



# BAR COMMUNITY

## LAWYER REGULATION

### SANCTIONED ATTORNEYS

#### **BARBARA T. BROWN**

Bar No. 006166; File No. 02-0560, 02-1015

Supreme Court No. SB-08-0143-D

By Arizona Supreme Court judgment and order dated Dec. 5, 2008, Barbara T. Brown, 7000 N. 16th Street, Suite 120-245, Phoenix, AZ, was suspended for six months and one day. Upon reinstatement, she

shall be placed on probation for two years and required to participate in the State Bar's Law Office Management Assistance Program (LOMAP) and the Member Assistance Program (MAP) with specific terms and conditions to be determined.

Ms. Brown went inactive in 2005 rather than comply with a judgment and order issued on Dec. 1, 2004, that imposed probation

with participation in LOMAP and MAP. When Ms. Brown returned to active status on July 18, 2007, an addendum to the probation contract was forwarded to her for signature, but she did not sign it. She has failed to comply with the terms of probation or cooperate with the State Bar regarding the requirements of the judgment and order.

There were no factors in aggravation or mitigation.

Mr. Brown violated Rule 42, ARIZ.R.S.C.T., ER 8.1(b), and Rule 53(c), ARIZ.R.S.C.T.

#### **GREGORY S. BYRD**

Bar No. 016408; File No. 08-1827

Supreme Court No. SB-08-0156-D

By Arizona Supreme Court judgment and order dated Nov. 24, 2008, Gregory S. Byrd, 1441 W. 16th Place, Yuma, AZ, was placed on interim suspension until the final

disposition of all pending criminal proceedings against him.

**SEAN CANNON**

Bar No. 022137; File No. 06-0929  
Supreme Court No. SB-08-0161-D

By Arizona Supreme Court judgment and order dated Nov. 19, 2008, Sean Cannon, 4300 N. Miller Rd., Ste. 10, Scottsdale, AZ, was censured and placed on probation for two years. His probation requires that he participate in the State Bar's Law Office Management Assistance Program and Member Assistance Program. He also was assessed the costs and expenses of the disciplinary proceedings.

Mr. Cannon was a member of a law firm that had offices in Tucson and Phoenix. He was the manager of the Phoenix office, which went into receivership on Aug. 15, 2005. The receivership order prohibited Mr. Cannon from negotiating any firm funds without the prior written consent of the party that sought the receivership. On Aug. 17, 2005, Mr. Cannon deposited or caused to be deposited five checks totaling \$9,000, which were written before the receivership date and without the consent of the plaintiff in the receivership matter. Four of the checks were issued more than 25 days prior to the receivership hearing and one was issued four days before the hearing. Mr. Cannon acted on the belief that because he had the checks before the receivership order was signed, it was okay to deposit them. Regarding the check issued before the hearing, Mr. Cannon stated that he had no control over when the recipient negotiated the check.

Mr. Cannon also employed paralegal-collectors in his office who benefited from a compensation program that paid bonuses based partly on the lawyer's fees the paralegal-collector actually collected.

Two aggravating factors were found: pattern of misconduct and multiple offenses.

Six mitigating factors were found: absence of prior discipline, timely good-faith effort to rectify consequences of misconduct, inexperience in the practice of law, physical disability, absence of dishonest or selfish motive, full and free disclosure and cooperative attitude toward the proceedings.

Mr. Cannon violated Rule 42, ARIZ.R.S.Ct., ERs 5.4 and 8.4(d).

**ERIC M. CASPER**

Bar No. 009947; File No. 07-0860  
Supreme Court No. SB-08-0123-D

By Arizona Supreme Court judgment and order dated Oct. 28, 2008, Eric M. Casper, a suspended lawyer, 5778 W. Corrine Dr., Glendale, AZ, received a second suspension for six months and one day and shall pay restitution. He also was assessed the costs and expenses of the disciplinary proceedings.

Mr. Casper was retained to represent a client in a bankruptcy proceeding and was paid \$3,185. The client paid \$873 monthly for 36 months pursuant to a Chapter 13 plan filed with the U.S. Bankruptcy Court, unaware that the Internal Revenue Service (IRS) filed an objection to confirmation of the plan. Mr. Casper failed to file a response and did not respond to letters from the court or the trustee concerning resolution of the IRS objection. Consequently, the bankruptcy case was dismissed and the client's payments were forfeited to the IRS. Mr. Casper assured the client that he would obtain a reinstatement but he failed to file any pleadings to have the case reinstated and failed to inform the client of that fact. In addition, Mr. Casper failed to respond to the State Bar's request for information regarding the matter.

Six aggravating factors were found: prior disciplinary offenses, pattern of misconduct, multiple offenses, bad-faith obstruction of the disciplinary proceedings, substantial experience in the practice of law and indifference to making restitution.

Three mitigating factors were found: personal or emotional problems, timely good-faith effort to make restitution or to rectify consequences of misconduct and remorse.

Mr. Casper violated Rule 42, ARIZ.R.S.Ct., ERs 1.1, 1.2, 1.3, 1.4, 1.5, 1.15, 3.2 and 8.4(d), and Rule 53(d) and (f), ARIZ.R.S.Ct.

**MARSHALL FEALK**

Bar No. 003332; File No. 05-1572  
Supreme Court No. SB-08-0179-D

By Arizona Supreme Court judgment and order dated Dec. 31,

2008, Marshall Fealk, 7471 E. Tanque Verde Rd., Tucson, AZ, was censured and placed on probation for one year. He was required to participate in the State Bar's Trust Account Program and Trust Account Ethics Enhancement Program. He also was assessed the costs and expenses of the disciplinary proceedings.

Mr. Fealk was hired to represent a client regarding four matters. There was no written fee agreement, but Mr. Fealk billed the client at a higher hourly rate than the client originally agreed to in one of the matters. In addition, the client was billed various flat fee charges that had not been agreed upon in the other matters. The representation was terminated and Mr. Fealk failed to refund any unearned fees.

The State Bar's review of Mr. Fealk's records revealed a number of discrepancies between the actual number of hours billed and those listed on the billing statement. The review also revealed that Mr. Fealk deposited advanced fees into his operating account rather than his trust account.

Two aggravating factors were found: prior disciplinary offenses and substantial experience in the practice of law.

Five mitigating factors were found: personal or emotional problems, free and full disclosure or cooperative attitude toward the proceedings, character or reputation, physical disability and remoteness of prior offenses.

Mr. Fealk violated Rule 42, ARIZ.R.S.Ct., ERs 1.5 and 1.15, and Rules 43 and 44, ARIZ.R.S.Ct.

**STEVEN D. FLAGGMAN**

Bar No. 019463; File No. 07-1908  
Supreme Court No. SB-08-0152-D

By Arizona Supreme Court judgment and order dated Dec. 5, 2008, Steven D. Flagman, 2824 E. Rockwood Dr., Ste. 100, Phoenix, AZ, was suspended for 18 months, retroactive to Jan. 8, 2008. Upon reinstatement, he shall be placed probation for two years. Probation will include participation in the State Bar's Member Assistance Program. He also was assessed the costs and expenses of the disciplinary proceedings.

On two occasions, Mr. Flagman used his computer to

create false prescriptions for Percocet and Ritalin. In each instance, when Mr. Flagman presented the false prescription to the pharmacist, the police were summoned and he was arrested and charged each time with attempted acquisition or administration of narcotic drugs, a Class 4 felony. He pled guilty to possession of a forgery device, a Class 6 undesignated felony.

The State Bar placed Mr. Flagman on interim suspension on Jan. 8, 2008.

Three aggravating factors were found: prior disciplinary offenses, dishonest or selfish conduct, and illegal conduct.

Six mitigating factors were found: personal or emotional problems, timely good-faith effort to rectify consequences of misconduct, full and free disclosure, physical disability, remorse and remoteness of prior offenses.

Mr. Flagman violated Rule 42, ARIZ.R.S.Ct., ERs 8.4(b) and (c), and Rule 53, ARIZ.R.S.Ct.

**GARY F. FORSYTH**

Bar No. 007586; File Nos. 06-1630, 07-0524, 07-1035

Supreme Court No. SB-08-0159-D

By Arizona Supreme Court judgment and order dated Dec. 5, 2008, Gary F. Forsyth, P.O. Box 3640, Show Low, AZ, was suspended for one year. Upon reinstatement, he shall be placed on probation for two years and required to participate in the State Bar's Law Office Management Assistance Program and Member Assistance Program. He also was assessed the costs and expenses of the disciplinary proceedings and shall pay restitution.

In count one, Mr. Forsyth was hired to represent two clients in a criminal matter and was paid a \$3,000 retainer. The charges were dismissed and Mr. Forsyth did not respond to their numerous phone calls requesting an accounting and a refund. A partial refund was paid after the clients went to Mr. Forsyth's office but an accounting was not provided and he failed to respond to subsequent phone calls regarding one. The State Bar's review of Mr. Forsyth's records revealed that trust account checks written in relation to the case, including the partial refund check, exceeded the paid retainer. Mr.

Forsyth failed to respond the State Bar's request for additional information.

In count two, Mr. Forsyth was hired to represent a client in a domestic relations matter and was paid a \$2,500 retainer. A settlement was reached and the court instructed the parties to file the stipulated settlement before Dec. 11, 2006. Mr. Forsyth failed to file the agreement by that date and the court ordered that it be filed within three weeks. Mr. Forsyth again, failed to comply with the courts order or inform his client of the case status. He also failed to refund any unearned fees. The State Bar requested information regarding the matter and Mr. Forsyth failed to respond.

In count three, the State Bar received an overdraft notice regarding Mr. Forsyth's trust account and requested a response and trust account documents. Mr. Forsyth failed to respond or provide the requested documents.

Five aggravating factors were found: prior disciplinary offenses, pattern of misconduct, multiple offenses, substantial experience in the practice of law and bad-faith obstruction of the disciplinary proceeding.

One mitigating factor was found: personal or emotional problems.

Mr. Forsyth violated Rule 42, ARIZ.R.S.C.T., ERs 1.3, 1.4, 1.5, 1.15, 1.16(d), 8.1(b) and 8.4(d), and Rules 43, 44 and 53(f), ARIZ.R.S.C.T.

**JOHN T. FRANKLIN**

Bar No. 022163; File Nos. 07-0409, 07-0591, 07-1059, 07-1398, 07-1444, 07-1465, 07-1499, 07-1630  
Supreme Court No. SB-08-0135-D

By Arizona Supreme Court judgment and order dated Oct. 28, 2008, John T. Franklin, 374 W. Main St., Rigby, ID, a suspended member of the State Bar of Arizona, was disbarred. He shall pay restitution and the costs and expenses of the disciplinary proceedings.

Prior to a hearing on these eight counts, Mr. Franklin was placed on interim suspension. In these matters it was found that Mr. Franklin received money from clients, failed to perform the work he was hired to do, failed to communicate with his clients or act diligently on their

behalf and failed to return unearned fees or provide an accounting. Mr. Franklin also intentionally misled a judge and failed to cooperate with the State Bar in the disciplinary process.

The hearing officer found seven aggravating factors and no mitigating factors.

**JAMES T. GREGORY**

Bar No. 021499; File No. 07-0216  
Supreme Court No. SB-08-0155-D

By Arizona Supreme Court judgment and order dated Nov. 12, 2008, James T. Gregory, 221 S. Second Ave, Ste. 2, Yuma, AZ, was disbarred by consent from the practice of law. He shall pay of costs and expenses of the disciplinary proceedings.

**FRANCISCO X. GUTIERREZ**

Bar No. 009469; File No. 03-0339  
Supreme Court No. SB-08-0147-D

By Arizona Supreme Court judgment and order dated Oct. 29, 2008, Francisco X. Gutierrez, 1001 N. Central Ave., Ste. 660, Phoenix, AZ, was censured and assessed the costs and expenses of the disciplinary proceedings.

The balance of Mr. Gutierrez's trust account fell below an amount that should have been held in trust for five clients. On a number of occasions, Mr. Gutierrez disbursed against funds that were not yet credited to the trust account and collectible. In doing so, Mr. Gutierrez negligently converted client funds. In addition, Mr. Gutierrez failed to timely distribute funds belonging to a third person. He failed to maintain proper internal controls for the operation and maintenance of his trust account.

Three aggravating factors were: pattern of misconduct, multiple offenses and substantial experience in the practice of law.

Four mitigating factors were: absence of selfish or dishonest motive, absence of disciplinary record, personal or emotional problems and character or reputation.

Mr. Gutierrez violated Rule 42, ARIZ.R.S.C.T., ERs 1.15, and Rules 43 and 44, ARIZ.R.S.C.T.

**ANNE MARIE KOONS**

Bar No. 025122; File Nos. 07-1954, 08-0525  
Supreme Court No. SB-08-0167-D

By Arizona Supreme Court judgment and order dated Dec. 3, 2008,

Anne Marie Koons, 239 N. Meyer Ave., Tucson, AZ, consented to disbarment.

**EDWARD V. LACAMBRA**

Bar No. 002153; File No. 06-1956  
Supreme Court No. SB-08-0168-D

By Arizona Supreme Court judgment and order dated Dec. 16, 2008, Edward V. Lacambra, 6407 E. Grant Rd., Tucson, AZ, was censured and placed on probation for two years. He also was assessed the cost and expenses of the disciplinary proceedings.

Mr. Lacambra was hired to represent a client in a matter relating to her home. He failed to respond to the client's numerous attempts to contact him regarding the status of the matters and the return of her file. The client filed a complaint with the State Bar and Mr. Lacambra initially failed to respond to the State Bar's inquiries.

Three aggravating factors were: prior discipline offenses, bad-faith obstruction of the disciplinary proceeding and substantial experience in the practice of law.

Two mitigating factors were: absence of dishonest or selfish motive and remorse.

Mr. Lacambra violated Rule 42, ARIZ.R.S.C.T., ERs 1.3, 1.4 and 3.2, and Rule 53(f), ARIZ.R.S.C.T.

**PATRICK A. PLUMMER**

Bar No. 012547; File Nos. 06-1089, 06-1488, 07-0256  
Supreme Court No. SB-08-0151-D

By Arizona Supreme Court judgment and order dated Dec. 5, 2008, Patrick A. Plummer, 6002 E. Kings Ave., Scottsdale, AZ, was suspended for one year and also assessed the cost and expenses of the disciplinary proceedings.

In count one, Mr. Plummer represented a client regarding injuries received from water damage, mold and other contamination, while living in a rented home. The home had not been tested to confirm the presence of the contaminants. The client subsequently purchased and moved into another home that was tested for water and mold damage but the tests were inconclusive regarding the harmful nature of the contaminants.

The client sued the owners of the rental property for injuries caused by contaminants. Mr.

Plummer had a report, that he believed pertained to the rental property and would have been harmful to his client's case. The report was not timely disclosed to the opposing party. In fact, the report pertained to the client's current residence and had no bearing on the suit. Mr. Plummer's conduct in not knowing which report he had showed a lack of competence and diligence and caused a delay in the proceedings and additional cost to the opposing party. The case was consequently dismissed and Mr. Plummer and his client were ordered to pay attorney and expert witness fees and costs.

In count two, Mr. Plummer represented a client in a dispute with the city of Phoenix regarding the condemnation, zoning and value of his property. At the conclusion of the case, Mr. Plummer submitted an application for attorney fees and costs, which was excessive. The court rejected the application because it contained egregious errors and outright fabrications. When confronted by the court about the errors, rather than explain, Mr. Plummer tried to negotiate, which led the court to believe that he knew the fee application was suspect. In addition, Mr. Plummer rendered incompetent representation in that his pleadings were confusing and unprofessionally written.

Count three entails Mr. Plummer's conduct in two separate cases. While representing the client in count two, the condemnation action, Mr. Plummer failed to check the title to the real property or the corporate documents to confirm that the client was the true owner of the property in question. The documents did not list the client as the true owner, so he lacked standing to pursue the action and the opposing party was granted summary judgment. In addition, Mr. Plummer filed a motion for change of judge. The motion was denied because Mr. Plummer failed to make a reasonable inquiry into the factual basis of the motion, provided no factual basis for the bias claim and made accusations against the judge based on speculation and information found on the Internet without checking the reliability of the information.

In the second case, Mr. Plummer represented a client in a

civil matter. He filed numerous motions that were incomprehensible to the extent that the court could not determine that good cause had been established. Mr. Plummer also filed a motion to disqualify the judge arguing that the judge was biased in rulings against him. In support of the motion, he attached an affidavit stating himself as a factual witness. Both actions were wholly inappropriate in a motion to change judge, thus the motion was denied.

Four aggravating factors were found: dishonest or selfish motive, multiple offenses, refusal to acknowledge wrongful nature of conduct and substantial experience in the practice of law.

Seven mitigating factors were found: absence of prior disciplinary record, personal or emotional problems, full and free disclosure to a disciplinary board or cooperative attitude toward proceedings, physical disability, mental disability, imposition of other penalties or sanctions, and remorse.

Mr. Plummer violated Rule 42, ARIZ.R.S.C.T., ERs 1.6(a), 1.1, 1.3,

1.5(a), 3.1, 3.2, 3.3(a), 3.4(a), (b) and (c), 3.7, 8.4(c) and (d), 1.15, 7.1, 8.1 and 8.4(c) and (d).

#### **C. KENNETH RAY**

Bar No. 009810; File Nos. 07-0380, 07-0737

Supreme Court No. SB-08-0160-D

By Arizona Supreme Court judgment and order dated Nov. 19, 2008, C. Kenneth Ray, II, P.O. Box 2521, Prescott, AZ, was censured and placed on probation for one year. Participation in the State Bar's Law Office Management Assistance Program is a term of probation. He also was assessed the costs and expenses of the disciplinary proceedings.

In count one, Mr. Ray was hired to investigate and pursue a claim for post-conviction relief. He failed to file a petition for post-conviction relief, a motion for continuance and a declaration stating that he had investigated the merits of the petition within the 60-day deadline. Consequently, the matter was dismissed for lack of prosecution. The client did not find out that the matter had been dismissed until he

asked the sentencing judge.

In count two, Mr. Ray was retained to represent a client in a criminal matter. The client was taken into custody and his personal property was delivered to Mr. Ray with instructions to deliver the property to a third party. Mr. Ray failed to abide by the instructions because he believed that the personal property would be safely maintained if it remained in his possession.

Three aggravating factors were found: prior disciplinary offenses, pattern of misconduct and substantial experience in the practice of law.

Two mitigating factors were found: absence of dishonest or selfish motive and remoteness of prior offenses.

Mr. Ray violated Rule 42, ARIZ.R.S.C.T., ERs 1.3, 1.4 and 1.15(d).

#### **PAUL B. RUDOLPH**

Bar No. 014027; File No. 05-2003

Supreme Court No. SB-08-0094-D/R

By Arizona Supreme Court judgment and order dated Nov. 10, 2008, Paul B. Rudolph, 8686 E.

San Alberto, Ste. 200, Scottsdale, AZ, was reinstated as a member of the State Bar of Arizona.

Prior to reinstatement, Mr. Rudolph, by judgment and order dated Sept. 3, 2008, was suspended for 30 days and placed on probation for two years. Participation in the State Bar's Member Assistance Program is a term of probation.

Mr. Rudolph was the defendant in a malpractice lawsuit. After settling the matter, Mr. Rudolph sent threatening e-mails to the plaintiff's attorneys using an assumed name. When his identity was determined, he was convicted of one count of harassment, a class one misdemeanor.

One aggravating factor was found: substantial experience in the practice of law.

Six mitigating factors were found: absence of prior disciplinary record, personal or emotional problems, full and free disclosure or cooperative attitude toward the proceedings, character or reputation, imposition of other penalties and remorse.

Mr. Rudolph violated Rule 42,

ARIZ.R.S.CT. ER 8.4(b), (c) and (d), and Rule 41(g), ARIZ.R.S.CT.

**BRUCE A. SHOLES**

Bar No. 007793; File No. 07-0488  
Supreme Court No. SB-08-0131-D

In accordance with the provisions of Rule 56(g), Arizona Rules of the Supreme Court, Bruce A. Sholes, P.O. Box 2640, Cortaro, AZ, consented to disbarment as of the judgment and order dated Sept. 16, 2008.

**DAVID E. WATTEL**

Bar No. 012405; File Nos. 07-0609, 07-0691, 08-0225  
Supreme Court No. SB-08-0154-D

By Arizona Supreme Court judgment and order dated Nov. 4, 2008, David E. Wattel, 2175 N. Alma School Road, #B107, Chandler, AZ, was censured and assessed the costs and expenses of the disciplinary proceedings.

In count one, Mr. Wattel was hired to represent a client in a personal injury matter. The client received but never signed the contingency fee agreement.

In count two, Mr. Wattel was hired to represent a client in a claim for property damage in Savannah, Georgia. The signed fee agreement included no mention of using the services of an out-of-state attorney. No one in Mr. Wattel's firm was licensed in Georgia, but Mr. Wattel had an agreement with a Georgia attorney to participate with him on the case if the need for litigation arose. Mr. Wattel settled the case at the instruction of the client.

In count three, Mr. Wattel represented a client in a personal injury matter under a contingency fee agreement. The client was awarded \$15,000 in arbitration but Mr. Wattel's costs exceeded \$21,000, not including attorneys fees or medical liens. Mr. Wattel claimed that he advised the client that the medical liens had been forgiven and he agreed to waive his fee leaving the client liable for the remaining unpaid costs. Without the client's authorization, Mr. Wattel endorsed the check, deposited it into his trust account and used it to pay the incurred costs. Mr. Wattel also signed the "Satisfaction of Arbitration Award" on behalf of the client.

Three aggravating factors were found: prior disciplinary offenses,

multiple offenses and substantial experience in the practice of law.

One mitigating factor was found: free and full disclosure or cooperative attitude toward the proceedings.

Mr. Wattel violated Rule 42, ARIZ.R.S.CT., ERs 1.2(a), 1.4(a)(3), 1.5 and 5.5.

**J. MURRAY ZEIGLER**

Bar No. 012427; File No. 07-0254  
Supreme Court No. SB-08-0162-D

By Arizona Supreme Court judgment and order dated Nov. 21, 2008, J. Murray Zeigler, 17 W. Vernon, #608, Phoenix, AZ, was censured and placed on probation for one year. The terms of probation include participation in the State Bar's Ethics Enhancement Program. He also was assessed the costs and expenses of the disciplinary proceedings.

Mr. Zeigler was hired as the executive director for a nonprofit organization. In that capacity, he routinely identified himself as and exercised duties as general counsel for the organization. Mr. Zeigler was terminated as executive director and was informed that he had only been hired to fulfill that position and not as general counsel for the organization. Based on this information, Mr. Zeigler informed the opposing party in a dispute of numerous facts and legal arguments that could be used to his advantage. Such conduct violated the confidences of the organization and revealed information relating to the representation of the organization without informed consent.

One aggravating factor was found: substantial experience in the practice of law.

Four mitigating factors were found: free and full disclosure, absence of prior disciplinary record, absence of dishonest or selfish motive and remorse.

Mr. Zeigler violated Rule 42, ARIZ.R.S.CT., ERs 1.6, 1.9, 8.4(c) and (d), and Rule 41(f), ARIZ.R.S.CT.

**CAUTION!**

Nearly 16,000 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.