

from the board — STATE BAR BOARD OF GOVERNORS April Meeting Review

Below are highlights of the April 20, 2001, State Bar Board of Governors meeting. Meetings are held monthly at the Arizona Bar Center in Phoenix.

- ▶ Executive Director Cynthia Zwick summarized the 68th Annual Convention's programs and special events. Staff members were recognized for their contributions to the Convention brochure: Paige De Palo, Sales and Marketing; Carl Bezuidenhout, Art Director; and Karolyn Kiburz, Convention Coordinator.
- ▶ Discipline Committee Chair Ernest Calderón reported that the Committee is fine-tuning the previously established policy for handling complaints filed against staff Bar counsel and/or members of the Board of Governors.
- ▶ Secretary/Treasurer Charles Wirken reviewed the February financial statements with the Board. He reported that the Finance Committee's recommendations regarding long-term fiscal planning, including future dues increases, will be presented at the May Board meeting.
- ▶ Member Services Committee Chair Nicholas Wallwork reported that the Bar's proposed amendment to Rule 33(d) regarding *pro hac vice* admissions has been filed with the Arizona Supreme Court for its consideration and possible circulation for comment.
- ▶ The Board voted to pull from the Consent Agenda two matters. The proposed amendments to the Rules of Arbitration of Fee Disputes were deferred to the May meeting; the Criminal Jury Instructions Committee's proposals were removed for discussion purposes. The remaining items on the Consent Agenda were approved:
 - requested summary suspension of members
 - ADR Section proposal regarding a pro bono mediation program
 - [denial of] member's request for waiver of 2001 Bar dues
 - approval of Board minutes—March 12 Special meeting and March 23 meeting
- ▶ The proposed "burden of proof" criminal jury instruction was reviewed and discussed. The Board ultimately approved all seven proposed instructions submitted by the Criminal Jury Instructions Committee.
- ▶ Nominating Committee Chair Alan Bayham summarized the Committee's efforts to increase the number of nominations for the Annual State Bar Awards. The Board approved sending a communiqué to all members with e-mail addresses encouraging members to nominate colleagues for these awards.
- ▶ Charles Wirken, Chair of the Task Force on the Future of the Profession, was joined by Task Force members Burgess Raby, Maria Hoffman (public member) and Vice Chief Justice Charles Jones. The Board discussed proposed rules regarding

multidisciplinary practices drafted by the Task Force and approved their dissemination to State Bar members for comment. Also directed that the proposal be available through the Bar's Web site with a comment form attached for ease of response.

- ▶ Government Relations Director Ron Johnson summarized the status of proposed legislation that the Board previously had voted to oppose or support.
- ▶ Roger Contreras, President of the Young Lawyers Division (YLD), reported that the Teens Speak Out program will be presented at Cholla High School on April 26 and that the YLD will be assisting county YLD affiliates in their planned Law Week events. In June, YLD officers will be Keri L. Silvyn, President; Phoebe L. McGlynn, Secretary; and Michael K. Dana, Treasurer.
- ▶ Board member Patricia Green facilitated the Board's discussion regarding identification of the Bar's core values.
- ▶ The Board served lunch to staff of the State Bar and Arizona Bar Foundation as a kickoff to Staff Appreciation Week.

COMMITTEE MEMBERS NEEDED

The State Bar Appointments Committee is accepting applications to fill the following upcoming vacancies. Application forms can be downloaded from the Bar's Web site (www.azbar.org – "Appointments Committee News") or obtained by contacting Carrie Sherman at (602) 340-7201 or Suzanne Pease at (520) 623-9944 in the Bar's Tucson Office. The application deadline is Friday, July 27, 2001.

Supreme Court Committee on Character and Fitness

Composition: Eleven members total: Nine members of the State Bar of Arizona and two nonlawyer public members.

Purpose: The Committee is responsible for the investigation and recommendation of applicants for admission to the State Bar of Arizona.

Opening: One appointment will be made by the Arizona Supreme Court to replace a member who is completing his term.

Restrictions/Requirements: Active and judicial members in good standing; experienced attorneys (5+ years) preferred.

Term: Seven years commencing November 1, 2001.

Supreme Court Committee on Examinations

Composition: Nine members of the State Bar of Arizona.

Purpose: The Committee is responsible for the preparation, administration and grading of the required Bar Examinations.

Openings: One appointment will be made by the Arizona Supreme Court to replace a member who is completing his term.

Restrictions/Requirements: Active and judicial members in good standing; experienced attorneys (5+ years) preferred.

Term: Seven years commencing November 1, 2001.

2001 Convention Patrons

The State Bar of Arizona thanks the following individuals and firms who support and have contributed to the 68th Annual Convention.

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**Fifty-Year
 Certificate Recipients**

THE BOARD OF GOVERNORS OF THE STATE BAR OF ARIZONA RECOGNIZES THE FOLLOWING LAWYERS WHO WERE LICENSED IN 1951.

James P. Bartlett	Ralph H. Knight
William T. Birmingham	William G. Lavell
Fred F. Bockmon	Paul R. Madden
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Hon. Earl H. Carroll	James F. McNulty, Jr.
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J. Gordon Cook	John C. Mull
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Norval W. Jasper	Glen D. Webster, Jr.
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William Kimble	Vincent J. Zepp

SANCTIONED ATTORNEYS**TIMOTHY D. EDWARDS**

Bar No. 013207, File Nos. 97-0368 and 97-1385

By Supreme Court Judgment and Order dated February 15, 2001, Timothy D. Edwards, 6050 Sun Valley Parkway, Oregon, WI, was censured for conduct in violation of his duties and obligations as a lawyer, by consent agreement. Mr. Edwards was ordered to pay costs and expenses incurred by the State Bar of \$667.20, together with interest at the legal rate from the date of the judgment.

Mr. Edwards was appointed as criminal counsel. On September 13, 1997, Mr. Edwards was transferred to disability inactive status. While obtaining treatment, respondent missed three scheduled court appearances in Yavapai County Superior Court. Mr. Edwards had failed to adequately communicate with his law partner regarding coverage for these appearances in his absence. Mr. Edwards' failure to appear caused potential harm to his appointed criminal clients. Mr. Edwards was transferred to disability inactive status shortly after missing the court dates.

There were no aggravating factors found pursuant to the ABA Standards for Imposing Lawyer Sanctions, Section 9.22. There were eight mitigating factors found pursuant to Section 9.32 of the ABA Standards: (a) absence of prior disciplinary record, (b) absence of dishonest or selfish motive, (c) personal or emotional problems, (d) timely good faith effort to make restitution or to rectify the consequences of the misconduct, (e) full and free disclosure to disciplinary board or cooperative attitude toward proceeding, (f) inexperience in the practice of law, (i) mental disability or chemical dependency and (l) remorse.

Mr. Edwards' conduct violated Rule 42, ARIZ.R.S.Ct., particularly ER 1.1, ER 3.2 and ER 8.4(d).

DAVID S. FARLEY

Bar No. 015054, File Nos. 98-0839 and 98-2156, SB-00-0088-D

By Supreme Court Judgment and Order dated December 18, 2000, David S. Farley, P.O. Box 512, Walthill, NE 68067, was suspended for three years, retroactive to September 24, 1998, for conduct in violation of his duties and obligations as a lawyer. In addition, Mr. Farley was ordered to pay costs and expenses incurred by the State Bar in the

amount of \$764.33, together with interest at the legal rate.

The Judgment and Order resulted from a consent agreement entered into between Mr. Farley and the State Bar, in which Mr. Farley confirmed that he had pled guilty to attempted aggravated assault (a class 4 felony) and unlawful flight from a pursuing law enforcement vehicle (a class 5 felony). Mr. Farley was sentenced to three years' probation, plus the 200 days he already had served in jail.

The Disciplinary Commission found no aggravating factors as set forth in the ABA Standards for Imposing Lawyer Sanctions but concluded there were six factors in mitigation: (a) absence of a prior disciplinary record, (b) absence of a dishonest or selfish motive, (c) personal or emotional problems, (e) full and free disclosure to disciplinary board or cooperative attitude toward the proceeding, (k) imposition of other penalties or sanctions, and (l) remorse.

Mr. Farley's conduct violated Rule 42, ARIZ.R.S.Ct., particularly ER 8.4(b), and Rule 51(a), ARIZ.R.S.Ct.

ROBERT W. FINN

Bar No. 001121, File No. 97-1248

By Supreme Court Judgment and Order dated February 16, 2001, Robert W. Finn, P.O. Box 30634, Tucson, AZ, was suspended for 30 days effective from the date of the order for conduct in violation of his duties and obligations as a lawyer. Upon reinstatement, Mr. Finn was placed on two years' probation. Mr. Finn was ordered to pay costs and expenses incurred by the State Bar of \$4,928.90, together with interest at the legal rate from the date of the judgment.

The State Bar received a notice from Wells Fargo Bank advising that on January 21, 1997, Mr. Finn's client trust account was overdrawn. The State Bar conducted an investigation, and a hearing was held. It was determined that over a period of seven years, Mr. Finn commingled his personal funds with client funds, placing client funds at risk. Mr. Finn also failed to comply with mandated trust account guidelines. Among other things, Mr. Finn failed to reference client files on checks written from his trust account, failed to record details on client ledger cards needed to provide an audit trail, failed to make all trust account disbursements by prenumbered checks and failed to perform a monthly reconciliation of his trust account

statements. Mr. Finn's conduct violated Rule 42, ARIZ.R.S.Ct., particularly ER 1.15, and Rules 43 and 44, ARIZ.R.S.Ct.

THEODORE E. HANSEN

Bar No. 006359, File No. 01-0020

By Supreme Court Judgment and Order dated February 16, 2001, Theodore E. Hansen, Phoenix, AZ, was placed on interim suspension pursuant to Rule 57(b), ARIZ.R.S.Ct., until the final disposition of all pending proceedings.

THEODORE E. HANSEN

Bar No. 006359, File Nos. 98-1918, 98-1921, 98-1989 and 98-2159

By Supreme Court Judgment and Order dated January 11, 2001, Theodore E. Hansen, 2266 South Dobson, Suite 200, Mesa, AZ, was suspended for 60 days effective from the date of the order for conduct in violations of his duties and obligations as a lawyer. In addition, Mr. Hansen was ordered to pay restitution to four clients in the amount of \$2,279.81. Mr. Hansen also was ordered to pay costs and expenses incurred by the State Bar, together with interest at the legal rate from the date of the judgment.

Mr. Hansen's misconduct arose out of a six-count complaint in which Mr. Hansen neglected his clients' matters and failed to adequately communicate with those clients. Mr. Hansen failed to perform services on behalf of his clients and failed to complete services as promised. Mr. Hansen also, as a normal course of business, deposited unearned client fees into a general operating account and, on occasion, caused the general operating account and the client accounts to reach negative balances. Mr. Hansen further failed to respond to the State Bar's inquiries investigating these matters.

There were two aggravating factors found pursuant to the ABA Standards for Imposing Lawyer Sanctions, Section 9.22: (d) multiple offenses and (i) substantial experience in the practice of law. There were six mitigating factors found pursuant to Section 9.32 of the ABA Standards: (a) absence of prior disciplinary record, (b) absence of selfish or dishonest motive, (d) timely good faith effort to make restitution or to rectify consequences of misconduct, (e) full and free disclosure to disciplinary board or cooperative attitude toward proceeding, (i) mental disability, and (l) remorse.

Mr. Hansen's conduct violated Rule 42,

ARIZ.R.S.Ct., particularly ER 1.3, ER 1.4, ER 1.15(a), ER 1.16, ER 8.1(b), and Rules 43, 44 and 51(h) and (i), ARIZ.R.S.Ct.

KENN M. HANSON

Bar No. 012171, File Nos. 98-1233, 98-1375, 98-1401, 98-1479, 98-1480, 98-1646, 98-1890, 98-2108, 98-2183, 98-2216, 98-2406, 98-2583 and 99-0194

By Supreme Court Judgment and Order dated January 5, 2001, Kenn M. Hanson, 11 West Jefferson, Suite 5, Phoenix, AZ, was censured for conduct in violations of his duties and obligations as a lawyer. Mr. Hanson also was ordered to pay costs and expenses incurred by the State Bar of \$1,989.50, together with interest at the legal rate from the date of the judgment.

Mr. Hanson was employed by a business entity that held itself out as a provider of "mediation services." The business entity also represented itself to the public as a partnership. However, the business entity was owned by a nonlawyer, and the services provided by the business entity constituted the practice of law. The business acquired clients through direct solicitation of named litigants from court records within the State of Arizona.

There was one aggravating factor found pursuant to the ABA Standards for Imposing Lawyer Sanctions, Section 9.22: (d) multiple offenses. There were three mitigating factors found pursuant to Section 9.32 of the ABA Standards: (b) absence of selfish or dishonest motive, (d) timely good faith effort to make restitution or to rectify consequences of misconduct and (l) remorse.

Mr. Hanson's conduct violated Rule 42, ARIZ.R.S.Ct., particularly ER 5.4(a), ER 5.5(b), and ER 7.3(b), (c) and (j).

RONALD E. HUSER

Bar No. 011540, File No. 96-1818

By Supreme Court Judgment and Order dated January 12, 2001, Ronald E. Huser, 13840 Northsight Boulevard, Suite 101, Scottsdale, AZ, was censured and placed on probation for conduct in violation of his duties and obligations as a lawyer. Mr. Huser was ordered to attend the Ethics Enhancement Program within six months of the Order of Probation. Mr. Huser was ordered to pay costs and expenses incurred by the State Bar of \$1,811.40, together with interest at the legal rate from the date of the judgment.

In an insurance defense matter, Mr. Huser negligently entered an appearance and filed

an answer and signed a stipulation on behalf of an insured without the insured's knowledge or consent. Mr. Huser did not have authorization to represent the client and did not have any contact with the client. Mr. Huser later realized his mistake but continued to represent the client as if the case was a contested matter. Mr. Huser failed to withdraw from the case once it was determined the client could not be located and then failed to disclose this information. Mr. Huser also was responsible for the supervision of additional attorneys in this matter. One of the associate attorneys filed a false and misleading disclosure statement after Mr. Huser reviewed and approved the disclosure statement. The other associate attorney appeared for oral argument regarding a motion filed by plaintiff's attorney. Both associate attorneys received informal reprimands for their misconduct.

Mr. Huser's conduct violated Rule 42, ARIZ.R.S.Ct., particularly ER 3.2, ER 3.3, ER 3.4, ER 4.1, ER 4.4, ER 5.1(b) and ER 8.4(c) and (d).

JAMES O. KISTLER

Bar No. 010653, File Nos. 97-0634 and 99-2174

By Supreme Court Judgment and Order dated December 28, 2000, James O. Kistler, 3122 East Claire Drive, Phoenix, AZ 85032, in accordance with a consent agreement, was censured for conduct in violation of his duties and obligations as a lawyer. Mr. Kistler was ordered to be placed on probation for six months upon reinstatement from his administrative suspension for nonpayment of dues, at which time Mr. Kistler is to attend the Ethics Enhancement Program. Mr. Kistler was to pay costs and expenses incurred by the State Bar of \$522.50 with interest at the legal rate from the date of the judgment.

In the first matter, Mr. Kistler's misconduct arose from his continuing to participate in a court proceeding while on administrative suspension by failing to withdraw from the case or advise his client and the court of the suspension.

In the second matter, Mr. Kistler used his old attorney letterhead in correspondence advising another party of a claim being pursued by a friend and tenant of Mr. Kistler without advising the recipient that he was suspended and was not acting as attorney for the client.

There was one aggravating factor found pursuant to the ABA Standards for Imposing

Lawyer Sanctions, Section 9.22: (i) substantial experience in the practice of law. There were five mitigating factors found pursuant to Section 9.32 of the ABA Standards: (a) absence of a prior disciplinary record, (c) personal problems, (e) full and free disclosure to disciplinary board and cooperative attitude toward proceedings, (g) character and reputation and (l) remorse.

Mr. Kistler's conduct violated Rule 42, ARIZ.R.S.CT., particularly ER 5.5, ER 8.1(b) and ER 8.4(d) and Rule 51(e), (h), (i) and (k), ARIZ.R.S.CT.

DANIEL K. LAMONT

Bar No. 008799, File No. 00-0840

By Supreme Court Judgment and Order dated February 2, 2001, Daniel K. Lamont, 433 Valley Street, Willmont, CT, was censured for conduct in violation of his duties and obligations as a lawyer, pursuant to Rule 58(c) for reciprocal discipline. Mr. Lamont was ordered to pay costs and expenses incurred by the State Bar of \$600, together with interest at the legal rate from the date of the judgment.

Mr. Lamont engaged in fraudulent conduct by having his secretary sign deeds as a witness, even though the clients did not sign the deeds in her presence. The client signed the deeds in Mr. Lamont's presence.

Mr. Lamont's conduct violated Rule 42, ARIZ.R.S.CT., particularly ER 8.4(a) and (c).

JULIA L. LEON

Bar No. 013297, File Nos. 98-1291, 99-0080 and 99-0235

By Supreme Court Judgment and Order dated February 16, 2001, Julia L. Leon, 8750 East Speedway, Suite 260, Tucson, AZ, was suspended for four years for violation of her duties and obligations as a lawyer. In addition, Ms. Leon was ordered to pay restitution to two clients in the amount of \$1,250 and to reimburse the Client Protection Fund for any claims the Fund paid. Ms. Leon was ordered to pay costs and expenses incurred by the State Bar of \$3,543.65, together with interest at the legal rate from the date of the judgment.

Count One alleged misconduct commencing in 1995, arising out of the representation of two clients for injuries suffered in an automobile accident. Ms. Leon failed to timely serve the lawsuit against defendant, resulting in a dismissal. Ms. Leon did not advise her clients of the dismissal.

Ultimately, Ms. Leon's law firm was served with a malpractice action arising out of her conduct but, having been served with the complaint therein, failed to defend or even advise her then-law partner of the lawsuit, and a default was entered.

Count Two involved the representation commencing September 27, 1995, of a client in a personal injury accident. Ms. Leon failed to contact the insurance company or file a complaint, and the defendant's insurance company closed the file without payment. Ms. Leon also failed to adequately communicate with her client.

Count Three involved Ms. Leon's behavior in the representation of two clients in an action against Cyprus Mining Corporation. Although Ms. Leon filed a complaint on her clients' behalf, she was dilatory in serving the complaint, which was ultimately removed to federal court and dismissed upon a motion to dismiss for failure to timely serve to which Ms. Leon failed to respond in July 1996. Ms. Leon misled her clients as to the status of their case and specifically falsely told them that their case was set for trial and that there would be a settlement conference that was to occur on October 20, 1998. There is currently a judgment in favor of Ms. Leon's clients against her arising out of a malpractice case in the sum of \$500,000 compensatory damages and \$300,000 punitive damages.

Count Four alleged that Ms. Leon failed to cooperate with the State Bar in its investigation of Counts One through Three.

Count Five involved representation commencing in July 1997 in a probate matter and related property eviction. Ms. Leon was paid but did not do the work for which she was retained. Ms. Leon also failed to communicate with her client or cooperate with the State Bar by failing to respond in writing to the allegations made by the client.

Count Six involved payment to Ms. Leon for representation of a client in July 1997 for investigation of a potential lawsuit. Ms. Leon did little if any work on behalf of her client and failed to communicate with and abandoned her client. Ms. Leon also failed to cooperate with the State Bar in its investigation of the matter.

There were six aggravating factors found pursuant to the ABA Standards for Imposing Lawyer Sanctions, Section 9.22: (c) a pattern of misconduct, (d) multiple offenses, (e) bad faith obstruction of the disciplinary proceed-

ings by intentionally failing to comply with rules and orders of the disciplinary agency, (g) refusal to acknowledge wrongful nature of conduct, (h) vulnerability of victim and (j) indifference to making restitution. Ms. Leon argued two mitigating factors pursuant to Section 9.32 of the ABA Standards: (c) personal or emotional problems and (g) character or reputation. However, as there was no supporting evidence provided, the Hearing Officer and Commission did not give those mitigating factors any weight.

Ms. Leon's conduct violated Rule 42, ARIZ.R.S.CT., particularly ER 1.1, ER 1.3, ER 1.4, ER 1.16(d), ER 8.1(b), ER 8.4 and Rule 51(h) and (i), ARIZ.R.S.CT.

RUBEN J. MARCHOSKY

Bar No. 007297, File No. 00-2013

By Supreme Court Judgment and Order dated February 16, 2001, Ruben J. Marchosky, Phoenix, AZ, was placed on interim suspension pursuant to Rule 57(b), ARIZ.R.S.CT., until the final disposition of all pending proceedings.

BRIAN K. STANLEY

Bar No. 004619, File No. 98-1781

By Supreme Court Judgment and Order dated February 18, 2001, Brian K. Stanley, 2345 East Thomas Road, Suite 300, Phoenix, AZ, was censured for conduct in violation of his duties and obligations as a lawyer. In addition, Mr. Stanley was placed on probation for one year with LOMAP and was ordered to pay costs and expenses incurred by the State Bar of \$2,327.70, together with interest at the legal rate from the date of the judgment.

Mr. Stanley, while in a suspension for nonpayment of bar dues and noncompliance with MCLE requirements, filed pleadings, appeared in court and communicated with opposing counsel. Mr. Stanley then failed to respond to the State Bar's inquiry and cooperate in the investigation of this matter.

There were two aggravating factors found pursuant to the ABA Standards for Imposing Lawyer Sanctions, Section 9.22: (a) prior disciplinary offenses and (e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency. There were two mitigating factors found pursuant to Section 9.32 of the ABA Standards: (b) absence of dishonest or selfish motive and (h) physical illness.

Mr. Stanley's conduct violated Rule 42, ARIZ.R.S.Ct., particularly ER 5.5, ER 8.1(b) and ER 8.4(a), and Rule 51(e) and (h), ARIZ.R.S.Ct.

CRAIG W. TOROSIAN

Bar No. 016799, File No. 98-2470

By Supreme Court Judgment and Order dated February 16, 2001, Craig W. Torosian, whose last address of record is 8520 North 85th Street, Scottsdale, AZ, was suspended for four years effective from the date of the Judgment and Order for conduct in violations of his duties and obligations as a lawyer. Mr. Torosian will be placed on two years' probation with MAP. Mr. Torosian also was ordered to pay costs and expenses incurred by the State Bar of \$3,461.60, together with interest at the legal rate from the date of the judgment.

Mr. Torosian represented his sister in a personal injury matter. Mr. Torosian received a settlement check and subsequently failed to forward the lien monies to the medical provider. Mr. Torosian failed to timely pay the lien provider and converted the lien monies for his own personal use.

There was one aggravating factor found pursuant to the ABA Standards for Imposing Lawyer Sanctions, Section 9.22: (b) dishonest or selfish motive. There were four mitigating factors found pursuant to Section 9.32 of the ABA Standards: (a) absence of prior disciplinary record, (c) personal or emotional problems, (e) full and free disclosure to disciplinary board or cooperative attitude toward proceeding, and (f) inexperience in the practice of law.

Mr. Torosian's conduct violated Rule 42, ARIZ.R.S.Ct., particularly ER 1.15, ER 8.4, and Rules 43 and 44, ARIZ.R.S.Ct.

TIMOTHY J. WITTGES

Bar No. 012945, File Nos. 97-0244 and 98-1644

By Supreme Court Judgment and Order dated February 16, 2001, Timothy J. Wittges, 2425 South 10th Avenue, Tucson, AZ, was suspended for six months and one day effective from the date of the Order. In addition, Mr. Wittges was ordered to reimburse the Client Protection Fund for any claims paid out by the Fund. Mr. Wittges was ordered to pay costs and expenses incurred by the State Bar of \$760.08, together with interest at the legal rate from the date of the judgment.

Mr. Wittges was retained by a client who paid \$375 for the purpose of writing a

demand letter and filing a small claims action. Mr. Wittges did send a letter and file a complaint but thereafter lost track of the case, resulting in the case being dismissed. Mr. Wittges also failed to respond to the client's inquiries and did not return papers to the client. Mr. Wittges has since refunded the fee and paid the client for the damages sustained as a result of his inattention. Mr. Wittges also failed to respond to the State Bar's inquiry into this matter.

There were three aggravating factors found pursuant to the ABA Standards for Imposing Lawyer Sanctions, Section 9.22: (c) pattern of misconduct, (d) multiple offenses

and (e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of the disciplinary agency. There were four mitigating factors found pursuant to Section 9.32 of the ABA Standards: (a) absence of prior disciplinary record, (c) personal or emotional problems, (d) timely good faith effort to make restitution or to rectify consequences of misconduct and (h) physical disability.

Mr. Wittges's conduct violated Rule 42, ARIZ.R.S.Ct., particularly ER 1.2, ER 1.3, ER 1.4, ER 1.16, ER 1.16(d), ER 3.4(c), ER 8.1(b), ER 8.4(d), and Rule 51(h) and (i), ARIZ.R.S.Ct.

ETHICS OPINIONS

Opinion No. 2001-01

January 2001

Attorneys should not enter into county indigent criminal defense contracts that prohibit representation of those contract clients in related civil matters adverse to the county. [ERs 1.8(f), 5.6]

Opinion No. 2001-02

February 2001

When a lawyer learns information during the course of representing an incapacitated person, a vulnerable adult or someone who owes a fiduciary duty to such a person that is required to be reported under A.R.S. § 46-454, the lawyer ethically may disclose the information to authorities. [ERs 1.4, 1.6]

Opinion No. 2001-03

March 2001

Arizona prosecutors have an affirmative duty to search the Arizona Criminal Justice Information System (ACJIS) to ascertain the prior felony convictions of witnesses whom the prosecutor expects to call at trial and to disclose them to defense counsel. Prosecutors may ethically disclose such felony convictions, and the Committee notes that the court records of such convictions are public record matters. Finally, the procedure proposed by the inquiring attorney that puts the burden on the defense attorney to make an appropriate motion to the trial court to obtain ACJIS information regarding felony convictions of prosecution witnesses does not comply with ERs 3.4(c) and 3.8(d). [ERs 3.4(c), 3.8(d)]

Opinion No. 2001-04

March 2001

This Opinion discusses a lawyer's ethical obligations not to use information obtained by a client in a civil case from documents copied from the records of a potentially adverse party that contain privileged or otherwise confidential information without the consent of opposing counsel or court order. The lawyer also must advise the client to refrain from obtaining other privileged documents and notify opposing counsel of the receipt of the information. [ERs 1.2, 1.6, 1.16, 3.4, 4.1, 4.4, 8.4]

Opinion No. 2001-05

March 2001

A law firm domain name does not have to be identical to the firm's actual name but it otherwise must comply with the Rules of Professional Conduct including refraining from being false or misleading, nor may it imply any special competence or unique affiliations unless factually true. A for-profit law firm domain name should not use the top-level domain suffix ".org," nor should it use a domain name that implies that the law firm is affiliated with a particular nonprofit organization or governmental entity. [ERs 7.1, 7.4, 7.5]

Need an Opinion?

Check out the State Bar Web site at www.azbar.org/EthicsOpinions/ for a listing of the ethics opinions issued between 1985 and 2001.

If you are an Arizona attorney and have an ethics question, please contact Lynda Shely, Director of Ethics, at (602) 340-7284.

NEW PEOPLE, NEW PLACES

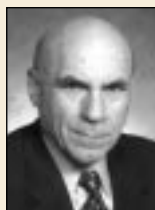
James J. Haas has been appointed the new **Maricopa County Public Defender** following a statewide recruitment process. He earned his law degree at Creighton University School of Law in 1980. He previously worked in private practice and joined the Public Defender's Office in 1990.



James J. Haas

The Phoenix office of **Squire, Sanders & Dempsey LLP** has added six attorneys to its International Real Estate Practice Group. **Scott K. Henderson** and **Matthew R. Hartley** joined the firm as partners. Joining as associates are **Laura K. Graf**, **Kevin W. Goff** and **Christy L. Myers**. **Jonathan T. Brohard** has joined as of counsel with the firm.

Gallagher & Kennedy, Phoenix, has hired trial attorney **Jay Dushoff** as a shareholder in the Eminent Domain/Condemnation Practice Group. Named as associates by the firm are **Anthony Coury**, **Jennifer Houde** and **Winton D. Woods, III**.



Jay Dushoff



Anthony Coury



Jennifer Houde



Winton D. Woods, III

Randall H. Warner has joined the Appellate Practice Group of **Jones, Skelton & Hochuli, PLC**. His practice will emphasize appellate and commercial litigation and administrative proceedings before the Arizona Corporation Commission.

Stephen M. Barkley has joined Anson Lammers, PC, in Tucson. The firm will

now be known as **Anson Lammers & Barkley, PC**.

Jennings, Strouss & Salmon, Phoenix, has named three new partners. **Stephen E. Lee** practices in tax law, as well as general corporate and transactional matters.



Stephen E. Lee

David J. Cantelme practices in construction law, government contracts, procurement, education law and commercial litigation. **Patrick J. Davis** practices in commercial litigation.



David J. Cantelme

The **Healy and Studwell Law Firm** opened new expanded offices at 5210 East Williams Circle, Suite 700, Tucson 85711.



Patrick J. Davis

Greenberg Traurig, Phoenix, has hired **William DeHaan** and **John Overdorff** as partners. **Helen D. Shapiro** joined the firm as Of Counsel, and **Chastity K. Wilson** was hired as an associate. The firm also moved its offices to the newly developed Hines Building at 2375 East Camelback Road, Suite 700, Phoenix 85106.

Intellectual property attorneys **Thomas J. Finn** and **Scott M. Smith** have joined **Snell & Wilmer** as associates in the Phoenix office.



Thomas J. Finn



Scott M. Smith

Brown & Bain, PA, has hired **Charles A. Blanchard** and **Shane R. Swindle** as members. Blanchard previously served as General Counsel of the U.S. Army and held two consecutive terms in the Arizona Senate. Swindle served as a law clerk to Justice Stanley G. Feldman on the Arizona Supreme Court during the 1986–1987 term. In addition, **Avraham Azrieli** has

joined the firm as Of Counsel, and **Suzanne R. Scheiner** and **Geoffrey D. Semro** have joined as associates.

HONORS & AWARDS

Peter James Cahill, of the Globe firm Thompson, Montgomery & Cahill, was named a Fellow of the **American Bar Foundation**, a research center for the study of law, legal institutions and legal processes.

Nicholas Hentoff has been invited to serve as a legal consultant in **Legal Aid of Cambodia's international program** for pro bono lawyers. He will work in Phnom Penh this summer. There, he and other volunteer attorneys will work with Cambodian lawyers in trial preparation and case strategy.

John C. Gemmill, a Director with Sanders & Parks, has been appointed by Gov. Jane Hull as a judge on the **Arizona Court of Appeals**. He received his law degree from the University of Arizona in 1976.



John C. Gemmill

Donald Loose, of Loose, Brown & Associates, PC, was elected to a one-year term as president of **Waste Not, Inc.**, a Phoenix-based nonprofit that serves the Valley's hungry by delivering perishable food from hotels and restaurants to clinics, shelters and halfway houses.



Donald Loose

Helene Fenlon, a shareholder and commercial litigator in Gallagher & Kennedy, Phoenix, has been appointed to serve a four-year term on the **Maricopa County Commission on Trial Court Appointments**, which nominates applicants to the Governor for selection to serve as judges in Maricopa County Superior Court.



Helene Fenlon

Judge Penny Willrich received the Law Award from the **100 Black Men of Phoenix, Inc.**, for her work and leader-

people

ship. She also received the Phenomenal, Phenomenal, Phenomenal Woman award from the **Arizona Association of Women for Change** for her commitment to mentoring young African American women.

Kathryn Nelson was selected as the Outstanding Pro Bono Attorney of the Month for April by the **Volunteer Lawyers Program** in Tucson.



Kathryn Nelson

Nelson practices commercial and corporate finance at Snell & Wilmer LLP.

Nancy White, a partner in the Phoenix office of Steptoe & Johnson LLP, has been named to the Board of Directors of the **Athena Foundation**, dedicated to creating leadership opportunities for women.

Roger N. Morris, a partner at Quarles & Brady Streich Lang, has been elected president-elect of the **American Society of Pharmacy Law**. After his one-year term, he will become president in March 2002.

Thomas J. Salerno of the Phoenix office of Squire, Sanders & Dempsey LLP, has been inducted as a Fellow of the **American College of Bankruptcy**.



Thomas J. Salerno

RECENTLY DECEASED

William A. Arbitman, Scottsdale
Henry Z. Brown, Tucson
Tom R. Clark, Tucson
William W. Don Carlos, Sun City West
John Ellinwood, Tubac
Harold A. Frederick, Phoenix
George M. Hill, Phoenix
Todd R. Iliff, White Bear Lake, MN
Melody Y. McMillen, Sells
Carlton L. Moring, Chandler
Christopher M. O'Connell, Tucson
Thomas C. Pillinger, Mesa
Harry A. Stewart, Phoenix
Kevin T. Tehan, Scottsdale
Hon. Raymond Terlizzi, Tucson
Michael D. Tidwell, Apache Junction