



## LAWYER REGULATION

## SANCTIONED ATTORNEYS

**THEODORE C. ABRAMS**

Bar No. 013135; File No. JC-11-0001

By Arizona Supreme Court order dated May 25, 2011, Theodore C. Abrams was suspended for two years, effective June 1, 2011.

Abrams was appointed as a Tucson City Court Magistrate in 2002. In December 2010, the Commission on Judicial Conduct ("Commission") brought formal disciplinary charges against Abrams based on allegations of sexual harassment. In January 2011, Abrams and the Commission entered into a stipulated resolution in which he "acknowledge[d] that his conduct warrants removal from the bench" and agreed to the imposition of a censure and to resign his judicial position and never again seek or hold judicial office.

In recommending the stipulated resolution, the Commission observed that Abrams' conduct also "reflects upon his capacity to practice law."

When a judge resigns from office as the result of judicial discipline, the State Bar may recommend whether lawyer discipline should also be imposed based on the record in the judicial proceeding. The State Bar recommended that the Court impose a lengthy suspension of Abrams' law license in addition to the Commission's censure. In its order, the Court suspended Abrams for two years.

Aggravating factors: pattern of misconduct, multiple offenses, and vulnerable victim. Mitigating factors: lack of prior disciplinary record, cooperation in the judicial disciplinary proceedings, character or reputation, effort to rectify misconduct, and the imposition of other penalties.

Abrams violated Rule 42, specifically ER 8.4(c) and (d), and Rules 41(c) and (g) and 54(b), ARIZ.R.S.CT.

**NASSER USAMA ABUJBARAH**

Bar No. 026182; File Nos. 11-0331, 11-0542, 11-1071, 11-1196, 11-1881, 11-1240

Supreme Court No. PDJ-2011-9024

By order dated July 7, 2011, the presiding disciplinary judge accepted and approved an agreement for discipline by consent under which Nasser Usama Abujbarah, Phoenix, was suspended for two years retroactive to June 3, 2011, when he was placed on interim suspension.

Mr. Abujbarah must participate in the State Bar's Member Assistance Program, Fee Arbitration Program, and Law Office Management Assistance Program and attend the Trust Account Ethics Enhancement Program. Mr. Abujbarah also agreed to pay \$25,000 to the United States Trustee. Mr. Abujbarah was assessed the cost and expense of the disciplinary proceeding.

Mr. Abujbarah initially worked as general counsel to Sellectricon, a company that provided loan-modification services to clients. After Mr. Abujbarah left Sellectricon to set up his own law practice, he was referred *pro per* bankruptcies that had been filed by Sellectricon clients. Mr. Abujbarah also filed bankruptcies for Kent Axtell of Real Estate Solutions. From May 21, 2009, through April 19, 2010, Mr. Abujbarah filed or noticed an appearance in 285 bankruptcy cases on behalf of debtors. Given his inexperience, this number of cases far exceeded his capacity to reasonably and promptly represent his clients. In October 2009, Mr. Abujbarah began to have problems with some of the bankruptcy cases he handled. Several were dismissed for deficiencies. Mr. Abujbarah did not competently or diligently represent and failed to adequately communicate with some of his clients.

In one matter, Mr. Abujbarah

filed a false petition and other documents in Bankruptcy Court. The petition falsely indicated that it had been signed by the debtors as did the exhibits, schedules, and statements accompanying the petition. Mr. Abujbarah failed to meet and confer with the debtors before filing their petition and did not include information about a prior bankruptcy case filed within the last eight years in the petition. Mr. Abujbarah also included false information about his payment for representation in the statement of financial affairs and filed a false disclosure statement indicating that the clients had paid for his services when Sellectricon had paid. Mr. Abujbarah also falsely declared that he explained to the debtors the relief available to them.

In a second matter, Mr. Abujbarah failed to include a prior bankruptcy case filed by the debtor and failed to include life insurance and rental income that were required to be listed in the petition schedules and statements.

In a third matter, Mr. Abujbarah failed to list the debtor's assets on the debtor's schedules and the debtor's income on the debtor's statement of financial affairs.

In the fourth matter, Mr. Abujbarah failed to file appropriate documents under Bankruptcy Rules 2014 and 2016 to authorize his employment by and payment from the debtor.

Aggravating factors: pattern of misconduct and multiple offenses.

Mitigating factors: absence of prior disciplinary record, personal or emotional problems, mental disability or chemical dependency, timely good-faith effort to rectify consequences of the misconduct, full and free disclosure and cooperative attitude toward State Bar, inexperience in the practice of law, imposition of other penalties or sanctions, and remorse.

Mr. Abujbarah's conduct violated Rule 42, ARIZ.R.S.CT., specifically ERs 1.1, 1.3, 1.4, and 8.4(c) and (d).

**MARTIN E. BRANNAN**

Bar No. 017151

PDJ No. 2011-9006

Martin Brannan, Lake Havasu City, Ariz., and Michael Whiting, Saint Johns, Ariz., violated ER 4.2, Rule 42, ARIZ.R.S.CT., when they authorized investigators from the Apache County Attorney's Office to communicate a pending plea agreement to a represented criminal defendant outside the presence of his counsel. Mr. Whiting's subsequent statements about the judge that dismissed the underlying matter also violated Rule 41(c), ARIZ.R.S.CT. Messrs. Whiting and Brannan received reprimands for their conduct.

**JOHN F. GILES**

Bar No. 004362; File No. 10-0385

PDJ No. 2011-9023

By the presiding disciplinary judge's July 22, 2011, order, John F. Giles Jr., Phoenix, was disbarred and ordered to pay restitution and the State Bar's costs.

Mr. Giles was the trustee of a trust. The beneficiaries wished to transfer the trust's funds to a new, successor trust. Mr. Giles was dilatory and did not transfer the trust's assets. The beneficiaries retained counsel, and the beneficiaries' attorneys submitted a bar charge. Meantime, the beneficiaries' attorneys filed an application for a restraining order and a preliminary injunction seeking to have Mr. Giles removed as trustee. The Maricopa County Superior Court removed Mr. Giles as trustee and ordered him to turn over the trust's records and funds to the new trustee by Aug. 27, 2010. Mr. Giles provided a small fraction of records of what he should have and the beneficiaries' attorneys sought sanctions. On Oct. 19, 2010, Mr. Giles appeared for his scheduled deposition and provided voluminous records not previously provided. During the deposition, Mr. Giles admitted to having used the trust's funds for his benefit. The records Mr. Giles provided revealed

**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.

that Mr. Giles used \$1,730.58 in trust funds to pay his office rent, paid his secretary \$1,097.51 in trust funds, and withdrew \$11,900 in trust funds via teller cash withdrawals. Mr. Giles also did not substantively respond in the State Bar's investigation.

Aggravating factors: dishonest or selfish motive, multiple offenses, bad-faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of the disciplinary agency, refusal to acknowledge wrongful nature of conduct, substantial experience in the practice of law, indifference to making restitution, and illegal conduct.

Mitigating factor: absence of a prior disciplinary record.

Mr. Giles violated Rule 42, specifically ERs 3.4(c), 8.1(b), 8.4(b), 8.4(c) and 8.4(d), and Rules 53(c), 53(d), and 53(f), ARIZ.R.S.C.T. (2010).

**DAN R. GUKEISEN**

Bar No. 021109; File No. 09-0368  
PDJ No. PDJ-2011-9038

By judgment and order dated July 21, 2011, the presiding disciplinary judge accepted a consent to disbarment by which Dan R. Gukeisen of Phoenix was disbarred. Mr. Gukeisen also was assessed \$1,200 in costs and expenses of the disciplinary proceeding.

Mr. Gukeisen was convicted of manslaughter following a jury trial and acknowledged that he violated ER 8.4(b), Rule 42, ARIZ.R.S.C.T.

**DANIEL P. JENSEN**

Bar No. 020509; File Nos. 10-0414, 10-0463, 10-0596, 10-2252, 10-2275, 11-0466

By final judgment and order of the presiding disciplinary judge dated July 18, 2011, Daniel P. Jensen, Phoenix, was suspended for six months and one day, retroactive to May 20, 2011, the date Mr. Jensen was summarily suspended for failing to comply with MCLE requirements. Mr. Jensen also was ordered to pay restitution to one former client and a third-party payor and to participate in fee arbitration with four former clients, and was assessed the costs and expenses of the disciplinary proceeding.

In various instances in five matters, Mr. Jensen failed to abide by his client's decisions concerning the objectives of representation; failed to diligently represent his client; failed to adequately communicate with his client; collected an unreasonable fee from his client; used a fee agreement that failed to comply with the Ethical Rules; entered into a business transaction with his client but failed to comply with applicable requirements in the Ethical Rules; failed to promptly deliver to his client funds his client was entitled to receive; failed to promptly return documents to his client at the conclusion of representation; failed to take steps to protect his client's interests at the conclusion of representation; failed to use reasonable efforts to expedite

litigation consistent with his client's interests by failing to comply with discovery obligations and a court order; and engaged in conduct prejudicial to the administration of justice.

Mr. Jensen also knowingly failed to respond or timely respond to the State Bar's requests for information in six matters.

Aggravating factors: prior disciplinary offenses, a pattern of misconduct, multiple offenses, bad-faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of the disciplinary agency, vulnerability of victims, and substantial experience in the practice of law.

Mitigating factors: Personal or emotional problems and character or reputation.

Mr. Jensen violated Rule 42, ARIZ.R.S.C.T., specifically ER 1.2, ER 1.3, ER 1.4(a)(1), ER 1.4(a)(2), ER 1.4(a)(3), ER 1.4(a)(4), ER 1.4(b), ER 1.5(a), ER 1.5(b), ER 1.5(d)(3), ER 1.8(a), ER 1.15(d), ER 1.16(d), ER 3.2, ER 3.4(c), ER 3.4(d), ER 8.1(b), and ER 8.4(d), and Rules 53(c), (d) & (f), ARIZ.R.S.C.T. (2010 rules), and Rule 54(d), ARIZ.R.S.C.T. (2011 rules).

**STEPHEN M. JOHNSON**

Bar No. 015831; File No. 10-2444

By judgment and order of the presiding disciplinary judge, dated July 28, 2011, Stephen M. Johnson, Phoenix, was reprimanded for misconduct and placed on two years' probation. The terms of probation include participating in the State Bar's Law Office Management Assistance Program with a practice monitor.

Mr. Johnson failed to communicate with his client regarding a criminal post-conviction-relief matter for six months while Mr. Johnson was preparing for and conducting a capital jury trial. Mr. Johnson further failed to withdraw from the matter when he could not devote enough time to it due to his preparations for the capital jury trial. Mr. Johnson's negligent conduct in this regard caused a six-month delay in his client's post-conviction-relief proceedings. Mr. Johnson was found to have violated Rule 42, specifically ERs 1.2, 1.3, 1.4, 1.16(a)(1) and 8.4(d), ARIZ.R.S.C.T., and ordered to pay \$1,200 in costs to the State Bar.

**DIANA McCULLOCH**

Bar No. 009885  
PDJ No. 2011-9020

By order of the acting presiding disciplinary judge dated Aug. 17, 2011, Diana McCulloch, Tempe, was censured. Ms. McCulloch will be placed on probation for six months during which time she must participate in the State Bar's Fee Arbitration Program and consult with the State Bar's LOMAP practice management adviser about her fee agreement and billing practices. She will also be assessed the costs and expenses of the disciplinary proceeding.

Ms. McCulloch's fee agreement contained a conglomeration of contradictory fee-agreement

terms that made it difficult for the client to determine the basis or rate of the fee. She also failed to timely provide the client with her client file.

Aggravating factors: prior disciplinary offenses and substantial experience in the practice of law.

Mitigating factors: absence of a dishonest or selfish motive and full and free disclosure to disciplinary board or cooperative attitude toward proceedings.

Ms. McCulloch violated Rule 42, ARIZ.R.S.C.T., specifically ERs 1.5(b) and 1.16(d).

**STEVEN J. MESSER**

Bar No. 019542; File Nos. 09-1571, 09-2379, 09-2516, 09-2517, 09-2539, 10-0105, 10-0106, 10-0704, 10-0927, 10-1075, 10-1399, 10-1511  
PDJ No. 2011-9026

By judgment and order dated June 13, 2011, the presiding disciplinary judge accepted an agreement for discipline by consent by which Steven J. Messer of Mesa was reprimanded (a sanction formerly known as censure). Mr. Messer also was ordered to pay \$6,090 in restitution to three former clients and participate in State Bar fee arbitration by all former clients who request arbitration. He also was assessed \$2,945.25 in costs and expenses of the disciplinary proceeding.

Mr. Messer agreed to undertake loan modifications for the clients and included in his fee agreement in several of the cases a guarantee that he would promptly refund fees if he did not conclude a modification on certain terms. When he did not reach the target in some cases, Mr. Messer refused to promptly refund the fees. Some clients' matters languished for several months while Mr. Messer focused on matters for other clients who faced imminent foreclosure and during that time he did not reasonably communicate. Mr. Messer's employees made false representations to clients, and his office-sharing arrangement with his brother-in-law's business with which he associated to attempt some of the modifications created ambiguity as to whether his law practice was actually affiliated with that business.

Aggravating factors: pattern of misconduct, multiple offenses, vulnerability of victims, and substantial experience in the practice of law.

Mitigating factors: absence of prior discipline, absence of dishonest motive, timely good-faith effort to make restitution (Mr. Messer did give refunds in some cases), and full and free disclosure.

Mr. Messer violated Rule 42, ARIZ.R.S.C.T., ERs 1.2, 1.3, 1.4, 1.5, 1.7, 1.8, 1.15, 1.16, 5.3, 5.7, 7.1, and 7.3.

**TAJUDEEN O. OLADIRAN**

Bar No. 021265; File No. 09-2082 et al.  
Supreme Court No. 11-0057-D (2011)

By Arizona Supreme Court judgment and order dated Aug. 8, 2011, Tajudeen O. Oladiran was suspended for six months, effective Sept. 8,

2011. As a condition of reinstatement, Mr. Oladiran must undergo a “Fitness to Practice Independent Medical Evaluation” and must be found fit to practice. Mr. Oladiran was placed on probation for two years as of Aug. 8, 2011. He also was assessed the costs and expenses of the disciplinary proceedings.

Mr. Oladiran engaged in professional misconduct that violated duties owed to the legal profession and his clients by failing to maintain the respect due to courts of justice and judicial officers. He failed to avoid engaging in unprofessional conduct, failed to provide competent representation to a client, and failed to act with reasonable diligence and promptness in representing a client. Mr. Oladiran also initiated a frivolous proceeding without a good-faith basis, engaged in conduct likely to disrupt a tribunal, used means during the representation of a client that had no substantial purpose other than to embarrass, delay or burden any other person, engaged in conduct that is prejudicial to the administration of justice, and knowingly violated a rule or order of the court.

Aggravating factors: pattern of misconduct and multiple offenses.

Mitigating factors: absence of a prior disciplinary record, absence of a dishonest or selfish motive, full and free disclosure, and the imposition of other penalties or sanctions.

Mr. Oladiran violated Rule 42, specifically ERs 1.1, 1.3, 1.16(d), 3.1, 3.5(d), 4.4 (a), and 8.4(d), and Rule 53(c), ARIZ.R.S.CT.

**JOSHUA S. PARILMAN**

Bar No. 021272; File No. 11-9027

By judgment and order of the presiding disciplinary judge dated July 19, 2011, Joshua S. Parilman, Phoenix, was reprimanded, placed on probation, and assessed the costs and expenses of the disciplinary proceeding. Those disciplinary sanctions were imposed as reciprocal discipline following an Indiana Supreme Court order dated May 27, 2011, that indefinitely barred Mr. Parilman from engaging in acts constituting the practice of law in Indiana.

Mr. Parilman used radio commercials in Indiana to solicit clients even though he was not admitted to practice law in Indiana. Mr. Parilman misled the public by giving the impression that he was admitted to practice law in Indiana, by indicating that his firm specializes in “automobile accidents” even though he was not certified as a specialist in any field of practice and Indiana does not certify lawyers in the area of “automobile accidents,” and by indicating that his firm was a “national firm” when his only office was in Arizona.

Mr. Parilman violated Rule 42, ARIZ.R.S.CT., specifically ERs 5.5(b)(2), 7.1 and 7.4(a).

**ROBERT A. ROJAS**

Bar No. 012864; File No. 10-6012

By Arizona Supreme Court Order filed June 15, 2011, Robert A. Rojas, Glendale, Ariz., was denied reinstatement to the practice of law. The court found that Mr. Rojas failed to establish that he is qualified for reinstatement to active bar membership.

Mr. Rojas was suspended in Arizona, effective Jan. 11, 2002, for failing to promptly forward funds or information to a client and several lienholders, failing to adequately communicate with a client, failing to comply with the trust account rules, and failing to timely respond to bar counsel during several screening investigations. On Nov. 2, 2010, Mr. Rojas applied for reinstatement. A hearing panel found that Mr. Rojas had paid the costs and expenses related to his suspension, satisfied an order of restitution related to his suspension, complied with the terms of probation that applied while he was suspended, and passed the bar examination in July 2010. Two witnesses testified favorably on Mr. Rojas’ behalf, but neither articulated how or why they believed Mr. Rojas has overcome the weaknesses that led to his prior misconduct.

Weighing against reinstatement, the hearing panel found that Mr. Rojas failed to notify his clients and the court when he was suspended, had not participated in any law-related or continuing-legal-education courses since 2004, failed to submit to the hearing panel sufficient evidence that he could provide competent representation, failed to provide the hearing panel with sufficient and current evidence of rehabilitation, failed to provide any evidence of participation in community or charitable organizations, and failed to provide evidence of professional psychiatric or psychological treatment since 2006. The hearing panel was also concerned about Mr. Rojas’ minor criminal history, which included failing to comply with court orders, and Mr. Rojas’ failure to prove financial responsibility.

The hearing panel recommended that the Court deny Mr. Rojas’ application for reinstatement because he had failed to prove by clear and convincing evidence rehabilitation and fitness to practice law.

**MICHAEL B. WHITING**

Bar No. 022092

PDJ No. PDJ-2011-9006

Michael Whiting, Saint Johns, Ariz., and Martin Brannan, Lake Havasu City, Ariz., violated ER 4.2, Rule 42, ARIZ.R.S.CT., when they authorized investigators from the Apache County Attorney’s Office to communicate a pending plea agreement to a represented criminal defendant outside the presence of his counsel. Mr. Whiting’s subsequent statements about the judge that dismissed the underlying matter also violated Rule 41(c), ARIZ.R.S.CT. Messrs. Whiting and Brannan received reprimands for their conduct.

**BRIAN R. WINSKI**

Bar No. 012021; File No. SB-11-0066-R

By a July 21, 2011, order, the Arizona Supreme Court dismissed Brian R. Winski’s application for reinstatement. Mr. Winski failed to establish to the Court’s satisfaction that he is qualified for reinstatement to active bar membership.