

## REINSTATED ATTORNEYS

### TROY L. BROWN

Bar No. 016400; File No. 05-0098  
Supreme Court No. SB-07-0011-D  
By Arizona Supreme Court judgment and order dated Dec. 12, 2007, Troy L. Brown, 3133 E. Harvard Ave., Gilbert, AZ 85234, was reinstated as a member of the State Bar.

### STEPHEN M. JOHNSON

Bar No. 015831; File No. 07-6000  
Supreme Court No. SB-07-0149-R  
By Arizona Supreme Court order dated Oct. 30, 2007, Stephen M. Johnson, 1212 E. Osborn Rd., Phoenix, AZ 85014, was reinstated as a member of the State Bar and

placed on probation for two years. The terms of probation include participation in the State Bar's Member Assistance Program, Law Office Management Assistance Program and Trust Account Ethics Enhancement Program.

### VANESSA M. KELLY

Bar No. 013283; File No. 07-6006  
Supreme Court No. SB-07-0175-R  
By Arizona Supreme Court judgment and order dated Nov. 29, 2007, Vanessa M. Kelly, 67 Beaver Ave., Ste. 25, Annandale, NJ 08801, was reinstated as a member of the State Bar and assessed the costs associated with the reinstatement proceedings.

### KELLY C. KNOP

Bar No. 005594; File No. 06-6002  
Supreme Court No. SB-07-0165-R  
By Arizona Supreme Court judgment and order dated Nov. 29, 2007, Kelly C. Knop, 3627 E. Lee St., Apt. A, Tucson, AZ 85716, was reinstated as a member of the State Bar and placed on probation for two years. The terms of probation include participation in the State Bar's Member Assistance Program and the Law Office Management Assistance Program.

### DOUGLAS B. LEVY

Bar No. 016623; File Nos. 04-1845, 05-0148  
Supreme Court No. SB-07-0140-D/R

By Arizona Supreme Court judgment and order dated Jan. 17, 2008, Douglas B. Levy, 283 S. Scott Ave., Tucson, AZ 85701, was reinstated as a member of the State Bar.

### LINDA A. SAUER

Bar No. 016002; File No. 07-6003  
Supreme Court No. SB-07-0179-R  
By Arizona Supreme Court judgment and order dated Nov. 29, 2007, Linda A. Sauer, 533 W. Granada Rd., Phoenix, AZ 85003, was reinstated as a member of the State Bar and assessed the costs associated with the reinstatement proceedings.

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## CLIENT PROTECTION FUND QUARTERLY REPORT

The Client Protection Fund was created by the Board of Governors of the State Bar of Arizona in 1961 as required by a rule of the Supreme Court of Arizona. Its purpose is to promote public confidence in the administration of justice and to preserve the integrity of the legal profession by reimbursing clients who have sustained losses caused by the dishonest conduct of lawyers admitted and licensed to practice in Arizona.

The fund is a nonprofit charitable organization governed by a Declaration of Trust and administered by five volunteer trustees appointed by the Bar's Board of Governors. The fund receives a yearly assessment of \$30 from each active and inactive member of the State Bar (paid with the annual bar dues). In addition, the fund earns interest on its invested fund balance.

More information about the fund is at [www.azbar.org/cpf](http://www.azbar.org/cpf). Or contact the fund administrator at [karen.weigand@staff.azbar.org](mailto:karen.weigand@staff.azbar.org) or by phone: (602) 340-7286, toll free 866-482-9227.

The following is a brief summary of the claims paid in the first quarter of 2008:

### JASON C. BESKIND

Bar No. 017131

(five claims totaling \$7,787.25)

- ▶ The first claimant, who hired Mr. Beskind to enforce a settlement agreement in her divorce case, alleged that Mr. Beskind performed no legal work on her case and failed to inform her that he had been placed on interim suspension by the Supreme Court. Upon investigation, there was no evidence that Mr. Beskind did any work for the claimant. The trustees reimbursed the claimant the full amount of fees paid, which was \$400.
- ▶ The second claimant retained Mr. Beskind to represent her in a traffic matter. The claimant contended that Mr. Beskind performed little or no work on her case. She also alleged that he failed to attend her pretrial conference, which resulted in her receiving penalties and fines. The trustees determined that Mr. Beskind performed such an

insignificant amount of work on the case that the refusal to refund the unearned fees constituted a wrongful taking of money, and reimbursed the claimant the full amount of the fees paid, which was \$1,000.

- ▶ The third claimant hired Mr. Beskind to represent him in a divorce matter. The claimant alleged that Mr. Beskind performed no legal work on his case and that, after he gave Mr. Beskind a retainer, all communication ceased. Upon investigation, the trustees found no evidence that Mr. Beskind did any work for the claimant and reimbursed the claimant the full amount of fees paid, which was \$500.
- ▶ Mr. Beskind was retained to represent the fourth claimant in a criminal matter. The claimant alleged that Mr. Beskind did not attend his arraignment hearing, did not visit or contact him in jail, did not provide a legal services contract, did not

perform legal research, and refused to refund his money upon the claimant's termination of Mr. Beskind's services. The claimant retained new counsel to proceed with his case. The trustees found no evidence that Mr. Beskind did any work for the claimant and reimbursed the claimant the full amount of fees paid, which was \$2,500.

- ▶ The fifth claimant retained Mr. Beskind to represent him in a child-support matter. The claimant gave Mr. Beskind a \$2,000 retainer and later received a billing statement indicating that charges totaling \$263.25 had been incurred. The claimant alleged that, after doing very little work on his case, Mr. Beskind ceased all communication with him. The claimant also stated that he spoke to Mr. Beskind's paralegal, who told him that his retainer would be refunded, but it never was. The claimant retained new counsel to pro-

ceed with his case. Finding that Mr. Beskind did no work for the claimant, other than the work billed for, the trustees reimbursed the claimant \$1,736.75.

- ▶ Mr. Beskind was hired by the sixth claimant to represent him in a traffic matter. The claimant met with him in January 2007 regarding a photo radar ticket and paid him \$2,000 for his representation. The claimant alleged that he failed to appear for his court date and performed little or no work on his case. The claimant also said that Mr. Beskind's phone and fax numbers had been disconnected, making it impossible to contact him. After reviewing the file, including information provided by the claimant's new attorney, the trustees determined that the services Mr. Beskind performed for the claimant were worth \$349.50 and reimbursed the claimant \$1,650.50.

**MATTHEW C. BOWER**  
**Bar No. 020385**  
(two claims totaling \$2,075)

- ▶ Mr. Bower was hired to represent the first claimant in a civil matter. The claimant alleged that Mr. Bower wrote one letter on her behalf and then ceased all communication with her. The claimant retained new counsel to proceed with her case. The trustees determined that Mr. Bower performed such an insignificant amount of work on the case that the refusal to refund the unearned fees constituted a wrongful taking of money and reimbursed the claimant the full amount of the fees paid, which was \$1,075.
- ▶ The second claimant retained Mr. Bower to represent him in a civil matter. The claimant alleged that no action was ever taken by Mr. Bower on his case and that he never had any contact with him after the initial meeting. Upon investigation, there was no evidence that Mr. Bower did any work for the claimant. The trustees reimbursed the claimant the full amount of the fees paid, which was \$1,000.

**ROBERT HORTON GREEN, JR.**  
**Bar No. 015089**  
(\$1,500)

- ▶ The claimant retained Mr. Green to represent him in a

child-support matter. The claimant alleged that Mr. Green was hired to move his child support case to another county and request termination of child support payments. The claimant stated that he never received any letters or phone calls from Mr. Green to indicate any progress on his case. The claimant also stated that he left numerous messages for Mr. Green, both by telephone and with Mr. Green's secretary, but Mr. Green never returned his calls. The trustees determined that Mr. Green performed such an insignificant amount of work on the case that the refusal to refund the unearned fees constituted a wrongful taking of money and reimbursed the claimant's retainer, which was \$1,500.

**DAVID D. RODGERS**  
**Bar No. 014623**  
(two claims totaling \$16,803)

- ▶ The first claimant retained Mr. Rodgers to represent him in arbitration with the National Association of Securities Dealers, Inc. (NASD). The claimant alleged that Mr. Rodgers advised him that he had a strong case for arbitration with the NASD. A short time later, Mr. Rodgers gave the claimant a copy of the Statement of Claim that Mr.

Rodgers said had been filed with the NASD. After much delay regarding the choosing of an arbitrator, Mr. Rodgers informed the claimant that his arbitration had been scheduled. The claimant alleged that all communication with Rodgers then ceased. The claimant consulted another attorney, who checked with the NASD and was told there was no arbitration date set for the claimant and that his claim had been disqualified for "deficiency causes." Upon investigation, there was no evidence that Mr. Rodgers did any work of value for the claimant. The trustees reimbursed the claimant \$11,803.

- ▶ The second claimant hired Mr. Rodgers to file an answer, counterclaim and response to a motion for summary judgment in a civil matter. The claimant stated that Mr. Rodgers failed to deposit his retainer money into a client trust account and failed to perform the requested legal work. The claimant retained new counsel to proceed with his case. Upon investigation, the trustees found no evidence that Mr. Rodgers did any work for the claimant and reimbursed to the claimant the full amount of the fees paid, which was \$5,000.

**JOHN DANIEL ROLPH**  
**Bar No. 021302**  
(two claims totaling \$1,300)

- ▶ The first claimant retained Mr. Rolph to represent her in a divorce matter. The claimant alleged that Mr. Rolph told her that because her husband was in prison for abusing her and her children, her case would be very simple and would cost only \$1,000. The claimant stated that once she gave Mr. Rolph the money, he never performed any work on her case and he never returned any of her phone calls, except one time to request more money, which she declined. Upon investigation, there was no evidence that Mr. Rolph did any work for the claimant. The trustees reimbursed the claimant the full amount of the fees paid, which was \$1,000.
- ▶ The second claimant hired Mr. Rolph to represent her in a civil matter. The claimant alleged that she never received copies of any case documentation. She stated that Mr. Rolph kept in touch with her for approximately two years, but then stopped communicating with her. Upon investigation, there was no evidence that Mr. Rolph did any work for the claimant. The trustees reimbursed the claimant the full amount of the fees paid, which was \$300.

**GAIL M. WERNER-ROBERTSON**

Bar No. 012933; File No. 06-6006  
Supreme Court No. SB-07-0164-R

By Arizona Supreme Court judgment and order dated November 29, 2007, Gail M. Werner-Robertson, 14301 FNB Pkwy., Ste. 115, Omaha, NE, 68154, was reinstated as a member of the State Bar and assessed the costs associated with the reinstatement proceedings.

**DONALD C. ZAVALA, JR.**

Bar No. 016107; File No. 07-6004  
Supreme Court No. SB-07-0186-R

By Arizona Supreme Court judgment and order dated Jan. 8, 2008, Donald C. Zavala, Jr., 125 N. Granite St., Prescott, AZ 86301, was reinstated as a member of the State Bar and placed on probation for two years. The term of probation is participation in the State Bar's Member Assistance Program. He also was assessed of the costs and expenses associated with the reinstatement proceedings.

**SANCTIONED ATTORNEYS**

**JASON C. BESKIND**

Bar No. 017131; File Nos. 06-0934, 05-1566, 06-0836, 06-0431  
Supreme Court No. SB-07-0155-D

By Arizona Supreme Court judgment and order dated Nov. 1, 2007, Jason Beskind, 6991 E. Camelback Rd., Suite B-295, Scottsdale, AZ 85251, was disbarred, ordered to pay restitution in the amount of \$2,500 and assessed the costs and expenses of the disciplinary proceedings.

In Count One, Mr. Beskind was retained to represent a client's son in a criminal proceeding. Mr. Beskind failed to appear for a consultation, failed to provide a written fee agreement, failed to appear at the arraignment and generally failed to communicate with the client's son. Mr. Beskind indicated that he would refund all or part of the fee paid but failed to do so. The State Bar served him with an order of diversion and he did not comply with it. An order of restitution was entered by the court.

In Count Two, Mr. Beskind failed to appear for jury trials on two occasions, failed to timely pay the penalty assessed against him and failed to respond to the State Bar regarding the matter.

In Count Three, Mr. Beskind was retained to advise a client concerning post-decree child support issues. He failed to respond to the client's inquiries, failed to diligently pursue the client's case, failed to perform promised work in a timely manner, billed client for work that was not performed, charged an unreasonable fee for uncompleted work and failed to respond to the State Bar regarding the matter.

Eight aggravating factors were found: dishonest or selfish motive, pattern of misconduct, multiple offenses, bad-faith obstruction of the disciplinary proceeding, submission of false evidence, false statements or other deceptive practices during the disciplinary process, refusal to

acknowledge the wrongful nature of the conduct, substantial experience in the practice of law and indifference to making restitution.

The only mitigating factor was the absence of prior discipline.

Mr. Beskind violated Rule 42, ARIZ.R.S.Ct., ERs 1.2,1.3, 1.4, 1.5 3.4(c), 8.4(d) and Rule 53(d), (e) and (f), ARIZ.R.S.Ct.

**RICARDO A. BRACAMONTE**

Bar No. 014303; File Nos. 06-0484, 06-0722, 06-1261

Supreme Court No. SB-07-0178-D

By Arizona Supreme Court judgment and order dated Nov. 8, 2007, Ricardo A. Bracamonte, 197 E. Fort Lowell Rd., Tucson, AZ 85705, was censured and placed on probation for two years. The terms of the probation include participation in the State Bar's Law Office Management Assistance Program and fee arbitration. He also was assessed the costs and expenses of the disciplinary proceedings.

In Count One, Mr. Bracamonte was retained to represent a client in a personal injury matter on a contingency basis. He failed to memorialize the contingent fee arrangement in writing, failed to file to serve a complaint and summons on the defendants within the time allowed causing the complaint to be dismissed, failed to adequately communicate with his client and failed to adequately supervise his employee.

In Count Two, he represented a client in a child-custody matter. He did not memorialize the terms and scope of representation in writing, failed to provide an accounting of funds expended, failed to raise issues with the court that the client requested, and failed to safekeep the clients property.

In Count Three, Mr. Bracamonte was retained to represent a client in a criminal matter. The written fee agreement stated that the fee would be reduced by \$2,500 if the case did not go to trial. Based on Mr. Bracamonte's advice, the client rejected a plea offer. Shortly before trial, the plea offer was accepted. The case did not go to trial and the client, per the terms of the fee agreement, requested a refund. Mr. Bracamonte refused to refund the fee stating the funds were used for trial preparation after the initial plea rejection. He charged and collected an unreasonable fee from the client, failed to memorialize the scope of representation and the basis or rate of fees and expenses, failed to communicate, in writing, any changes to the basis or rate of fees and failed to safe-guard the client's property.

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

Four mitigating factors were: absence of prior discipline, absence of dishonest or selfish motive, timely good-faith effort to make restitution and full and free disclosure.

**BAR COUNSEL INSIDER**



*Bar Counsel Insider provides practical and important information to State Bar members about ethics and the disciplinary process.*

**Lawyer Advertising**

Law firm and lawyer advertising—both traditional advertising and also the presentation of any information about a lawyer or law firm—has been regulated in Arizona since at least the early 20th century. Although the U.S. Supreme Court determined that lawyer advertisements are commercial speech entitled to some First Amendment protection, the states are permitted to impose certain restrictions. The restrictions and duties imposed on lawyers who advertise in Arizona are found in the Rules of Professional Conduct, in particular Ethical Rules 7.1 through 7.5.

The core principle of these rules is the prohibition on making false or misleading communications: "A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading" (ER 7.1). Furthermore, law firm advertisements may be deemed false or misleading if they create an unjustified expectation about the results a lawyer can achieve, or make unsubstantiated comparisons of legal services (ER 7.1, cmt. 3).

The ERs also include provisions that apply to every type of lawyer advertisement, including small classified advertisements. They must include the name and office address of at least one lawyer or law firm responsible for its content (ER 7.2(c)). Lawyers may not state or imply that they are specialists unless they: (1) are admitted to practice before the U.S. Patent & Trademark Office; (2) practice admiralty law; or (3) are certified by the Arizona Board of Legal Specialization or by a national entity recognized by the board (ER 7.4). Lawyers may not use a firm name, letterhead or other professional designation that is false or misleading (ER 7.5(a)). For example, lawyers may not state or imply they practice in a partnership or other organization unless that is factually accurate (ER 7.5(d)). Therefore, office-sharing lawyers may not use a firm name that indicates they are members of a single firm. In addition, to prevent a misrepresentation regarding a lawyer's ability to practice law in Arizona, advertisements for multijurisdictional firms must indicate the

jurisdictional limitations of any named lawyer (ER 7.5(b)). Finally, lawyers in private practice may not use a trade name (ER 7.5(a)).

An often-overlooked rule addresses the direct solicitation of clients known or believed likely to be in need of legal services for a particular matter. Such solicitations must include the words "Advertising Material" in twice the font size of the body of the communication on the outside envelope, if any, and at the beginning and ending of any recorded or electronic communication, unless the recipient is a lawyer or has a family, close personal or prior professional relationship with the advertising lawyer (ER 7.3(c)). Copies of such direct solicitations must be submitted to the State Bar and the Clerk of the Arizona Supreme Court at time of dissemination (ER 7.3(c)(1)). In addition, written solicitations mailed to such prospective clients must be sent only by regular U.S. mail, and not by registered mail or other forms of restricted delivery (ER 7.3(c)(2)).

Lawyers who choose to advertise must ensure they comply with all the ethical rules, not just those mentioned in this article. Despite the prohibitions and duties affiliated with lawyer advertising, the use of advertisements can increase a law firm's client base and provide beneficial information to the public. Although good taste cannot be regulated, lawyers should be cognizant of the impressions their advertisements have on the public's perception of the legal profession.

Contact the State Bar's Ethics Hotline at (602) 340-7284.

## Your Input Sought

In March 2008, President Dan McAuliffe appointed the State Bar of Arizona **Consumer Information and Education Task Force**.

A statewide, diverse group of lawyers and public members have been asked to examine two issues:

1. What information best serves legal consumers about whether they need counsel, and if they do, how best to educate them regarding what to ask when considering hiring counsel and how to choose responsibly, including a review of best practices for delivery of that information to the public; and
2. Addressing professionalism in lawyers' communications to consumers, including a review of the lawyer advertising rules, and whether proposed rule amendments or comment changes are necessary.

We welcome your comments on either of the Task Force's areas of focus. Contact the Task Force Chair at

[Pamela.Treadwell-Rubin@azbar.org](mailto:Pamela.Treadwell-Rubin@azbar.org).

Mr. Bracamonte violated Rule 42, ARIZ.R.S.CT., ERs 1.2, 1.3, 1.4, 1.5, 1.15, 1.16(d), 3.2, 5.3 and 5.5.

### MARK F. BRINTON

Bar No. 007674; File Nos. 06-0139, 06-0939, 06-1332, 06-2084

Supreme Court No. SB-07-0153-D

By Arizona Supreme Court judgment and order dated Nov. 1, 2007, Mark F. Brinton, 1745 S. Alma School Rd., Ste. 100, Mesa, AZ 85210, was suspended for six months and one day and will be placed on probation for two years upon reinstatement. Mr. Brinton was assessed the costs and expenses of the disciplinary process.

In Count One, Mr. Brinton was retained by clients to represent them in a legal malpractice case. He failed to contest the amount of money the clients owed and the court consequently granted a partial summary judgment. Additionally, prior to submitting the client's affidavit to the court, Mr. Briton removed several paragraphs without the client's knowledge or consent.

In Count Two, while representing a client in an employment lawsuit, he revealed confidential information when he made allegations concerning his clients veracity in his second amended motion to withdraw and when he attached the paper with her signature to it without her consent.

In Count Three, Mr. Brinton failed to comply with the terms of his probation contract.

In Count Four, while already on probation for trust account violations, Mr. Brinton wrote a check against insufficient funds in his trust account and submitted a three-way reconciliation that did not balance.

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

There were no mitigating factors.

Mr. Brinton violated Rule 42, ARIZ.R.S.CT., ERs 1.6, 1.15, 3.3, 8.4(c) and (d), Rules 42, 43, 44 and Rule 53(e).

### THOMAS A. CIFELLI

Bar No. 013794; File No. 06-1428

Supreme Court No. SB-07-0154-D

By Arizona Supreme Court judgment and order dated Nov. 1, 2007, Thomas A. Cifelli, 6903 E. 5th St., P.O. Box 190, Scottsdale, AZ 85252, was suspended for two years and will be placed on probation for two years upon reinstatement. The terms of the probation include participation in the State Bar's Member Assistance Program and any additional terms to be determined at reinstatement. He also was assessed the costs and expenses of the disciplinary proceedings.

Mr. Cifelli was convicted of two counts of Aggravated Driving Under the Influence and sentenced to four months in the Arizona Department of Corrections on each count, to run concurrently, plus two years probation. Mr. Cifelli was notified of an aggravation/mitigation

hearing held on May 10, 2007. He did not appear in person or by counsel at the hearing.

Four aggravating factors were found: pattern of misconduct, bad-faith obstruction by failing to respond to the proceedings, illegal conduct and substantial experience in the practice of law.

One mitigating factor was found: no prior discipline.

Mr. Cifelli violated Rule 42, ARIZ.R.S.CT., ER 8.4(b).

### JERRY L. COCHRAN

Bar No. 004539; File No. 05-2134

Supreme Court No. SB-07-0204-D

By Arizona Supreme Court judgment and order dated Jan. 14, 2008, Jerry L. Cochran, 2999 N. 44th St., Ste. 600, Phoenix, AZ 85018, was censured and placed on probation for two years. The terms of probation are participation in the State Bar's Law Office Management Assistance Program and the Trust Account Ethics Enhancement Program. He also was assessed the costs and expenses of the disciplinary proceedings.

Mr. Cochran was a partner in a law firm that represented various lending entities in creating limited liability companies. The firm also acted as the disbursement agent for loan proceeds. Some of the loan proceeds were held in interest-bearing money market accounts. Mr. Cochran became aware that his partner was embezzling funds from the money market accounts to support a gambling habit. He immediately froze both the firm's trust and money market accounts, reported the matter to local law enforcement, informed the clients, hired forensic accountants to evaluate the loss and reported the incident to the State Bar. The final accounting revealed a loss of \$2,954,000.

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

Three mitigating factors were found: absence of dishonest or selfish motive, timely and good-faith effort to make restitution or to rectify the consequences of misconduct, and full and free disclosure.

Mr. Cochran violated Rule 42, ARIZ.R.S.CT., ERs 5.1 and 1.15, Rules 43 and 44.

### STEVEN D. FLAGGMAN

Bar No. 019463; File No. 07-1908

Supreme Court No. SB-07-0177-D

By Arizona Supreme Court judgment and order dated Jan. 8, 2008, Steven D. Flaggman, 2824 E. Rockwood Dr., Ste. 100, Phoenix, AZ 85050, was placed on interim suspension pursuant to Rule 53(h)(2)(B), ARIZ.R.S.CT.

### JOHN T. FRANKLIN

Bar No. 022163; File No. 07-1848

Supreme Court No. SB-07-0181-D

By Arizona Supreme Court judgment and order dated Jan. 8, 2008, John T. Franklin, P.O. Box 219, 605 W. Main St., Payson, AZ 85547 was



placed on interim suspension until final disposition of all pending proceedings against him, pursuant to Rule 61, ARIZ.R.S.Ct.

**BRIAN M. KEITH**

Bar No. 010950; File No. 06-0775  
Supreme Court No. SB-07-0159-D

By Arizona Supreme Court judgment and order dated Nov. 1, 2007, Brian Keith, P.O. Box 122828, San Diego, CA 92112, a suspended member of the State Bar, was suspended for two years retroactive to May 9, 2006, and will be placed on probation for two years upon reinstatement. The terms and conditions of probation shall be determined at the time of reinstatement. He also was assessed \$1,385.25 for the cost and expenses of the disciplinary proceedings.

Mr. Keith pled guilty to one count of Driving Under the Influence Causing Injury in Placer County, California, and was sentenced to 16 months in state prison on or about May 9, 2006.

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

Four mitigating factors were found: absence of dishonest or selfish motive, full and free disclosure, imposition of other penalties or sanctions and remorse.

Mr. Keith violated Rule 42, ARIZ.R.S.Ct., ER 8.4(b) and Rule 53(h), ARIZ.R.S.Ct.

**KEITH R. LALLISS**

Bar No. 002293; File Nos. 04-1887, 05-1124  
Supreme Court No. SB-07-0072-D

By Supreme Court judgment and order dated Sept. 25, 2007, Keith R. Lalliss, 1837 S. Mesa Dr., Suite C-100, Mesa, AZ 85210, a member of the State Bar, was censured and assessed the costs and expenses of the disciplinary proceedings.

In Count Two, Mr. Lallis received funds from his client for the specific purpose of settling the claim of a third-party creditor. Respondent promptly contacted the creditor but was unable to settle the claim. Mr. Lallis failed to inform the client, for six months, that he was unsuccessful in settling the claim, and failed to return the funds to the client. He also asserted a lien against the money entrusted by the client for the purpose of settling the claim in order to pay for attorney fees in an unrelated matter. No violations were found as to Count One.

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

**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.

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

Mr. Lalliss violated Rule 42, ARIZ.R.S.Ct., ERs 1.15(d) and 1.16(d) and Rule 44(b)(4), ARIZ.R.S.Ct.

**DOUGLAS B. LEVY**

Bar No. 016623; File Nos. 04-1845, 05-1148  
Supreme Court No. SB-07-0140-D

[*Editor's note: See Reinstatement above.*]

By Supreme Court judgment and order dated Oct. 30, 2007, Douglas B. Levy, 283 S. Scott Ave., Tucson, AZ 85701-1405, a member of the State Bar, was suspended for 30 days. He will participate in the State Bar's Ethics Enhancement Program and was assessed the costs and expenses of the disciplinary proceedings.

In Counts One and Two, separate civil litigation matters, Mr. Levy made statements in his pleadings and letters to opposing counsel that included instances of gratuitous name-calling that ranged from merely aggressive to needlessly insulting and demeaning.

In Count One, Mr. Levy intentionally failed to pay a sanction within 15 days, file affidavits of compliance, and self-report to the State Bar as ordered by the court. He also made statements to the judge impugning his intelligence, honesty and ability.

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

Five mitigating factors were found: absence of a prior disciplinary record, absence of a dishonest or selfish motive, full and free disclosure to the disciplinary board or cooperative attitude toward proceedings, character or reputation and imposition of other penalties or sanctions.

Mr. Levy violated Rule 42, ARIZ.R.S.Ct., ER 3.4(c) and Rules 41(c) and (g), and 53(c), ARIZ.R.S.Ct.

**CYNTHIA A. LEYH**

Bar No. 017333; File No. 06-0600  
Supreme Court No. SB-07-0198-D

By Arizona Supreme Court judgment and order dated Jan. 8, 2008, Cynthia A. Leyh, 608 E. Missouri St., Ste. E-3, Phoenix, AZ 85012, was censured and placed on probation until such time that she completes the State Bar's Ethics Enhancement Program, which must be completed within one year. Ms. Leyh also was assessed \$1,285.58, the costs and expenses of the disciplinary proceedings.

Ms. Leyh represented a client on a first-degree murder charge. In the course of representation, she tried to locate significant witnesses. All attempts to locate and serve the witnesses were unsuccessful because they did not want to testify. Upon learning that the witnesses would be present at a social event, Ms. Leyh developed a ruse whereby she created fictitious coupons for a fictitious beer. She attended the

social event, made contact with the witnesses and others present, told them that she represented the marketing company testing the product and would distribute coupons for free beer to all those who signed her "World Tour 2005" sign-up sheet. To detain the witnesses long enough to serve the subpoenas, Ms. Leyh engaged them in conversation by obtaining contact information. Ms. Leyh only informed them of her true identity when she handed the witnesses the subpoenas.

Prior to obtaining contact information, Ms. Leyh did not inform the witness that she was an attorney, that she represented the client and that she needed the their testimony. In the course of representing the client, she knowingly made false statements and statements of material fact to third parties.

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

Four mitigating factors were found: absence of prior discipline, absence of dishonest or selfish motive, timely good-faith effort to make restitution and remorse.

Ms. Leyh violated Rule 42, ARIZ.R.S.Ct., ERs 4.1(a) and 8.4(c).

**LOURDES SALOMON LOPEZ**

Bar No. 018479; File No. 04-2051  
Supreme Court No. SB-07-0139-D

By Arizona Supreme Court judgment and order dated Nov. 29, 2007, Lourdes Salomon Lopez, 318 S. Convent Ave., Tucson, AZ 85701, was disbarred.

Ms. Lopez, while employed as a deputy Pima County attorney, began a relationship with Dr. Bradley Schwartz. Dr. Schwartz was addicted to painkillers and Ms. Lopez helped him illegally acquire large quantities of hydrocodone, a Schedule III controlled substance, some of which she kept for her own personal use. She assisted in the acquisition of the drugs by allowing him to write prescriptions in her name. Respondent knew her conduct was unlawful. The Drug Enforcement Agency (DEA), in connection with its investigation of the Dr. Schwartz, met with Ms. Lopez. During the interview, she lied regarding her relationship with the doctor and the circumstances under which the prescriptions were written. She lied, in part, to shield herself from criminal prosecution. She was told, by DEA, not to discuss the meeting with the doctor because the investigation was ongoing. Within 24 hours, Ms. Lopez informed Dr. Schwartz of the investigation despite knowing that doing so could hinder or obstruct a criminal investigation.

Ms. Lopez was subsequently indicted on two drug-related counts. Ultimately, the conditions of her release and appearance included a requirement of no contact of any kind with Dr. Schwartz. She violated that condition by having regular contact with him. Ms. Lopez pled guilty to one count of conspiracy to obtain a Schedule III controlled substance and one count of

acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception and subterfuge. Her plea agreement maintained all prior conditions, including the no-contact order, with the understanding that if she complied with all the terms and conditions, the indictment would be dismissed. She continued to violate the agreement by maintaining regular contact with Dr. Schwartz.

When she appeared before the federal magistrate for dismissal of the indictment, she knowingly allowed her lawyer and the assistant U.S. attorney to make misrepresentations to the Court regarding her compliance with the plea agreement. Respondent also lied to the State Bar regarding her role in the DEA investigation and her noncompliance with the no contact order.

Six aggravating factors were found: dishonest or selfish motive, pattern of misconduct, multiple offenses, submission of false evidence/statements during the disciplinary process, substantial experience in the practice of law and illegal conduct.

Five mitigating factors were found: absence of prior discipline, personal or emotional problems, character or reputation; interim rehabilitation, imposition of other penalties or sanctions and remorse.

Ms. Lopez violated Rule 42, ARIZ.R.S.CT., ERs 8.4(b), (c) and (d), 3.4(c) and Rule 53(c).

**KATHLEEN D. MASTERS**

Bar No. 005003; File No. 06-1427

Supreme Court No. SB-07-0182-D

By Arizona Supreme Court judgment and order dated Jan. 8, 2008, Kathleen D. Masters, 1520 White Spar Rd., Prescott, AZ 86303, was suspended for two years retroactive to May 30, 2006, and will be placed on probation for two years upon reinstatement. The terms of probation shall be determined at the time of reinstatement and shall include a Member Assistance Program component. She also was assessed the costs and expenses of the disciplinary proceedings.

Ms. Masters pled guilty/no contest to aggravated DUI, a class 4 felony. She was sentenced to four months in the Arizona Department of Corrections and five years intensive probation upon release and ordered to pay substantial fines.

Three aggravating factors were found: prior discipline, substantial experience in the practice of law and illegal conduct.

Four mitigating factors were found: absence of dishonest or selfish motive, cooperative attitude and penalties and fines imposed by the State.

Ms. Masters violated Rule 42, ARIZ.R.S.CT., ER 8.4(b) and Rule 53(h), ARIZ.R.S.CT.

**JAMES G. McELWEE, JR.**

Bar No. 012811; File No. 05-2251

Supreme Court No. SB-07-0144-D

By Supreme Court judgment and order dated

Aug. 14, 2007, James G. McElwee Jr., 1850 N. Central Ave., Suite 2400, Phoenix, AZ 85004-4527, a suspended member of the State Bar, was censured and placed on probation for two years. The terms of the probation include participation in the State Bar's Law Office Management Assistance Program with a practice monitor and the Member Assistance Program. He also was assessed the costs and expenses of the disciplinary proceedings in the amount of \$817.95 with interest at the legal rate.

In a personal injury matter, Mr. McElwee filed a claim that was denied because the statute of limitations had run. He failed to inform the client of the denied claim for three years. He also failed to protect the clients' interest after the claim was denied by failing to inform them of his decision to cease practicing law or return the clients' file upon request.

In 2004 Mr. McElwee was administratively suspended for failing to comply with mandatory continuing education requirements and to date, he remains suspended.

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

Four mitigating factors were found: absence of prior disciplinary record, personal and emotional problems, full and free disclosure to disciplinary board or cooperative attitude toward proceedings and remorse.

Mr. McElwee violated Rule 42, ARIZ.R.S.CT., ERs 1.3, 1.4, 1.16(d) and 8.4(d).

**CHRISTOPHER J. PIEKARSKI**

Bar No. 019251; File No. 06-1654

Supreme Court No. SB-07-0180-D

By Arizona Supreme Court judgment and order dated Nov. 7, 2007, Christopher J. Piekarski, 2942 N 24th St., Ste. 109, Phoenix, AZ 85016, was censured and placed on probation for one year. The term of probation is participation in the State Bar's Law Office Management Assistance Program. Mr. Piekarski also was assessed the costs and expenses of the disciplinary proceedings.

Mr. Piekarski was summarily suspended from May 14, 2004, to June 29, 2004, for failing to comply with the mandatory continuing legal education requirement. During his suspension, he negligently continued to practice law.

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

One mitigating factor was found: full and free disclosure.

Mr. Piekarski violated Rule 31(b), ARIZ.R.S.CT., and Rule 42, ARIZ.R.S.CT., ERs 5.5(a) and 8.4(d).