

## RESINSTATED ATTORNEYS

### JOSEPH W. CHARLES

Bar No. 003038; File No. SB-15-0010-R

PDJ No. 2013-9038

By the Arizona Supreme Court's April 21, 2015, order, Joseph W. Charles, Phoenix, was reinstated to active membership in the State Bar effective the date of the order. Mr. Charles was placed on probation for two years.

### KRISTOPHER C. CHILDERS

Bar No. 022388; File No. SB-15-0001-R

PDJ No. 2013-9086

By the Arizona Supreme Court's March 17, 2015, order, Kristopher C. Childers, Phoenix, was reinstated to active membership in the State Bar effective the date of the order. Mr. Childers was placed on probation for two years.

### TERRESSA DeHAVEN

Bar No. 028100; File No. 14-9067-R

PDJ No. 2014-9067

By Arizona Supreme Court order dated March 17, 2015, Terressa DeHaven, Mesa, was reinstated as an active State Bar member.

### PAUL RODRIGO SAUCEDA

Bar No. 022995

PDJ No. 2014-9100

By order dated Jan. 7, 2015, Paul Rodrigo Saucedo, Phoenix, was reinstated as an active member of the State Bar of Arizona.

## TRANSFER TO DISABILITY INACTIVE STATUS

### FREDERICK W. MEISSNER, JR.

Bar No. 023358

PDJ No. 2015-9009

By order filed April 21, 2015, the presiding disciplinary judge accepted a joint petition for transfer to disability inactive status and transferred Frederick W. Meissner Jr., Phoenix, indefinitely to disability inactive status effective March 30, 2015.

### DAVID A. POWELL

Bar No. 006432; File No. 14-0052

PDJ No. 2015-9008

By order dated April 1, 2015, the presiding disciplinary judge accepted a consent agreement that David A. Powell, Florence, Ariz., be transferred to disability inactive

status, effective March 11, 2015.

## SANCTIONED ATTORNEYS

### RAY C. BROWN

Bar No. 001064

PDJ No. 2014-9039

On Oct. 6, 2014, following a one-day trial, a disciplinary panel reprimanded Ray C. Brown, Sun City, Ariz., and placed him on probation for two years. The disciplinary panel also found Mr. Brown responsible for restitution of \$10,189 pursuant to Rule 60(a)(6), ARIZ.R.S.C.T.

On February 10, 2015, the Arizona Supreme Court affirmed the panel's sanction.

The disciplinary proceeding arose out of Mr. Brown's representation of a client, Mr. M, in a dissolution matter. Prior to representing Mr. M, Mr. Brown had not practiced law in more than 30 years.

In the sole count, Mr. Brown was found to have violated Rule 42, ARIZ.R.S.C.T., ER 1.1 as Mr. Brown did not possess the knowledge of current legal procedures

and obligations reasonably necessary to represent his client; Rule 42, ARIZ.R.S.C.T., ER 3.1 by pursuing a contract claim that was, at all times pertinent, barred by the statute of frauds and that caused an award of statutory damages and attorney's fees and costs to be rendered against his client; Rule 42, ARIZ.R.S.C.T., ER 8.2(a) by making statements with reckless disregard as to its truth concerning the qualifications or integrity of a judge; and Rule 42, ARIZ.R.S.C.T., ER 8.4(d) by engaging in misconduct including, but not limited to, mailing and filing letters to the court that were prejudicial to the administration of justice.

### CLARENCE CALVIN

Bar No. 020397; File Nos. 13-1052,

13-3468, 13-3472, 14-0874

PDJ No. 2014-9105

By final judgment and order dated April 30, 2015, the presiding disciplinary judge accepted an agreement for discipline by consent by which Clarence Calvin, Phoenix, was suspended for six months and

one day and will be placed on two years of probation upon reinstatement. Mr. Calvin will be required to file a petition for fee arbitration with the State Bar Fee Arbitration Program and participate in the State Bar's Member Assistance Program upon reinstatement. Mr. Calvin also was ordered to pay costs and expenses totaling \$1,216.95.

In count one, Mr. Calvin failed to comply with the terms of a diversion agreement and failed to respond to the State Bar's screening letter.

In count two, Mr. Calvin was hired to initiate formal proceedings in Family Court but never finalized or filed the pleadings. He also failed to respond to the "many messages" of his client.

In count three, the client paid Mr. Calvin \$2,500 to "intervene and prevent [the] child's mother from relocating [the] daughter out of state on short notice." Mr. Calvin filed an objection to the relocation and requested a hearing. The parties resolved the dispute themselves. Mr. Calvin thereafter failed to communicate with his client and also repeatedly failed to provide his client with an accounting or refund of the \$2,500.

In count four, Mr. Calvin represented a client in a dissolution matter. Mr. Calvin appeared telephonically at a status conference without prior court approval. The client was unaware of the scheduled conference and as a result did not appear. Opposing counsel objected to Mr. Calvin's telephonic appearance. The court awarded opposing counsel \$450 in attorney fees to be paid by the client. The client obtained substitute counsel, who then filed a motion to set aside the judgment. The court did not set aside the judgment, but the parties agreed the judgment was the result of Mr. Calvin's conduct and would be considered void.

Aggravating factors: prior disciplinary offenses; pattern of misconduct; multiple offenses; and substantial experience.

Mr. Calvin was found to have violated Rule 42, ARIZ.R.S.Ct., specifically ERs 1.3, 1.4, 1.5, 1.15, 1.16, 8.1, and 8.4(d), and Rule 54(d), ARIZ.R.S.Ct.

**GARY BENET CARGILL**

Bar No. 024175; File No. 14-9066  
 PDJ No. 2014-9066

Supreme Court File No. SB-15-0004-R  
 By order dated April 21, 2015, the Arizona Supreme Court denied the application for reinstatement filed by Gary Benet Cargill, Tucson. Mr. Cargill failed to establish to the satisfaction of the hearing panel and the Court that he is qualified for reinstatement to active bar membership.

**DAVID P. DE COSTA**

Bar No. 020139; File Nos. 13-0454, 13-0743, 13-0958, 13-1382, 14-2218, 14-2322

PDJ No. 2015-9010

By judgment and order dated Feb. 17, 2015, the presiding disciplinary judge accepted an agreement for discipline by consent by which David P. De Costa, Phoenix, was suspended for four years effective the date of the order. Mr. De Costa also was ordered to pay restitution to three clients totaling \$5,700, and was assessed the costs and expenses of the disciplinary proceeding of \$1,440.

In count one, Mr. De Costa worked for a law firm as a paralegal while suspended from practicing law. He used his contacts and knowledge of immigration law to operate a clandestine side business out of the law firm. He deluded the firm's young attorneys into entering court appearances for people they believed were clients of the firm but who in reality paid Mr. De Costa. The clients believed they were represented by the law firm or by Mr. De Costa on behalf of the law firm. In some cases Mr. De Costa electronically filed court documents using the firm owner's electronic signature, creating the false impression that the firm represented the clients. In other cases he collected fees from clients to prepare documents, although he is not a certified document preparer.

In count two, Mr. De Costa pretended to audition an attorney seeking employment at the firm at which he worked when he already had been fired from that firm. He had the auditioning attorney meet him in immigration court for one of his clients and told the attorney what to do and say. The attorney

**ETHICS OPINIONS**

**Opinion No. 15-01** (May 2015)  
 The conflict-of-interest rules prohibit a defense attorney from advising a criminal defendant to waive the defendant's right to raise that attorney's ineffective assistance of counsel. The ethical rules also prohibit a prosecutor from insisting that a defendant waive the right to raise ineffective assistance of counsel and prosecutorial misconduct claims.  
 This opinion expressly does not address (1) waivers of prosecutorial misconduct claims based on past instances of such conduct that are specifically identified in the plea or sentencing agreement or transcript of the proceedings and (2) waivers of ineffective assistance of counsel claims specifically identified and on which defendants receive independent representation.  
 Because this opinion withdraws Ariz. Ethics Op. 95-08, it advises that its conclusions should be read prospectively, not retroactively.

**Opinion No. 15-02** (May 2015)  
 In general, a lawyer has an ethical obligation to provide, at the client's request upon termination of the representation, all documents reflecting work performed for the client. A lawyer's obligation to preserve documents reflecting work performed for the client does not, however, extend to electronic or other documents that are duplicative of other documents generated or received in the course of the representation, incidental to the representation, or not typically maintained by a working lawyer, unless the lawyer has reason to believe that, in all the circumstances, the client's interests require that these documents be preserved for eventual turning over to the client. Where a client makes such a request, a lawyer does not act unethically by charging the client for additional copies of documents provided during the representation free of charge. Consistent with Comment 9 to ER 1.16, a lawyer may charge the client for additional copies provided the client has received a copy of the documents.

**Need an Opinion?** Check out the State Bar website at [www.azbar.org/Ethics](http://www.azbar.org/Ethics) for a listing of the ethics opinions issued between 1985 and the present, as well as Arizona's Rules of Professional Conduct.  
 If you are an Arizona attorney and have an ethics question, call the ethics hotline: (602) 340-7284.

later discovered that Mr. De Costa was suspended and had been fired from the firm. She tried to withdraw as counsel for the client but was unable to include the requisite information in her motion because Mr. De Costa kept the client file.

In count three, a client retained Mr. De Costa before he was suspended to represent her in an immigration matter. After he was suspended Mr. De Costa failed to refund unearned fees and continued to collect monthly payments from the client who did not know he was suspended. Mr. De Costa failed to give the client timely notice of his suspension and failed to furnish her client file to facilitate representation by her substitute counsel.

In count four, the client hired Mr. De Costa before the latter's suspension to represent him in a

criminal matter for \$2,500. Soon thereafter, Mr. De Costa had to withdraw due to his legal problems. He had made two perfunctory court appearances. Mr. De Costa failed to give the client file to the client's substitute counsel and refused to refund the fee. The client and Mr. De Costa participated in fee arbitration and the fee arbitrator awarded the client \$2,500. Mr. De Costa failed to pay the award.

In count five, before he was suspended Mr. De Costa represented an Illinois citizen in an Arizona-related DUI case in 2006. The client did not appear for trial or for his Arizona Department of Transportation driver's license administrative hearing. ADOT suspended the client's license. In 2014, Illinois authorities notified the client that his Illinois license

assessed the costs and expenses of the disciplinary proceeding.

Mr. Schollian intentionally made false statements to the court that his mother had passed away to cover up the fact that he wished to go to Pennsylvania to deal with the death of someone who was not actually a family member. Mr. Schollian also failed to provide the court with information he was ordered to produce regarding his statements.

Mr. Schollian intentionally made false statements to the State Bar about the Martin Perel Law Firm and his involvement with the firm. While Mr. Schollian served as the firm's managing attorney for approximately nine months, he failed to exercise the necessary and appropriate supervision and oversight to prevent a non-lawyer and a suspended-lawyer from preying on clients.

Mr. Schollian violated Rule 42, ARIZ.R.S.CT., specifically ERs 3.3(a)(1), 3.4(c), 4.1(a), 5.1, 5.3, 8.1(a) and (b), and 8.4(c) and (d), and Rule 54(c), ARIZ.R.S.CT.

**JEFFREY P. SQUITIERI**

Bar No. 014900

PDJ No. 2015-9021

On Nov. 20, 2013, Jeffrey P. Squitieri was disbarred by the Supreme Court of New Jersey. Respondent misappropriated client funds in violation of Rule 1.15(a) and was disbarred for his conduct. The New Jersey Supreme Court submitted its final order with the Office of the Presiding Disciplinary Judge. A reciprocal discipline proceeding was initiated and by Judgment and Order dated April 24, 2014, Respondent was disbarred in Arizona.

**LYNDON B. STEIMEL**

Bar No. 011733; File No. 14-2197

PDJ No. 2015-9031

By judgment and order dated May 6, 2015, the presiding disciplinary judge accepted an agreement for discipline by consent by which Lyndon B. Steimel, Scottsdale, was reprimanded. He also was assessed the costs and expenses of the disciplinary proceeding and placed on probation for two years. He must participate in the State Bar's Law Office Management Assistant Program and pay restitution of \$18,921.29, plus interest.

In the underlying securities matter, Mr. Steimel filed a lawsuit beyond the statute of limitations resulting in his client's claims being dismissed with prejudice. He informed the client that he would remedy his error by filing a new lawsuit, but failed to do so for more than two years. During that period, he repeatedly failed to respond to the client's inquiries as to when the new matter would be filed.

Mr. Steimel eventually filed a new lawsuit, virtually identical to the original one that had been dismissed and resulted in Rule 11 sanc-

tions, requiring the client to pay the opposing party's attorney's fees. Mr. Steimel did not inform his client of the sanctions order for nearly a month after it had been issued, and failed to compensate the client for the Rule 11 sanctions.

Aggravating factors: a pattern of misconduct, substantial experience in the practice of law, and prior disciplinary offenses.

Mitigating factor: full and free disclosure to the disciplinary board.

Mr. Steimel violated Rule 42, ARIZ.R.S.CT., specifically ERs 1.1, 1.3, 1.4, 1.5, 3.1, 4.4(a), and 8.4(d).

**MICHAEL G. TAFOYA**

Bar No. 018655; File No. 13-1703

PDJ No. 2015-9027

By judgment and order dated April 10, 2015, the presiding disciplinary judge accepted an agreement for discipline by consent by which Michael G. Tafoya, Maricopa, was reprimanded. Mr. Tafoya also was assessed the costs and expenses of the disciplinary proceeding of \$1,223.80.

Mr. Tafoya's clients (Mr. and Mrs. G, a married couple) were unable to open a bank account. Any money in their accounts was subject to collection by their creditors. Mr. Tafoya opened a bank account in his name but to which the clients had access to deposit funds to finance their many litigated cases. He did not monitor the account, read bank statements, reconcile the account, deposit any of his own funds into the account, or use the account for his own personal expenses. When Mr. G deposited money to pay Mr. Tafoya's bills, he told that to Mr. Tafoya and the latter withdrew money and moved it to his business account. Otherwise, he claimed that he had no need to know how much money was in the account, or to review bank statements. He regarded them as "out of sight, out of mind."

More than \$500,000 passed into and out of the account. The clients used the money for personal purposes unrelated to their legal cases. During the period in question, most of the legal work that Mr. Tafoya did was for these clients. Mr. G gave him a suite in his office and Mr. Tafoya worked there three days each week. If the clients wanted to see a bank statement, Mr. Tafoya opened the electronic statement on a computer at Mr. G's office.

Mr. Tafoya represented Mrs. G in a bankruptcy case. She did not disclose the bank account, the deposits into the account, or the many personal transactions out of the account. Mr. Tafoya contended that Mrs. G was not required to list the bank account in her bankruptcy petition and schedules, even though Schedule B(2) requires disclosure of accounts owned by the debtor. Mrs. G was a signer on the account, but not an owner, and as envi-

sioned she was not to have any ownership rights in the funds on deposit in the account. All money was to be paid to Mr. Tafoya for legal fees.

In addition to not disclosing the bank account, Mrs. G also omitted many valuable items of personal property from her schedules. Mr. Tafoya was not complicit in making the false or incomplete statements.

The bankruptcy trustee filed adversary proceedings in Mrs. G's bankruptcy case and asked for an order denying discharges for her and her marital community. Mr. Tafoya did not represent her in the adversary proceedings. After a trial, on January 17, 2011, the bankruptcy judge denied the discharges. He determined that Mrs. G's explanations for why she did not compose or later amend her bankruptcy schedules accurately, and her efforts to deflect blame to Mr. G and Mr. Tafoya, were not credible.

Even if one accepts Mr. Tafoya's claim that it was well-intentioned albeit ill-advised, but not deceitful, to open the bank account for the clients, his conduct prejudiced the administration of justice. Had he looked at his bank statements he would have seen that the clients were using the bank account for unintended purposes. That would have instigated a pointed conversation with Mrs. G over her prospects for a successful outcome in her bankruptcy case. Mr. Tafoya's failure to examine bank statements had the ripple effect of immersing the court and parties to Mrs. G's bankruptcy case in discovery and litigation, and contributed to the court's denial of her discharge.

Mr. Tafoya's conduct occurred in 2008 and 2009. He was deposed in the adversary proceedings in 2009. The bankruptcy judge announced his decision in Mrs. G's bankruptcy case in 2011. None of the participants in Mrs. G's case (the judge, trustee, counsel for the trustee, counsel for a creditor in the adversary proceedings, or Mrs. G) filed bar charges. Counsel in an unrelated case brought the charge considerably later, in 2013.

Aggravating factors: Prior disciplinary offenses; dishonest or selfish motive; pattern of misconduct; multiple offenses; and substantial experience in the practice of law.

Mitigating factors: full and free disclosure to a disciplinary board or cooperative attitude toward proceedings; remorse; remoteness of prior offenses.

Mr. Tafoya violated Rule 42, ARIZ.R.S.CT., specifically ERs 1.3 and 8.4(d).

**CAUTION!**

Nearly 17,000 attorneys are eligible to practice law in Arizona. Many attorneys share the same names. All discipline reports should be read carefully for names, addresses and Bar numbers.