

**REINSTATED ATTORNEYS**

**LISA S. FARRINGER**

Bar No. 012135; SBA File No. 11-9014

PDJ No. 2011-9014; Supreme Court No. SB-11-0083-R

By the presiding disciplinary judge's Oct. 27, 2011, order, Lisa S. Farringer of Paradise Valley, Ariz., was reinstated to active membership in the State Bar, effective the date of the order.

**SANCTIONED ATTORNEYS**

**GARVEY M. BIGGERS**

Bar No. 009932; File No. 09-0664

PDJ No. 2011-9034

By a Nov. 8, 2011, order of the presiding disciplinary judge, Garvey M. Biggers, Phoenix, was suspended for six months and upon reinstatement

will be placed on probation for one year. He also was assessed the costs and expenses of the disciplinary proceeding.

Mr. Biggers made loans to another lawyer's clients and advanced funds from his client trust account on behalf of people whom he did not represent and on whose behalf he held no money. He commingled his funds with his client's funds when he improperly retained his attorney's fees in the trust account and when he deposited his paychecks into the trust account. From about October 2000 through about May 2007, Mr. Biggers used his client trust account as a personal account, regularly depositing personal funds, disbursing for personal expenses, and taking cash withdrawals. Mr. Biggers took these actions to protect against random, unnoticed IRS levy attempts upon his personal bank account.

Aggravating factors: selfish motive with regard to the use of the trust account, multiple offenses, and substantial experience in the practice of law.

Mitigating factors: absence of prior discipline and absence of selfish motive.

Mr. Biggers violated Rule 42, ARIZ.R.S.Ct., specifically ERs 1.8(e) 1.15(a) and (b), 8.4(a) Rule 43(a), and former Rule 44(a).

**JEFFREY A. CANCELLA**

Bar No. 020123; File No. PDJ-2011-9040

By the presiding disciplinary judge's order dated Sept. 1, 2011, Jeffrey A. Cancellia of Orange, Calif., received one year of stayed suspension and two years' probation in a reciprocal action from the California Supreme Court.

In the California matter, Mr. Cancellia was sanctioned similarly except that he was also actively suspended from practicing law for the first 90 days of his probation. In addition, he was required to pass the Multistate Professional Responsibility Examination, attend Client Trust Accounting School, take six hours of CLE on law office management and attorney-client relations, and pay disciplinary costs.

In late 2008, Mr. Cancellia, who had his own law practice, entered into agreements with several loan modification companies whereby the companies, which were owned and operated by non-lawyers, would perform much of the work on behalf of the clients who retained Mr. Cancellia. The companies advertised for clients whom they then referred to Mr. Cancellia's law office. He collected the legal fees, deposited them in his account, and paid a portion of them to the loan modification companies.

The disciplinary action involved nine separate clients who had retained Mr. Cancellia. Several of them were informed during the course of the representation that Mr. Cancellia was being replaced by another attorney. A fourth client had paid advance legal fees, in violation of California law.

An aggravating factor was that Mr. Cancellia's clients were harmed by his misconduct.

Mitigating circumstances were that he had no prior discipline history, he had cooperated with the California Bar, and he recognized his wrongdoing. In addition to his sanctions, Mr. Cancilla also agreed to cooperate in any investigation or prosecution involving the loan modification companies.

By partnering with non-lawyers whose activities constituted the practice of law, sharing legal fees with non-lawyers, failing to inform several clients that he was no longer handling their matters, and collecting advance fees from another client, Mr. Cancilla violated California Rules of Professional Conduct 1-310, 1-320(A), and 3-700(A)(2), as well as § 6068(a) of the California Business and Professions Code.

#### **EDWARD D. FITZHUGH**

Bar No.007138; File No. 08-0477

Supreme Court No. SB-11-0075-D

By Arizona Supreme Court judgment and order dated Nov. 18, 2011, Edward D. Fitzhugh, Tempe, was suspended for 30 days effective Dec. 9, 2011. Upon reinstatement, he will be placed on probation for two years. Probation terms will include participating in the State Bar's Law Office Management Assistance program. In addition, Mr. Fitzhugh and his staff shall complete any programs deemed appropriate regarding proper maintenance and administration of his trust account. Mr. Fitzhugh also shall complete any programs on ethics and obligations to clients as deemed appropriate. Mr. Fitzhugh was assessed the costs of the disciplinary proceeding.

In one matter, Mr. Fitzhugh violated various rules regarding his trust account for what was characterized as "sloppy bookkeeping to the extreme." He also failed to timely and completely respond to the State Bar's request for information involving the trust account matters.

In a second case, Mr. Fitzhugh represented a client in a civil lawsuit who was seriously injured in an electrical switchgear explosion. The client was originally represented by other counsel. Mr. Fitzhugh was recruited by the other counsel to assist and provide funding for the lawsuit. Although the parties agreed to split the attorneys' fees, the client did not sign a written fee agreement outlining the division of a fee between lawyers who are not in the same firm.

Later, Mr. Fitzhugh and the other counsel agreed that Mr. Fitzhugh would solely represent the client. Pursuant to the agreement reached, Mr. Fitzhugh paid the other counsel \$340,000. Soon thereafter, Mr. Fitzhugh and the client signed a new fee agreement.

While preparing for the mediation scheduled in the case, Mr. Fitzhugh became aware of possible issues regarding the reassignment of the claim from the worker's compensation carrier. The reassignment was a necessary prerequisite to the client's ability to pursue his personal injury action.

Mr. Fitzhugh then confronted one of the other attorneys regarding the alleged problems with the reassignment. Soon thereafter, Mr. Fitzhugh met with the client and disclosed the potential problem and advised the client he was ethically obligated to disclose the issue to the court.

Mr. Fitzhugh corresponded with the other attorneys stating that he had been deceived about the valid reassignment and threatened to file a malpractice action if they did not return the \$340,000 he had paid. Mr. Fitzhugh further threatened that he would disclose the reassignment issue to the client and to the court in a motion to dismiss. One of the other counsel took the position that he could prove an actual reassignment and it would be inappropriate for Mr. Fitzhugh to divulge any information prematurely to the court that could harm his client. He also requested that Mr. Fitzhugh not disclose the information to the court until he had an opportunity to review the file.

Nonetheless, Mr. Fitzhugh informed opposing defense counsel of the reassignment issue. A few days later, Mr. Fitzhugh likewise informed the judge. The court ordered the other counsel to provide a statement clarifying if there was a valid reassignment and ordered remaining counsel to file a response.

Three days before the other counsel were required to file their statements, Mr. Fitzhugh filed his own declaration concluding that no reassignment existed. The judge referred the case to the State Bar because he was concerned that Mr. Fitzhugh's disclosure was motivated by his desire to recoup the \$340,000 he paid to take over the case. Contrary to Mr. Fitzhugh's position, the judge ultimately ruled a valid reassignment existed.

Aggravating factors: substantial experience in the practice of law, multiple offenses, and refusal to acknowledge the wrongful nature of his conduct. law.

Mitigating factors: absence of prior disciplinary offenses, personal or emotional problems, remorse, and character or reputation.

Mr. Fitzhugh violated Rule 42, ARIZ.R.S.CT., specifically ERs 1.5 (e), 1.6, 1.7, 1.15 (a), 1.15 (b), 5.3 (c) and 8.4(d), and Rules 43 (a) and 43 (d), and Rules 44 (a) and 44 (b), ARIZ.R.S.CT.

#### **KEVIN M. GIBBONS**

Bar No.018362; File No. 09-0879 et al.

PDJ No. 2011-9018

By final judgment and order of the presiding disciplinary judge dated Nov. 1, 2011, Kevin M. Gibbons, Phoenix, was suspended for two years retroactive to June 1, 2011, the date he was placed on interim suspension. During his suspension, Mr. Gibbons either must initiate and participate in mandatory fee arbitration in several cases involving solely fee disputes or have written payment plans with those clients before he can be considered for reinstatement to active

#### **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.

status. Mr. Gibbons also will be assessed the costs of the disciplinary proceeding.

Upon reinstatement, Mr. Gibbons also will be on probation for two years, participating in the State Bar's Law Office Management Assistance program with a practice monitor; the Trust Account Ethics Enhancement Program; and be subject to any additional terms imposed by the disciplinary panel as a result of reinstatement hearings.

In one matter, Mr. Gibbons failed to honor medical liens for several patients after settling their cases. His staff failed to communicate with the doctor's office staff regarding the medical liens. After the bar charge was filed, Mr. Gibbons paid \$3,235.37 of his personal funds to the doctor. The State Bar staff examiner found trust account management and administration issues involving failure to conduct complete monthly three-way reconciliations and failure to properly supervise his non-lawyer staff.

In a second matter, an immigration judge began to notice discrepancies between the information contained in applications for cancellation of removal and bond documents prepared by Mr. Gibbons' firm. Mr. Gibbons signed most of these applications for cancellation of removal and the bond documents. On Feb. 25, 2010, the judge held a master calendar hearing on an alien's application for cancellation of removal that listed a United States citizen child. The application did not contain any information about the child, including name, birth date or birthplace. When the judge questioned Mr. Gibbons, he informed the court that the alien's wife had moved out of state with the child and the alien had no information available to put on the application concerning the child.

On Mar. 8, 2010, another attorney from the Gibbons Law Firm advised the court that the alien could not proceed with his application for cancellation of removal because he did not have a qualifying relative. The attorney advised the court that the alien's wife had a miscarriage. This attorney also informed the court that no qualifying relative existed upon which to base the cancellation application.

From March 2010 until late November 2010, the immigration judge discovered several other cases with similar issues and noted the discrepancies on the record at hearings or in written opinions. In December 2010, a second immigration judge noted similar problems in a case handled by the Gibbons Law Firm. In late January 2011, a third immigration judge noticed similar discrepancies and issued an order to show cause in yet another immigration case.

In early February 2011, an associate with the Gibbons Law Firm prepared motions to withdraw/motions to change relief from cancel-

lation of removal to voluntary departure in several files. Mr. Gibbons signed all of these motions but failed to explain why this relief was no longer available to the aliens.

In March 2011, all three immigration judges sent six referrals to the Executive Office of Immigration Review regarding Mr. Gibbons. These referrals were then forwarded to the State Bar, which also reviewed additional files. The State Bar found that 28 immigration files handled by Mr. Gibbons or the Gibbons Law Firm contained similar issues about the veracity or accuracy of an alien's date of entry or qualifying relative.

Mr. Gibbons and his staff were not diligent in preparing applications for cancellation of removal and did not seek to obtain verification or documentation to support the entry dates or the qualifying relatives until after the applications were filed and they were preparing for an individual hearing. Mr. Gibbons also failed to timely communicate with his clients and inform them that they did not qualify for cancellation of removal and the only relief available to them was voluntary departure. Mr. Gibbons' fees were unearned in part for those cases with inadequate or untimely investigations. Mr. Gibbons and his staff failed to promptly make refunds to clients. Although Mr. Gibbons was required to have made a reasonable inquiry before filing the applications, motions, briefs or other documents, he signed pleadings containing non-meritorious claims.

Mr. Gibbons failed to adequately supervise his non-lawyer and attorney staff. He failed to recognize a systemic problem at his law firm until much later than he should have realized there was a problem; failed to discover that his staff was engaged in the unauthorized practice of law by signing documents that should have been reviewed and signed by an attorney; assisted others to violate the Ethical Rules; engaged in conduct involving dishonesty and misrepresentations; and committed misconduct prejudicial to the administration of justice.

Aggravating factors: prior dis-

ciplinary history, dishonest or selfish motive, multiple offenses, failure to comply with the State Bar's investigation, vulnerable victim, and substantial experience in the practice of law.

Mitigating factor: timely good-faith effort to rectify the consequences of his misconduct.

Mr. Gibbons violated Rule 42, ARIZ.R.S.CT., specifically ERs 1.3, 1.4, 1.5, 1.15, 1.16, 3.1, 3.3 (b), 5.1, 5.3, 5.5, and 8.4 (a), (c) and (d), and Rules 43 (b) (2) (C) and 54 (c), ARIZ.R.S.CT.

#### **MARK W. HECKELE**

Bar No. 027588; File No. 10-1594

PDJ No. 2011-9035

By a Nov. 7, 2011, order of the presiding disciplinary judge, Mark W. Heckeles was reprimanded (formerly known as censure). He also was assessed the costs and expenses of the disciplinary proceeding.

Mr. Heckeles revealed confidential information regarding his client in an Aug. 2, 2010, letter to opposing counsel.

There are no aggravating factors.

Mitigating factors: absence of a prior disciplinary record, full and free disclosure to disciplinary board or cooperative attitude toward proceedings, inexperience in the practice of law, and character or reputation.

Mr. Heckeles violated Rule 42, ARIZ.R.S.CT., specifically ER 1.6(a).

#### **MARK J. A. HUGHES**

Bar No. 015113; File No. 10-1856

PDJ No. PDJ-2011-9056

By judgment and order dated Oct. 27, 2011, the presiding disciplinary judge accepted an agreement for discipline by consent by which Mark J. A. Hughes of Phoenix was suspended for 30 days. Mr. Hughes was assessed \$1,206.12 in costs and expenses of the disciplinary proceeding.

Mr. Hughes represented a client in connection with her divorce. He failed to follow through on promised tasks such as obtaining necessary financial records by subpoena, and obtaining client consent before entering into a stipulated settlement agreement with opposing counsel. He also failed to inform his client

about various events and deadlines in her case, failed to communicate to her in writing the scope of representation and basis or rate of the fee, erroneously deposited advance fees into his business account rather than his trust account, and falsely told the court that his client did not want to attend a hearing when in truth she did not appear at the hearing because he told her she did not have to.

Aggravating factors: prior disciplinary offenses, dishonest or selfish motive, multiple offenses, and substantial experience in the practice of law.

Mitigating factors: full and free disclosure.

Mr. Hughes violated Rule 42, ARIZ.R.S.CT., specifically ERs 1.2, 1.3, 1.4, 1.5(b), 1.15(a), 1.16(a), and 3.3, and Rule 43, ARIZ.R.S.CT.

#### **MICHAEL R. KARBER**

Bar No. 016230; File No. 11-0138

PDJ No. 2011-9071

By judgment and order dated Nov. 7, 2011, the presiding disciplinary judge accepted an agreement for discipline by consent by which Michael R. Karber, Phoenix, was suspended for six months.

Mr. Karber was previously suspended 21 months. He was eligible to request reinstatement on April 28, 2010, but did not do so. On Nov. 3, 2010, an individual involved in several ongoing litigation matters in city and county court hired Mr. Karber as a freelance paralegal. Mr. Karber performed legal research and drafted pleadings and other documents for the individual to review and use in his cases, and provided advice to the individual about procedural matters. Mr. Karber was not supervised by a licensed Arizona attorney while he worked for the individual, and much of Mr. Karber's work constituted the practice of law.

Mr. Karber was found to have violated Rule 31(c), ARIZ.R.S.CT., and Rule 42, specifically ERs 1.5, and 5.5, ARIZ.R.S.CT. Mr. Karber was ordered to pay restitution of \$768 to the individual who hired him and also must pay the State Bar's costs and expenses totaling \$600.

#### **THOMAS H. LEAVELL**

Bar No. 021185; File Nos. 10-1768

PDJ No. 2011-9061

By judgment and order of the presiding disciplinary judge dated Oct. 28, 2011, Thomas H. Leavell, Tempe, was reprimanded. He also was ordered to provide quarterly reports to the State Bar for one year regarding his business relationship with Estate Retirement Planners, LLC, or similar business entity, and was assessed the costs and expenses of the disciplinary proceeding.

Mr. Leavell agreed to provide trust and estate planning documents at a discounted rate to clients of Estate Retirement Planners, a business entity unrelated to Mr. Leavell's law practice. Estate Retirement Planners conducted initial interviews with clients, recorded information on a pre-printed form, entered into a fee agreement with those clients who wished to have estate planning documents prepared, and then sent the pre-printed forms to Mr. Leavell. The clients paid a lump-sum fee to Estate Retirement Planners for the services that it and Mr. Leavell provided, and then Estate Retirement Planners paid Mr. Leavell after he completed the requested estate planning documents. Upon receipt of the pre-printed form from Estate Retirement Planners, Mr. Leavell called the clients to confirm the information he had received, discuss various estate planning documents and the clients' goals and need for estate planning documents, and prepare the desired estate planning documents. Mr. Leavell failed to communicate to his clients the scope of representation and the basis or rate of the fee and expenses for which his clients would be responsible.

Mr. Leavell forwarded the completed estate planning documents to Estate Retirement Planners. Thereafter, an employee at Estate Retirement Planners witnessed and notarized the clients' signatures on the estate planning documents and provided them to the clients. Mr. Leavell did not communicate with the clients or explain the estate planning documents to them after forwarding the completed documents to Estate Retirement

## ETHICS OPINIONS

### Opinion No. 11-03 (December 2011)

A lawyer holding property in which both the client and a third person have an “interest” must account for the property, pay undisputed sums to the proper party, and abide resolution of any disputes. Arizona Rules of Professional Conduct (“ERs”) 1.15(d), (e). ER 1.15(d) requires a lawyer with knowledge of claims against the client to protect those with an “interest” in funds in the lawyer’s control. An “interest” is a matured legal or equitable claim. The ethical rules do not require a claimant’s lawyer to search public records or other sources for medical liens or claims in order to acquire knowledge of an “interest.”

### Opinion No. 11-04 (December 2011)

Subject to the requirement that a law firm’s website address not be false or misleading, the mere use of “.org” by a for-profit law firm does not violate the Arizona Rules of Professional Conduct. Ariz. Ethics Op. 01-05 is modified accordingly.

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

Planners. The clients were told, however, to contact him if they had questions about the documents. Mr. Leavell had no reason to believe that Estate Retirement Planners was engaging in the unauthorized practice of law, had no ownership interest in Estate Retirement Planners or any personal involvement in the day-to-day operation of Estate Retirement Planners, did not supervise anyone who worked for Estate Retirement Planners, and did not direct anyone at Estate Retirement Planners to do anything.

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

Mitigating factors: absence of a prior disciplinary record, full and free disclosure to bar counsel and cooperative attitude toward the proceedings, character or reputation, and remorse.

Mr. Leavell violated Rule 42, ARIZ.R.S.C.T., specifically ERs 1.4, 1.5(b), 1.8(f), ER 5.4(a) and 5.5(a).

### ANTHONY R. LOPEZ

Bar No. 015880

PDJ No. 2011-9041

By order of the presiding disciplinary judge dated Sept. 1, 2011, Anthony R. Lopez, Woodland Hills, Calif., was suspended for nine months in a reciprocal action from Oregon that was itself a reciprocal action from California. The California Supreme Court had imposed a one-year suspension with all but 90 days stayed if Mr. Lopez successfully completed one year of probation.

The discipline proceedings resulted from Mr. Lopez’s mishandling of seven client matters and one advertising infraction. The client matters were primarily personal injury actions. In one case, Mr. Lopez failed to inform his client of a settlement offer and then delayed disbursing the proceeds for a year after his client accepted the settlement offer. In another, he settled a case and deducted his fee without court approval, in violation of California law, and charged an excessive fee he later had to refund to his client. The other five matters involved variations of the misconduct involved in those two situations.

The eighth violation resulted from an advertisement that had aired in Nevada. Translated from Spanish, the ad said that, “If you have had an auto accident, by law you have the right to receive at least \$15,000 for your case,” and recommended that injured parties contact Mr. Lopez’s office.

Mr. Lopez had a prior history of discipline, which is why California imposed a one-year suspension. The Oregon Bar opined to the Oregon Supreme Court that the recommended sanction might be insufficient but that the California probation period, which required Mr. Lopez to take a legal ethics exam and complete courses in law practice management, might be

rehabilitative enough to protect the citizens of Oregon.

The Oregon court tentatively concluded that suspension was the proper sanction in six of the discipline matters but that a reprimand would have been appropriate “if those instances of misconduct stood alone.” Aggravating factors included Mr. Lopez’s prior discipline history, his multiple offenses, his pattern of misconduct, his 20 years of practice in California, and the fact that the Nevada advertisement was aimed at non-English speakers, who are more vulnerable to this sort of misconduct.

The Oregon court also determined that imposition of sanctions in another jurisdiction for the same misconduct was not a mitigating factor because of Mr. Lopez’s repeated miscon-

duct and because an earlier sanction had not deterred him from committing other violations, concluding that a longer actual suspension than California had imposed was appropriate. It suspended him for six months with no time stayed.

By failing to promptly deliver funds to clients and third parties, collecting illegal fees, engaging in conduct prejudicial to the administration of justice, failing to sufficiently explain a matter to permit the client to make an informed decision, failing to provide competent representation, and making claims regarding his services that were likely to create a false or misleading expectation, Mr. Lopez violated Oregon Rules of Professional Conduct 1.4(a), 1.4(b), 1.5, 1.15-1(d), 7.1(a)(2), and 8.4(a)(4).

#### **JEFFREY S. SIIRTOLA**

Bar No. 011717; File Nos. 09-2251, 10-0255, 10-2349, 11-0137, 11-1069, and 11-1642  
 PDJ No. PDJ-2011-9058

By the presiding disciplinary judge's order dated Oct. 26, 2011, Jeffrey S. Siirtola, Sierra Vista, Ariz., was suspended for six months and one day and must participate in fee arbitration with two clients. He also must pay the costs of the discipline matter.

In count one, Mr. Siirtola represented criminal defendants in the Graham County courts for driving under the influence and other related criminal offenses. Mr. Siirtola filed virtually the same motions in each of his cases upon retention. The court routinely found the motions overbroad, premature, boilerplate and not applicable to Graham County. The court also routinely rejected Mr. Siirtola's initial disclosure statement because it failed to give specific notice of the defense's witnesses.

In count two, Mr. Siirtola, in addition to filing the same motions mentioned in count one, referred to the level of the charged crimes in his closing argument after the court ruled it would not tell the jury the level of the offenses. In his closing argument, Mr. Siirtola also insinuated that the prosecutors had overcharged the case because the prosecutor was male and did not understand "female problems." In addition, Mr. Siirtola hinted at the possible penalty facing his client in his closing argument. Mr. Siirtola appealed the matter on behalf of his client and filed his appellate briefs late.

In count three, Mr. Siirtola failed to attend a previously scheduled hearing that caused the hearing to be continued and eventually conducted at a later date.

In count four, Mr. Siirtola falsely argued in motions that the court continued a hearing over the state's objection so that witness interviews could be completed. In actuality, the court continued the hearing because Mr. Siirtola was not present and his coverage attorney was not prepared. Also, Mr. Siirtola made false statements in subsequent motions and at oral argument when he claimed that the assigned prosecutor discriminated against his clients by not extending plea offers, when, in fact, she had made plea offers to Mr. Siirtola's clients in previous cases.

In two additional counts, Mr. Siirtola and clients entered into a fee agreement that called

Mr. Siirtola's fee as "earned by attorney upon receipt" that did not simultaneously advise them that they could nevertheless discharge Mr. Siirtola at any time and may be entitled to a refund of all or part of the fee based upon the value of the representation. He also did not timely provide the clients with accountings that sufficiently explained the time spent on their cases.

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

Mitigating factors: personal or emotional problems and imposition of other penalties or sanctions.

Mr. Siirtola violated Rule 42, ARIZ.R.S.C.T., specifically ERs 1.3, 1.5(d)(3), 1.15(d), 3.1, 3.2, 3.3(a)(1), 3.4(c), and 8.4(d).

#### **PETER STROJNIK**

Bar No. 006464; File No. 10-1223  
 PDJ No. 2011-9044

By order of the presiding disciplinary judge dated Nov. 7, 2011, Peter Strojnik, Phoenix, was suspended for 30 days. Mr. Strojnik will continue on probation that was instituted in File Nos. 09-0314 and 09-1451 for two years from Sept. 20, 2011. Mr. Strojnik also was assessed the costs and expenses of the disciplinary proceeding.

Mr. Strojnik sent a letter to a represented person that had no purpose other than to embarrass, delay or burden him, and resulted in the filing of a motion to remove Mr. Strojnik as counsel and made it necessary for the court to address the issue. He filed a motion to compel and for sanctions and a complaint for declaratory judgment, both of which were frivolous and prejudicial to the administration of justice. His treatment of deponent during deposition was "insulting and shockingly insensitive." Finally, Mr. Strojnik advised his client to not attend an IME, but he failed to advise her that she could be sanctioned for not attending. Her failure to attend the IME resulted in the defendant filing a motion to compel, the IME had to be reset, and his client was ordered to pay the costs incurred by the defense counsel.

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

Mitigating factors: personal or emotional problems, full and free disclosure to disciplinary board or cooperative attitude toward proceedings, and remorse.

Mr. Strojnik violated Rule 42, ARIZ.R.S.C.T., specifically ERs 1.4, 1.7(a), 3.1, 4.2, 4.4(a), and 8.4(d).

#### **DAVID WM. WEST**

Bar No. 001793; File No. 11-0203  
 PDJ No. 2011-9074

By the presiding disciplinary judge's order dated Nov. 8, 2011, David Wm. West, Maricopa, was reprimanded and ordered to pay costs of the discipline matter.

Mr. West represented a client in a guardian and conservatorship matter. Mr. West did not have a

fee agreement or other confirmatory writing that memorialized the scope of the representation and basis or rate of the fee. The petition, which the client completed and Mr. West reviewed, did not list

all of the adult children as the statute requires. In addition, Mr. West and the opposing attorney were both sanctioned by the court for violating Rule 11 regarding their motion practice in the case.

Aggravating factors: prior disciplinary offenses, multiple offenses, and substantial experiences in the practice of law.

Mitigating factors: absence of a dishonest or selfish motive, person-

al or emotional problems, and imposition of other penalties or sanctions.

Mr. West violated Rule 42, ARIZ.R.S.Ct., specifically 1.5(b), 3.1, and 8.4(d).