email signature block included references to California and Illinois, falsely implying that he is authorized to practice law in those states.

44. On June 22, 2020, bar counsel sent Respondent this email:

> Mr. Bergstrom:
>
> I am nearing the point at which I will recommend to my colleagues a disposition of Mr. Farmer's bar charge. Kindly bring me up to date or reply regarding these matters:
>
> 1. What is the status of the cases entitled FFS v. Radford; Garcia; Williams; Prince; Duran; and Ballesteros?
>
> 2. Have you paid the judgment against FFS in the Anaya case? If so, kindly furnish corroborating evidence.
>
> 3.In the signature block of your emails you identify Nevada, Arizona, California, and Illinois, presumably as states in which you practice. I am aware of your admissions in Nevada (currently suspended) and Arizona, but on what do you base your presence in California and Illinois?
>
> 4. What is the status of your attorney/client relationship with FFS and Mr. Farmer? Have you terminated, and substituted out of the cases as counsel of record? If so, who is the last known counsel of record for FFS?
>
> Respectfully, [/s/ bar counsel, SBA]

45. Respondent failed to respond to bar counsel's foregoing email.

46. Following his suspensions in Nevada, Respondent did not comply with the notice requirements of Rule 57(b)(1), Ariz. R. Sup. Ct.

47. Respondent violated Rule 42, Ariz. R. Sup. Ct., ERs 1.3, 1.4, 3.2, 5.5, 8.1, and 8.4(d); Rule 54(d), Ariz. R. Sup. Ct; and Rule 57(b), Ariz. R. Sup. Ct.

DATED this 8th day of September, 2020.

STATE BAR OF ARIZONA

David L. Sandweiss
Senior Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 8th day of September, 2020.

by: Jennifer Smith
DLS:js

FILED
10/20/2020
/s/ BRANDI ENSIGN

Jeremy T. Bergstrom, Esq.
Arizona Bar No. 19399
9555 S. Eastern Avenue Suite 200
Las Vegas, Nevada 89123
jbergstrom@jbergstromlaw.com
P (702) 333-0007 | F (702) 333-1524

BEFORE THE PRESIDING DISCIPLINARY JUDGE

In the Matter of a Member of the State Bar of Arizona, JEREMY TODD BERGSTROM, Bar No. 19399, Respondent.	PDJ 2020-9075 **ANSWER TO COMPLAINT** State Bar No. 19-2932

COMES NOW Respondent, Jeremy T. Bergstrom, and hereby Answers the subject Complaint as follows.

ANSWERING COUNT ONE of ONE

1. Answering Paragraph One, Respondent admits the allegations.

2. Answering Paragraph Two, Respondent admits the allegations.

3. Answering Paragraph Three, Respondent admits the allegations.

4. Answering Paragraph Four, Respondent admits the allegations.

5. Answering Paragraph Five, Respondent admits the allegations.

6. Answering Paragraph Six, Respondent admits the allegations.

7. Answering Paragraph Seven, Respondent acknowledges that his prior Firm as well as his current Firm represented Complainant, and that Respondent was one of the attorneys handling Complainant's cases.

8. Answering Paragraph Eight, Respondent acknowledges that his current Firm handled at least some of Complainant's Arizona cases.

9. Answering Paragraph Nine, Respondent DENIES the allegations. In fundamental terms, the allegation that Respondent has provided poor services to Complainant "for years" belies logic and common sense. If that were true, it logically follows that Complainant would have terminated Respondent's services years ago. Such an allegation is hyperbole intended to grab the eye of the reader, as it apparently has since those words were quoted in the Complaint.

With regard to recovered funds specifically, the allegation that Respondent failed to account for those sums properly is completely false. In my December 28, 2019 response to the grievance, I attached a spreadsheet and several other documents that detailed each and every remit check resulting from recovered funds that was sent to Complainant since the very beginning of my Firm's existence. The average number of days between cashed remit checks was 22.78 days. Each and every remit check was accompanied by a Remittance Detail Report that contained all funds recovered since the prior remit check was sent along with the disposition of every penny of the recovered funds. ***Attached as Exhibit A is an example of a Remittance Detail Report that was sent to Complainant in the normal course on December 29, 2019. Attached as Exhibit B is the spreadsheet identifying the remit checks sent to Complainant.*** Please see the 301-page grievance response dated December 28, 2019 for a more detailed discussion on this issue.

With regard to updates and questions about cases and accountings, the allegation that Respondent failed to properly provide them and/or answer Complainant's questions is equally unfounded.

First, it must be noted that at times relevant to this issue, twelve separate Firm employees were responsible for the handling of Complainant's cases in one capacity or another and at one time or another. The capacities included paralegal responsibilities with file level knowledge and duties, office manager responsibilities involving accounts payable/receivables and recovered sums, attorney responsibilities as counsel on certain files including California files, administrative clerk responsibilities involving file opening and closing, file setup/creation in the case management system and imaging the necessary media to support the claims, among other things not specifically identified herein.

In an industry involving large numbers of accounts where hundreds of files are open at any one time with many clients, the industry norms are that daily file level updates are typically provided by staff and routine file level questions are typically answered by Firm staff.

Complainant had direct lines of communication open with all of these employees. The employees were available to answer any questions that fell within their specific responsibilities and work areas. Complainant fully knew this to be the case and it reached out to these employees frequently. The number of e-mail communications between Complainant and the Firm staff was vast. The sheer number of communications negates their collective attachment here. However, as an example of the types of e-mails being referred to, ***attached as Exhibit C are a small portion of one employee's e-mails***

with Complainant. Attached as Exhibit D is a list of some of the e-mail communications between the Firm staff and Complainant. The list is by no means all-inclusive. The actual e-mails will be produced separately.

The above said, obviously Respondent must respond to non-routine questions or other requests not suitable for the staff and also to any questions directed to him specifically, among other things. ***Attached as Exhibit E are many examples of Respondent doing exactly that over a period of many years.*** The allegation that the Firm, or that I specifically, failed to provide these services to Complainant is simply not the case.

On this same topic, there were multiple occasions in which Complainant failed to respond to Firm e-mails requesting instruction how to proceed or requesting media or information needed to move forward with cases. This stymied the Firm's ability to move the cases forward. ***Attached as Exhibit F are several examples of this scenario.*** The attached examples are by no means an all-inclusive list. As to the issue of non-communication, it was often times the entity that now complains of non-communication that failed to communicate.

10. Answering Paragraph Ten, Respondent is without sufficient knowledge of the allegation, causing Respondent to speculate as to the case referred to. The allegation simply states, "in one case" Respondent failed to appear for a hearing. The "one case" is not identified to any greater extent. There is no case number, no party name, not even the court the case was allegedly pending in. This allegation is not in proper form and cannot be

answered on its merits without requiring speculation. Therefore, Respondent DENIES the allegation.

11. Answering Paragraph Eleven, it is alleged that "Respondent did not tell Complainant about the judgment." The judgment at issue was not identified to any greater extent. Presumably, the judgment at issue is part of the "one case" identified in Paragraph Ten. For the same reasons Respondent cannot properly answer Paragraph Ten, Respondent cannot properly answer Paragraph Eleven. Therefore, Respondent DENIES the allegation.

12. Answering Paragraph Twelve, for the same reasons Respondent cannot properly answer Paragraphs Ten or Eleven, Respondent cannot properly answer Paragraph Twelve. As to the issue of what "Complainant learned from the Clerk of the Court," Respondent has no first-hand knowledge of what Complainant did or did not learn from the Clerk. For the above reasons, Respondent DENIES the allegation.

13. Answering Paragraph Thirteen, for the same reasons Respondent cannot properly answer Paragraphs Ten, Eleven and Twelve, Respondent cannot properly answer Paragraph Thirteen. Therefore, Respondent DENIES the allegation.

14. Answering Paragraph Fourteen, for the same reasons Respondent cannot properly answer Paragraphs Ten, Eleven, Twelve and Thirteen, Respondent cannot properly answer Paragraph Fourteen. Therefore, Respondent DENIES the allegation.

15. Answering Paragraph Fifteen, Respondent has no first-hand knowledge of Complainant's mental state or any investigation conducted and therefore DENIES the allegation.

16. Answering Paragraph Sixteen, check number 120733 was returned on July 26, 2019 and less than a week later cleared the bank on August 2, 2019. The reasons therefore and the relevant documents were contained in the initial Grievance Response.

17. Answering Paragraph Seventeen, Respondent's recollection is that the check issue was part of the Grievance file resulting from Complainant's filed Grievance. The check was one of the things complained of by Complainant.

18. Answering Paragraph Eighteen, Respondent fully explained the returned check in detail in his 301-page Grievance response dated December 28, 2019. The Response included the applicable Trust Account bank statements.

19. Answering Paragraph Nineteen, Respondent is without knowledge of the actions taken by counsel.

20. Answering Paragraph Twenty, Respondent submitted a 301-page grievance response in December 2019 that thoroughly addressed in great detail every issue identified. The response consisted of eight pages of writing that provided information, explanation and analysis of every issue identified along with 293 pages of relevant documents that supported the substance of the written response and that further explained the issues complained of.

Following the filing of this Grievance Response, Respondent later became aware of a Supplement to the Grievance filed by Complainant via State Bar correspondence dated January 24, 2020. This Supplement consisted only of documents. There was no identification or description of the purpose of the production of any of the documents.

In spite of the unexplained purpose of the Supplement, Respondent nonetheless sent a four-page response to the Bar on February 10, 2020 that thoroughly addressed what Respondent believed the issues to be.

Respondent also received correspondence from the Bar dated January 15, 2020 that contained an additional request to address five specific issues stated therein. Respondent addressed each of those issues in detail and sent a response to the Bar on February 20, 2020 that consisted of three pages of written response along with 27 pages of documents that supported the response.

Subsequently, on February 28, 2020, Respondent sent an unsolicited update to the State Bar that explained the current status of the files it identified in its January 24, 2020 correspondence, files that required action by Respondent.

Respondent believes every issue raised by Complainant and/or the Bar was fully addressed and explained in detail prior to the filing of the Complaint and that Respondent was forthcoming with his responses and document production. In sum, Respondent submitted seventeen (17) pages of written information, explanation and analysis and three hundred twenty (320) pages of documents that also addressed the issues.

21. Answering Paragraph Twenty-one, again the Complaint is vague and ambiguous and does not identify specifically what is alleged. This Paragraph alleges that Respondent's "delay in responding was occasioned by network issues, bronchitis and the holidays" but it does not identify specifically what I was delayed responding to.

The above said, Respondent clearly recalls having network issues in late 2019 before and during the Christmas holiday period. Network issues are often times more

problematic than they may sound when they affect the office of a practitioner with no IT person on staff. The network issues in late 2019 were very problematic and protracted. They effectively crippled the office for many days, as nobody in the office, including me, could access the documents, data and programs contained on the server. The office was closed several days because staff could not perform their job duties. These circumstances obviously created backlogs that would later have to be dealt with. These network issues in late 2019 were very real and very impactful on the Firm as a whole.

In addition to the network problems themselves, as stated above, it is true that they occurred before and during the Christmas holiday period, further exacerbating the magnitude of the problems.

In addition to the above, it is also true that I developed a severe case of chest and sinus congestion along with a sinus infection. The infection lingered for well over a month and was not responding to the prescribed medications. It was later diagnosed as bronchitis and required three doctor visits, chest x-rays and several stronger medications to resolve.

Respondent is unclear of the purpose of making the allegation in this Paragraph but if the insinuation is that these things did not happen and were merely some sort of an excuse, that would be false and not well received.

22. Answering Paragraph Twenty-Two, Respondent is unclear about the allegations contained therein. The allegation is that in November 2019, I was "finalizing a suspension from the practice of law" in Nevada. First, Respondent is unclear what Complainant means when he refers to "finalizing a suspension." Next, Respondent is unclear why any matters pending with the Nevada Bar would affect or be relevant to the fact Respondent had

network issues and bronchitis before and during the 2019 Christmas holidays, nor is Respondent clear how those pending matters affected the timing of Respondent's response to Complainant's grievance.

23. Answering Paragraph Twenty-Three, Respondent was unaware of any obligation to inform the SBA of his suspension in Nevada. Respondent practiced law extensively in both Nevada and Arizona for over twenty (20) years before ever being subject to any disciplinary proceeding. The disciplinary process and the requirements were thus mostly unfamiliar to Respondent.

24. Answering Paragraph Twenty-four, Respondent is without knowledge as to the SBA's communications with Nevada investigators, and therefore DENIES the allegations.

25. Answering Paragraph Twenty-five, the allegation is that Respondent's "initial response" did not fully address the pending matters. The allegation goes on to state that Respondent "furnished some reports and spreadsheets accounting for some funds collected for and remitted to Complainant." Respondent did much more than that. The initial response addressed and accounted for every remit ever tendered to Complainant since the very beginning, since the first day the Firm opened for business. The initial response provided detailed and thorough responses to every issue as set forth in eight pages of written information, explanation and analysis supported by 293 pages of documents. Respondent DENIES the allegations made in this Paragraph.

26. Answering Paragraph Twenty-six, the allegation is "One lawsuit that eluded Respondent's attention was FFS v. Anaya." Respondent is unclear what "eluded Respondent's attention" is intended to mean in this context, whether the allegation is that

the case was not addressed thoroughly in the initial response, whether the allegation is that the case itself eluded my attention or whether the allegation is altogether something different. Respondent DENIES the allegation.

27. Answering Paragraph Twenty-seven, Respondent denies the allegation. First, Respondent addressed the Anaya case in detail in prior communications with the SBA. Rather than reciting all of those comments herein, Respondent refers the SBA to his initial response beginning on Page 6.

Respondent notes however the following:

The referral was placed with the Miles, Bauer firm for collection in or around April 2014. While with the Miles, Bauer firm, the case was not assigned to Respondent, but rather to Steve Stern, an Arizona licensed attorney employed by Miles, Bauer. The Complaint against Anaya was filed by Stern on May 12, 2014. Stern subsequently engaged in communications with opposing counsel regarding the case. ***See Exhibit G.*** Stern is noted on the docket as counsel of record in the case. Stern continued to handle the case until it transferred to the new Firm.

The file was subsequently transferred to the new Firm and on January 22, 2015, the Firm attempted to substitute in as counsel. The docket reveals that the day prior, the Court issued a Notice to Set Arbitration Hearing. Neither the undersigned nor the Firm were aware of the issuance of this Notice by the Court because neither the undersigned nor the Firm received service of this Notice. Since the lawsuit at issue was filed in the Maricopa County Superior Court, the Firm was able to obtain copies of certain documents online. Among them was a copy of the Notice to Set Arbitration Hearing and the Mail

Service recipient list prepared by the Court. The Notice was mail served to FFS, Inc.'s counsel of record at his Firm's address. Specifically, it was served to Steve Stern at 2200 Paseo Verde Parkway, Suite 250, Las Vegas, NV. ***Attached hereto as Exhibit H is a copy of the Notice to Set Arbitration Hearing along with the Mail Service list.*** Respondent notes that the omission of Bergstrom Law, LTD on this service list was not an error as Bergstrom Law, LTD's first filing was not made until the day after notice was sent.

This Notice to Set Arbitration Hearing was returned to the Court undeliverable on February 25, 2015. The returned mailing was filed with the Court on March 4, 2015. ***Attached hereto as Exhibit I is a copy of the filed returned mailing.*** This Notice was undeliverable because Mr. Stern was not employed with the Miles, Bauer firm in January 2015 and also because the Miles, Bauer firm was no longer located at 2200 Paseo Verde Parkway in January 2015.

The significance of the above discussion is that nobody on behalf of FFS, Inc. received notice of the intent to set this case for arbitration hearing.

Then, on February 18, 2015, the arbitrator assigned to the case issued a Notice of Arbitration Hearing setting an arbitration hearing on April 8, 2015. This Notice was served only to Mr. Stern, but this service was again defective. In fact, this attempted service was worse than the attempted service of the Notice to Set. The arbitrator attempted to serve this Notice of Arbitration Hearing to Mr. Stern by e-mail only to an e-mail address Mr. Stern used while employed with Miles, Bauer. Mr. Stern ceased using this account when he left the employ of Miles, Bauer in or around September 2014. In fact, upon Mr. Stern's termination, his e-mail account was terminated by Miles, Bauer, who owned the domain e-

mail rights. Mr. Stern could not have used that e-mail account at any time after September 2014 even if he desired to do so. It is a certainty that the Notice of Arbitration Hearing was never served upon FFS, Inc. It is equally clear that knowledge of this hearing was not provided to anyone on behalf of FFS, Inc. ***Attached hereto as Exhibit J is a true and correct copy of the Notice of Arbitration Hearing and the service list.***

The Arbitration hearing was apparently held as scheduled on April 8, 2015. FFS, Inc. did not appear at the hearing, which is the expected result since nobody on behalf of FFS, Inc. was aware of it. On April 21, 2015, nearly two weeks after the hearing was held, the Arbitrator sent correspondence that confirmed the completion of the hearing and that also stated Mr. Stern and Miles, Bauer remained counsel of record for FFS, Inc. due to the Court not having approved the attempted substitution of counsel filed by the Firm.

The docket indicates that a Notice of Decision was subsequently filed, along with the Arbitration Award and a Judgment. The Firm's case management system did not contain any of these documents, meaning the Firm never received them. The Firm moved to a new office location at the end of May 2015, which may or may not have had any impact on notice issues. Since Mr. Stern remained counsel of record, it is more likely that pleadings were served to his attention.

Respondent has mailed a check to opposing counsel to cover the adverse judgment award. ***Attached as Exhibit K is a copy of the check.***

This Anaya case involved a multiplicity of events not commonly seen in typical litigation cases that resulted from a law firm ceasing operations under circumstances not commonly seen in business closings. Finding Respondent negligent or otherwise liable for

misconduct in a case that was so clearly impaired by notice defects and other anomalies would be entirely unjust. To further support this argument, the evidence reflects that neither Respondent nor Bergstrom Law, LTD received any notice of any of the proceedings.

The entry of judgment was due to the multiplicity of extenuating circumstances recited above rather than inattention to the case. Respondent notes that, despite the above, he has mailed a check to opposing counsel to pay the adverse fee and cost award, so Complainant is not responsible for the sum.

28. Answering Paragraph Twenty-eight, Respondent previously informed the SBA that his comment regarding appeal rights was erroneous as it was inadvertently based upon Nevada law instead of Arizona law.

29. Answering Paragraph Twenty-nine, Respondent admits the allegation.

30. Answering Paragraph Thirty, Respondent DENIES the allegation. Respondent mailed a check to opposing counsel to pay the adverse fee and cost award set forth in the judgment. ***See Exhibit K.***

31. Answering Paragraph Thirty-one, in this Paragraph it is alleged that the SBA inquired about Respondent's attempts to substitute in as counsel on applicable cases. Respondent responds by saying Respondent never personally attempted to substitute in as counsel on any relevant case. Rather, Bergstrom Law, LTD attempted to substitute in as counsel on every applicable case. ***See Exhibit L as an example of one of the substitutions filed with the court.*** The form of every other substitution was the same as the attached ***Exhibit L.***

Answering the allegation, Respondent admits that the SBA inquired about his attempts to substitute in as counsel, however the inquiry pertained to attempts made by Respondent personally, which never occurred, instead of attempts made by Bergstrom Law, LTD, the entity actually substituting in as counsel.

32. Answering Paragraph Thirty-two, Respondent acknowledges that the case referenced by Complainant in this Paragraph was part of Respondent's response to the inquiry addressed in Paragraph 31. The case referenced was certainly not the only item contained in the response or used to support Respondent's position articulated in his response.

33. Answering Paragraph Thirty-three, it is alleged that Respondent's response to the inquiry addressed in Paragraph 31 was "frivolous" because substitutions of counsel can only be effectuated by way of entry of an order authorizing the substitution. It is further alleged that no order was submitted and that is the sole cause of the substitution not being made in this case. Respondent DENIES these allegations entirely.

In Respondent's response, Respondent noted and addressed a discrepancy between the contents of relevant rules (Rule 5) and the actual practice being utilized by Arizona courts. To wit, Arizona courts often times do not require formal orders submitted in order to effectuate a substitution of counsel. Respondent provided three separate examples of cases in which no order was required. These examples are attached hereto.

The first example is a Maricopa County Superior Court case titled *Easy Loans Corp v. Frausto, Case No. CV2009-031470*. In this case, the original counsel of record for Plaintiff was Aron & Associates, PC. On August 16, 2012, a pleading titled Substitution

of Attorney was filed that purported to change counsel from Aron & Associates, PC to Miles, Bauer, et al. This substitution was the singular pleading filed in the attempt to change counsel. No order was submitted. Despite no order being submitted, the Court granted the change of counsel to the Miles, Bauer firm. Then, on December 29, 2014, another Substitution of Attorney pleading, identical in form the 2012 substitution, was filed purporting to change counsel from Miles, Bauer, et al. to Bergstrom Law, LTD. Again, no order was lodged or entered regarding the substitution. Again, the Court granted the substitution of counsel. ***Attached hereto as Exhibit M is a copy of the Court Docket in this case that clearly reflects me, an attorney with Bergstrom Law, LTD, as counsel of record in the case along with copies of the two Substitution pleadings filed with the court.*** I would not be counsel of record if the substitutions were not granted.

Example Two is another Maricopa County Superior Court case titled *Farmers Financial Services v. Kirby, Case No. CV2013-012758.* In this case, the original counsel of record for Plaintiff was Miles, Bauer, et al., and specifically Steve Stern, an attorney with the Miles firm who filed the complaint in the case. On January 21, 2015, a Substitution of Attorneys pleading was filed purporting to change counsel from Miles, Bauer, et al. to Bergstrom Law, LTD. Again, no order was lodged or entered regarding the substitution. Again, the Court granted the substitution of counsel. ***Attached hereto as Exhibit N is a copy of the Court Docket in this case that clearly reflects me, an attorney with Bergstrom Law, LTD, as counsel of record in the case along with the substitution of Attorneys pleading filed in the case.***

Example Three is a Maricopa County Justice Court case titled *Farmers Financial Services, Inc. v. Chavez, Case No. CC2014-078306.* In this case, the original counsel of record for Plaintiff was Miles, Bauer, et al., and specifically Steve Stern, an attorney with the Miles, Bauer firm who filed the complaint in the case. On January 27, 2015, a Substitution of Attorneys pleading was filed purporting to change counsel from Miles, Bauer, et al. to Bergstrom Law, LTD. Again, no order was lodged or entered regarding the substitution. Again, the Court granted the substitution of counsel. ***Attached hereto as Exhibit O is a copy of the Court Docket in this case that clearly reflects me, an attorney with Bergstrom Law, LTD, as counsel of record in the case along with the substitution of Attorneys pleading filed in the case.***

The form and content of all of the Substitutions identified above, with the obvious exception of party names, case numbers and courts, were identical. The form and content of the substitutions filed in Complainant's cases, with the same obvious exceptions, were identical to the substitutions identified above.

This demonstrates that Arizona Courts do not require formal orders in order to substitute counsel, at least not all Arizona Courts. The examples provided were from the Maricopa County Courts, the highest volume Courts in the state, not from a Court in a remote, rural area with a small caseload.

Having previously used the substitution form filed in Complainant's cases to successfully substitute in as counsel in prior cases, Respondent reasonably believed the filing of these pleadings would result in substitution of counsel in Complainant's cases. Having demonstrated the ability to substitute in as counsel in actual, live litigation cases,

without an order, the SBA describing Respondent's response to this issue as "frivolous" is head-scratching.

34. Answering Paragraph Thirty-four, Respondent answers by stating the content is not an allegation calling for an admission or denial, but rather is a legal opinion provided by the author of the Complaint.

35. Answering Paragraph Thirty-five, the allegation is that Respondent "blamed" the court and arbitrator for his lack of notice of case events, claiming they had constructive notice of his involvement in the case. First, Respondent is not looking to cast "blame" but rather to identify the undisputable notice defects in the case that gave rise to the outcome of the case. The complaint, on the other hand, seeks to ignore those notice defects and instead cast blame upon Respondent for the outcome of the case.

Please see the Initial Response and the answer to Paragraph 27 above for a detailed discussion regarding this issue.

Respondent DENIES the allegations.

36. Answering Paragraph Thirty-six, Respondent answers by stating the new Firm opened 750 new cases from November 2014, when the Firm started operations, through April 2015. The status of all of these cases needed to be confirmed and appropriate action needed to be taken, including substituting into most of them. At the same time, the office was undergoing its initial set-up, vendors needed to be contracted, court and vendor accounts needed to be created, services needed to be set-up, Firm procedures needed to be documented and conveyed, the case management systems needed to be populated with the case data, employees needed to be trained, bank accounts needed to be created, etc., etc.

In sum, a plethora of tasks needed to be completed during this time, all of which were necessary to conduct operations. During this time, receiving notice of pending matters was paramount in order to ensure proper case progression. Since notice is required, this was not an unreasonable expectation. Researching cases in which notice was never received, like Anaya, required time that was occasionally unavailable during this period. Again, this is time that should be unnecessary as notice should always be received in the normal course of cases.

In sum, it would be ideal to say that every file was immediately addressed the day it was received and substituted into that same day and immediately put on course to judgment, but that is not realistic or the way the world works sometimes. Things rarely proceed perfectly, and unexpected obstacles are inevitable. In those times, all matters cannot be addressed in the desired manner or timeframe.

Respondent DENIES the allegations.

37. Answering Paragraph Thirty-seven, Respondent DENIES the allegation.

38. Answering Paragraph Thirty-eight, Respondent DENIES the allegations. First, Steve Stern was never my partner as alleged in the Complaint. Rather, he was an employee. Second, Complainant never hired any specific attorney to handle his cases. Instead, Complainant hired specific law firms to handle his cases. Third, Complainant hired the Miles, Bauer law firm and then he subsequently hired Bergstrom Law, Ltd.

During the time period Complainant's files were handled by the Miles, Bauer firm, the files were never handled by Doug Miles, himself. Rather, they were handled by partners or staff attorneys assigned by Miles or the supervising partner. One such staff

attorney at the Miles, Bauer Firm was Steve Stern. Mr. Stern was assigned responsibility for the Anaya case from its inception and he remained responsible until the Miles, Bauer firm closed its doors in or around November 2014. Complainant never objected to Mr. Stern handling this case or any other case. When the Miles, Bauer firm closed, I hired Mr. Stern to work at my Firm. While at my Firm, he continued to work this case and others.

The fact that Complainant may not have executed a retainer or services agreement with Mr. Stern individually does not mean that Mr. Stern could not properly and ethically handle Complainant's cases, in the absence of any client instruction that he not work the files.

39. Answering Paragraph Thirty-nine, Respondent DENIES the allegation. The services agreements executed by Complainant were not with specific attorneys, but rather, specific law firms.

40. Answering Paragraph Forty, Respondent DENIES the allegation. The Firm was to substitute in as counsel on cases where substitution was appropriate.

41. Answering Paragraph Forty-one, it is alleged that Complainant "lost many accounts because Respondent failed to file proper documents." This Paragraph fails to identify even one of the many accounts that were allegedly lost. Respondent DENIES this allegation.

42. Answering Paragraph Forty-two, Respondent DENIES the allegations contained therein. Those allegations identify six cases that were allegedly dismissed for want of prosecution, seemingly to support the remainder of the allegations in the Grievance and the Complaint. However, this allegation fails to acknowledge that none of the six cases

identified were part of the original grievance filed by Complainant. Further, none of the six cases were dismissed at the time the grievance was filed. It was not until many weeks later that any of the six cases were dismissed.

When the grievance was filed by Complainant, it was made clear that the attorney-client relationship was severed, and that new counsel would be appointed to all cases. Substitutions of counsel were delivered to Respondent not in one all-inclusive batch but instead in small batches over a lengthy period of time. Regardless of whether a substitution was or was not filed in any particular case, Complainant instructed Respondent that new counsel would handle the cases. The above, coupled with the grievance filing itself, led Respondent to believe the attorney-client relationship was severed.

Addressing the six cases individually,

(1) *FFS v. Radford:* This case was dismissed on December 23, 2019, after the grievance had been filed. I previously represented that I would file a motion to set aside the dismissal and reinstate the case. I subsequently filed such a motion, which was granted on or around April 1, 2020. ***Attached as Exhibit P is a copy of the court docket reflecting the re-opening of the case and setting aside the dismissal.***

(2) *FFS v. Garcia:* This case was never dismissed. New counsel has substituted into the case. Attached as ***Exhibit Q*** is a copy of the court docket reflecting no dismissal.

(3) *FFS v. Williams:* This case was dismissed on February 13, 2020, after the grievance had been filed. I previously represented that I would file a

motion to set aside the dismissal and reinstate the case. I subsequently filed such a motion, which was granted on or around May 27, 2020. ***Attached as Exhibit R is a copy of the court docket reflecting the re-opening of the case and setting aside the dismissal.***

(4) *FFS v. Prince:* This case was dismissed on January 22, 2020, after the grievance had been filed. I previously represented that I would file a motion to set aside the dismissal and reinstate the case. I subsequently filed such a motion, which was granted on or around April 20, 2020. ***Attached as Exhibit S is a copy of the court docket reflecting the re-opening of the case and setting aside the dismissal.***

(5) *FFS v. Duran:* This case was dismissed on December 23, 2019, after the grievance had been filed. I previously represented that I would file a motion to set aside the dismissal and reinstate the case. I subsequently filed such a motion, which was granted on or around March 6, 2020. ***Attached as Exhibit T is a copy of the court docket reflecting the re-opening of the case and setting aside the dismissal.***

(6) *FFS v. Ballesteros:* This case was dismissed on February 13, 2020, after the grievance had been filed. I previously represented that I would file a motion to set aside the dismissal and reinstate the case. I subsequently filed such a motion, which was granted on or around April 27, 2020. ***Attached as Exhibit U is a copy of the court docket reflecting the re-opening of the case and setting aside the dismissal.***

43. Answering Paragraph Forty-three, Respondent DENIES the allegations contained therein. Respondent's e-mail signature block, along with the e-mail signature blocks of every Firm employee, identified the states in which the Firm practiced. Those four states are Illinois, California, Nevada, and Arizona. The e-mail signature blocks of every Firm employee contained the same graphic displaying the states the Firm practiced in. Respondent created this format after having reviewed the e-mails of other multi-jurisdictional firms, who all identified the states in which they practice in their e-mails.

Respondent's e-mail signature block made no reference of any kind to the specific states in which he was personally licensed to practice, nor was any such reference implied or intended.

The identification of the states in which each Firm lawyer was personally licensed to practice was contained in the Firm letterhead used on all letters prepared by everyone at the Firm. ***Attached as Exhibit V is a copy of a letter sent by the Firm that contains the Firm letterhead.*** The letterhead identifies Respondent as a Firm attorney and specifically represents that Respondent was licensed in Arizona and Nevada only. The Firm employed other lawyers who were licensed in Illinois and California, respectively, which was also identified in the Firm letterhead.

At no point did Respondent represent that he was personally licensed in either California or Illinois. The e-mail signature block's reference to the four states was intended only to identify the states in which the Firm provided services, nothing more.

44. Answering Paragraph Forty-four, Respondent is without sufficient knowledge to answer as the e-mail described in the allegation was first read by Respondent when Paragraph 44 of the Complaint was read.

45. Answering Paragraph Forty-five, Respondent acknowledges that a response to the e-mail was not sent because the e-mail was not read prior to the review of the instant Complaint. Respondent's response to the e-mail follows:

(1) The status of the specific files identified is below:

(A) *FFS v. Radford* – I filed a motion to set aside the dismissal and to reinstate the case. The motion was granted. The Court set aside the dismissal and re-opened the case on or about April 1, 2020. Default judgment was subsequently entered in favor of FFS on August 19, 2020. See attached ***Exhibit P.***

(B) *FFS v. Garcia* – this case was never dismissed by the court. No motion was necessary. New counsel substituted into the case on May 22, 2020. See attached ***Exhibit Q.***

(C) *FFS v. Williams* – I filed a motion to set aside the dismissal and to reinstate the case. The motion was granted. The Court set aside the dismissal and re-opened the case on or about May 27, 2020. Default judgment was subsequently entered in favor of FFS on September 14, 2020. See attached ***Exhibit R.***

(D) *FFS v. Prince* – I filed a motion to set aside the dismissal and to reinstate the case. The motion was granted. The Court set aside the dismissal and

re-opened the case on or about April 20, 2020. Default judgment was subsequently entered in favor of FFS on August 12, 2020. See attached ***Exhibit S.***

(E) *FFS v. Duran* – I filed a motion to set aside the dismissal and to reinstate the case. The motion was granted. The Court set aside the dismissal and re-opened the case on or about March 6, 2020. Default judgment was subsequently entered in favor of FFS on August 11, 2020. See attached ***Exhibit T.***

(F) *FFS v. Ballesteros* – I filed a motion to set aside the dismissal and to reinstate the case. The motion was granted. The Court set aside the dismissal and re-opened the case on or about April 27, 2020. Default judgment was subsequently entered in favor of FFS on August 11, 2020. See attached ***Exhibit U.***

(2) Next, you inquire about the *FFS v. Anaya* judgment payment. ***Attached as Exhibit K is a copy of the check sent to counsel for Anaya to satisfy the adverse fee and cost award.***

(3) Next, you inquire about my e-mail signature block. The signature block of my e-mail account was addressed above when responding to the allegations in Paragraph 43. Summarizing the prior response, the reference in my e-mail signature to the states of Illinois, Arizona, California, and Nevada was solely to identify those states as the states in which the Firm practiced and did business. The reference to those states was not to identify the states in which

I, personally, practiced. More broadly speaking, the reference was not applicable to me specifically, or to any other Firm employee specifically, but rather to the Firm as a whole. At the end of the day, the underlying purpose of identifying these four states in the Firm e-mails was simply to ensure our clients were aware of the states in which we, the law firm as a whole, practiced and did business. Prior to including that reference, clients would frequently call asking us if we could assist them with an issue in Idaho, or Washington, for example, and we would then need to clarify for all of them the states in which we could assist. By adding the practice states to the e-mails, the issue was clarified for the benefit of all parties.

The Firm's presence in Illinois and California resulted from the Firm employing attorneys who were licensed in each of those states. The individual attorney licenses were not identified in the Firm e-mails, but rather on the Firm letterhead. ***See Exhibit V attached hereto.*** The states in which each attorney is licensed to practice is clearly identified in the letterhead. At no point did I represent or imply that I was personally licensed in either California or Illinois. The Firm's employment of attorneys who were licensed in those states allowed the Firm to practice in those states. This resulted in their inclusion in the list of states in which the Firm practiced as set forth in the Firm e-mails.

(4) Regarding transfer of the FFS inventory to new counsel and substituting out of all of the cases, this process has been rather complicated. FFS elected to retain a forwarding firm, Weltman, Weinberg & Reis, to oversee and assign the cases

to different counsel. Weltman then retained Windtberg & Zdancewicz, PLC to handle a portion of the files and Langsdale Law to handle what I believe is the remaining portion of the files. The substitutions of counsel were not sent in one all-inclusive batch that would have completed the process. Instead, the substitutions have arrived in five or six separate smaller batches over a period of many months. The first substitutions were received in early April 2020. More than six months later, as of October 14, 2020, the Firm has still not received substitutions on 26 files.

We have had many communications with Windtberg's office, but we have had difficulty touching base with Langsdale's office. It's possible the transfer of the remaining 26 files will be quickly completed when we reach Mr. Langsdale. That is certainly our hope.

46. Answering Paragraph Forty-six, Respondent is without sufficient knowledge to answer and therefore denies the allegations.

47. Answering Paragraph Forty-seven, Respondent DENIES the allegation.

DATED this 19th day of October 2020.

Jeremy T. Bergstrom, Esq.
Arizona Bar No. 19399
9555 S. Eastern Avenue, Suite 200
Las Vegas, Nevada 89123

Submitted for efiling with the disciplinary clerk via email to officepdj@courts.az.gov this 19th day of October 2020.

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED by the undersigned that on the 19th day of October 2020, a true and correct copy of the foregoing ***ANSWER TO COMPLAINT*** was sent via email to David Sandweiss, *Staff Bar Counsel*, at LRO@staff.azbar.org

Maggie Bardis

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A MEMBER OF THE STATE BAR OF ARIZONA, **JERMEY TODD BERGSTROM, Bar No. 019399** Respondent.	**PDJ 2020-9075** **DECISION ACCEPTING DISCIPLINE BY CONSENT** [State Bar No. 19-2932] **FILED FEBRUARY 17, 2021**

Under Rule 57(a), Ariz. R. Sup. Ct.,[1] an Agreement for Discipline by Consent was filed on February 5, 2021. A Probable Cause Order issued on August 31, 2020 and the formal complaint was filed on September 9, 2020. The State Bar of Arizona is represented by Senior Bar Counsel David L. Sandweiss. Mr. Bergstrom is self-represented.

Rule 57 requires admissions be tendered solely "…in exchange for the stated form of discipline…." Under that rule, the right to an adjudicatory hearing is waived only if the "…conditional admission and proposed form of discipline is approved…." If the agreement is not accepted, those conditional admissions are automatically withdrawn and shall not be used against the parties in any subsequent proceeding. Mr. Bergstrom has voluntarily waived the right to an adjudicatory hearing, and waived all

[1] Unless otherwise stated rule references are to the Ariz. R. Sup. Ct.

motions, defenses, objections or requests that could be asserted upon approval of the proposed form of discipline. Notice to the complainant and an opportunity to object under Rule 53(b)(3) was sent to the complainant by email on February 5, 2021. No objection has been received.

The Agreement details a factual basis to support the conditional admissions. It is incorporated by this reference. Mr. Bergstrom admits he violated Rule 42, ERs 1.3 (diligence), 1.4 (communication), 3.2 (expediting litigation), 5.5 (unauthorized practice of law), 8.1 (failure to respond), 8.4(d) (conduct prejudicial to the administration of justice), Rule 54(d)failure to cooperate/furnish information) and Rule 57(b) (reciprocal discipline). As a sanction, the parties agree to a two-year suspension, restitution in the amount of $2,249.00 within 30 days, and the payment of costs within 30 days.

For purposes of the Agreement, the parties stipulate Mr. Bergstrom represented a client (company) in collections cases. Over the course of the representation lasting for years, he failed to properly account for recovered funds and failed to update the client on the status of cases. He failed to attend an arbitration hearing resulting in a judgment being issued against the client and then failed to inform the client about the judgment. Mr. Bergstrom failed to litigate other matters on behalf of the client which caused those matters to be dismissed. Mr. Bergstrom erroneously listed in his email signature block that he was also licensed in California and Illinois, when he is only

licensed in Arizona and Nevada. Mr. Bergstrom further failed to respond to the State Bar's request for information.

The parties stipulate Mr. Bergstrom violated his duties to clients, the legal profession, and the legal system. His misconduct caused actual serious harm to the client, actual harm to the legal profession and potential harm to the public. The presumptive sanction is disbarment under ABA *Standards* 4.41, *Lack of Diligence*, and 7.1 *Violations of Duties Owed as a Professional.* The parties stipulate to the presence of aggravating factors 9.22(a) prior disciplinary offenses, 9.22(c) pattern of misconduct, 9.22(d) multiple offenses, 9.22(i) substantial experience in the practice of law, and (j) indifference to making restitution, and mitigating factor 9.32(c) personal or emotional problems. Given Mr. Bergstrom's mitigating circumstances, the parties further stipulated that a reduction in the presumptive sanction of disbarment is justified and a two year suspension and restitution fulfills the purposes of discipline.

IT IS ORDERED accepting the Agreement and incorporating it with any supporting documents by this reference. A final judgment and order is signed this date.

DATED this 17th day of February 2021.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

COPY of the foregoing e-mailed
on this 17th day of February 2021 to:

Jeremy Todd Bergstrom
Bergstrom Law Ltd.
9555 S. Eastern Avenue., Suite. 200
Las Vegas, Nevada 89123-8007
Email: jbergstrom@jbergstromlaw.com
Respondent

David L. Sandweiss
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, AZ 85016-6266
Email: LRO@staff.azbar.org

by: SHunt

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A SUSPENDED MEMBER OF THE STATE BAR OF ARIZONA, **JEREMY TODD BERGSTROM, Bar No. 019399** Respondent.	**PDJ 2020-9075** **FINAL JUDGMENT AND ORDER** State Bar No. 19-2932 **FILED FEBRUARY 17, 2021**

The Presiding Disciplinary Judge accepted the parties' Agreement for Discipline by Consent pursuant to Rule 57(a), Ariz. R. Sup. Ct.

Accordingly:

IT IS ORDERED Respondent, **JEREMY TODD BERGSTROM, Bar No. 019399,** is suspended from the practice of law for two (2) years for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective thirty (30) days from the date of this order.

IT IS FURTHER ORDERED Mr. Bergstrom shall pay restitution to Complainant Kevin Farmer in the principal sum of $2,249.00 plus interest at the maximum legal rate if the principal is not paid within thirty (30) days of the date of this order.

IT IS FURTHER ORDERED pursuant to Rule 72 Ariz. R. Sup. Ct., Mr. Bergstrom shall comply with the requirements relating to notification of clients and others.

IT IS FURTHER ORDERED Mr. Bergstrom shall pay the costs and expenses of the State Bar of Arizona in the amount of $ 1,200.00, within thirty (30) days from the date of this order. There are no costs and expenses incurred by the Office of the Presiding Disciplinary Judge in these proceedings.

DATED this 17th day of February, 2021.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/emailed
this 17th day of February, 2021, to:

Jeremy Todd Bergstrom
Bergstrom Law Ltd
9555 S. Eastern Ave., Ste. 200
Las Vegas, Nevada 89123-8007
Email: jbergstrom@jbergstromlaw.com
Respondent

David L. Sandweiss
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

by: SHunt

Filed 2/5/21
SHunt

David L. Sandweiss, Bar No. 005501
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Telephone (602) 340-7272
Email: LRO@staff.azbar.org

Jeremy Todd Bergstrom, Bar No. 019399
Bergstrom Law Ltd.
9555 S. Eastern Ave., Ste. 200
Las Vegas, Nevada 89123-8007
Telephone (702) 333-0007
Email: jbergstrom@jbergstromlaw.com
Respondent

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A SUSPENDED MEMBER OF THE STATE BAR OF ARIZONA, **JEREMY TODD. BERGSTROM, Bar No. 019399,** Respondent.	**PDJ 2020-9075** **State Bar File No. 19-2932** **AGREEMENT FOR DISCIPLINE BY CONSENT**

The State Bar of Arizona, and Respondent Jeremy Todd Bergstrom who is not represented, submit their Agreement for Discipline by Consent pursuant to Rule 57(a), Ariz.R.S.Ct.[1] A probable cause order was entered on August 31, 2020, and a formal complaint was filed September 9, 2020. Respondent voluntarily waives the right to an adjudicatory hearing, unless otherwise ordered, and waives all motions,

[1]All references to rules are to the Arizona Rules of the Supreme Court unless stated otherwise.

defenses, objections or requests which have been made or raised, or could be asserted thereafter, if the conditional admissions and proposed form of discipline are approved.

Under Rule 53(b)(3), notice of this agreement was provided to the complainant by email on February 5, 2021. Complainant has been notified of the opportunity to file a written objection to the agreement with the State Bar within five (5) business days of bar counsel's notice. Copies of Complainants' objections, if any, have been or will be provided to the presiding disciplinary judge.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ERs 1.3, 1.4, 3.2, 5.5, 8.1, and 8.4(d); Rule 54(d); and Rule 57(b). Upon acceptance of this agreement, Respondent agrees to accept a suspension for two (2) years. Respondent also agrees to pay the costs and expenses of the disciplinary proceeding within 30 days from the date of this order. If costs are not paid within the 30 days interest will begin to accrue at the legal rate.[2] The State Bar's Statement of Costs and Expenses is attached as Exhibit A.

COUNT ONE OF ONE (File no. 19-2932/ Farmer)

[2]Respondent understands that the costs and expenses of the disciplinary proceeding include the costs and expenses of the State Bar of Arizona, the Disciplinary Clerk, the Probable Cause Committee, the Presiding Disciplinary Judge and the Supreme Court of Arizona.

1. At all relevant times Respondent was licensed to practice law in Arizona, having been admitted to practice on May 21, 1999. Respondent also was licensed to practice law in Nevada having been admitted to practice in 1999.

2. In December 2018, Respondent was suspended from the practice of law in Nevada for six months, stayed for one year subject to completing Continuing Legal Education on law office management, obtaining an experienced practice mentor on law office management, and payment of costs. Respondent violated Nevada's Rules of Professional Conduct (equivalent to Arizona's ERs) 1.1, 1.3, 1.4, 3.2, and 8.1(b).

3. In November 2019, Respondent again was suspended from the practice of law in Nevada, this time for six months and one day 60 days of which were stayed for one year. The stay was subject to these conditions: Respondent had to pay $34,422.88 in restitution, obtain an experienced mentor in law office management, commit no more violations, request reinstatement within 30 days of expiration of his actual suspension to prove he met these conditions such that the stayed 60 days ought not be imposed, and payment of costs. Respondent violated Nevada's Rules of Professional Conduct (equivalent to Arizona's ERs) 1.1 (two violations); 1.3, 1.4, and 3.2 (four violations each); 5.1 (one violation); and 8.4.

4. On April 24, 2020, Respondent was suspended from practicing law in the United States District Court for the District of Nevada.

5. Based on the Nevada suspensions, on September 24, 2020 Respondent was reciprocally disciplined in Arizona with a suspension for six months and one day (PDJ 2020-9068, SBA file no. 20-0269-RC) and a reprimand (PDJ 2020-9070, SBA file no. 20-1830-RC).

6. Complainant owns Farmers Financial Services (FFS), a collections company. Respondent has been Complainant's company attorney since Respondent worked for a law firm and continued to represent Complainant after starting his own firm. Respondent handled Complainant's Arizona litigation.

7. "For years" Respondent failed to account to Complainant properly for recovered funds and failed to furnish updates on cases or answer Complainant's questions about cases and accountings.

8. In one case, Respondent failed to appear for an arbitration or notify Complainant of it, resulting in the arbitrator issuing a judgment against Complainant. Respondent did not tell Complainant about the judgment. Tired of having his questions go unanswered, Complainant learned from the clerk of the court there was a judgment and assumed it was in his favor. Complainant exhorted Respondent to garnish, execute, conduct a debtor's exam, and do whatever was necessary to collect on the judgment.

9. After about two years of being put off, Complainant checked again with the court clerk and learned that the judgment was against FFS. Obviously disturbed about that case, Complainant investigated the status of other cases entrusted to

Respondent and discovered that they had not been aggressively litigated and were dismissed.

10. One of Respondent's checks to FFS for collected funds bounced – check no. 120733 for $10,433.16, on July 25, 2019.

11. Bar counsel sent Respondent a screening letter in early November 2019. Bar counsel asked Respondent to supply client files and trust account records. Respondent did not respond so bar counsel asked State Bar of Arizona ("SBA") investigator Rose Ackerman to find him. Through information supplied by Nevada bar authorities, Ms. Ackerman found Respondent and he replied in late December.

12. Respondent explained that his delay in responding was occasioned by network issues, bronchitis, and the holidays. However, as stated in Respondent's Nevada discipline history above, November 2019 was when he was finalizing his suspension from the practice of law. Respondent did not inform the SBA of his then-two suspensions. The SBA discovered Respondent's suspensions through communications with a Nevada bar investigator.

13. In his initial response, Respondent furnished copies of some reports and spreadsheets accounting for some funds collected for and remitted to Complainant, but he did not furnish all of the information bar counsel requested.

14. One lawsuit that eluded Respondent's attention was *FFS v. Anaya*. In *FFS v. Anaya*, the court entered judgment following an arbitration award for attorney's fees and costs totaling $2,249.00 against FFS due to Respondent's

inattention to the case. In his initial response to this charge Respondent claimed that Complainant could still appeal the arbitration result because although judgment was entered the judgment creditor had not filed a Notice of Entry of Judgment, which triggers the start of the appeal period. Bar counsel asked Respondent to reconcile that claim with certain rules of civil and civil appellate procedure, and Respondent conceded that although his claim is correct under Nevada rules, Arizona rules are different. Respondent agreed to pay the judgment against Complainant but has failed to do so.

15. Bar counsel asked Respondent if, in his effort to substitute in as counsel for FFS following his firm's breakup, he complied with Rules 5.1(a)(2) and (j), Ariz.R.Civ.P. (in effect in 2015), to the effect that substitution is ineffective without a court order, and one must submit a proposed order with a motion. Respondent answered that a 2017 Arizona Court of Appeals memorandum decision holds that if the client, former counsel, and new counsel all sign the notice, substitution may proceed *ex parte*. Respondent's answer was frivolous; the rules required presentation of a form of order, he did not present one, that is why the court did not issue one, and that is why he did not receive court notices. That the opposing party is not entitled to notice of or to object to a party's choice of counsel is irrelevant.

16. Respondent blamed the court and the arbitrator for his lack of notice of significant case events, claiming that they had constructive notice of his involvement on behalf of FFS based on certain of his court filings. Respondent did not explain

why he failed to determine the status for two years, during which Complainant periodically pressed him for information. Respondent's response to Complainant's bar charge was the first time in four years that Respondent provided Complainant information explaining the *Anaya* case.

17. Respondent claimed that his former partner Steve Stern was Complainant's counsel of record in the Arizona cases. Complainant never hired Mr. Stern to work for FFS in any capacity. Complainant hired Respondent exclusively and when Respondent's firm closed Complainant wanted all accounts placed at Respondent's new firm, Bergstrom Law. Respondent was to substitute in on all cases. Complainant lost many accounts because Respondent failed to file proper documents once his substitutions were filed.

18. These six cases, at least, were dismissed due to Respondent's lack of prosecution:

a. *FFS v. Radford*, Pima County Consolid. Justice Court, CV18-036450- RC. This is a breach of a student loan contract case to collect $7,422.00;

b. *FFS v. Garcia*, Maricopa County South Mountain Justice Court, CC2019-005555. This is a breach of a student loan contract case to collect $4,030.50;

c. *FFS v. Williams*, Maricopa County North Valley Justice Court, CC2019-025590. This is a breach of a student loan contract case to collect damages of $2,204.59;

d. *FFS v. Prince*, Pima County Consolid. Justice Court, CV19-000896- RC. This is a breach of a student loan contract case to collect $3,401.00;

e. *FFS v. Duran*, Pima County Consolid. Justice Court, CV18-036446- RC. This is a breach of a student loan contract case to collect $3,636.00; and

f. *FFS v. Ballesteros*, Pima County Consolid. Justice Court, CV19-000895-RC.

43. Respondent's email signature block included references to California and Illinois, falsely implying that he is authorized to practice law in those states.

44. On June 22, 2020, bar counsel sent Respondent this email:

> Mr. Bergstrom:
>
> I am nearing the point at which I will recommend to my colleagues a disposition of Mr. Farmer's bar charge. Kindly bring me up to date or reply regarding these matters:
>
> 1. What is the status of the cases entitled FFS v. Radford; Garcia; Williams; Prince; Duran; and Ballesteros?
>
> 2. Have you paid the judgment against FFS in the Anaya case? If so, kindly furnish corroborating evidence.

3. In the signature block of your emails you identify Nevada, Arizona, California, and Illinois, presumably as states in which you practice. I am aware of your admissions in Nevada (currently suspended) and Arizona, but on what do you base your presence in California and Illinois?

4. What is the status of your attorney/client relationship with FFS and Mr. Farmer? Have you terminated, and substituted out of the cases as counsel of record? If so, who is the last known counsel of record for FFS?

Respectfully, [/s/ bar counsel, SBA]

45. Respondent failed to respond to bar counsel's foregoing email.

46. Following his suspensions in Nevada, Respondent did not comply with the notice requirements of Rule 57(b)(1).

47. Respondent acknowledges that he violated professionalism rules in Nevada and Arizona, owing mainly to general office disorganization following his separation from his prior law firm in 2014 "under less than ideal circumstances." He also acknowledged that his banking and bookkeeping practices were disproportionately and unnecessarily complicated compared to the advantages they provided (phone payments and desktop deposits), a system flaw he fixed simply by changing banks. Upon reinstatement, Respondent does not intend to run a law practice; he plans to associate with a firm but not be a firm manager or administrator.

CONDITIONAL ADMISSIONS

Respondent's admissions are being tendered in exchange for the form of discipline stated below and are submitted freely and voluntarily and not as a result

of coercion or intimidation. Respondent conditionally admits that he violated Rule 42, ERs 1.3, 1.4, 3.2, 5.5, 8.1, and 8.4(d); Rule 54(d); and Rule 57(b).

RESTITUTION

Respondent will reimburse Complainant $2,249.00 based on the judgment for attorney's fees and costs *in FFS v. Anaya* that Respondent agreed to pay. Respondent denies he failed to remit to Complainant sums he collected from debtors. Complainant retains the right to seek a civil damages remedy, submit a claim to the Client Protection Fund, or take other action deemed appropriate.

SANCTION

Respondent and the State Bar of Arizona agree that based on the facts and circumstances, a suspension for two (2) years is appropriate. If Respondent violates any of the terms of this agreement, the State Bar may bring further discipline proceedings.

LEGAL GROUNDS IN SUPPORT OF SANCTION

In determining an appropriate sanction, the parties consulted the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* pursuant to Rule 57(a)(2)(E). The *Standards* are designed to promote consistency in the imposition of sanctions by identifying relevant factors that courts should consider and then applying those factors to situations where lawyers have engaged in various types of misconduct. *Standards* 1.3, Commentary.

In determining an appropriate sanction the Court considers the duty violated, the lawyer's mental state, the actual or potential injury caused by the misconduct and the existence of aggravating and mitigating factors. *Standard* 3.0.

The duty violated

Respondent violated his duties to his client, the legal profession, and the legal system.

The lawyer's mental state

Respondent conduct himself knowingly regarding some violations and negligently regarding others.

The extent of the actual or potential injury

There was actual serious harm to the client, actual harm to the legal profession, and potential harm to the public.

The parties agree that the following *Standards* are relevant:

> ER 1.3
> *Standard* 4.41-Disbarment is generally appropriate when: . . . (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.
>
> ER 1.4
> *Standard* 4.43-Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.
>
> ERs 3.2 and 8.4(d)
> *Standard* 6.22-Suspension is generally appropriate when a lawyer knows that he or she is violating a court order or rule, and causes injury or potential injury

to a client or a party, or causes interference or potential interference with a legal proceeding.

ER 5.5
Standard 7.4-Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence that is a violation of a duty owed as a professional, and causes little or no actual or potential injury to a client, the public, or the legal system.

ER 8.1 and Rule 54(d)
Standard 7.1-Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system.

Rule 57(b)1.
Standard 6.23-Reprimand is generally appropriate when a lawyer negligently fails to comply with a court order or rule, and causes injury or potential injury to a client or other party, or causes interference or potential interference with a legal proceeding.

Aggravating and mitigating circumstances

The presumptive sanction for Respondent's most serious violations is disbarment. The parties conditionally agree that the following aggravating and mitigating factors should be considered:

In aggravation: *Standard* 9.22--

(a) prior disciplinary offenses – it might be more accurate to describe Respondent's history as "other" disciplinary offenses. Respondent's discipline occurred recently, within a small window of time, and was based on conduct concurrent with and in some respects similar to his violations in this case. Otherwise, Respondent was discipline-free for about 20 years. Courts give considerable weight to a lawyer's long career with no discipline. *In RE: Jack Levine*, 174 Ariz. 146 (1993).

(c) a pattern of misconduct;

(d) multiple offenses;

(i) substantial experience in the practice of law;

(j) indifference to making restitution;

In mitigation: *Standard* 9.32--

(c) personal or emotional problems – see discussion above re: Respondent's separation from a prior law firm, and lack of administrative/managerial skills.

Discussion

The parties conditionally agree that upon application of the aggravating and mitigating factors the presumptive sanction of disbarment should be reduced to a suspension. Although aggravating factors outnumber mitigating factors, Respondent's misconduct emanates from a core of similar issues that plagued him concurrently in Nevada and Arizona within a short time. His personal problems and lengthy history without discipline should be weighted such as to reduce the sanction to a two-year suspension. Based on the *Standards* and given the facts and circumstances, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

CONCLUSION

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. *In re Peasley, 208 Ariz. 27 (2004)*. Recognizing that determination of the appropriate sanction is the prerogative

of the Presiding Disciplinary Judge, the State Bar and Respondent believe that the objectives of discipline will be met by imposing a suspension and assessing costs and expenses. A proposed form of order is attached as Exhibit B.

DATED this 5th day of February 2021.

STATE BAR OF ARIZONA

David L. Sandweiss

David L. Sandweiss
Senior Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation. I acknowledge my duty under the Rules of the Supreme Court with respect to discipline and reinstatement. I understand these duties may include notification of clients, return of property and other rules pertaining to suspension.

DATED this 4th day of ~~January~~ February, 2021.

Jeremy Todd Bergstrom
Respondent

Approved as to form and content

Maret Vessella
Chief Bar Counsel

Original electronically filed with
the Disciplinary Clerk of the Office
of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this___ day of January, 2021.

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation. I acknowledge my duty under the Rules of the Supreme Court with respect to discipline and reinstatement. I understand these duties may include notification of clients, return of property and other rules pertaining to suspension.

DATED this _____ day of February, 2021.

Jeremy Todd Bergstrom
Respondent

Approved as to form and content

Maret Vessella
Chief Bar Counsel

Original electronically filed with
the Disciplinary Clerk of the Office
of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 5th day of February, 2021.

Copy of the foregoing emailed
this 5th day of February, 2021, to:

Jeremy Todd Bergstrom
Bergstrom Law Ltd.
9555 S. Eastern Ave., Ste. 200
Las Vegas, Nevada 89123-8007
Email: jbergstrom@jbergstromlaw.com
Respondent

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th St., Suite 100
Phoenix, Arizona 85016-6266

by: Jennifer Smith
DLS/js

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Suspended Member of the State Bar of Arizona,
Jeremy Todd Bergstrom, Bar No. 019399, Respondent

File No. 19-2932

Administrative Expenses

The Supreme Court of Arizona has adopted a schedule of administrative expenses to be assessed in lawyer discipline. If the number of charges/complainants exceeds five, the assessment for the general administrative expenses shall increase by 20% for each additional charge/complainant where a violation is admitted or proven.

Factors considered in the administrative expense are time expended by staff bar counsel, paralegal, secretaries, typists, file clerks and messenger; and normal postage charges, telephone costs, office supplies and all similar factors generally attributed to office overhead. As a matter of course, administrative costs will increase based on the length of time it takes a matter to proceed through the adjudication process.

General Administrative Expenses for above-numbered proceedings **$1,200.00**

Additional costs incurred by the State Bar of Arizona in the processing of this disciplinary matter, and not included in administrative expenses, are itemized below.

Additional Costs

Total for additional costs $ 0.00

TOTAL COSTS AND EXPENSES INCURRED $ 1,200.00

EXHIBIT B

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A SUSPENDED MEMBER OF THE STATE BAR OF ARIZONA, **JEREMY TODD BERGSTROM, Bar No. 019399,**	**PDJ 2020-9075** **FINAL JUDGMENT AND ORDER** **State Bar No. 19-2932**

The Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent pursuant to Rule 57(a), Ariz. R. Sup. Ct., accepts the parties' proposed agreement.

Accordingly:

IT IS ORDERED that Respondent, **Jeremy Todd Bergstrom**, is Suspended for two (2) years for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective 30 days from the date of this order.

IT IS FURTHER ORDERED that Respondent shall pay restitution to Complainant Kevin Farmer in the principal sum of $2,249.00 plus interest at the maximum legal rate if the principal is not paid within 30 days of the date of this Final Judgment and Order.

IT IS FURTHER ORDERED that, upon reinstatement, Respondent shall be subject to any terms of probation imposed as a result of reinstatement hearings held.

IT IS FURTHER ORDERED that Respondent shall be subject to any additional terms imposed by the Presiding Disciplinary Judge as a result of reinstatement hearings held.

IT IS FURTHER ORDERED that, pursuant to Rule 72 Ariz. R. Sup. Ct., Respondent shall immediately comply with the requirements relating to notification of clients and others.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of $ _____, within 30 days from the date of service of this Order.

IT IS FURTHER ORDERED that Respondent shall pay the costs and expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings in the amount of _____, within 30 days from the date of service of this Order.

DATED this _____ day of February, 2021.

_____

William J. O'Neil, Presiding Disciplinary Judge

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this _____ day of February, 2021.

Copies of the foregoing mailed/emailed
this _____ day of February, 2021, to:

Jeremy Todd Bergstrom
Bergstrom Law Ltd
9555 S. Eastern Ave., Ste. 200
Las Vegas, Nevada 89123-8007
Email: jbergstrom@jbergstromlaw.com
Respondent

David L. Sandweiss
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Copy of the foregoing hand-delivered
this ____ day of February, 2021 to:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266

by:_____

EXHIBIT 2

EXHIBIT 2

Rule 42. Arizona Rules of Professional Conduct
Arizona Revised Statutes Annotated
Rules of the Supreme Court of Arizona
Effective: September 1, 2019

Effective: September 1, 2019

A.R.S. Sup.Ct.Rules, Rule 42, Rules of Prof.Conduct, Rule 42

Rule 42. Arizona Rules of Professional Conduct

Currentness

The professional conduct of members shall be governed by the Model Rules of Professional Conduct of the American Bar Association, adopted August 2, 1983, as amended by this court and adopted as the Arizona Rules of Professional Conduct:

PREAMBLE

ER

1.0. Terminology

CLIENT-LAWYER RELATIONSHIP

1.1. Competence.

1.2. Scope of Representation and Allocation of Authority between Client and Lawyer.

1.3. Diligence.

1.4. Communication.

1.5. Fees.

1.6. Confidentiality.

1.7. Conflict of Interest: Current Clients.

1.8. Conflict of Interest: Current Clients: Specific Rules.

1.9. Duties to Former Clients.

1.10. Imputation of Conflicts of Interest: General Rule.

1.11. Special Conflicts of Interest for Former and Current Government Officers and Employees.

1.12. Former Judge, Arbitrator, Mediator or Other Third-Party Neutral.

1.13. Organization as Client.

1.14. Client with Diminished Capacity.

Rule 42. Arizona Rules of Professional Conduct

1. Client-Lawyer Relationship

Related Opinions (RelatedOpinions.aspx?id=23)

ER 1.3. Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

Comment

[1] A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer, and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer must also act with commitment and dedication to the interests of the client. A lawyer is not bound, however, to press for every advantage that might be realized for a client. For example, a lawyer may have authority to exercise professional discretion in determining the means by which a matter should be pursued. See ER 1.2. The lawyer's duty to act with reasonable diligence does not require the use of offensive tactics or preclude the treating of all persons involved in the legal process with courtesy and respect.

[2] A lawyer's work load must be controlled so that each matter can be handled competently.

[3] Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness. A lawyer's duty to act with reasonable promptness, however, does not preclude the lawyer from agreeing to a reasonable request for a postponement that will not prejudice the lawyer's client.

[4] Unless the relationship is terminated as provided in ER 1.16, a lawyer should carry through to conclusion all matters undertaken for a client. If a lawyer's employment is limited to a specific matter, the relationship terminates when the matter has been resolved. If a lawyer has served a client over a substantial period in a variety of matters, the client sometimes may assume that the lawyer will continue to serve on a continuing basis unless the lawyer gives notice of withdrawal. Doubt about whether a client-lawyer relationship still exists should be clarified by the lawyer, preferably in writing, so that the client will not mistakenly suppose the lawyer is looking after the client's affairs when the lawyer has ceased to do so. For example, if a

Ethics

- Rules of Professional Conduct
- Ethical Guidance for Lawyers during the Coronavirus Pandemic
- Best Practices
- Ethics Opinions
- Ethics Hotline
- UPL Opinions

1. Client-Lawyer Relationship

Related Opinions (RelatedOpinions.aspx?id=24)

ER 1.4. Communication

(a) A lawyer shall:

(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in ER 1.0(e), is required by these Rules;

(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) keep the client reasonably informed about the status of the matter;

(4) promptly comply with reasonable requests for information; and

(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

(c) In a criminal case, a lawyer shall promptly inform a client of all proffered plea agreements.

Comment

[1] Reasonable communication between the lawyer and the client is necessary for the client effectively to participate in the representation.

Communicating with Client

[2] If these Rules require that a particular decision about the representation be made by the client, paragraph (a)(1) requires that the lawyer promptly consult with and secure the client's consent prior to taking action unless prior discussions with the client have resolved what action the client wants the lawyer to take. For example, a lawyer who receives from opposing counsel an offer of settlement in a civil controversy must promptly inform the client of its substance unless the client has previously indicated that the proposal will be acceptable or unacceptable or has authorized the lawyer to accept or reject the offer. See ER 1.2(a).

[3] Paragraph (a)(2) requires the lawyer to reasonably consult with the client about the means to be used to accomplish the client's objectives. In some situations – depending on both the importance of the action under consideration and the feasibility of consulting with the client – this duty will require consultation prior to taking action. In other circumstances, such as during a trial when an immediate decision must be made, the exigency of the situation may require the lawyer to act without prior consultation. In such cases the lawyer must nonetheless act reasonably to inform the client of actions the lawyer has taken on the client's behalf. Additionally, paragraph (a)(3) requires that the lawyer keep the client reasonably informed about the status of the matter, such as significant developments affecting the timing or the substance of the representation.

[4] A lawyer's regular communication with clients will minimize the occasions on which a client will need to request information concerning the representation. When a client makes a reasonable request for information, however, paragraph (a)(4) requires prompt compliance with the request, or if a prompt response is not feasible, that the lawyer, or a member of the lawyer's staff, acknowledge receipt of the request and advise the client when a response may be expected. A lawyer should promptly respond to or acknowledge client communications.

Explaining Matters

[5] The client should have sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued, to the extent the client is willing and able to do so. Adequacy of communication depends in part on the kind of advice or assistance that is involved. For example, when there is time to explain a proposal made in a negotiation, the lawyer should review all important provisions with the client before proceeding to an agreement. In litigation a lawyer should explain the general strategy and prospects of success and ordinarily should consult the client on tactics that are likely to result in significant expense or to injure or coerce others. On the other hand, a lawyer ordinarily will not be expected to describe trial or negotiation strategy in detail. The guiding principle is that the lawyer should fulfill reasonable client expectations for information consistent with the duty to act in the client's best interests, and the client's overall requirements as to the character of representation. In certain circumstances, such as when a lawyer asks a client to consent to a representation affected by a conflict of interest, the client must give informed consent, as defined in ER 1.0(e).

[6] Ordinarily, the information to be provided is that appropriate for a client who is a comprehending and responsible adult. However, fully informing the client according to this standard may be impracticable, for example, where the client is a child or suffers from mental disability. See ER 1.14. When the client is an organization or group, it is often impossible or inappropriate to inform every one of its members about its legal affairs; ordinarily, the lawyer should address communications to the appropriate officials of the organization. See ER 1.13. Where many routine matters are involved, a system of limited or occasional reporting may be arranged with the client.

Withholding Information

[7] In some circumstances, a lawyer may be justified in delaying transmission of information when the client would be likely to react imprudently to an immediate communication. Thus, a lawyer might withhold a psychiatric diagnosis of a client when the examining psychiatrist indicates that disclosure would harm the client. A lawyer may not withhold information to serve the lawyer's own interest or convenience or the interests or convenience of another person. Rules or court orders governing litigation may provide that information supplied to a lawyer may not be disclosed to the client. ER 3.4(c) directs compliance with such rules or orders.

Ethics

- Rules of Professional Conduct
- Ethical Guidance for Lawyers during the Coronavirus Pandemic
- Best Practices
- Ethics Opinions
- Ethics Hotline
- UPL Opinions

AKE EFFECT JANUARY 1, 2015

Related Opinions
(RelatedOpinions.aspx?id=10)

ER 3.2. Expediting Litigation

A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

Comment

[1] Dilatory practices bring the administration of justice into disrepute. Delay should not be indulged merely for the convenience of the advocates, or for the purpose of frustrating an opposing party's attempt to obtain rightful redress or repose. It is not a justification that similar conduct is often tolerated by the bench and bar. The question is whether a competent lawyer acting in good faith would regard the course of action as having some substantial purpose other than delay. Realizing financial or other benefit from otherwise improper delay in litigation is not a legitimate interest of the client.

5. Law Firms and Associations

Related Opinions (RelatedOpinions.aspx?id=51)

ER 5.5. Unauthorized Practice of Law; Multijurisdictional Practice of Law

(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

(b) Except as authorized by these Rules or other law, a lawyer who is not admitted to practice in Arizona shall not:

(1) engage in the regular practice of Arizona law; or

(2) hold out to the public or otherwise represent that the lawyer is admitted to practice Arizona law.

(c) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in Arizona that involve Arizona law and which:

(1) are undertaken in association with a lawyer who is admitted to practice in Arizona and who actively participates in the matter.

(2) are in or reasonably related to a pending or potential proceeding before a tribunal in Arizona or another jurisdiction, if the lawyer, or a person the lawyer is assisting, is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized;

(3) are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in Arizona or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice and are not services for which the forum requires pro hac vice admission; or

(4) are not within paragraphs (c)(2) or (c)(3) and arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice.

(d) A lawyer admitted in another United States jurisdiction, or a lawyer admitted in a jurisdiction outside the United States, not disbarred or suspended from practice in any jurisdiction may provide legal services in Arizona that exclusively involve federal law, the law of another jurisdiction, or tribal law.

(e) A lawyer admitted in another United States jurisdiction, or a lawyer admitted in a jurisdiction outside the United States, not disbarred or suspended from practice in any jurisdiction, and registered pursuant to Rule 38(a) of these rules, may provide legal services in Arizona that are provided to the lawyer's employer or its organizational affiliates and are not services for which pro hac vice admission is required.

(f) Any attorney who engages in the authorized multijurisdictional practice of law in Arizona under this rule must advise the lawyer's client that the lawyer is not admitted to practice in Arizona, and must obtain the client's informed consent to such representation.

(g) Attorneys not admitted to practice in Arizona, who are admitted to practice law in any other jurisdiction in the United States and who appear in any court of record or before any administrative hearing officer in Arizona, must also comply with Rules of the Supreme Court of Arizona governing pro hac vice admission. *See* Rule 39.

(h) Any attorney who engages in the multijurisdictional practice of law in Arizona, whether authorized in accordance with these Rules or not, shall be subject to the Rules of Professional Conduct and the Rules of the Supreme Court regarding attorney discipline in Arizona.

Comment

[1] Paragraph (a) applies to the unauthorized practice of law by a lawyer, whether through the lawyer's direct action or by the lawyer assisting another person. The definition of the practice of law is established by law and varies from one jurisdiction to another. For Arizona's definition, see Rule 31(a)(2)(A). Whatever the definition, limiting the practice of law to members of the bar protects the public against rendition of legal services by unqualified persons. Paragraph (a) does not prohibit a lawyer from employing the services of paraprofessionals and delegating functions to them, so long as the lawyer supervises the delegated work and retains responsibility for their work. See ER 5.3. Likewise, it does not prohibit lawyers from providing professional advice and instruction to nonlawyers whose employment requires knowledge of law, for example, claims adjusters, employees of financial or commercial institutions, social workers, accountants and persons employed in government agencies. In addition, a lawyer may counsel nonlawyers who wish to proceed pro se.

[2] Other than as authorized by these Rules or other law or this Rule, a lawyer who is not admitted to practice in Arizona violates paragraph (b)(1) if the lawyer engages in the regular practice of Arizona law in Arizona. A lawyer who is not admitted to practice in Arizona violates paragraph (b)(2) if the lawyer fails to state in any advertisement or communication that targets or specifically offers legal services to Arizona residents that: (1) the lawyer is not licensed to practice Arizona law and (2) the lawyer's practice is limited to federal legal matters, such as immigration law, tribal legal matters, or the law of another jurisdiction. See ERs 7.1(a) and 7.5(b).

8. Maintaining the Integrity of the Profession

ER 8.1. Bar Admission and Disciplinary Matters

An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:

(a) knowingly make a false statement of material fact; or

(b) fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by ER 1.6.

Comment

[1] The duty imposed by this Rule extends to persons seeking admission to the bar as well as to lawyers. Hence, if a person makes a material false statement in connection with an application for admission, it may be the basis for subsequent disciplinary action if the person is admitted, and in any event may be relevant in a subsequent admission application. The duty imposed by this Rule applies to a lawyer's own admission or discipline as well as that of others. Thus, it is a separate professional offense for a lawyer to knowingly make a misrepresentation or omission in connection with a disciplinary investigation of the lawyer's own conduct. Paragraph (b) of this Rule also requires correction of any prior misstatement in the matter that the applicant or lawyer may have made and affirmative clarification of any misunderstanding on the part of the admissions or disciplinary authority of which the person involved becomes aware.

[2] This Rule is subject to the provisions of the Fifth Amendment of the United States Constitution and corresponding provisions of state constitutions. A person relying on such a provision in response to a question, however, should do so openly and not use the right of nondisclosure as a justification for failure to comply with this Rule.

[3] A lawyer representing an applicant for admission to the bar, or representing a lawyer who is the subject of a disciplinary inquiry or proceeding, is governed by the rules applicable to the client-lawyer relationship, including ER 1.6 and, in some cases, ER 3.3.

8. Maintaining the Integrity of the Profession

Related Opinions (RelatedOpinions.aspx?id=61)

ER 8.4. Misconduct

It is professional misconduct for a lawyer to:

(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) engage in conduct that is prejudicial to the administration of justice;

(e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; or

(f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable Code of Judicial Conduct or other law.

(g) file a notice of change of judge under Rule 10.2, Arizona Rules of Criminal Procedure, for an improper purpose, such as obtaining a trial delay or other circumstances enumerated in Rule 10.2(b).

Comment

COMMENT [AMENDED EFFECTIVE DEC. 1, 2002]

Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of willful failure to file an income tax return. However, some kinds of offenses carry no such implication. Traditionally, the distinction was drawn in terms of offenses involving "moral turpitude." That concept can be construed to include offenses concerning some matters of personal morality, such as adultery and comparable offenses, that have no specific connection to fitness for the practice of law. Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, or breach of trust, or serious interference with the administration of justice are in that category. A pattern of repeated offenses, even one of minor significance when considered separately, can indicate indifference to legal obligation.

A lawyer who in the course of representing a client, knowingly manifests by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, violates paragraph (d) when such actions are prejudicial to the administration of justice. This does not preclude legitimate advocacy when race, sex, religion, national original, disability, age, sexual orientation or socioeconomic status, or other similar factors, are issues in the proceeding. A trial judge's finding that peremptory challenges were exercised on a discriminatory basis does not alone establish a violation of this rule.

A lawyer may refuse to comply with an obligation imposed by law upon a good faith belief that no valid obligation exists. The provisions of ER 1.2(d) concerning a good faith challenge to the validity, scope, meaning or application of the law apply to challenges of legal regulation of the practice of law.

Lawyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer's abuse of public office can suggest an inability to fulfill the professional role of attorney. The same is true of abuse of positions of private trust such as trustee, executor, administrator, guardian, agent and officer, director or manager of a corporation or other organization.

COURT COMMENT TO EXPERIMENTAL 2001 AMENDMENT TO ER 8.4(G)

Arizona is one of only a few states that allow by judicial rules a party to notice a change of judge without cause. The purpose of the rule is to allow a party to ask for a new judge when a party may perceive a bias that does not rise to disqualification under the rules allowing a challenge for actual bias or prejudice. Historically, the reasons for exercising a challenge were not inquired into. Just as peremptory challenges of jurors lead to abuses of race or gender based disqualification, however, the peremptory notice of judge has been abused by some to obtain trial delay.

The rule was amended in 2001 on an experimental basis to make clear that filing a notice of change of judge for an improper purpose, such as trial delay or other circumstances enumerated in Rule 10.2(b), is unprofessional conduct. The Court adopted this amendment and the amendments to Rule 10.2. Rules of Criminal Procedure, in an effort to address abuse of Rule 10.2. If such abuse is not substantially reduced as a result of the amendments at the conclusion of the one-year experiment on June 30, 2002, the Court at that time will abolish the peremptory change of judge in most criminal cases as recommended in a proposal by the Arizona Judicial Council. See R-00-0025.

COMMENT [EFFECTIVE DEC. 1, 2003]

[1] Lawyers are subject to discipline when they violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so or do so through the acts of another, as when they request or instruct an agent to do so on the lawyer's behalf. Paragraph (a), however, does not prohibit a lawyer from advising a client of action the client is lawfully entitled to take.

[2] Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of willful failure to file an income tax return. However, some kinds of offenses carry no such implication. Traditionally, the distinction was drawn in terms of offenses involving "moral turpitude." That concept can be construed to include offenses concerning some matters of personal morality, such as adultery and comparable offenses, that have no specific connection to fitness for the practice of law. Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, or breach of trust, or serious interference with the administration of justice are in that category. A pattern of repeated offenses,

even ones of minor significance when considered separately, can indicate indifference to legal obligation.

[3] A lawyer who in the course of representing a client, knowingly manifests by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, gender identity or socioeconomic status, violates paragraph (d) when such actions are prejudicial to the administration of justice. This does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age, sexual orientation, gender identity or socioeconomic status, or other similar factors, are issues in the proceeding. A trial judge's finding that peremptory challenges were exercised on a discriminatory basis does not alone establish a violation of this Rule.

[4] A lawyer may refuse to comply with an obligation imposed by law upon a good faith belief that no valid obligation exists. The provisions of ER 1.2(d) concerning a good faith challenge to the validity, scope, meaning or application of the law apply to challenges of legal regulation of the practice

Ethics

- Rules of Professional Conduct
- Ethical Guidance for Lawyers during the Coronavirus Pandemic
- Best Practices
- Ethics Opinions
- Ethics Hotline
- UPL Opinions

sponsibilities going beyond those of other citizens. A lawyer's abuse of public office can suggest an The same is true of abuse of positions of private trust such as trustee, executor, administrator, f a corporation or other organization.

party to file a notice of change of judge without cause. The purpose of the rule is to allow a party to bias that does not rise to disqualification under the rules allowing a challenge for actual bias or

dge has historically been viewed as "salutary" on the grounds that "it is not necessary to embarrass

Rule 54. Grounds for Discipline
Arizona Revised Statutes Annotated
Rules of the Supreme Court of Arizona
Effective: January 1, 2021

Arizona Revised Statutes Annotated
Rules of the Supreme Court of Arizona (Refs & Annos)
V. Regulation of the Practice of Law
G. Grounds for Discipline

Effective: January 1, 2021
A.R.S. Sup.Ct.Rules, Rule 54
Rule 54. Grounds for Discipline
Currentness

Grounds for discipline of members, including affiliate members, non-members, and alternative business structures include the following:

(a) Violation of a rule of professional conduct. This includes violations of professional conduct rules in effect in any jurisdiction.

(b) Violation of a canon of judicial conduct.

(c) Knowing violation of any rule or any order of the court. This includes court orders issuing from a state, tribe, territory or district of the United States, including child support orders.

(d) Violation of any obligation pursuant to these rules in a disciplinary or disability investigation or proceeding. Such violations include, but are not limited to, the following:

1. *Evading service or refusal to cooperate.* Evading service or refusal to cooperate with officials and staff of the state bar, the committee, the presiding disciplinary judge, a hearing panel, or a conservator appointed under these rules acting in the course of that person's duties constitutes grounds for discipline.

2. *Failure to furnish information.* The failure to furnish information or respond promptly to any inquiry or request from bar counsel, the board, the committee, the presiding disciplinary judge, a hearing panel, or this court, made pursuant to these rules for information relevant to pending charges, complaints or matters under investigation concerning conduct of a lawyer, or failure to assert the ground for refusing to do so constitutes grounds for discipline. Nothing in this rule shall limit the lawyer's ability to request a protective order pursuant to Rule 70(g). Upon such inquiry or request, every lawyer:

A. shall furnish in writing, or orally if requested, a full and complete response to inquiries and questions;

B. shall permit inspection and copying of the lawyer's business records, files and accounts;

C. shall furnish copies of requested records, files and accounts;

D. shall furnish written releases or authorizations where needed to obtain access to documents or information in the possession of third parties including, in the case of inquiries into the physical or

mental capacity of a lawyer, written releases or authorizations needed to obtain access to medical, psychiatric, psychological or other relevant records and opinions; and

E. shall comply with discovery conducted pursuant to these rules.

(e) Violation of a condition of probation or diversion.

(f) Violation of a condition of admission imposed by the court or the Committee on Character and Fitness pursuant to Rule 36(a)(4)(D).

(g) Conviction of a crime. A lawyer shall be disciplined as the facts warrant upon conviction of a misdemeanor involving a serious crime or of any felony. "Serious crime" means any crime, a necessary element of which, as determined by the statutory or common law definition of such crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, willful extortion, misappropriation, theft or moral turpitude. A conspiracy, a solicitation of another or any attempt to commit a serious crime, is a serious crime. Receipt by the state bar of a certified copy of the judgment of conviction, or other information of conviction of a lawyer, shall be treated and processed as is any other charge against a lawyer, except that the sole issue to be determined shall be the extent of the discipline to be imposed. In any discipline proceeding based on the conviction, proof of conviction shall be conclusive evidence of the attorney's guilt of the crime. Lawyers shall comply with the duty to self-report convictions as set forth in Rule 61(c)(1).

(h) Discipline imposed in another jurisdiction.

(i) Unprofessional conduct as defined in Rule 41(a).

(j) Violations of ACJA § 7-209.

(k) Violations of ACJA § 7-210.

Credits

Added June 9, 2003, effective Dec. 1, 2003. Amended Sept. 5, 2007, effective Jan. 1, 2008; Sept. 16, 2008, effective Jan. 1, 2009; Sept. 29, 2008, effective Jan. 1, 2009. Renumbered from Rule 53 and amended June 30, 2010, effective Jan. 1, 2011. Amended Aug. 30, 2012, effective Jan. 1, 2013; Aug. 27, 2020, effective Jan. 1, 2021.

17A Pt. 2 A. R. S. Sup. Ct. Rules, Rule 54, AZ ST S CT Rule 54

The Code of Judicial Administration is current with amendments received through 1/1/21. All other State Court Rules are current with amendments received through 2/1/21.

END OF DOCUMENT

Rule 57. Special Discipline Proceedings
Arizona Revised Statutes Annotated
Rules of the Supreme Court of Arizona
Effective: January 1, 2021

Arizona Revised Statutes Annotated
Rules of the Supreme Court of Arizona (Refs & Annos)
V. Regulation of the Practice of Law
H. Proceedings

Effective: January 1, 2021
A.R.S. Sup.Ct.Rules, Rule 57
Rule 57. Special Discipline Proceedings
Currentness

(a) Discipline by Consent.

1. *Consent to Discipline.* A respondent against whom a charge has been made or a complaint has been filed may tender, with the agreement of bar counsel, a conditional admission to the charge or complaint or to a particular count in exchange for a stated form of discipline, other than disbarment, at any stage of the proceedings.

2. *Form of Agreement*. An agreement for discipline by consent shall be signed by respondent, respondent's counsel, if any, and bar counsel. An agreement shall include the following:

A. Violations. Each count alleged in the charge or complaint shall be addressed in the agreement, including a statement as to the specific disciplinary rule or ACJA section that was violated, or conditionally admitted to having been violated, and the facts necessary to support the alleged violation, conditional admission, or decision to dismiss a count.

B. Form of Discipline. The form of discipline to be imposed shall be set forth in the agreement. If probation is agreed to, the terms shall be stated in specific, understandable, and enforceable language and advise the respondent that failure to comply with the terms and conditions of probation will result in the filing of a notice of non-compliance by the bar with the presiding disciplinary judge and a hearing will be held within thirty (30) days to determine whether the respondent has breached the agreement. A finding that the respondent breached the terms and conditions of probation may result in the imposition of disciplinary sanctions.

C. Restitution. Restitution which may be due each complainant named in the charge or complaint shall be addressed in the agreement. If restitution is not sought or agreed to, bar counsel must avow that a good faith effort has been made to notify the complainant that restitution will not be forthcoming pursuant to these proceedings.

D. General Language. Agreements must include the following language, as applicable:

(i) a statement that the respondent's admission(s) to the charge, complaint, or portion thereof, is being tendered in exchange for the stated form of discipline and is submitted freely and voluntarily and not as a result of coercion or intimidation;

(ii) a statement that the respondent is represented by counsel or has chosen not to seek the assistance of counsel and voluntarily waives the right to an adjudicatory hearing on the complaint, unless otherwise ordered, and waives all motions, defenses, objections or requests which have been made or raised, or could be asserted thereafter, if the conditional admission and proposed form of discipline is approved;

(iii) a statement that respondent acknowledges the duty to comply with all rules pertaining to notification of clients, return of property and other rules pertaining to suspension, including reinstatement;

(iv) a statement that outlines the possible consequences of any violation of the terms and conditions of probation or any other provision of the agreement;

(v) a statement that the agreement has been approved as to form and content by the chief bar counsel or chief bar counsel's designee;

(vi) a statement that the complainant has been informed of the agreement for discipline and that a copy of the complainant's objection, if any, has been provided to the presiding disciplinary judge.

E. Legal Grounds. Each agreement shall include a discussion of the American Bar Association's Standards for Imposing Lawyer Sanctions and an analysis of the proposed sanction, including a discussion as to why a greater or lesser sanction would not be appropriate under the circumstances of the case. Exhibits, such as a record of criminal conviction, pre-sentence reports, medical records, public records, and any other records in support of the agreement or the sanction to be imposed may be filed with the agreement, as agreed upon by the parties, in addition to any statement of costs and expenses on admitted counts. The parties shall be responsible for redacting any sensitive data filed with the agreement, in accordance with Rule 5.1(e), Ariz. R. Civ. P.

F. Use of Standardized Documents. The Agreement for Discipline by Consent may include standardized documents approved by chief bar counsel related to the terms of probation.

3. *Procedure.*

A. If the parties reach an agreement before the authorization to file a formal complaint and the agreed upon sanction does not include a reprimand, suspension, or disbarment, the parties may elect to request an order pursuant to Rule 55(c) by providing to the committee for its review an investigative report and bar counsel's recommendation for an admonition, probation, restitution, or an assessment of costs and expenses. Alternatively, the parties may submit an agreement for discipline by consent with all supporting exhibits to the committee for its review. The committee shall either reject the request or agreement and order the proceedings continued in accordance with these rules, or accept the request or agreement and issue the appropriate order. In the event the agreement is rejected, the same agreement shall not be presented, without written notification of that rejection, to the presiding disciplinary judge.

B. If the agreement is reached before the authorization to file a formal complaint and the agreed upon sanction includes a reprimand or suspension, or if the agreement is reached after the authorization to file a formal complaint, the agreement shall be filed with the disciplinary clerk to be presented to the presiding disciplinary judge for review. The presiding disciplinary judge, in his or her discretion or upon

request, may hold a hearing to establish a factual basis for the agreement and may accept, reject, or recommend the agreement be modified.

4. *Presiding Disciplinary Judge Decision.* Within thirty (30) days of the submission of an agreement or the conclusion of hearing, if one is held, and receipt of the transcript, if any, the presiding disciplinary judge shall file a decision with the disciplinary clerk and serve a copy on the parties. The decision shall accept, reject or recommend modification of the proposed agreement. The decision shall incorporate all or portions of the agreement, as appropriate.

A. Acceptance. If the agreement is accepted, the presiding disciplinary judge shall issue an appropriate judgment and order, which shall be final.

B. Modification. The presiding disciplinary judge may recommend the modification of an agreement. In that event, the presiding disciplinary judge shall clearly state the nature and substance of the proposed modifications and give the parties not less than ten (10) or more than thirty (30) days to execute the proposed modifications and file the modified agreement for consideration. If the parties fail to submit a modified agreement within the time provided, and they have not requested additional time, the agreement shall be deemed rejected. For good cause shown, the presiding disciplinary judge may grant one thirty (30) day extension of time to file the modified agreement, so long as the modified agreement is filed within one hundred fifty (150) days of the filing of the complaint.

C. Rejection. If the agreement is rejected, the presiding disciplinary judge shall state the reasons for rejection. Upon rejection, the agreement and all admissions contained therein are withdrawn and shall not be used against the parties in any subsequent proceeding.

5. *Disbarment by Consent.* The following provisions shall apply to admissions that constitute disbarment by consent:

A. Any member against whom charges have been made or a formal complaint filed may voluntarily consent to disbarment by filing with the disciplinary clerk, an original, written, verified consent to disbarment in the form prescribed in these rules or as otherwise approved by the court. The consent to disbarment shall be effective only upon acceptance by the presiding disciplinary judge. The general form of consent to disbarment shall be as follows:

BEFORE THE PRESIDING DISCIPLINARY JUDGE

In re:	)	No. SB
(NAME OF MEMBER), a	)	Bar No.
member of the State Bar of	)	
Arizona,	)	CONSENT
Respondent	)	DISBARME
	)	

I, (name of lawyer), residing at (city and street address), voluntarily consent to disbarment as a member of the State Bar of Arizona and consent to the removal of my name from the roster of those permitted to practice before this court, and from the roster of the State Bar of Arizona.

I acknowledge that (charges) a formal complaint have/has been (made) filed against me. I have read the (charges) complaint, and the charges there made against me. I further acknowledge that I do not desire to contest or defend against the charges, but wish to consent to disbarment. I have been advised of and have had an opportunity to exercise my right to be represented in this matter by a lawyer. I consent to disbarment freely and voluntarily and not under coercion or intimidation. I am aware of the rules of the Supreme Court with respect to discipline, disability, resignation and reinstatement, and I understand that any future application by me for admission or reinstatement as a member of the State Bar of Arizona will be treated as an application by a member who has been disbarred for professional misconduct, as set forth in the (charges) complaint (made) filed against me. The misconduct of which I am accused is described in the (charges) complaint bearing the number referenced above, a copy of which is attached hereto.

DONE AT _____, Arizona on _____, 20 ___.

(Signature)

(Name)

(Verification)

A. Any member against whom charges have been made or a formal complaint filed may voluntarily consent to disbarment by filing with the disciplinary clerk, an original, written, verified consent to disbarment in the form prescribed in these rules or as otherwise approved by the court. The consent to disbarment shall be effective only upon acceptance by the presiding disciplinary judge. The general form of consent to disbarment shall be as follows:

B. Upon acceptance of the consent to disbarment, the presiding disciplinary judge shall promptly enter a judgment disbarring the member and striking the name of the member from the roll of lawyers, and the member shall no longer be entitled to the rights and privileges of a lawyer, but will remain subject to the jurisdiction of the court, and the member shall immediately comply with the requirements relating to notification of clients and others.

C. Upon the acceptance of the consent to disbarment, and unless otherwise ordered by the presiding disciplinary judge, no further disciplinary action shall be taken in reference to the matters that were the subject of the (charges) complaint upon which the consent to disbarment and the judgment of disbarment were based.

(b) Reciprocal Discipline.

1. *Duty to Obtain Order of Discipline from Another Jurisdiction.* Upon being disciplined in another jurisdiction, a lawyer admitted to practice in the State of Arizona, whether active, inactive, retired, or suspended, shall, within thirty (30) days of service of the notice of imposition of discipline from the

other jurisdiction, inform the disciplinary clerk of such action, and identify every court in which the lawyer is or has been admitted to practice. Upon notification that a lawyer subject to the jurisdiction of this court has been disciplined in another jurisdiction, the disciplinary clerk shall obtain a certified copy of the disciplinary order and file it with the presiding disciplinary judge.

2. *Notice Served Upon Respondent.* Upon receipt of a certified copy of an order demonstrating that a lawyer admitted to practice in the State of Arizona has been disciplined in another jurisdiction, the presiding disciplinary judge shall issue a notice to the lawyer and to bar counsel containing:

A. a copy of the order from the other jurisdiction; and

B. an order directing that the lawyer or bar counsel inform the presiding disciplinary judge, within thirty (30) days from service of the notice, of any claim by the lawyer or bar counsel predicated upon the grounds set forth in the next paragraph that the imposition of identical or substantially similar discipline in this state would be unwarranted and the reasons therefor.

3. *Discipline to Be Imposed.* Upon the expiration of thirty (30) days from service of the notice pursuant to the provisions above, the presiding disciplinary judge shall impose the identical or substantially similar discipline, unless bar counsel or respondent establishes by a preponderance of the evidence, through affidavits or documentary evidence, or as a matter of law by reference to applicable legal authority, or the presiding disciplinary judge finds on the face of the record from which the discipline is predicated, it clearly appears that:

A. the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

B. there was such infirmity of proof establishing the misconduct as to give rise to the clear conviction that the presiding disciplinary judge could not, consistent with its duty, accept as final the other jurisdiction's conclusion on that subject; or

C. the imposition of the same discipline would result in grave injustice; or

D. the misconduct established warrants substantially different discipline in this state.

4. *Alternative Discipline.* If the presiding disciplinary judge determines that any of the above listed elements exist, the judge may:

A. direct that a complaint be filed;

B. impose suitable discipline; or

C. dismiss the matter.

The decision of the presiding disciplinary judge shall be final as provided for in other discipline matters, except that an order of reprimand, suspension or disbarment shall be subject to the parties' right to appeal.

5. *Conclusiveness of Adjudication in Other Jurisdiction.* In all other respects, a final adjudication in another jurisdiction that a lawyer has been found guilty of misconduct shall establish conclusively the misconduct for purposes of a discipline proceeding in this state.

Credits

Added June 9, 2003, effective Dec. 1, 2003. Amended Sept. 18, 2006, effective Jan. 1, 2007; Sept. 16, 2008, effective Jan. 1, 2009. Renumbered from Rule 56 and amended June 30, 2010, effective Jan. 1, 2011. Amended Sept. 2, 2014, effective Jan. 1, 2015; Sept. 2, 2016, effective Jan. 1, 2017; Aug. 28, 2018, effective Jan. 1, 2019; Aug. 27, 2020, effective Jan. 1, 2021.

17A Pt. 2 A. R. S. Sup. Ct. Rules, Rule 57, AZ ST S CT Rule 57

The Code of Judicial Administration is current with amendments received through 1/1/21. All other State Court Rules are current with amendments received through 2/1/21.

END OF DOCUMENT