

REINSTATED ATTORNEYS

CHESTER R. LOCKWOOD, JR.

Bar No. 003348; File Nos. 07-1611, 07-1657, 07-1683, 07-1703, 07-2082, 08-0363

Supreme Court No. SB-09-0024-D

By Arizona Supreme Court judgment and order dated Aug. 24, 2009, Chester R. Lockwood, 1618 S. Cedar, Apache Junction, AZ, was reinstated as a member of the State Bar.

SCOTT W. SCHLIEVERT

Bar No. 003188; File No. 07-6016

Supreme Court No. SB-09-0044-R

By Arizona Supreme Court judgment and order dated June 29, 2009, Scott W. Schlievert, 7049 E. Tanque Verde Road, Tucson, AZ, was reinstated as a member of the State Bar. He will be on probation for two years and required to participate in the State Bar's Law Office Management Assistance Program and Member Assistance Program.

SANCTIONED ATTORNEYS

STEVEN A. ADELMAN

Bar No. 018198; File No. 08-1680

Supreme Court No. SB-09-0063-D

By Arizona Supreme Court judgment and order dated June 30, 2009, Steven A. Adelman, One N. Central Ave., Suite 900, Phoenix, AZ, was censured. He shall be placed on probation for one year and required to participate in the State Bar's Law Office Management Assistance Program. He also was assessed the costs and expenses of the disciplinary proceedings.

Mr. Adelman represented a client in a litigation matter and filed an answer and an unverified initial disclosure statement without first consulting with his client. He filed pleadings based on documents and reports in his possession but lacked input from the client. He failed to communicate with the client until approximately one year after the litigation began. Respondent believed he had sent discovery responses to the opposing party. Upon realizing they had not been sent, Respondent backdated the responses, falsified the mailing certificate and sent them to the opposing party. Consequently, responses to discovery requests were submitted 14 months after the due date. The Superior Court judge realized the deception and referred the matter to the State Bar. In addition, depositions were taken without the agreement of the court or the opposing party. Respondent also attempted to obtain discovery about plaintiff's bathroom habits and lack of indoor plumbing, which was inappropriate.

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

Two mitigating factors were found: absence of a prior disciplinary record and full and free disclosure to the disciplinary board or cooperative attitude toward proceedings.

Mr. Adelman violated Rule 42, ARIZ.R.S.C.T., ERs 1.2, 1.3, 1.4, 3.2, 3.4, 4.4 and 8.4(d).

ALAN N. ARIAV

Bar No. 013740; File No. 06-1741

Supreme Court No. SB-09-0056-D

By Arizona Supreme Court judgment and order dated July 23, 2009, Alan N. Ariav, One N. Central Ave., Suite 900, Phoenix, AZ, was suspended for six months and one day. He also was assessed the costs and expenses of the disciplinary proceedings.

Mr. Ariav represented a client in an employment matter, which was settled through mediation. Prior to and during mediation, Mr. Ariav falsely informed the opposing party that his firm had incurred more than \$200,000 in fees. In furtherance of the false statement, Mr. Ariav submitted a confidential mediation statement and fabricated an invoice stating the excessive fee. Mr. Ariav's misrepresentations caused the opposing party to pay fees in excess of what the opposing party otherwise would have paid.

Four aggravating factors were found: dishonest or selfish motive, bad-faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency and substantial experience in the practice of law.

Three mitigating factors were found: absence of a prior disciplinary record, mental disability and remorse.

Mr. Ariav violated Rule 42, ARIZ.R.S.CT., ERs 3.3(a)(1), 4.1(a), 8.4(c) and (d) and 8.1(a).

LES A. BOEGEMANN

Bar No. 023107; File Nos. 08-0606, 08-1155

Supreme Court No. SB-09-0069-D

By Arizona Supreme Court judgment and order dated July 17, 2009, Les A. Boegemann, 688 W. 4th St., Benson, AZ, was censured and assessed the costs and expenses of the disciplinary proceedings.

Mr. Boegemann represented a client in a dissolution. The decree of dissolution awarded the real property to Mr. Boegemann's client, and the client was ordered to pay his ex-wife \$500 a month for the community interest she may have in the real property. Mr. Boegemann later became aware of a disclaimer deed, previously signed by the ex-wife, acknowledging that the real property in question was the sole and separate property of his client. Based on this document, Mr. Boegemann advised his client to discontinue making the monthly payments rather than advising him to request an amended judgment. Mr. Boegemann also sent a letter to the ex-wife informing her that the payments would be discontinued and stating that if the matter was taken to court a suit would be filed against her for unjust enrichment.

One aggravating factor was found: prior disciplinary offenses.

One mitigating factor was found: inexperience in the practice of law.

Mr. Boegemann violated Rule 42, ARIZ.R.S.CT., ER 8.4(a) and (d), and Rule 53(c), ARIZ.R.S.CT.

STEPHEN J. BOYDEN

Bar No. 023598; File Nos. 08-0950, 08-1232, 08-2003

Supreme Court No. SB-09-0067-D

By Arizona Supreme Court judgment and order dated July 24, 2009, Stephen J. Boyden, P.O. Box 587, Kingman, AZ, a suspended member,

was suspended for six months and one day. Upon reinstatement, he shall be placed on probation for two years and required to participate in the State Bar's Member Assistance Program. He also was assessed the costs and expenses of the disciplinary proceedings.

In count one, Mr. Boyden was admitted to the State Bar as a conditional admittee because of his history of substance-abuse problems. Mr. Boyden entered into a therapeutic contract with the State Bar's Member Assistance Program. The terms required that Mr. Boyden abstain from alcohol and mood-altering drugs, submit to random drug testing, participate in support meetings, engage in quarterly evaluations and continue with ongoing treatment for other emotional problems. Mr. Boyden also was required to meet with a practice monitor at least once a month. Mr. Boyden failed to meet with his practice monitor on two occasions because he had been arrested for domestic violence. Consequently, an addendum was added to Mr. Boyden's therapeutic contract with the requirement that he meet with a licensed professional counselor and have progress reports submitted to the State Bar. Mr. Boyden failed to comply with the terms of the original therapeutic contract and the addendum. Mr. Boyden notified the State Bar that he had relocated to Utah and was incarcerated there.

In count two, Mr. Boyden represented a client in a civil matter. Mr. Boyden failed to appear for the final pre-hearing conference due to his incarceration in Utah. Mr. Boyden failed to inform opposing counsel and the court of his situation and consequently his client was sanctioned.

In count three, Mr. Boyden was charged with numerous domestic-violence charges, which were dismissed pursuant to a plea agreement. Mr. Boyden pled guilty to aggravated assault, a class 3 felony, aggravated assault, a class A misdemeanor and attempted domestic violence in the presence of a child, a class B misdemeanor.

Two aggravating factors were found: multiple offenses and illegal conduct.

Two mitigating factors were found: imposition of other penalties or sanctions and inexperience in the

practice of law.

Mr. Boyden violated Rule 32(c)(3), ARIZ.R.S.CT., Rule 42, ARIZ.R.S.CT., ERs 3.2, 3.4 and 8.4(b) and (d), and Rule 53(d), (f), (g) and (h), ARIZ.R.S.CT.

TIM D. COKER

Bar No. 007022; File Nos. 08-0630, 08-1379

Supreme Court No. SB-09-0054-D

By Arizona Supreme Court judgment and order dated July 24, 2009, Timothy D. Coker, 9405 S. Avenida del Yaqui, Guadalupe, 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 Member Assistance Program. He also was assessed the costs and expenses of the disciplinary proceedings.

In count one, Mr. Coker, while representing a client in a bankruptcy matter, entered into a business transaction with his client whereby he agreed to act as her real estate agent for the sale of her home. Mr. Coker failed to inform his client to seek the advice of independent counsel and he did not obtain her informed consent regarding his role in the business transaction. The bankruptcy was dismissed and Mr. Coker did not appeal the dismissal or inform his client that the dismissal effectively terminated the representation. In addition, Mr. Coker loaned his client approximately \$14,000 and, again, failed to inform his client to seek the advice of independent counsel and he did not obtain her informed consent regarding his role in the transaction.

In count two, Mr. Coker was arrested for driving under the influence. A search of his vehicle revealed that Mr. Coker was in possession of narcotics. A direct complaint was filed in Maricopa County Superior Court and Mr. Coker pled guilty to one count of possession of drug paraphernalia, a class 6 undesignated felony. Mr. Coker was placed on probation for one year, fined and ordered into treatment.

Four aggravating factors were found: prior disciplinary offenses, multiple offenses, substantial experience in the practice of law and illegal conduct.

Two mitigating factors were found: full and free disclosure to

disciplinary board or cooperative attitude toward proceedings and imposition of other penalties or sanctions.

Mr. Coker violated Rule 42, ARIZ.R.S.CT., ERs 1.7(a), 1.8(a) and (c), 1.16 and 8.4(b) and (d).

JAMES R. ECKLEY

Bar No. 010854; File Nos. 05-2050, 06-0657, 06-1062, 06-1742, 07-1217

Supreme Court No. SB-09-0082-D

By Arizona Supreme Court judgment and order dated Aug. 24, 2009, James R. Eckley, 3602 E. Campbell, Phoenix, AZ, was censured. He was placed on probation for two years and is required to participate in the State Bar's Law Office Management Assistance Program. He also was assessed the costs and expenses of the disciplinary proceedings.

Mr. Eckley represented clients in cases involving construction defects and owns a company that provides technical assistance to clients with construction defects. In two counts, Mr. Eckley represented clients who had construction defect issues. At some point during the representation, Mr. Eckley's company was hired to perform services for each client regarding the defects. Mr. Eckley failed to inform each client, in writing, that he owned the company and he did not advise them to seek independent counsel regarding his ownership. The State Bar's review of Mr. Eckley's trust account revealed that some advanced fees were not deposited into the trust account, three-way monthly reconciliations were not being performed and Mr. Eckley did not properly instruct or supervise the person responsible for maintaining his client trust account.

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

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

Mr. Eckley violated Rule 42, ARIZ.R.S.CT., ERs 1.8(a) and 5.7, and Rules 43 and 44(a), ARIZ.R.S.CT.

WILLIAM D. HOWELL

Bar No. 020188; File Nos. 08-1184, 08-1378, 08-1517, 08-1725

Supreme Court No. SB-09-0078-D

By Arizona Supreme Court judgment and order dated Aug. 17, 2009, William D. Howell, 7119 E. Shea Blvd., Scottsdale, AZ, a suspended member of the State Bar, was disbarred. He also was assessed the costs and expenses of the disciplinary proceedings.

In count one, Mr. Howell was being sued for various torts, including abuse of process and malicious prosecution. The opposing party, upon learning that Mr. Howell was being suspended, requested information regarding Mr. Howell's malpractice insurance in order to make a claim before the suspension took effect. Mr. Howell failed to provide the insurance information. A court order was issued to compel Mr. Howell to produce the requested information. Mr. Howell failed to comply with the court order and was sanctioned. Mr. Howell failed to timely respond to the State Bar or provide information regarding his malpractice insurance.

In count two, the State Bar was notified that Mr. Howell's trust account was overdrawn and requested an explanation and documents relating to the overdraft. Mr. Howell failed to respond to the State Bar's numerous requests for information regarding the matter.

In count three, Mr. Howell was hired to pursue a wrongful death claim. He failed to provide opposing counsel with a medical records authorization or medical records and failed to respond to discovery after numerous requests. Mr. Howell failed to comply with a court order to provided the medical authorization and consequently, the case was dismissed with prejudice.

In count four, Mr. Howell hired an expert witness and failed to pay for the services rendered. A suit was filed and a judgment was entered against Mr. Howell for the amount owed and a writ of garnishment was served on Mr. Howell's firm. Mr. Howell was ordered to appear for a debtor exam and provide financial documents. Mr. Howell failed to produce the required documents and was ordered to appear at a show cause hearing. Mr. Howell failed to appear at the hearing.

Five aggravating factors were found: prior disciplinary offenses, dishonest or selfish motive, pattern of misconduct, multiple offenses and bad-faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency.

There were no mitigating factors.

Mr. Howell violated Rule 32(c)(3), ARIZ.R.S.CT., Rule 42, ARIZ.R.S.CT., ERs 1.15, 3.2, 3.3, 3.4, 4.1, 4.4, 8.1(b) and 8.4(c) and (d), and Rules 43(a) and (d), 44(b) and 53(c), (d), and (f), ARIZ.R.S.CT.

JEFF C. JACKSON

Bar No. 014486; File Nos. 07-2154, 08-1427, 08-1577, 08-1886, 08-2231, 08-1973, 08-2202, 08-2232

Supreme Court No. SB-09-0079-D

By Arizona Supreme Court judgment and order dated Aug. 18, 2009, Jeff C. Jackson, 2020 E. Iverness Ave., Mesa, AZ, a suspended member of the State Bar, was disbarred. He shall pay restitution and also was assessed the costs and expenses of the disciplinary proceedings.

In all counts, Mr. Jackson failed to provide adequate representation to his clients. Mr. Jackson failed to return telephone calls or otherwise communicate with his clients regarding the status of their matters. Mr. Jackson failed to appear for court proceedings or send anyone on his behalf. Mr. Jackson failed to refund unearned fees and failed to comply with his probation. Mr. Jackson failed to respond to the State Bar's request for information and did not participate in the disciplinary proceedings.

Six aggravating factors were found: prior disciplinary offenses, dishonest or selfish motive, pattern of misconduct, multiple offenses, bad-faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency and substantial experience in the practice of law.

One mitigating factor was found: imposition of other penalties or sanctions.

Mr. Jackson violated Rule 42, ARIZ.R.S.CT., ERs 1.3, 1.4(a)(4), 1.5(a) and (b), 1.15(d), 1.16, 3.2, 3.4(a) and (d), 8.1(b) and 8.4(d), and Rule 53(c), (d) and (f), ARIZ.R.S.CT.

MICHAEL R. KARBER

Bar No. 016230; File Nos. 08-0341, 08-0819, 08-0918, 09-0140

Supreme Court No. SB-09-0074-D

By Arizona Supreme Court judgment and order dated Aug. 18, 2009, Michael R. Karber, 321 E. McKinley St., Tempe, AZ, a suspended member of the State Bar, was suspended for 21 months retroactive to July 28, 2008. Upon reinstatement he will be placed on probation for two years and required to participate in the State Bar's Member Assistance Program. He also was assessed the costs and expenses of the disciplinary proceedings.

In count one, Mr. Karber resigned from the State Bar of Oregon with two disciplinary cases pending against him for driving under the influence. Mr. Karber stated he did not wish to defend against the charges. Mr. Karber thereafter failed to respond to the State Bar's investigation of the matter.

In count two, Mr. Karber appeared in Scottsdale City Court intoxicated on two occasions. The first time, Mr. Karber's intoxication was ascertained before he entered the courtroom and the proceedings began. Mr. Karber subsequently left the courthouse and the matter was continued. The second time, Mr. Karber appeared before the presiding judge intoxicated.

The judge recessed the proceedings and Mr. Karber submitted to a preliminary breath test, which confirmed his intoxication. The matter was rescheduled and Mr. Karber was ordered to appear at a show cause hearing. Mr. Karber failed to appear for the hearing and was held in contempt. Mr. Karber failed to respond to the State Bar's numerous requests for information regarding the matters.

Mr. Karber's conduct in count three is related to the circumstances in count two. Mr. Karber was hired to represent a minor in Scottsdale City Court. Prior to the court appearance, Mr. Karber assured the minor's parent that he was prepared for the hearing. Mr. Karber appeared for the scheduled hearing late and intoxicated and consequently, as stated in count two, the matter was rescheduled. The representation was terminated and Mr. Karber failed to refund any portion of paid fees. A charge was filed with the State Bar and Mr. Karber failed to respond to the numerous attempts to contact him.

In count four, Mr. Karber pled guilty to endangerment and driving under the influence and was incarcerated for six months. Due to his incarceration, Mr. Karber was unable to respond to the State Bar's request for information in counts two and three.

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

Two mitigating factors were found: personal or emotional problems and imposition of other penalties or sanctions.

Mr. Karber violated Rule 42, ARIZ.R.S.CT., ERs 1.3, 1.4, 1.16(d), 8.1(b) and 8.4(b) and (d), and Rule 53(d) and (f), ARIZ.R.S.CT.

JASON J. KELLER

Bar No. 022205; File Nos. 07-1474, 07-1570, 07-1606, 07-1684, 08-0006, 08-0219

Supreme Court No. SB-09-0030-D

By Arizona Supreme Court judgment and order dated June 2, 2009, Jason J. Keller, 4515 S. Lakeshore Dr., Ste. 102, Tempe, AZ, a suspended member of the State Bar, was suspended for three months. Upon reinstatement, he will be placed on probation for two years and required to participate in the State Bar's Member Assistance Program and Law Office Management Assistance Program. He also was assessed the costs and expenses of the disciplinary proceedings.

In count one, Mr. Keller was appointed to represent a client in a criminal matter. The client was in custody and Mr. Keller failed to return numerous telephone calls or to meet with him regarding the status of his case. Mr. Keller failed to personally appear for many court proceedings and had an associate appear on his behalf. At the client's request, the court ordered Mr. Keller's withdrawal as counsel.

In count two, Mr. Keller represented a client

in a criminal matter. He was hired by the client's mother and was paid \$3,500. Mr. Keller failed to provide either party with a written fee agreement. Mr. Keller's client was found guilty and Mr. Keller assured him that a notice of appeal would be filed. Mr. Keller failed to file the notice of appeal by the deadline. The matter went to fee arbitration and Mr. Keller refunded \$500 to his client's mother.

In count three, Mr. Keller was appointed to represent a client at sentencing. Mr. Keller failed to appear at sentencing and the hearing was rescheduled. New counsel was appointed.

In count four, Mr. Keller was hired to represent a client in a criminal matter. He was paid \$3,500 and failed to provide a written receipt or a fee agreement. The client was in custody and Mr. Keller failed to communicate or visit with him regarding the status of his case. Consequently, the representation was terminated.

In count five, Mr. Keller was appointed to represent a client in a criminal matter. Mr. Keller filed a motion to continue the trial then failed to appear at the hearing on the motion. The court ordered Mr. Keller to meet with his client and to appear at the pretrial conference. Mr. Keller failed to comply with the court's order and the pretrial conference was rescheduled. Mr. Keller failed to comply with discovery rules and was sanctioned. An associate appeared on Mr. Keller's behalf at the pretrial conference, and the court ordered Mr. Keller's withdrawal as counsel.

In count six, Mr. Keller was appointed to represent a client in a criminal matter. Associates from Mr. Keller's firm appeared on his behalf for the majority of court proceedings. Mr. Keller personally communicated with his client only one time during the representation. Mr. Keller failed to appear at the sentencing hearing and failed to ensure that an associate would appear on his behalf. Mr. Keller was ordered to appear at a show cause hearing regarding his failure to adequately represent his client and was sanctioned \$2,500.

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

Four mitigating factors were found: personal or emotional problems, full and free disclosure to the disciplinary board or cooperative attitude toward proceedings, inexperience in the practice of law and imposition of other penalties or sanctions.

Mr. Keller violated Rule 42, ARIZ.R.S.CT., ERs 1.1, 1.2(a), 1.3, 1.4, 1.6, 3.2, 3.4(c) and 8.4(d), and Rule 41(c) and (f), ARIZ.R.S.CT.

WILLIAM M. LABUDA

Bar No. 022216; File No. 08-1081
Supreme Court No. SB-09-0085-D

By Arizona Supreme Court judgment and order dated Sept. 2, 2009, William M. Labuda, Jr., 2970 Camino del Rio, Bullhead City, AZ, was censured. He was 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.

Mr. Labuda volunteered to serve on the State Bar's Fee Arbitration Committee and was tasked with appointing and/or serving as an arbitrator in fee disputes. Mr. Labuda was assigned a fee arbitration case and failed to comply with the guidelines by not timely selecting an arbitrator. Mr. Labuda also failed to timely conduct the fee arbitration after appointing himself as arbitrator. After the proceedings took place, Mr. Labuda failed to issue the fee arbitration award and failed to respond to the State Bar's numerous requests regarding the matter.

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

Four mitigating factors were found: absence of a prior disciplinary record, inexperience in the practice of law, mental disability or chemical dependency and remorse.

Mr. Labuda violated Rule 42, ARIZ.R.S.CT., ERs 3.4(c), 8.1 and 8.4(d), and Rule 53(d) and (f), ARIZ.R.S.CT.

RICHARD R. LUFF, JR.

Bar No. 022931; File No. 08-1387
Supreme Court No. SB-09-0086-D

By Arizona Supreme Court judgment and order dated Sept. 2, 2009, Richard R. Luff, Jr., 177 N. Church Ave., Tucson, AZ, was censured. He was placed on probation for six months and required to participate in the State Bar's Law Office Management Assistance Program and Ethics Enhancement Program. He also was assessed the costs and expenses of the disciplinary proceedings.

Mr. Luff was appointed to represent a minor in juvenile delinquency case. Mr. Luff failed to appear at the hearing and was removed from representation. Although he was removed, Mr. Luff met with the minor and then filed an objection to the removal. A hearing was held but Mr. Luff was not reinstated as counsel. Mr. Luff then filed a notice of appearance and motion to vacate adjudication of delinquency and reset trial readiness. The court did not set the notice of appearance for hearing and denied the motion to vacate adjudication of delinquency and reset trial readiness. The court also ordered that Mr. Luff have no contact with the minor without the presence or permission of his new counsel. The minor asked Mr. Luff to visit him and Mr. Luff disobeyed the court order and visited the minor.

There were no aggravating factors.

Three mitigating factors were found: absence of a prior disciplinary record, absence of a dishonest or selfish motive and full and free disclosure to disciplinary board or cooperative attitude toward proceedings.

Mr. Luff violated Rule 42, ARIZ.R.S.CT., ERs 3.4(c) and 8.4(d), and Rule 53(c), ARIZ.R.S.CT.

REX L. MARTIN

Bar No. 002845; File No. 08-1493
Supreme Court No. SB-09-0055-D

By Arizona Supreme Court judgment and order dated July 24, 2009, Rex L. Martin, 2938 Camino Del Rio, Bullhead City, AZ, a suspended member, was disbarred. He shall pay restitution and was assessed the costs and expenses of the disciplinary proceedings.

Mr. Martin was hired to represent a client in a civil matter. Mr. Martin filed the complaint but thereafter failed to respond to opposing counsel's discovery requests. Consequently, a motion for summary judgment was filed and granted along with fees and costs against Mr. Martin's client. Mr. Martin failed to competently represent and communicate with his client regarding the status of her case. Mr. Martin's client was not informed of the dismissal until she sought the information from the court. A complaint was filed with the State Bar and Mr. Martin failed to respond to numerous requests for information, failed to file an answer and did not participate in the disciplinary proceedings.

Three aggravating factors were found: prior disciplinary offenses, pattern of misconduct and bad-faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency.

There were no mitigating factors.

Mr. Martin violated Rule 42, ARIZ.R.S.CT., ERs 1.1, 1.3, 1.4, 8.1(b) and 8.4(d), and Rule 53(f), ARIZ.R.S.CT.

JEFFREY D. MOFFATT

Bar No. 021642; File No. 07-1428
Supreme Court No. SB-09-0089-D

By Arizona Supreme Court judgment and order dated Sept. 14, 2009, Jeffrey D. Moffatt, 43625 N. Sierra Highway, Lancaster, CA, was censured. He was placed on probation for one year and is required to participate in the State Bar's Law Office Management Assistance Program and complete 15 hours of continuing legal education on federal litigation practice. He also was assessed the costs and expenses of the disciplinary proceedings.

Throughout 2006, Mr. Moffatt filed five complaints on behalf of clients in the United States Court of Federal Claims. All of the complaints were dismissed either with or without prejudice. The court found that pleadings failed to meet the basic requirements of the court and the deficiencies were too overwhelming for the complaints to stand. The complaints either lacked jurisdiction, failed to state a claim for which relief could be granted; or contained confusing and unclear facts, incomplete citations and arguments based on conjecture.

One aggravating factor was found: pattern of misconduct.

Two mitigating factors were found: absence of a prior disciplinary record and personal or emotional problems.

Mr. Moffatt violated Rule 42, ARIZ.R.S.CT., ERs 1.1, 1.3, 3.1 and 8.4(d).

CHRISTOPHER L. MAY

Bar No. 022583; File Nos. 08-1179, 08-1339

Supreme Court No. SB-09-0036-D

By Arizona Supreme Court judgment and order dated June 29, 2009, Christopher L. May, 7335 E. 6th Ave., #3, Scottsdale, AZ, a suspended member of the State Bar, was disbarred. He was assessed the costs and expenses of the disciplinary proceedings and shall pay restitution.

While summarily suspended, Mr. May engaged in the unauthorized practice of law. Mr. May was hired by numerous clients and failed to provide competent representation and to diligently represent or communicate with them regarding their matters. Mr. May failed to refund unearned fees and failed to respond or cooperate with the State Bar's investigation.

Seven aggravating factors were found: prior disciplinary offenses, dishonest or selfish motive, pattern of misconduct, bad-faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency, vulnerability of the victims, substantial experience in the practice of law and indifference to making restitution.

There were no mitigating factors.

Mr. May violated Rule 42, ARIZ.R.S.Ct., ERs 1.1, 1.2(a), 1.3, 1.4(a) and (b), 1.5(a) and (b), 1.15(a), (c) and (d), 1.16(d), 3.2, 4.1(a), 4.4(a), 5.5(a) and (b), 8.1(b), 8.4(d), and Rules 31(a)(2)(B), (b) and (c), 32(c)(3), 41(c) and (g), 53(d) and (f) and 72, ARIZ.R.S.Ct.

VICTORIA R. MIRANDA

Bar No. 018511; File No. 08-0407

Supreme Court No. SB-09-0047-D

By Arizona Supreme Court judgment and order dated June 29, 2009, Victoria R. Miranda, 532 E. Lynwood St., Phoenix AZ, was suspended for 90 days effective 30 days from the date of the order. Upon reinstatement she will 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. She also was assessed the costs and expenses of the disciplinary proceedings and shall pay restitution.

Ms. Miranda was paid \$5,000 to represent a client in a dissolution. The client terminated the representation and requested a refund of unearned fees and an accounting. Ms. Miranda failed to refund the full amount of unearned fees and did not provide an accounting until after a complaint was filed with the State Bar.

One aggravating factor was found: prior disciplinary offenses.

Three mitigating factors were found: absence of a dishonest or selfish motive, character or reputation and remoteness of prior offenses.

Ms. Miranda violated Rule 42, ARIZ.R.S.Ct., ERs 1.15 and 1.16(d).

EDWARD C. NESBITT

Bar No. 004473; File No. 08-1236

Supreme Court No. SB-09-0068-D

By Arizona Supreme Court judgment and order dated July 17, 2009, Edward C. Nesbitt, 177 N. Church, Tucson, AZ, was censured and assessed the costs and expenses of the disciplinary proceedings.

Mr. Nesbitt was hired to represent a client in a criminal matter in federal court. The client was convicted and requested that Mr. Nesbitt file an appeal on his behalf. Mr. Nesbitt filed a timely notice of appeal to preserve his clients rights. Thereafter, Mr. Nesbitt failed to follow-up with his client regarding further representation, obtaining substitute counsel or filing a proper notice of withdrawal with the Ninth Circuit. Mr. Nesbitt also ignored repeated orders from the Ninth Circuit regarding the appeal and was ultimately sanctioned by that court.

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

Three mitigating factors were found: absence of a prior disciplinary record, absence of a dishonest or selfish motive and imposition of other penalties or sanctions.

Mr. Nesbitt violated Rule 42, ARIZ.R.S.Ct., ERs 3.4(c) and 8.1, and Rule 53(c), (d), and (f) (1) and (3), ARIZ.R.S.Ct.

ELLIOT J. PESKIND

Bar No. 003096; File Nos. 08-0168, 08-1847

Supreme Court No. SB-09-0080-D

By Arizona Supreme Court judgment and order dated Aug. 21, 2009, Elliot J. Peskind, 16100 N. 71st St., Scottsdale, AZ, was censured, placed on probation for one year and required to participate in the State Bar's Law Office Management Assistance Program and Fee Arbitration Program. He also was assessed the costs and expenses of the disciplinary proceedings.

Mr. Peskind was hired to represent clients in a civil matter at an hourly fee of \$275. Mr. Peskind informed his clients that the fee would be subject to periodic increases. In 2005 and again in 2007, Mr. Peskind increased his hourly fee without providing written notice to his clients prior to the increase taking effect. A complaint was filed with the State Bar. Shortly thereafter, Mr. Peskind's certification as a real estate law specialist was revoked incident to having been censured and placed on probation in another matter. Mr. Peskind failed to timely respond to the State Bar regarding the complaint and when he did, the responses were on letterhead that indicated he was still a certified real estate law specialist. Mr. Peskind committed the above-described violations while still on probation.

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

Five mitigating factors were found: absence of a dishonest or selfish motive, timely good-faith effort to make restitution or to rectify consequences of misconduct, character or reputation, full and free disclosure to disciplinary board or cooperative attitude toward proceed-

ings and remorse.

Mr. Peskind violated Rule 42, ARIZ.R.S.CT., ERs 1.5(b) and 7.4(a), and 53(e) and (f), ARIZ.R.S.CT.

LAURA ANNE VALADE PRICHARD

Bar No. 017069; File No. 07-1808
Supreme Court No. SB-09-0039-D

By Arizona Supreme Court judgment and order dated June 29, 2009, Laura Anne Valade Prichard, 1615 Canada Crescent, Prescott, AZ, was suspended for 30 days and assessed the costs and expenses of the disciplinary proceedings. Ms. Prichard was reinstated as a member of the State Bar on Sept. 10, 2009.

Ms. Prichard engaged in a conflict of interest with a current client by having a consensual romantic relationship with the client. During the relationship, Ms. Prichard drafted estate documents in which she was the named beneficiary at the client's behest.

There were no aggravating factors.

Three mitigating factors were found: absence of a prior disciplinary record, full and free disclosure to disciplinary board or cooperative attitude toward proceedings and delay in disciplinary proceedings.

Ms. Prichard violated Rule 42, ARIZ.R.S.CT., ER 1.7 (pre-2004 version).

TIMOTHY SHIMKO

File No. 08-0760
Supreme Court No. SB-09-0061-D

By Supreme Court judgment and order dated June 23, 2009, Timothy A. Shimko, a non-member of the State Bar, was censured and assessed the cost and expenses of the disciplinary proceedings.

Mr. Shimko, while under the supervision of an Arizona attorney, represented four clients in complaints filed against them regarding the operation of their outpatient rehabilitation facility. Mr. Shimko failed to advise his clients of the potential conflict of interest and did not obtain written waivers. During the course of representation, Mr. Shimko loaned a substantial amount of money to one of the clients without informing or obtaining written consent from the other clients. Mr. Shimko filed a collection suit against his clients, in U.S. District Court, when they stopped paying his fee. During the proceedings, it was revealed that Mr. Shimko had overcharged his clients.

Two aggravating factors were found: selfish or dishonest motive and substantial experience in the practice of law.

Four mitigating factors were found: absence of a prior disciplinary record, timely good-faith effort to make restitution or to rectify consequences of misconduct, full and free disclosure to disciplinary board or cooperative attitude toward proceedings and imposition of other penalties or sanctions.

Mr. Shimko violated Rule 42, ARIZ.R.S.CT., ERs 1.5(a), 1.7, 1.8(a) and (e), 1.13(e) and 8.4(a).

WHITNEY L. SORRELL

Bar No. 019313; File No. 06-0531
Supreme Court No. SB-09-0065-D

By Arizona Supreme Court judgment and order dated June 26, 2009, Whitney L. Sorrell, 6991 E. Camelback Rd., Suite B101, Scottsdale, AZ, was censured. He shall be placed on probation for two years and required to participate in the State Bar's Law Office Management Assistance Program and Trust Account Ethics Enhancement Program. He also was assessed the costs and expenses of the disciplinary proceedings.

The State Bar reviewed Mr. Sorrell's trust account after receiving allegations of mismanagement. The review revealed that Mr. Sorrell maintained an excessive amount of personal funds in the account to pay administrative fees; he converted client funds by loaning money to individual clients when they did not have sufficient funds available in the trust account; he failed to properly supervise his non-lawyer employee; and he failed to maintain his trust account in accordance with the rules and guidelines.

One aggravating factor was found: pattern of misconduct.

Two mitigating factors were found: absence of a prior disciplinary record and absence of dishonest or selfish motive.

Mr. Sorrell violated Rule 42, ARIZ.R.S.CT., ERs 1.8(a) and (e) and 1.15, and Rules 43 and 44, ARIZ.R.S.CT.

VICTORIA M. STEVENS

Bar No. 014060; File Nos. 07-0960, 07-1466, 07-1467, 07-1590, 08-0238, 08-0353, 08-0410, 08-0435, 08-0448, 08-0472, 08-0589, 08-0605, 08-0646, 08-0693, 08-1226, 08-1234, 08-1338, 08-1575
Supreme Court No. SB-09-0041-D

By Arizona Supreme Court judgment and order dated June 29, 2009, Victoria M. Stevens, P.O. Box 25014, Phoenix, AZ, a suspended member of the State Bar, was disbarred. She also was assessed the costs and expenses of the disciplinary proceedings and shall pay restitution in the amount of \$76,400.

Ms. Stevens accepted fees from numerous clients and then failed to perform any legal services on their behalf and failed to refund unearned fees. Ms. Stevens failed to respond or cooperate with the State Bar's investigation and did not participate in the disciplinary proceedings.

Seven aggravating factors were found: dishonest or selfish motive, pattern of misconduct, multiple offenses, bad-faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency, submission of false evidence, false statements, or other deceptive practices during the disciplinary process, refusal to acknowledge wrongful nature of conduct, substantial experience in the practice of law and indifference to

making restitution.

One mitigating factor was found: absence of a prior disciplinary record.

Ms. Stevens violated Rule 42, ARIZ.R.S.Ct., ERs 1.2, 1.3, 1.4, 1.5, 1.15, 1.16(d), 3.3, 8.1(a) and (b), 8.4(c) and (d), and Rules 43, 44, 53(d) and (f), and 72, ARIZ.R.S.Ct.

CHARLES A. STRUBLE

Bar No. 009860; File No. 08-1681
 Supreme Court No. SB-09-0062-D
 By Arizona Supreme Court judgment and order dated June 30, 2009, Charles A. Struble, One N. Central Ave., Suite 900, Phoenix, AZ, was censured. He shall be placed on probation for one year and required to participate in the State Bar's Law Office Management Assistance Program.

He was also assessed the costs and expenses of the disciplinary proceedings.

Together with a senior associate, Mr. Struble represented a client in a litigation matter. Mr. Struble failed to adequately supervise the conduct of the senior associate during the course of representation. The lack of supervision resulted in the answer and an unverified initial disclosure statement being filed in the matter without first consulting with the client. The senior associate filed pleadings based on documents and reports in the senior associate's possession but lacked input from the client. The senior associate failed to communicate with the client until approximately one year after the litigation began. Responses to discovery requests were submitted 14 months after the

due date and depositions were taken without the agreement of the court or the opposing party. Mr. Struble's failure to adequately supervise the senior associate delayed court proceedings and created additional work for the opposing party.

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

Two mitigating factors were found: absence of a prior disciplinary record and full and free disclosure to the disciplinary board or cooperative attitude toward proceedings.

Mr. Struble violated Rule 42, ARIZ.R.S.Ct., ERs 1.2, 1.3, 1.4, 3.2, 5.1(b) and (c)(1) and 8.4(d).

KEVIN B. SWEENEY

Bar No. 011737; File No. 08-1225
 Supreme Court No. SB-09-0066-D

By Arizona Supreme Court judgment and order dated July 9, 2009, Kevin B. Sweeney, 3602 E. Campbell, Suite A, Phoenix, AZ, was censured. He shall be placed on probation for two years and required to participate in the State Bar's Law Office Management Assistance Program. He also was assessed the costs and expenses of the disciplinary proceedings.

Mr. Sweeney engaged in the unauthorized practice of law while summarily suspended for failing to comply with MCLE requirements and failing to pay bar dues. Respondent further failed to respond and cooperate with the State Bar's investigation.

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

One mitigating factor was found: character or reputation.

Mr. Sweeney violated Rule 42, ARIZ.R.S.Ct., ERs 5.5, 8.1 and 8.4, and Rules 31, 42 and 53(f), ARIZ.R.S.Ct.

WILLIAM L. TIFFT

Bar No. 003022; File Nos. 07-0665, 07-1224, 07-2012, 08-0140, 08-0450, 08-0526
 Supreme Court No. SB-09-0045-D

By Supreme Court judgment and order dated June 29, 2009, William L. Tift, 501 Sixth St., Globe, AZ, a suspended member of the State Bar, was disbarred. He also was

assessed the cost and expenses of the disciplinary proceedings and shall pay restitution.

Mr. Tift's disbarment results from his failure to competently represent and adequately communicate with his clients. Mr. Tift failed to provide an accounting of fees and to refund unearned fees. Mr. Tift placed fees in his operating account rather than his trust account and used them before they were earned. Mr. Tift knowingly failed to comply with court orders in two distinct matters. Mr. Tift engaged in a concurrent conflict of interest and failed to act with reasonable diligence and promptness.

Mr. Tift was placed in a diversion program as a result of one complaint and failed to comply with the diversion orders. In another complaint, Mr. Tift failed to respond to the State Bar's request for information, failed to file an answer and did not participate in the disciplinary proceedings.

Six aggravating factors were found: prior disciplinary offenses, dishonest or selfish motive, pattern of misconduct, multiple offenses, bad-faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency and substantial experience in the practice of law.

Three mitigating factors were found: personal or emotional problems, imposition of other penalties or sanctions and remorse.

Mr. Tift violated Rule 42, ARIZ.R.S.Ct., ERs 1.2(a), 1.3, 1.4(a)(4), 1.5(a), 1.7, 1.15(a), 1.16(a)(2) and (d), 3.2, 3.4(a) and (c), 8.1(b), 8.4(a), (c) and (d), and Rules 43, 44 and 53(c), (d), (e) and (f), ARIZ.R.S.Ct.

MICHAEL J. TRULL

Bar No. 015571; File No. 07-0645
 Supreme Court No. SB-09-0077-D

By Arizona Supreme Court judgment and order dated Aug. 18, 2009, Michael J. Trull, 6502 N. Camino Katrina, Tucson, AZ, a suspended member of the State Bar, was suspended for six months retroactive to Mar. 5, 2009. He also was assessed the costs and expenses of the disciplinary proceedings.

Mr. Trull was summarily suspended on June 18, 1998, for failing to comply with mandatory con-

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- ▶ What is a monthly "three-way" reconciliation?
- ▶ Why can't I have overdraft protection on my trust account?
- ▶ I just opened my trust account. Why can't I use the starter checks I have?
- ▶ Who can be a signer on my trust account?
- ▶ What records do I really need to keep for my trust account?
- ▶ What amount of personal funds can I keep in the trust account?
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- ▶ When can I stop keeping my trust account records?

If you call the Trust Account Hotline at (602) 340-7305, Monday through Friday, 8:00 a.m. to 4:30 p.m., a State Bar of Arizona Trust Account Examiner will provide you with this information at no cost.

The Examiner will not give legal advice but will answer your questions so that you are in compliance with Rule 42, ER 1.15(a), Rule 43, and Rule 44 ARIZ.R.S.Ct.

taining legal education requirements. Between June 1, 2004, and May 7, 2007, Mr. Trull continued to practice law and engage in activities consistent with being in-house counsel for a company without informing the company of his status. A complaint was filed and the State Bar contacted Mr. Trull on numerous occasions without response.

Two aggravating factors were found: bad-faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency and substantial experience in the practice of law.

Four mitigating factors were found: absence of a prior disciplinary record, absence of a dishonest or selfish motive, character and reputation and remorse.

Mr. Trull violated Rule 31, ARIZ.R.S.CT., Rule 42, ARIZ.R.S.CT., ERs 5.5(a) and (b) and 8.1(b), and Rule 53(d) and (f), ARIZ.R.S.CT.

RORY L. WHIPPLE

Bar No. 014093; File No. 08-0871
 Supreme Court No. SB-09-0038-D

By Supreme Court judgment and order dated June 29, 2009, Rory L. Whipple, 6040 E. Main St., # 426, Mesa, AZ, was suspended for six months and one day. He was also assessed the cost and expenses of the disciplinary proceedings.

Mr. Whipple was suspended for 30 days on Feb. 12, 2008, and was required to comply with Supreme Court Rule 72(a) and (c) by notifying, by mail, all clients, opposing and adverse counsel and the court of his suspension. Mr. Whipple also was required to file an affidavit with the commission and the court confirming that he had notified all jurisdictions in which he was admitted to practice and the State Bar of his current address. Mr. Whipple filed an affidavit for reinstatement stating that he had complied with the rule when, in fact, he had not. Additionally, Mr. Whipple failed to respond to the State Bar's request

for information regarding his non-compliance.

Three aggravating factors were found: prior disciplinary offenses, submission of false evidence, false statements, or other deceptive practices during the disciplinary process and substantial experience in the practice of law.

There were no mitigating factors.

Mr. Whipple violated Rule 42, ARIZ.R.S.CT., ERs 3.3(a), 3.4(c), 5.3, 8.1(b) and 8.4(c) and (d), and Rules 41(e) and 53(d) and (f), ARIZ.R.S.CT.

RORY L. WHIPPLE

Bar No. 014093; File Nos. 05-1600, 06-0163

Supreme Court No. SB-09-0060-D
 By Arizona Supreme Court judgment and order dated July 24, 2009, Rory L. Whipple, 6040 E. Main St., Mesa, AZ, a suspended member, was suspended for six months and one day. This term of suspension is to be consecutive to

the term of suspension previously imposed in SB-09-0038-D. Upon reinstatement he will be placed on probation for two years. He also was assessed the costs and expenses of the disciplinary proceedings.

Mr. Whipple was suspended for 30 days and placed on probation on Feb. 12, 2008. The terms of probation required Mr. Whipple to participate in the State Bar's Member Assistance Program and Law Office Management Assistance Program. Mr. Whipple failed to comply with the terms of probation and the matter was set for hearing. Mr. Whipple failed to appear for the hearing.

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

There were no mitigating factors.

Mr. Whipple violated Rule 42, ARIZ.R.S.CT., ERs 8.1(b) and 8.4(a), and Rules 53(a), (c), (d) and (e) and 60(a)(5)(c), 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.