

# bar community

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## from the board

## STATE BAR BOARD OF GOVERNORS

### April Meeting Review

Below are highlights from the April 18, 2002, State Bar Board of Governors meeting. Meetings are held monthly at the Arizona Bar Center in Phoenix.

- ▶ Pro Hac Vice Update—President Nick Wallwork reported that the Supreme Court continued suspension of the rule amendments, and compliance of the old rule is still in effect. This issue will be on the May Board meeting agenda.
- ▶ Attorney General's Office representatives Noreen Sharp and Terri Skladany gave an update on the AG's Life Care Planning Program, which aids senior citizens and their families in making health and financial choices. They reported that the program has been successful.
- ▶ Task Force on Associate Membership for Paralegals and Legal Assistants—Chair Ernest Calderón presented the preliminary report; the final proposal will be presented to the Board at the May meeting.
- ▶ Board Governance Committee—Chair Ed Novak presented to the board members the proposals for change recommended by the committee. The following proposals for change were approved: Nomination Filing Deadline, Teleconferencing Into Board Meeting, Candidate Disclosure Statement, Quorum, Board Meeting Attendance Policy and Election of Board of Officers.
- ▶ The Awards Committee—Chair Alan Bayham presented to the board and the board approved the committee's nominations for the following awards: James A. Walsh Outstanding Jurist Award—Hon. Edward L. Dawson; Award of Special Merit—Dan Cracchiolo; Member of the Year Award—Craig Mehrens/Ted Schmidt; Sharon A. Fullmer Legal Aid Attorney of the Year Award—Sylvia Struss; Award of Appreciation—Bill Scott; Special Award of

Appreciation—Gov. Jane Dee Hull

- ▶ The Board approved the consent agenda subject to the removal of two names as amended on list of summary suspensions for noncompliance with Rule 31 (c)6 & 9 membership fees and Rule 43(b) certificate of compliance; request for summary suspensions for nonpayment of assessed costs in disciplinary proceedings; MCLE suspensions for failure to meet extension deadline for the 00/01 educational year (Rule 45, ARIZ.R.S.Ct.); approval of Mar. 12 Special Board meeting minutes and Mar. 22 Board meeting minutes.
- ▶ Ethical Rules Review Group—Town

Halls are still being held. Comments to the proposed changes to the ethical rules can be made on the State Bar's Web site.

- ▶ Member Services Committee—Chair Pamela Treadwell-Rubin reported that immediately following the board meeting an open forum would be held with section and committee chairs, chairs-elect, YLD President and the President-Elect to help plan the Bar Leadership Institute.
- ▶ Rules Committee—Chair Ernest Calderón reported on Rule 32.4(c), ARIZ.R.CRIM.PRO. The Board voted to take no position on the proposed amendment.

## in memoriam

### Richard McKee

"What a beautiful world." These were the fitting last words uttered by Richard McKee, a man who strived in life to make the world a better place.

Dick McKee, a deputy Pima County attorney, died in 1999 following a fight with leukemia and complications from a bone marrow transplant. He was highly regarded in the legal community. When he became ill, more than 300 people, many Bar members, offered to be bone marrow donors.

Though his life ended in October 1999, his efforts on behalf of the environment and public health were honored recently. This past January, the Pima County Board of Supervisors voted unanimously to rename Finger Rock Trail in the Santa Catalina Mountains. The trail that McKee loved to hike now carries his name.

McKee earned his law degree at the UA Law School. He was a member of the county attorney's Environmental Enforcement Unit. Among other cases, he helped obtain a settlement from asbestos makers that funded rehabilitation of county buildings, and he

helped defend the county's home-rule authority on air- and water-quality issues. He also was conservation chairman of the Sierra Club's Rincon Group.

Richard McKee is survived by his wife, Suzanne Kaplan McKee, an attorney and law clerk to U.S. Magistrate Judge Nancy Fiora.



- ▶ Ed Novak, Board Liaison to the Criminal Practice and Procedure Committee, reported on a request from the committee to change the language in Rule 15.9(b). The Board voted to allow the committee to seek a change in the new rule with the Supreme Court.
- ▶ Leesa Berens Morrison, ABA House of Delegate Representative, encouraged the Board members to attend the August ABA annual meeting in Washington, DC. ▲

## discipline update

### SANCTIONED ATTORNEYS

#### PETER A. NIELSEN

Bar No. 014241; File Nos. 99-0896, 99-0957, 99-1050, 99-1840, 99-1505, 00-0079, 00-0242 and 00-0336

By Supreme Court Judgment and Order dated Nov. 5, 2001, Peter A. Nielsen, 100 West Cushing, Tucson, AZ 85701, was disbarred for conduct in violation of his duties and obligations as a lawyer. Mr. Nielsen ordered was to reimburse the Client Protection Fund for any and all claims paid. Mr. Nielsen also was ordered to pay restitution in the amount of \$9,817.20 to three clients. Mr. Nielsen also was ordered to pay costs and expenses in the amount of \$2,539.71 incurred by the State Bar, together with interest at the legal rate from the date of the judgment.

In the first count, Mr. Nielsen received \$5,817.20 to represent clients in a bankruptcy matter. After it was dismissed, Mr. Nielsen told the clients that he would re-file the bankruptcy petition but failed to do so. Mr. Nielsen also failed to return telephone calls or otherwise communicate with the clients.

In the second count, Mr. Nielsen received \$1,500 to represent a client in a civil matter and \$1,500 to handle an action against the client's former partner. Mr. Nielsen failed to return telephone calls, failed to file a response to a motion for summary judgment, failed to appear at oral argument, failed to advise the client of the court's ruling and failed to provide an accounting.

In the third count, Mr. Nielsen was retained to represent a company in two separate cases. In the first matter, a judgment from justice court was entered against his client. Mr. Nielsen failed to pay necessary fees and failed to inform the client of a hearing. The matter was dismissed and Mr. Nielsen failed to return the \$75 appeal bond to the client. The second matter involved a homeowner's association. Mr. Nielsen failed to file an amended complaint as directed by the

client and the court, performed little work, did not communicate with his client at times and failed to appear at mediation.

In the fourth count, although Mr. Nielsen was summarily suspended for noncompliance with MCLE requirements on Aug. 13, 1999, he appeared in and filed paperwork on a matter. In the seventh count, Mr. Nielsen appeared or filed paperwork in seven matters while suspended.

In the fifth count, Mr. Nielsen was hired to represent a client in a declaratory action filed by an insurance company seeking to determine the proper beneficiaries. The case settled and Mr. Nielsen received three checks. Mr. Nielsen failed to properly maintain the funds in his trust account, failed to promptly deliver funds to his client and two other persons, failed to respond to court orders and was held in contempt and jailed. Mr. Nielsen paid the court-ordered amount of restitution.

In the sixth count, Mr. Nielsen represented a plaintiff client in two separate civil matters. In the first matter, Mr. Nielsen failed to abide by the court's order, failed to file appropriate pleadings, failed to participate in a telephonic scheduling conference and failed to appear at the Order to Show Cause hearing. In the second matter, Mr. Nielsen again failed to abide by the court's orders. The court set an OSC concerning his failure to timely send settlement documents. Mr. Nielsen filed the papers on the day of the OSC. In both matters, Mr. Nielsen failed to respond to opposing counsel and court staff.

In the eighth count, although Mr. Nielsen was suspended, he agreed to represent a client in a post-conviction relief matter. The client's mother paid Mr. Nielsen \$1,000. Thereafter, Mr. Nielsen failed to send a written fee agreement, failed to file a motion and failed to return messages, transcripts and the fee.

Mr. Nielsen also failed to respond to the State Bar's inquiries in each of the eight counts.

There were seven aggravating factors found pursuant to the ABA *Standards for Imposing Lawyer Sanctions*, section 9.22: (b) dishonest or selfish motive, (c) pattern of misconduct, (d) multiple offenses, (e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency, (g) refusal to acknowledge the wrongful nature of the conduct, (h) vulnerability of clients and (j) indifference to making restitution. There were two mitigating factors found pursuant to Section 9.32 of the ABA *Standards*: (a) absence of a prior disciplinary record and

(c) personal or emotional problems.

Mr. Nielsen's conduct violated Rule 42, ARIZ.R.S.CT., particularly ER 1.2, ER 1.3, ER 1.4, ER 1.5, ER 1.15, ER 1.16, ER 3.2, ER 3.4, ER 5.5, ER 8.1 and ER 8.4 and Rules 43, 44 and 51(e), (f), (h), (i) and (k), ARIZ.R.S.CT.

#### **COLE D. SORENSON**

Bar No. 013097; File Nos. 99-1463, 00-0777, 00-0894, 00-0954, 00-1022, 00-1065, 00-1192, 00-1407, 00-1629, 00-1770, 00-1935 and 01-0524

By Supreme Court Judgment and Order dated November 7, 2001, Cole D. Sorenson, whose last known address of record was 1144 East Jefferson, Phoenix, AZ 85034, was suspended for three years by consent, retroactive to September 8, 2000, for conduct in violation of his duties and obligations as a lawyer. Mr. Sorenson also was placed on probation for two years, effective upon reinstatement, including participation in MAP and LOMAP and to maintain malpractice insurance during the term of probation. Mr. Sorenson also was ordered to make restitution to six clients in

the total amount of \$3,478 and was further ordered to reimburse the Client Protection Fund for any and all claims paid. Mr. Sorenson was ordered to pay costs and expenses in the amount of \$1,715.25 incurred by the State Bar, together with interest at the legal rate from the date of judgment.

The complaint contained 12 separate counts filed by both clients and the court, with each case demonstrating that Mr. Sorenson initially took retainers and sometimes performed work, but then discontinued services for his clients and did not communicate with them. The misconduct is essentially the same where Mr. Sorenson did not file pleadings, failed to appear in court, failed to perform services as requested by the client, did not return telephone calls nor was he available for clients to confer with him. In addition, Mr. Sorenson failed to return files upon request of clients and a conservatorship was established.

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 (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, (b) absence of a dishonest or selfish motive, (c) personal or emotional problems, (e) cooperative attitude toward proceedings and (l) remorse.

Mr. Sorenson'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 3.2, ER 3.4, ER 3.4(c), ER 8.1(b) and ER 8.4(d) and Rule 51 (h) and (i), ARIZ.R.S.CT. ▀

#### **CAUTION:**

Nearly 16,000 attorneys are eligible to practice law in Arizona. Many attorneys share the same names. All discipline reports should be read carefully for names, addresses and Bar numbers.

## new people, new places

**Robbins & Green PA** has announced that **Paul G. Johnson** has joined the firm as a senior associate and will practice in the areas of commercial litigation, antitrust, securities litigation, bankruptcy and international law. The firm also announced that **John P. Ager** has become a shareholder. He will continue in his tort litigation practice emphasizing accident injury cases, medical negligence claims and insurance coverage disputes.

**Dennis M. Newcombe** has joined **Sender Associates, Chartered**, as land planning specialist and will assist the firm in zoning and land use matters.



**BARKEL**



**MLACHAK**

**Lewis and Roca** announced that **Ed Barkel** has joined the firm's business section as Of Counsel. He will manage the securities and broker-dealer multidisciplinary practice. The firm also announced that **Ivan Mlachak** has joined the intellectual property and technology practice group as Of Counsel and will focus on intellectual property law, emphasizing patent law.

**Greenberg Traurig LLP** announced that **Michael Kaplan** has been elected as a new shareholder. He is a member of the Corporate & Securities Department and represents clients in public offerings,



**KAPLAN**

mergers and acquisitions, venture capital and general corporate matters.

**Sacks Tierney PA** announced that three new attorneys have joined the firm. **Tina M. Ezzell** will practice in commercial transactions, employment law and litigation. **Patty A. Ferguson** will concentrate in corporate

and Indian and tribal relations law. **Tabatha A. La Voie** will focus her practice in corporate and securities law, international law and software licensing.



**COLLINS**



**COHEN**

**Jones Skelton & Hochuli PLC** announced the election of two partners. **Jefferson T. Collins** practices in the areas of rental car liability, premises liability, insurance coverage and insurance bad faith defense. **David S. Cohen** practices in medical malpractice defense, elder abuse defense, personal injury defense and litigation.

**Eliot L. Kaplan** has joined **Squire Sanders & Dempsey LLP** as a tax partner with the corporate and real estate practice group. Kaplan will concentrate on international, federal, state and local tax issues, real estate transactions, and mergers and acquisitions.

**Mohr Hackett Pederson Blakley & Randolph PC** has announced that **Abbie S. Goldfarb** has joined the firm as an associate. The firm also announced that **Robert P. Solliday**, **Carolyn R. Matthews** and **Daniel P. Kiley** have become shareholders.



**PEARCE**

**Michael J. Pearce** has joined the Phoenix office of **Fennemore Craig** and will focus his practice on interstate water negotiations and disputes, compliance with the Endangered Species Act, Colorado River issues, western water law and related natural resource counseling.

**Sean P. Healy** and **John J. Leshinski** have joined the Phoenix office of **Bowman and Brooke LLP** as associates. They will assist the firm's practice in complex civil litigation. ▀

**CORRECTION:**

The May People column contained an error. **Frank S. Tomkins** became a member of the firm after being at **Gust Rosenfeld PLC** for just two years. He practices in real estate, title insurance, corporate and commercial law.