

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A MEMBER OF THE
STATE BAR OF ARIZONA,

WALID A. ZARIFI,
Bar No. 024079

Respondent.

PDJ 2023-9001

*AMENDED FINAL JUDGMENT
AND ORDER*

(State Bar File Nos. 21-1677, 21-
2305, 22-2623, 23-0148, 23-0442)

FILED JUNE 2, 2023

The Presiding Disciplinary Judge having accepted an Agreement for Discipline by Consent pursuant to Rule 57(a), Ariz. R. Sup. Ct.,

IT IS ORDERED that Walid A. Zarifi, Bar No. 024079, is suspended for six months and one day, effective 60 days from May 31, 2023, for his conduct in violation of the Arizona Rules of Professional Conduct and Rules of the Supreme Court of Arizona, as outlined in the consent documents.

IT IS FURTHER ORDERED that, if Respondent is reinstated, he shall be placed on probation for two years with the following terms, at a minimum, as well as any additional terms that may be imposed by the hearing panel that considers his reinstatement application:

1. LOMAP (full assessment): Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258 within 10 days of reinstatement to schedule an initial Law Office Management Assistance Program (LOMAP) assessment meeting. Respondent shall then participate in the LOMAP assessment and shall complete all follow-up deemed necessary by LOMAP, including any needed

follow-up meetings throughout the period of participation. Respondent shall sign terms and conditions of participation, including reporting requirements. Respondent is responsible for any costs associated with LOMAP.

2. LRO MAP: Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258 within 10 days of his reinstatement. The Compliance Monitor shall develop terms and conditions of participation if the results of the assessment so indicate and the terms, including reporting requirements. Respondent is responsible for any costs associated with participation and compliance.
3. CLE: In addition to annual MCLE requirements, Respondent shall complete the following CLE programs within 90 days of reinstatement: (1) Candor, Courtesy & Confidences: Common Courtroom Conundrums; (2) 10 Deadly Sins of Conflicts; (3) Braving the Storm: Dealing with Opposing Counsel and the Court; (4) Ethics Café: ER 3.1 – Meritorious Claims and Contentions; (5) Ethics Café: ER 3.3 – Candor Toward the Tribunal; (6) Ethics Café Series: ER 3.4 – Fairness to Opposing Party and Counsel; and (7) 17 Tips to Help the Way Toward the Ethical, Professional and Enjoyable Practice of Law. Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the programs by providing a copy of (a) his handwritten notes; or (b) typed or electronic notes, accompanied by a declaration, statement or affidavit that complies with Civil Rule 80(c), and which states he personally typed the notes while viewing the CLE programs. Respondent should contact the Compliance

Monitor at 602-340-7258 to arrange to submit this evidence. Respondent is responsible for the cost of the CLE.

4. Respondent shall commit no further violations of the Rules of Professional Conduct or Rules of the Supreme Court of Arizona.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200.00 within 30 days of May 31, 2023. There are no costs or expenses incurred by the office of the Presiding Disciplinary Judge in these proceedings.

DATED this 2nd day of June, 2023.

Margaret H. Downie
Margaret H. Downie
Presiding Disciplinary Judge

Copy of the foregoing e-mailed
this 2nd day of June, 2023, to:

Walid A. Zarifi
waz@greenbriarlaw.com

Craig D. Henley
LRO@staff.azbar.org

by: SHunt

BEFORE THE PRESIDING DISCIPLINARY JUDGE

**IN THE MATTER OF A MEMBER OF THE
STATE BAR OF ARIZONA,**

**WALID A. ZARIFI,
Bar No. 024079**

Respondent.

PDJ 2023-9001

FINAL JUDGMENT AND ORDER

(State Bar File Nos. 21-1677, 21-
2305, 22-2623, 23-0148, 23-0442)

FILED MAY 31, 2023

The Presiding Disciplinary Judge having accepted an Agreement for Discipline by Consent pursuant to Rule 57(a), Ariz. R. Sup. Ct.,

IT IS ORDERED that Walid A. Zarifi, Bar No. 024079, is suspended for six months and one day for his conduct in violation of the Arizona Rules of Professional Conduct and Rules of the Supreme Court of Arizona, as outlined in the consent documents.

IT IS FURTHER ORDERED that, if Respondent is reinstated, he shall be placed on probation for two years with the following terms, at a minimum, as well as any additional terms that may be imposed by the hearing panel that considers his reinstatement application:

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sign terms and conditions of participation, including reporting requirements. Respondent is responsible for any costs associated with LOMAP.

2. LRO MAP: Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258 within 10 days of his reinstatement. The Compliance Monitor shall develop terms and conditions of participation if the results of the assessment so indicate and the terms, including reporting requirements. Respondent is responsible for any costs associated with participation and compliance.
3. CLE: In addition to annual MCLE requirements, Respondent shall complete the following CLE programs within 90 days of reinstatement: (1) Candor, Courtesy & Confidences: Common Courtroom Conundrums; (2) 10 Deadly Sins of Conflicts; (3) Braving the Storm: Dealing with Opposing Counsel and the Court; (4) Ethics Café: ER 3.1 – Meritorious Claims and Contentions; (5) Ethics Café: ER 3.3 – Candor Toward the Tribunal; (6) Ethics Café Series: ER 3.4 – Fairness to Opposing Party and Counsel; and (7) 17 Tips to Help the Way Toward the Ethical, Professional and Enjoyable Practice of Law. Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the programs by providing a copy of (a) his handwritten notes; or (b) typed or electronic notes, accompanied by a declaration, statement or affidavit that complies with Civil Rule 80(c), and which states he personally typed the notes while viewing the CLE programs. Respondent should contact the Compliance Monitor at 602-340-7258 to arrange to submit this evidence. Respondent is responsible for the cost of the CLE.

4. Respondent shall commit no further violations of the Rules of Professional Conduct or Rules of the Supreme Court of Arizona.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200.00 within 30 days. There are no costs or expenses incurred by the office of the Presiding Disciplinary Judge in these proceedings.

DATED this 31st day of May, 2023.

Margaret H. Downie
Margaret H. Downie
Presiding Disciplinary Judge

COPY of the foregoing e-mailed
this 31st day of May, 2023, to:

Walid A. Zarifi
waz@greenbriarlaw.com

Craig D. Henley
LRO@staff.azbar.org

by: SHunt

BEFORE THE PRESIDING DISCIPLINARY JUDGE

**IN THE MATTER OF A MEMBER OF THE
STATE BAR OF ARIZONA,**

**WALID A. ZARIFI,
Bar No. 024079**

Respondent.

PDJ 2023-9001

**ORDER ACCEPTING
AGREEMENT FOR DISCIPLINE
BY CONSENT**

(State Bar File Nos. 21-1677, 21-
2305, 22-2623, 23-0148, 23-0442)

FILED MAY 31, 2023

On May 16, 2023, the parties filed an Agreement for Discipline by Consent (“Agreement”) pursuant to Rule 57(a), Ariz. R. Sup. Ct. The State Bar of Arizona is represented by Senior Bar Counsel Craig D. Henley. Respondent Walid A. Zarifi is self-represented. The Agreement resolves a two-count formal complaint filed on January 3, 2023, as well as three State Bar screening matters.

Contingent on approval of the proposed form of discipline, Mr. Zarifi has voluntarily waived his right to an adjudicatory hearing, as well as all motions, defenses, objections, or requests that could be asserted. As required by Rule 53(b)(3), Ariz. R. Sup. Ct., notice of the Agreement was sent to the complainants. The PDJ has been provided with objections lodged by Blair Olsen (SB23-0148) and Sam Scamardo (SB21-2305).

The Agreement details a factual basis in support of Mr. Zarifi’s conditional admissions and is incorporated by reference. *See* Rule 57(a)(4), Ariz. R. Sup. Ct. Mr. Zarifi conditionally admits violating the following rules:

- SB21-1677: ER 1.3, ER 1.4, ER 1.16(d), and ER 8.4(d).
- SB21-2305: ER 1.3, ER 1.4, ER 1.5, ER 1.16(d), ER 3.2, ER 8.4(c) and (d).

- SB22-2623 and SB 23-0148: ER 1.3, ER.1.4, ER 1.7, ER 8.4(a), ER 1.8(a) and (e), ER 1.16(d), ER 3.3(a)(1), ER 3.4(b) and (c), ER 4.1, ER 4.4(a), ER 8.4(c) and (d), and Rule 54(c).
- SB 23-0422: ER 1.3, ER 1.4, ER 1.16(d), ER 3.1, ER 3.2, and ER 8.4(d).

As a sanction, the parties agree to a suspension of six months and one day, probation with specified terms if Mr. Zarifi is reinstated, and payment of costs to the State Bar.

The Agreement describes in detail the facts supporting the ethical violations in each matter, which are not repeated herein. “When an attorney faces discipline for multiple charges of misconduct, the most serious charge serves as the baseline for the punishment. We assign the less serious charges aggravating weight.” *In re Moak*, 205 Ariz. 351, 353 (2003) (citations omitted). Although all of the identified misconduct is serious, the PDJ considers the most egregious violations to be those involving dishonesty toward the client in SB21-2305 and the advice he gave to the client in SB23-0148 to make misrepresentations to the court. Among other things, Mr. Zarifi counseled that client to “either fake an illness or injury day one [of trial] . . . or you better fucking show up.” Mr. Zarifi also repeatedly failed to respond to multiple clients’ reasonable requests for information or to comply with the duties imposed by ER 1.16 when his representation was terminated.

Sanctions imposed against lawyers “shall be determined in accordance with the American Bar Association’s *Standards for Imposing Lawyer Sanctions*” (“ABA Standards”).

Rule 58(k), Ariz. R. Sup. Ct. In determining an appropriate sanction, the PDJ considers the duty violated, the lawyer's mental state, the actual or potential injury caused by the misconduct, and the existence of aggravating and mitigating factors.

The parties rely on ABA Standards 4.32, 4.42, 4.62, 6.22, and 7.2 - all of which call for suspension as the presumptive sanction. They agree that Mr. Zarifi violated duties owed to clients, the profession, the legal system, and the public. In terms of his mental state, the Agreement states:

Respondent knowingly engaged in the . . . misconduct supporting the violations of ERs 1.5, 1.7, 1.8, 1.16(d), 3.1, 3.2, 3.4, 4.4, 8.4(c) and Rule 54(c), Ariz. R. Sup. Ct. Respondent negligently engaged in . . . misconduct supporting the violations of ERs 1.3, 1.4, and 8.4(d).

The parties agree there was "both actual and potential harm to the client, the profession, the legal system and the public."

The parties stipulate to the existence of four aggravating factors: (1) dishonest or selfish motive; (2) a pattern of misconduct; (3) multiple offenses; and (4) substantial experience in the practice of law. Two mitigating factors are identified: (1) absence of a prior disciplinary record; and (2) personal or emotional problems.

The PDJ has considered the two lodged objections to the Agreement. One complainant objects because he does not believe Mr. Zarifi earned the fees paid to him. However, the State Bar advised the complainant it could find "no provable basis for the recovery of restitution pursuant to Rule 60, Ariz. R. Sup. Ct." The second objection alleges Mr. Zarifi practiced law "without the benefit of error & omissions insurance," falsely "represented himself as competent counsel in both civil & criminal proceedings,"

and failed to attend certain proceedings or provide competent representation. That complainant seeks “adequate compensation” or the return of fees.

Consequences such as monetary damages “are best left to the civil courts.” *In re Murphy* 188 Ariz. 375, 380 (1997). The approval of the parties’ negotiated agreement is without prejudice to the complainants’ rights to pursue other remedies, such as through the courts, the State Bar’s fee arbitration program, or the State Bar’s Client Protection Fund.

IT IS ORDERED accepting the Agreement for Discipline by Consent. A Final Judgment and Order is signed this date.

DATED this 31st day of May, 2023.

Margaret H. Downie
Margaret H. Downie
Presiding Disciplinary Judge

COPY of the foregoing e-mailed
this 31st day of May, 2023, to:

Walid A. Zarifi
waz@greenbriarlaw.com

Craig D. Henley
LRO@staff.azbar.org

by: SHunt

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A MEMBER OF
THE STATE BAR OF ARIZONA,

WALID A. ZARIFI,
Bar No. 024079

Respondent.

PDJ 2023-9001

ORDER VACATING HEARINGS

(State Bar Nos. 21-1677, 21-2305, 22-2623,
23-0148 and 23-0442)

FILED May 19, 2023

The parties having filed an Agreement for Discipline by Consent,

IT IS ORDERED vacating all case management dates and deadlines set forth in the initial case management order, including the final case management conference set for May 25, 2023, and the hearing set for May 31, 2023.

DATED this 19th day of May, 2023.

Margaret H. Downie
Margaret H. Downie
Presiding Disciplinary Judge

Copy of the foregoing e-mailed
this 19th day of May, 2023, to:

Craig D. Henley
lro@staff.azbar.org

Walid A. Zarifi
waz@greenbriarlaw.com

by: SHunt

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A MEMBER OF THE
STATE BAR OF ARIZONA,

WALID A. ZARIFI,
Bar No. 024079

Respondent.

PDJ 2023-9001

ORDER RE: CONSENT
AGREEMENT

(State Bar Nos. 21-1677 and 21-
2305)

FILED MAY 17, 2023

On May 16, 2023, the parties filed an Agreement for Discipline by Consent, stating that they have agreed to, *inter alia*, a suspension of six months and one day. The Agreement states that Mr. Zarifi “voluntarily waives the right to an adjudicatory hearing . . . and waives all motions, defense, objections or requests which have been made or raised, or could be asserted thereafter, if the conditional admission *and proposed form of discipline* is approved.” (Emphasis added). Exhibit A to the consent agreement, though, is a letter to the PDJ from Mr. Zarifi that disputes the propriety of the agreed-upon suspension and asks the PDJ to reconsider the length of the agreed-upon suspension.

Either this matter has settled or it hasn’t. Mr. Zarifi shall advise the PDJ and bar counsel in writing -- no later than 5:00 p.m. on May 19, 2023 – whether he accepts the terms of the consent agreement he signed. At this point, the matter is not considered settled, and all pending deadlines and hearings are affirmed.

DATED this 17th day of May, 2023.

Margaret H. Downie
Margaret H. Downie
Presiding Disciplinary Judge

COPY of the foregoing e-mailed
this 17th day of May, 2023, to:

Walid A. Zarifi
waz@greenbriarlaw.com

Craig D. Henley
LRO@staff.azbar.org

by: SHunt

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Respondent

BEFORE THE PRESIDING DISCIPLINARY JUDGE

**IN THE MATTER OF A MEMBER
OF THE STATE BAR OF
ARIZONA,**

**WALID A. ZARIFI
Bar No. 024079**

Respondent.

PDJ 2023-9001

**AGREEMENT FOR DISCIPLINE
BY CONSENT**

State Bar File Nos. 21-1677 and 21-
2305

and

Pre-ADPCC File Nos. SB22-2623,
23-0148 and 23-0442

The State Bar of Arizona, and Respondent Walid A. Zarifi who has chosen not to seek the assistance of counsel, hereby submit their Agreement for Discipline by Consent (Consent Agreement) pursuant to Rule 57(a), Ariz. R. Sup. Ct.

A probable cause order was entered on December 19, 2022 in SB21-1677 and SB21-2305 and a formal complaint was filed for those two matters on January 3, 2023. The remaining bar charges have not been presented to the Attorney Disciplinary Probable Cause Committee (ADPCC) but are included in this Consent Agreement pursuant to Rule 57(a)(3)(B), Ariz. R. Sup. Ct.

Respondent voluntarily waives the right to an adjudicatory hearing, unless otherwise ordered, and waives all motions, defenses, objections or requests which have been made or raised, or could be asserted thereafter, if the conditional admission and proposed form of discipline is approved.

Pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct., notice of this agreement was provided to the complainant(s) by e-mail on May 9, 2023. Complainant(s) have been notified of the opportunity to file a written objection to the agreement with the State Bar within five (5) business days of bar counsel's notice. To date, the only objection is being filed contemporaneously with this Agreement.

Respondent conditionally admits that his conduct, as set forth below, violated the following ethical rules:

SB 21-1677: Rule 42, Ariz. R. Sup. Ct., ERs 1.3, 1.4, 1.16(d) and 8.4(d);

SB21-2305: Rule 42, Ariz. R. Sup. Ct., ERs 1.3, 1.4, 1.5, 1.16(d), 3.2, 8.4(c) and 8.4(d);

SB22-2623 and 23-0148: Rule 42, Ariz. R. Sup. Ct., ERs 1.3, 1.4, 1.7, 8.4(a)/ER 1.8(a) and (e), 1.16(d), 3.3(a)(1), 3.4(b) and (c), 4.1, 4.4(a), 8.4(c), 8.4(d) and Rule 54(c), Ariz. R. Sup. Ct.; and

SB23-0422: Rule 42, Ariz. R. Sup. Ct., ERs 1.3, 1.4, 1.16(d), 3.1, 3.2 and 8.4(d).

Upon acceptance of this agreement, Respondent agrees to accept the imposition of the following discipline:

Six Months and One (1) Day Suspension, and if reinstated, Respondent shall be placed on Two (2) Years of Probation.

Respondent also agrees to pay the costs and expenses of the disciplinary proceeding, within 30 days from the date of this order. If costs are not paid within the 30 days interest will begin to accrue at the legal rate.¹

The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

¹ Respondent understands that the costs and expenses of the disciplinary proceeding include the costs and expenses of the State Bar of Arizona, the Disciplinary Clerk, the Probable Cause Committee, the Presiding Disciplinary Judge and the Supreme Court of Arizona.

FACTS

GENERAL ALLEGATIONS

1. Respondent was licensed to practice law in the State of Arizona on November 3, 2005.

COUNT ONE (File No. 21-1677/Fischer)

2. On September 24, 2020, Fischer e-mailed Respondent regarding representation in a dispute regarding a reverse mortgage.

3. Later that evening, Respondent responded stating:

I'm gonna try and do the research and get a demand letter out by early next week, I need to see what federal statutory lending laws they violated, there are numerous, and that should help us determine what amount of monetary request you make in this opening shot across the bow. I think we can get to 6 figures pretty easily.

4. Respondent failed to perform any legal services of value during October 2020.

5. In November 2020, Respondent purportedly became ill.

6. On December 1, 2020, Fischer e-mailed Respondent requesting the anticipated date that “we can continue to create the letter to send to VIP.”

7. In or around February 2021, Fischer and Respondent agreed to forego pursuit of the lawsuit until March 2021 due to the purported backlog of Respondent's schedule created when Respondent became ill months earlier.

8. On March 1, 2021, Fischer e-mailed Respondent stating:

As today is March 1st, and you and I spoke around the first of February and I offered to not pursue the letter and lawsuit until the first of March, I am communicating my goal. My goal is to have you finish the letter to VIP, send it to me, then to VIP and give them a limited time to respond and then proceed with a lawsuit to recover my money. Please let me know if you plan to work on this. If not then please let me know this and I will pursue other legal avenues.

9. Respondent failed to respond to Fischer's March 1st e-mail.

10. On March 7, 2021, Fischer e-mailed Respondent stating, in pertinent part, "I need for you to respond to my communication this week otherwise I will have to conclude that you are not interested in working with me on this lawsuit."

11. Respondent e-mailed Fischer a response to the March 7th e-mail stating, in pertinent part, that he would "still need at least a few weeks before turning back to the letter...I can send you all my file notes and documents regardless (I think I can log in remotely). It'll be pretty bare, a lot of my research is on our legal database."

12. On March 25, 2021, Fischer e-mailed Respondent stating that “VIP forced me to get illegal insurance on the house...Please let me know when you are ready to proceed with my lawsuit against VIP.”

13. Respondent responded stating, in pertinent part, “[j]ust want you to know I did receive this email and am continuing to bust my ass in an effort to wrap up several outstanding matters, which if I am successful in doing, the first ‘new’ matter I will address is yours...while I’ve made progress, I still am, at a minimum, a few weeks away...”.

14. On April 30, 2021, Fischer e-mailed Respondent stating “I’m hoping you are at the point that you can begin to work on my case and we can create the letter to start with or just go straight to the lawsuit. I need to know that we are moving forward.”

15. Respondent failed to respond.

16. Fischer contacted the State Bar. On July 28, 2021, a State Bar Intake attorney phoned Respondent regarding Fischer.

17. Respondent failed to respond.

18. On August 5, 2021, a State Bar Intake attorney phoned and e-mailed Respondent stating, “I’ve been attempting to reach you by phone but have been

unable to get in touch with you. Could you please call me regarding client Bruce Fischer? My direct is 602-340-7362.”

19. Respondent failed to respond.

20. On August 9, 2021, the State Bar investigator was able to contact Respondent who explained that he was out of town.

21. On August 15, 2021, Fischer e-mailed Respondent again reiterating his interest in contacting the opposing party regarding the anticipated lawsuit.

22. Respondent failed to respond.

23. On August 22, 2021, Fischer e-mailed Respondent stating:

I wanted to make sure that you got my last email from last week. It's coming upon one year, Sept. 5th, that we closed on the Prescott house and I want to move forward with taking action against VIP.

24. Respondent responded that day stating:

Yes I did receive your email and will call to discuss options moving forward this week.

25. On November 9, 2022, a State Bar Intake attorney called Respondent in response to a phone call from Fischer.

26. Respondent failed to respond.

27. On November 20, 2021, Fischer terminated Respondent's representation due to "poor communication as (Respondent) have not returned my voice mails, emails and texts in a timely manner."

28. Respondent failed to provide Fischer with the client file following the termination of the representation.

29. By engaging in the above-referenced conduct, Respondent violated the following ethical rules:

- a. Rule 42, Ariz. R. Sup. Ct.:
 - i. ER 1.3 by failing to act diligently during the representation;
 - ii. ER 1.4 by failing to reasonably communicate during the representation;
 - iii. ER 1.16(d) by failing to take the steps reasonably necessary to protect the client's interests; and
 - iv. ER 8.4(d) by engaging in conduct prejudicial to the administration of justice.

COUNT TWO (File No. 21-2305/Scamardo)

30. On July 18, 2018, Respondent initiated the Maricopa County Superior Court lawsuit of *Scamardo v. Panaccione, et. al.*, CV2018-009772 which was subject to compulsory arbitration pursuant to Rule 72, Ariz. R. Civ. Pro.

31. On September 10, 2018, Respondent began his own law firm and entered a new representation agreement with Scamardo.

32. On January 8, 2019, Scamardo's lawsuit proceeded to the mandatory arbitration hearing.

33. On January 22, 2019, an arbitration decision was entered in favor of the Defendant unbeknownst to Scamardo.

34. On January 29, 2019, Scamardo texted Respondent "[a]t Arbitration, he said he would have a decision by month end. Have you heard anything yet?"

35. Respondent responded "[i]f he mailed it it'll be sitting waiting for me I haven't been physically in the office since the 15th due to my big jury trial down in Tucson".

36. On March 11, 2019, Respondent e-mailed Scamardo a copy of the arbitration decision stating, in pertinent part:

"Attached is the Arbitrator's one-line decision not awarding us anything, which really makes no difference at all as this whole 'compulsory arbitration' procedure is like jury-service for lawyers, and the results of which have absolutely no bearing whatsoever on the case as it moves forward.

* * *

The more interesting thing for me, and also strange, is how I came across this finally, NOT from the arbitrator (who i repeatedly tried to contact) and NOT from turbo court (the electronic filing system which notifies us

automatically of all filings, which I thought was mandatory for all attorneys to use, I guess not when you're an arbitrator). Instead, I was working late tonight and thought why not check this other system we have to look at filings, the ECR, and lo and behold there it was. Obviously a little anticlimactic.

In any event, the Notice of Decision still does not become final for another 10 days or so; thereafter, we have 15 days to simply file a notice that we are rejecting the results and proceeding with the case. Sorry you had to wait so long for nothing.”

37. On March 20, 2019, Court Administration issued a Notice to File Motion for Judgment on Arbitration Award stating, among other things, “[p]ursuant to rule 76(d) Arizona Rules of Court a motion to enter judgment shall be filed up to 30 days from this notice or this case will be dismissed without any further notice.”

38. On April 23, 2019, Scamardo e-mailed Respondent requesting an update.

39. Respondent misrepresented to his client that:

Submitting a scheduling order with the Court culminating in hopefully a trial date within 4-6 mos, I say hopefully b/c they are so over booked (sic) by we do not need more than a one-day bench trial.

40. Respondent's statements were false.

41. Scamardo replied: “Ok keep me up to date please as things progress.”

42. That same day, Respondent purportedly prepared “Plaintiff’s Appeal from Arbitration and Motion to Set” requesting a three-day trial but failed to file the document.

43. On June 28, 2019, Scamardo e-mailed Respondent the following:

So we started this process in late April ’18. I’m wondering where we are at or it (sic) this thing stalled? Seems like a long time for this matter and we don’t seem to be anywhere...

44. On July 1, 2019, Respondent replied the following:

“Quite honestly that time frame is unfortunately normal right now, based on all my other cases, but the Court should have at least ruled on my motion to set a trial, which it still has not, and this is a bit odd.

I’m out of the office this week returning Monday but I’ll see if I can’t get an answer from chambers as to what’s going on before then.”

45. On December 17, 2019, Scamardo e-mailed Respondent: “[c]hecking in to see where we are at from July.”

46. Respondent failed to respond.

47. On December 20, 2019, Scamardo e-mailed Respondent the following:

“Checking in again to get an update on the case. We haven’t spoken since July.

Sent previously December 17, 2019
Checking in to see where we are at from July.

Sam W Scamardo
Sent from my iPhone”

48. On March 2, 2020, Scamardo texted the following:

Walid, when we last talked a couple of months ago you mentioned to me that we had a court date coming up in March I’m curious what the status of that is now get back to me soon please thank you.

49. Respondent misrepresented to the client that:

It’s still on the calendar for mar. 24-26th, but so is another matter that is ahead of us. FINGERS crossed the other one settles or gets bumped so we can actually firm that date up. I’ll keep you posted second (sic) I hear anything either way. Hope all is ok with you and your fam.

50. Respondent’s statements were false.

51. On October 27, 2020, Scamardo texted “[u]pdate on our suit?”

52. Respondent failed to respond.

53. On February 18, 2021, Scamardo texted “It’s been four months (Oct) since we last spoke about the Furniture Ranch matter and in April it will be 3 years since I first brought it to you. Where are we at?”

54. Respondent failed to respond.

55. On March 9, 2021, Scamardo texted:

Walid, I sent the above text message almost three weeks ago with no reply to date. I’m sending this message as an email as well. As we’re coming up on three years since I gave you this matter, the only legal activity of any substance I’m aware of is the mediation 2 years (ago)...

56. On March 31, 2021, Respondent texted Scamardo acknowledging the prior e-mail and promising a response.

57. On April 1, 2021, Respondent admitting failing to timely respond to prior inquiries and offered to refund Scamardo \$3500.00. Scamardo accepted the offer the next day and requested the client file.

58. Respondent later provided an electronic copy of the client file but did not pay the \$3500.00.

59. On April 12, 2021, Respondent misrepresented to Scamardo that the check was sent.

60. On April 20, 2021, Scamardo informed Respondent that he still had not received the check or a hard copy of the client file.

61. Respondent failed to respond.

62. To date, Respondent has not paid Scamardo the agreed upon \$3500.00 refund.

63. By engaging in the above-referenced conduct, Respondent violated the following ethical rules:

a. Rule 42, Ariz. R. Sup. Ct.:

i. ER 1.3 by failing to act diligently during the representation;

- ii. ER 1.4 by failing to reasonably communicate during the representation;
- iii. ER 1.5 by charging an unreasonable fee for the representation;
- iv. ER 1.16(d) by failing to take the steps reasonably necessary to protect the client's interests;
- v. ER 3.2 by failing to expedite litigation;
- vi. ER 8.4(c) by engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; and
- vii. ER 8.4(d) by engaging in conduct prejudicial to the administration of justice.

COUNT THREE (File No. 22-2623/Lorenz and 23-0148/Olsen)

64. Respondent is the former counsel for Blair Olsen, the defendant in the Maricopa County Superior Court case of *Melissa Smith v. Blair Olsen*, CV2017-053483. Complainant is Olsen's successor counsel. Michael P. Fiflis is opposing counsel representing Melissa Smith. The underlying case was initially assigned to Judge Theodore Campagnolo and later transferred to Judge Bradley Astrowsky.

65. On March 25, 2019, prior to Respondent's representation of Olsen, Judge Campagnolo issued a sanctions ruling against Olsen limiting Olsen's ability to present evidence and defend the lawsuit.

66. During Respondent's representation of Olsen, Olsen frequently requested that Respondent file a motion to vacate or set aside Judge Campagnolo's

ruling over the court of Respondent's representation. While Respondent repeatedly indicated that he would file a motion to vacate or special action at some unspecified later date, Respondent failed to do so.

67. While the matter was set for trial several times before Respondent's representation of Olsen, the trials were always continued at the last minute for a number of reasons related to Olsen including, but not limited to, multiple contempt hearings and awards of monetary sanctions for Olsen's failure to appear at scheduled hearings and failure to comply with court rulings.

68. There were also two related Maricopa County Superior Court criminal cases, *State v. Blair Olsen*, CR2018-002042 and CR 2018-001319, which caused scheduling issues in the civil case and vice versa.

69. On March 27, 2018, Respondent filed a notice of appearance on behalf of Olsen in *State v. Blair Olsen*, CR2018-001319 but was later substituted out on September 13, 2018 by Arizona attorney John Vingelli. Vingelli also represented Olsen in *State v. Blair Olsen*, CR2018-002042.

70. On May 9, 2019, Respondent filed a notice of appearance on behalf of Olsen in the civil action. Respondent appeared at a hearing scheduled May 15, 2019 and a previously filed motion for contempt was set for an order to show cause

hearing on August 9, 2019. The trial was scheduled to begin on September 24, 2019.

71. Shortly thereafter, Respondent filed a motion to extend all deadlines and the hearings due to the events in the criminal matter.

72. On September 5, 2019, the court extended the deadlines related to the contempt hearings but affirmed the September 24, 2019 trial.

73. On September 10, 2019, the court vacated the 10-day jury trial and reset it to various days in February and March 2020.

74. On January 9, 2020, Olsen initiated the U.S. Bankruptcy Court case of *In re: Blair Edwards Olsen*, 2:20-bk-00281-MCW.

75. Respondent filed a notice with the civil court and the February and March 2020 trial dates were vacated.

76. On January 21, 2020, opposing counsel filed a motion to set trial stating that the U.S. Bankruptcy Court lifted the automatic stay on January 17, 2020. The court set a scheduling conference and later set the jury trial to begin on April 6, 2020.

77. On March 27, 2020, the court set a telephonic setting conference regarding a motion for contempt against Olsen and reset the jury trial to begin on January 11, 2021.

78. On December 4, 2020, the court held a hearing regarding a motion resulting the court resetting the jury trial to various days in April and May 2021.

79. On April 22, 2021, the court held a virtual jury selection status conference and ordered both trial counsel to appear in person on April 26, 2021 to pick up juror information sheets.

80. On April 23, 2021, Olsen initiated the U.S. Bankruptcy Court case of *In re: Blair Edwards Olsen*, 2:20-bk-00281-MCW. Respondent filed notice with the civil court resulting in the court vacating the virtual jury selection as well as resetting the April and May trial dates.

81. On May 13, 2021, opposing counsel filed a motion to set trial date stating that the U.S. Bankruptcy Court lifted the previously entered automatic stay on May 11, 2021. The court set a scheduling conference and later set the jury trial to begin on May 2, 2022.

82. On April 29, 2022, the court held a status conference and subsequent status conferences which ultimately resulted in the court resetting the jury trial to begin on May 31, 2022.

83. On May 18, 2022, Respondent contacted the State Bar ethics hotline solely regarding his concern that his client (Olsen) would not appear at trial.

84. On May 24, 2022, the court held a status conference with counsel only. Respondent made an oral motion to withdraw which was objected to by opposing counsel. The court denied the motion without prejudice and affirmed the May 31st trial date.

85. On May 26, 2022, Respondent filed a signed “Application to Withdraw as Counsel (with Client Consent)” stating that his client “elected to terminate the services of counsel.”

86. That night, before a hearing on the application, Respondent again verbally instructed Olsen to consent to the requested withdrawal.

87. Specifically, Respondent e-mailed Olsen the following (*errors in original*):

“Let keep it very simple, especially after I wrote filis just now trashing him. What a faggot.

Any ways, lets think of hit as two conflicts.

Conflict 1: You and I are close. I've known you for 17 years. You were one of the first people I call when I lost my brother 9 months ago. Your friends with my wife, Jenny, and you know I've been sick, but, what the Court does not know, and which Mr. Zarifi has given me permission to disclose, is that last Sunday his wife Jenny suffered a miscarriage, and Mr. Zarifi has to stay strong for his family he would never admit it, but I knowing him know how affected he must me, to the point where despite the circumstance in places me in, I do not want to see him put through the rigors of trial, this just could not be worse timing.

Conflict 2: You can reference your memo which I sent to the judge, and try to defer to me to describe the legal conflict. But your just as well versed at it: Fredo's ruling is crazy, unlawful, illegal, unconstitutional and results is an end product that to even refer to it as a 'trial' would be a joke, both you and Mr. Zarifi agree on this, but disagree as to whether the same can or should be raised prior to trial or after trial with an Appellate Court. hit's a procedural and jurisdiction issue and you have heard differing opinions on it but if in fact we can all save our selves the time money and expense of going to a 12-day charade in favor of something that stilds, that is something that is in everyone's, including the Court's, best interest, and any argument to the contrary belies a party's fear to let justice be done."

88. On May 27, 2022 beginning at 8:54 am, Respondent engaged in the following text conversation (*errors in original*):

Respondent: "I have a call till 9:30, I wanted to remind you, your best route for a continuance is this following thought: Jenny's miscarriage hust 5 days ago, you knowing me I'm not right, AND EVEN DESPITE the very difficult circumstances it places you in with respect to this trial, you had no alternative but to terminate and respectfully ask the court for a short continuance as you have another lawyer who is very well versed in this case and the issues to be tried, but he is out of town this week for the holiday and you haven't been able to get a hold of him. PLUS judge, if I don't have a competent lawyer rep me at this trial, of all trials, I'm dead in the water with the wrongful restrictions in place from Fresno

* * *

We have a special action appeal and a regular appeal, fredos ruling will never hold up. I think you need to relax a bit...you need to think about whether or not your William by to retain someone for the trial. It's a tough call because there's not really much they can do; however, i think you absolutely either fake an illness or injury day one (can get you back up documentation) or you better fucking show up b/c I know you can probably do a better job than anyone defending yourself, you know the case so fucking well, just can't let fiflis get under you skin, you can do it"

89. At 9:30 am, the court held a hearing regarding Respondent's application and Olsen's oral request that the assigned court vacate Judge Campagnolo's prior ruling.

90. At the hearing, Olsen requested that the court grant Respondent's motion and continue the trial so that Vingelli could represent him at trial. The court granted the motion to withdraw but did not continue the jury trial. The court further ordered Respondent to provide Olsen with the client file "by **close of business today, May 27, 2022.**" [*Emphasis in original*]

91. The court also denied Olsen's request for "a lateral appeal regarding Judge Campagnolo's ruling".

92. Despite repeated promises to provide Olsen and his successor counsel with a copy of the client file, Respondent failed to provide either with the client file.

93. Also on May 27, 2022, Vingelli and Zarifi both appeared telephonically for a status conference in the Pima County Superior Court cases of *Falcone Brothers and Associates, Inc. v. City of Tucson*, C20152217.

94. On May 30, 2022, Respondent engaged in the following text conversation (*errors in original*):

Olsen: So that's it. You engineer your departure and I end up doing a no show at this phony rigged trial. I guess i had a good run.

Respondent: "Engineer my departure". I've had this memorial tournament this wknd for both my deceased brothers...I was ready to go do this trial, i said let me go do it, then we appeal, let me get two cracks at it, you refused. You had me trying to beg you to let me do a 12-day trial for nothing, and Now you wanna case me the bad guy? I can't believe you would be that kind of a person man

* * *

It is truly mind boggling that you would refuse to bring in a lawyer for your trial, and also refuse to show up? This is YOUR case, you dare to accuse me of "engineering" my departure, I was ready to do this trial man, you said no way, seriously, I cannot believe, I am truly beside myself, that you are gonna case me as a bad guy in this? Totally utterly unacceptable...

* * *

To simply not show up at trial, without emailing the judge or calling the court to tell them you had an accident or ANYTHING, just totally bizarre to me.

* * *

And even if you don't hire John and do not show up, why wouldn't you do the court the courtesy of informing it of what happened that prevented you from showing. You especially have a billion excuses. Go to the er tonight complaining of chest pain they will have to keep you overnight. You have an artificial heart valve for god sakes. If you just go to the er complaining of chest pain they will keep you over night and I will inform the court of the same. Better yet, hire John and have him show up and inform the court. You still go a billion outs. Wake up

* * *

You don't have a crystal ball, final advice to you you must do one of the following: get John, go and defend yourself, go to the ER with chest pain. I don't get it I went to great lengths to find someone and John is who we wanted and by far the best choice...I think you need to have a conversation with him before you give up on him. You can lien your home you can borrow funds I'll even ask my parents for a loan to help you out...At least find out how much you go on you know and what his bottom line is and MAYBE I can finance the rest, albeit I have no idea why I should but I'm stupid like that

95. On May 31, 2022, the trial began with Olsen representing himself.

96. Throughout the trial, Respondent continued to provide Olsen with legal advice as well as disparage the judge and opposing counsel.

97. For example, Respondent stated the following on June 1, 2022 (*errors in original*):

“All gamesmanship and a combination of lunacy and idiocy on the part of Fiflis. Im just imagining him losing this case, to a pro per, WITH fredos ruling in his back pocket – it would be fucking amazing and unbelievable all at once”

98. On June 7, 2002, Respondent text the following to Olsen (*errors in original*):

“No. 1: this whole trial is sham b/c of compangnolos ruling, it’s is literally a free swing for you.

No. 2: listing 20 extra witnesses that you maintain on a trial list for years, and every pre trial hearing complain how you NEED to get trial in b/c your witnesses are dying, then drop them all, besides being an embarrassment, is the epitome of abuse of process and wasting judicial resources and probably sanctionable”

99. On June 6, 2022, Vingelli filed a notice of appearance on behalf of Olsen.

100. The jury found against Olsen and the court awarded jury fees against Olsen in the amount of \$2713.92 together with interest at the rate of 5.75% per annum.

101. After post-trial briefing, the court entered the following judgment in favor of Smith and against Olsen on November 4, 2022:

- Count I (Breach of Easement) in the amount of \$600,000.00, together with interest thereon at the rate of 6.50% per annum;
- Count II (Assault) in the amounts of \$75,000.00 compensatory damages and \$250,000.00 punitive damages, together with interest at the rate of 6.50% per annum;
- Count III (Trespass) in the amounts of \$75,000.00 compensatory damages and \$250,000.00 punitive damages, together with interest at the rate of 6.50% per annum;

- Count IV (Trespass to Vehicle) in the amount of \$500.00, together with interest thereon at the rate of 6.50% per annum;
- Count V (Intentional Infliction of Emotional Distress) in the amounts of \$375,000.00 compensatory damages and \$1,000,000.00 punitive damages, together with interest on those amounts at the rate of 6.50% per annum;
- Count VI (Negligent Infliction of Emotional Distress) in the amount of \$375,000.00, together with interest thereon at the rate of 6.50% per annum;
- Count VIII (Declaratory Judgment/ Injunctive Relief) enjoining Olsen from hereafter interfering with Melissa Smith's rights in Smith's Property and the Easement; obstructing Melissa Smith or her invitees' ability to travel on the Easement; casting rock, soil, or other material onto the Easement or otherwise obstructing the Easement; trespassing on Smith's property; placing, maintaining, or using cameras in the Easement to conduct surveillance of Smith, Smith's invitees, or Smith's home; and otherwise harassing or intimidating Smith in a way that limits her use of the Easement or Smith's Property; and
- The court also awarded Smith reasonable attorney's fees in the amount of \$460,820.08 and costs in the amount of \$4,047.35.

102. Lorenz initiated an appeal on behalf of Olsen.

103. As late as November 2022, Lorenz repeatedly, but unsuccessfully, requested a copy of the client file requiring Olsen to pay to recreate the client file and trial exhibits from the court file.

104. On February 21, 2023, Respondent provided the State Bar with an electronic copy of the purported client file as part of his written response to the State Bar investigation.

105. By engaging in the above-described misconduct, Respondent violated the following ethical rules:

- a. Rule 41, Ariz. R. Sup. Ct. by engaging in unprofessional conduct;
- b. Rule 42, Ariz. R. Sup. Ct.
 - i. ER 1.3 by failing to act diligently;
 - ii. ER 1.4 by failing to reasonably communicate with his client;
 - iii. ER 1.7 by engaging in a personal interest conflict with his client;
 - iv. ER 8.4(a)/ER 1.8(a) and (e) by attempting to provide his client with financial assistance;
 - v. ER 1.16(d) by failing to take the steps reasonably practicable to protect the client's interests including, but not limited to, providing the client and successor counsel with the client file;
 - vi. ER 3.4(b) by counseling or assisting a witness to testify falsely;
 - vii. ER 3.4(c) by knowingly disobeying an obligation under the rules of a tribunal;
 - viii. ER 4.4(a) by using means that had no substantial purpose other than to embarrass, delay, or burden any other person;
 - ix. ER 8.4(c) by engaging in conduct involving dishonesty, fraud, deceit or misrepresentation;

- x. ER 8.4(d) by engaging in conduct prejudicial to the administration of justice;
- c. Rule 54(c), Ariz. R. Sup. Ct. by knowingly violating a rule or order of the court.

COUNT FOUR (File No. 23-0422/Hake)

106. On March 20, 2018, Jam Holdings, LLC filed a \$15,000.00 Offer of Judgment in the in the Maricopa County Superior Court cases of *Jam Holdings LLC, et. al. v. Heidi Hake, et. al.*, CV2018-050001. A separate lawsuit was filed on behalf of Hake's company, Déjà Vu, LLC thereby initiating the Maricopa County Superior Court case of *Déjà Vu, LLC v. Bradley Dennis Dautremont*, CV2018-052426. The matters were later consolidated.

107. The lawsuit alleged Hake's breach of contract/failure to pay for construction with an amount in controversy of approximately \$10,000,00. Déjà Vu, LLC's counterclaim alleged an unspecified lost profits/revenue claim for incomplete/poor construction by Jam Holdings LLC.

108. On October 18, 2018, Dennis Dautremont filed a motion for summary judgment requiring a response by November 27, 2018.

109. On October 19, 2018, the opposing counsel propounded discovery requests for the basis and amount of Déjà Vu's claims of lost profits/revenues.

110. On November 27, 2018, Respondent was substituted as attorney of record for Hake in the cases but failed to adequately explain the existence or impact of the pending motion for summary judgment and outstanding discovery requests to Hake.

111. A response to the pending motion for summary judgment was not filed on or before November 27, 2018.

112. On November 27, 2018, an arbitration hearing was scheduled for December 28, 2018.

113. Despite her requests, Hake was unable to schedule a meeting with Respondent in order to prepare for the arbitration.

114. On November 30, 2018, the assigned judge granted the motion for summary judgment noting that a timely response had not been filed. The court also granted the opposing counsel authority to file an application for attorney fees and costs.

115. On December 12, 2018, Respondent filed a response to the motion for summary judgment referring to, among other things, a prior July 31, 2018 ruling denying Hake's motion for summary judgment finding that "[f]actual disputes include, but are not limited to, whether the individuals or the LLCs are liable for

any of the damages sought in the complaint. Those factual determinations should be decided by a jury.”

116. Respondent contemporaneously filed a separate statement of facts generally denying the opposing party’s statement of facts but failing to comply with Rule 56(c)(3)(B), *Ariz. R. Civ. Pro.* [An opposing party must file a statement in the form prescribed by Rule 56(c)(3)(A), specifying: (i) the numbered paragraphs in the moving party's statement that are disputed; and (ii) those facts that establish a genuine dispute or otherwise preclude summary judgment in favor of the moving party.]

117. On December 19, 2018, the opposing counsel filed a reply to the motion for summary judgment citing, among other things, Respondent’s failure to file a separate statement complying with Rule 56(c)(3)(B), *Ariz. R. Civ. Pro.* as well as Respondent’s attachment of an affidavit by Hake which completely contradicted her verified answers to the complaint.

118. Specifically, Hake’s unqualified admission that “Jam Holdings and Heidi entered into an oral agreement wherein Jam Holdings was to perform remodeling work in the bar area and repair areas damaged by flooding.”

119. On December 21, 2018, the opposing counsel also filed an application for attorney fees and costs and an amended notice of lodging order.

120. Despite her requests for a meeting with Respondent, Respondent did not meet with Hake or her witnesses prior to Hake's scheduled deposition or the anticipated arbitration. Respondent also failed to inform Hake of the existence or impact of the opposing party's pending application for attorney's fees and costs.

121. On December 24, 2018, the opposing counsel deposed Hake in her representative capacity with Déjà Vu. During the deposition, Hake/Déjà Vu admitted that they were unable to provide a "dollar amount" of lost profits and "would have to work on that."

122. On January 2, 2019, the opposing counsel sent Respondent a "good faith" letter requesting, among other things, the dismissal of Déjà Vu's lost profit/revenue claims.

123. On January 7, 2019, the opposing counsel discussed the requested dismissal with Respondent.

124. On January 14, 2019, Respondent filed a request to set aside the "summary judgment" (sic) citing, for the first time, "most notably that (Respondent) had already secured, in writing, an agreed-upon extension from (opposing counsel)

to file Defendant’s Response to Plaintiff’s Motion for Summary Judgment.” In support of his statement, Respondent attached two letters authorizing, first, a response due date of December 7, 2018 and, second, a response due date of December 12, 2018.

125. On January 23, 2019, the opposing counsel filed a response to the motion to set aside admitting the accuracy of the letters but alleging, among other things, that Respondent was dilatory in requesting that the “December 3, 2018 ruling” be vacated for 42 days after the ruling. The opposing counsel also stated that his client relied upon the ruling’s dispositive effect on the case and stopped all discovery.

126. On January 25, 2019, the court entered the proposed form of judgment in favor of the opposing party and against Déjà Vu, LLC in the total amount of \$12,133.36.

127. Also on January 25, 2019, the opposing counsel filed a motion for Rule 37 sanctions reiterating the facts and circumstances surrounding the lost profit/revenue claims including a certification that Respondent did not voluntarily dismiss the claims or provide disclosure(s) regarding the claims since their January 7th conversation.

128. On February 19, 2019, the arbitrator denied the motion for sanctions.

129. That same day, the court granted the motion to set aside the January 25th judgment without explanation.

130. On February 26, 2019, the court issued a ruling on Dautremont's motion for summary judgment finding that "[f]actual disputes include, but are not limited to, whether the individuals or the LLCs are liable for any of the damages sought in the complaint. Those factual determinations should be decided by a jury."

131. The arbitration occurred and the arbitrator entered an arbitration award in favor of Jam Holdings, LLC in both cases (\$10,884.89 and \$44,167.63, respectively) on April 22, 2019.

132. Respondent appealed the award but did not adequately explain the legal impact or exposure of the arbitration award and appeal to Hake.

133. On January 19, 2021, the court held a status conference and ordered the parties to submit a joint written report by February 1, 2021.

134. On February 2, 2021, the opposing counsel filed a motion for trial setting conference attaching, among other things, an ongoing e-mail discussion with Respondent regarding the trial, a second independent e-mail dated January 29,

2021 submitting the proposed joint report, and another e-mail continuing the first e-mail discussion and asking if Respondent received the joint report. The motion stated that Respondent failed to provide a response to the last e-mail or approval of the joint report. The motion also states that the opposing counsel called Respondent and left a voice message on February 1st, but did not receive a response.

135. Respondent failed to inform Hake of the joint written report deadline or his failure to timely file the report.

136. On February 5, 2021, the court scheduled a virtual trial setting conference for February 26, 2021.

137. On December 26, 2019, the opposing counsel sent Respondent a settlement offer requiring Hake to pay Jam Holding, LLC a total sum of \$45,000.00 in four installments to settle all claims and counterclaims including attorney's fees and costs.

138. Respondent failed to provide Hake notice of the proposed settlement offer.

139. On January 21, 2022, after several trial settings and continuances, the matter was set for the two-day jury trial to begin on April 11, 2022.

140. On April 11, 2022, the court began the jury trial and, after the second day, the jury found in favor of Jam Holdings, LLC and against Hake and Déjà Vu, LLC.

141. A \$471.42 judgment for jury fees was also entered against Hake and Déjà Vu, LLC.

142. On July 19, 2022, a judgment was filed awarding Jam Holding, LLC the following:

- Damages in the amount of \$10,384.89;
- Attorney fees and costs in the amount of \$103,105.26; and
- Rule 68 sanctions and costs of \$9,811.04.

143. On August 3, 2022, Respondent contemporaneously filed a motion for new trial and an untitled filing.

144. The untitled filing was purportedly “[p]ursuant to Rules 62(b) and (c), Ariz., R. Civ. P (sic)” and contained the following style:

JAM HOLDINGS; BRADLEY
DAUTREMONT, a married man
Plaintiff(s)
Agne)

No. CV2018-050001

(Assigned to the Honorable Judge Sara

v.

HEIDE HAKE, a single woman;
DÉJÀ VU, LLC, an Arizona limited
Liability Company

(evidentiary hearing requested to extent
court prefers the entry of a supersedeas
bond v. interim stay)

Defendant(s)

145. On August 8, 2022, the court issued a minute entry denying the untitled motion stating, in pertinent part:

“The document appears to be a motion for stay of enforcement of judgment pending the Court’s resolution of a recently filed Rule 59 motion, but the document does not set forth any reasons for granting such a motion – other than vaguely that ‘Defendants simply want to allow this Court sufficient time to consider and rule on the Motion, without having to stave collection efforts in the interim, and prior to having to consider appellate issues that may never arise.’

This Court has sufficient time afforded by Arizona law to consider and rule on Rule 59 motions, and this is not the Court that considers appellate issues. Further, Defendants cite no specific parts or pages of supporting authorities and evidence as to why they should be permitted to go ‘without having to stave collection efforts in the interim.’”

146. On August 10, 2022, the opposing attorney filed a response to the motion for new trial claiming that it was frivolous and did not comply with Rule 7.1(a)(2), Ariz. R. Civ. P. [All motions must be accompanied by a memorandum setting forth the reasons for granting the motion, along with citations to the specific parts or pages of supporting authorities and evidence.]

147. Respondent did not file a reply.

148. On August 19, 2022, successor counsel contemporaneously filed a notice of appearance on behalf of Hake stating “Counsel undersigned is not

associated with current counsel, Walid Zarifi and the firm of Kelly McCoy PLC. Mr. Zarifi and Kelly McCoy are contemporaneously being discharged.” and a motion to quash certain prematurely issued subpoenas by opposing counsel.

149. On August 29, 2022, the court denied the motion for new trial finding, among other things, that:

“(Defendants did not reply.) Defendants also did not expand on any grounds materially affecting their rights. Ariz. R. Civ. P. 59(a)(1). The Court has no grounds on which it could consider granting a new trial.”

150. On August 30, 2022, the court set a hearing on successor counsel’s motion to quash for September 13, 2022. Respondent was endorsed as the sole attorney of record for Hake on the minute entry.

151. On September 12, 2022, Respondent filed an application to withdraw.

152. On September 13, 2022, the court held oral argument on the motion to quash. Respondent did not appear.

153. On September 25, 2022, the court granted Respondent’s application to withdraw.

154. After successor counsel filed additional post-judgment motions, the parties entered into a stipulation to quash the subject subpoenas and writs of garnishment.

155. On October 25, 2022, successor counsel filed a satisfaction of judgment on behalf of Hake and Déjà Vu, LLC.

156. By engaging in the above-referenced misconduct, Respondent violated the following ethical rules:

- a. Rule 42, Ariz. R. Sup. Ct.:
 - i. ER 1.3 by failing to act diligently during the representation;
 - ii. ER 1.4 by failing to reasonably communicate with his client;
 - iii. ER 1.16(d) by failing to take steps reasonably practicable to protect a client's interests;
 - iv. ER 3.1 by asserting or defending meritless issues without a good faith basis in law and fact;
 - v. ER 3.2 by failing to expedite litigation; and
 - vi. ER 8.4(d) by engaging in conduct prejudicial to the administration of justice.

CONDITIONAL ADMISSIONS

Respondent's admissions are being tendered in exchange for the form of discipline stated below and are submitted freely and voluntarily and not as a result of coercion or intimidation. Respondent conditionally admits that he violated the following ethical rules:

SB 21-1677: Rule 42, Ariz. R. Sup. Ct., ERs 1.3, 1.4, 1.16(d) and 8.4(d);

SB21-2305: Rule 42, Ariz. R. Sup. Ct., ERs 1.3, 1.4, 1.5, 1.16(d), 3.2, 8.4(c) and 8.4(d);

SB22-2623 and 23-0148: Rule 42, Ariz. R. Sup. Ct., ERs 1.3, 1.4, 1.7, 8.4(a)/ER 1.8(a) and (e), 1.16(d), 3.4(b) and (c), 4.4(a), 8.4(c), 8.4(d) and Rule 54(c), Ariz. R. Sup. Ct.; and

SB23-0422: Rule 42, Ariz. R. Sup. Ct., ERs 1.3, 1.4, 1.16(d), 3.1, 3.2 and 8.4(d).

CONDITIONAL DISMISSALS

There are no conditional dismissals.

RESTITUTION

Restitution is not an issue in this matter.

SANCTION

Respondent and the State Bar of Arizona agree that based on the facts and circumstances of this matter, as set forth above, the following sanctions are appropriate:

Six Months and One (1) Day Suspension with two (2) years of probation, if reinstated, with the terms of probation consisting of:

1. LOMAP (FULL ASSESSMENT): Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from the date this order is executed to schedule an initial Law Office Management Assistance Program (LOMAP) assessment meeting. Respondent shall then participate in the LOMAP assessment and shall complete all follow up deemed necessary by LOMAP, including any needed follow-up meetings throughout the period of participation. Respondent shall sign terms and conditions of participation, including reporting requirements, which shall be incorporated herein. Respondent will be responsible for any costs associated with LOMAP.
2. LRO MAP: Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from the date of service of this Order, to schedule an assessment. The Compliance Monitor shall develop terms and conditions of participation if the results of the assessment so indicate and the terms, including reporting requirements, shall be incorporated herein. Respondent will be responsible for any costs associated with participation with compliance.

3. CLE: In addition to annual MCLE requirements, Respondent shall complete the following Continuing Legal Education ("CLE") program(s):

- Candor, Courtesy & Confidences: Common Courtroom Conundrums
- 10 Deadly Sins of Conflicts
- Braving the Storm: Dealing with Opposing Counsel and the Court
- Ethics Cafe : ER 3.1 - Meritorious Claims and Contentions
- Ethics Cafe : ER 3.3 - Candor Toward the Tribunal
- Ethics Café Series: ER 3.4 - Fairness to Opposing Party and Counsel
- 17 Tips to Help the Way toward the Ethical, Professional and Enjoyable Practice of Law

within 90 days from the date of service of this Order. Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the program by providing a copy of (a) his/her handwritten notes; or (b) typed or electronic notes, accompanied by a declaration, statement or affidavit that complies with Civil Rule 80(c), and which states he/she personally typed the notes while viewing the CLE program. Respondent should contact the Compliance Monitor at 602-340-7258 to make arrangements to submit this evidence. Respondent will be responsible for the cost of the CLE.

4. Respondent shall commit no further violations of the Rules of Professional Conduct.

NON-COMPLIANCE LANGUAGE

If Respondent fails to comply with any of the foregoing probation terms and the State Bar of Arizona receives information thereof, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether Respondent breached a term of probation and, if so, to recommend an appropriate sanction. If the State Bar alleges that Respondent failed to comply with any of the foregoing terms the burden of proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

If Respondent violates any of the terms of this agreement, the State Bar may bring further discipline proceedings.

LEGAL GROUNDS IN SUPPORT OF SANCTION

In determining an appropriate sanction, the parties consulted the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* pursuant to Rule 57(a)(2)(E). The *Standards* are designed to promote consistency in the imposition of sanctions by identifying relevant factors that courts should consider and then applying those factors to situations where lawyers have engaged in

various types of misconduct. *Standard 1.3, In re Pappas*, 159 Ariz. 516, 768 P.2d 1161 (1988). The *Standards* provide guidance with respect to an appropriate sanction in this matter.

In determining an appropriate sanction, the Court considers the duty violated, the lawyer's mental state, the actual or potential injury caused by the misconduct and the existence of aggravating and mitigating factors. *Standard 3.0*.

The parties agree that the following *Standards* are the appropriate *Standards* given the facts and circumstances of this matter:

Rule 42, Ariz. R. Sup. Ct., ERs 1.3, 1.4:

Standard 4.42

Suspension is generally appropriate when a lawyer knowingly fails to perform services for a client or engages in a pattern of neglect and causes injury or potential injury to a client

Rule 42, Ariz. R. Sup. Ct., ERs 1.5 and 8.4(c):

Standard 4.62

Suspension is generally appropriate when a lawyer knowingly deceives a client, and causes injury or potential injury to a client.

Rule 42, Ariz. R. Sup. Ct., ERs 1.7 and 1.8:

Standard 4.32

Suspension is generally appropriate when a lawyer knows of a conflict of interest and does not fully disclose to a client the possible effect of that conflict, and causes injury or potential injury to a client.

Rule 42, Ariz. R. Sup. Ct., ER 1.16(d):

Standard 7.2

Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional, and causes injury or potential injury to a client, the public or the legal system.

Rule 42, Ariz. R. Sup. Ct., ERs 3.1, 3.2, 3.4, 4.4 and Rule 54(c):

Standard 6.22

Suspension is generally appropriate when a lawyer knowingly violates a court order or rule, and there is injury or potential injury to a client or a party, or interference or potential interference with a legal proceeding.

Rule 42, Ariz. R. Sup. Ct., ERs 8.4(d):

Standard 6.12

Suspension is generally appropriate when a lawyer knows that false statements or documents are being submitted to the court or that material information is improperly being withheld, and takes no remedial action, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding.

The duty violated

Respondent's conduct violated his duty to the client, the profession, the legal system and the public.

The lawyer's mental state

Respondent knowingly engaged in the above-described misconduct supporting the violations of ERs 1.5, 1.7, 1.8, 1.16(d), 3.1, 3.2, 3.4, 4.4, 8.4(c) and Rule 54(c), Ariz. R. Sup. Ct. Respondent negligently engaged in the above-described misconduct supporting the violations of ERs 1.3, 1.4 and 8.4(d). All of Respondent's above-described actions were in violation of the Rules of Professional Conduct.

The extent of the actual or potential injury

There was both actual and potential harm to the client, the profession, the legal system and the public.

Aggravating and mitigating circumstances

The presumptive sanction is Suspension. The parties conditionally agree that the following aggravating and mitigating factors should be considered:

In aggravation:

- a) 9.22(b) dishonest or selfish motive;
- b) 9.22(c) a pattern of misconduct;
- c) 9.22(d) multiple offenses; and
- d) 9.22(i) substantial experience in the practice of law (2005).

In mitigation:

- a) 9.32(a) absence of a prior disciplinary record; and
- b) 9.32(c) personal or emotional problems [supported by the attached mitigation letter, under seal].

Discussion

The presumptive sanction should be Suspension with Probation.

Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

CONCLUSION

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. In re *Peasley*, 208 Ariz. 27 (2004). Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of Suspension with Probation and the imposition of costs and expenses.

A proposed form of order is attached hereto as Exhibit B.

DATED this 10th day of May 2023.

STATE BAR OF ARIZONA

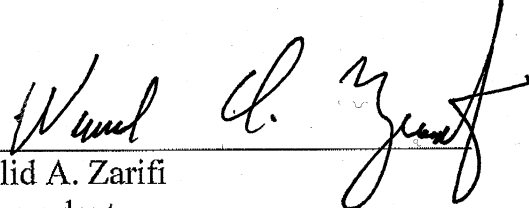
/s/ Craig D. Henley

Craig D. Henley
Senior Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation. I acknowledge my duty

under the Rules of the Supreme Court with respect to discipline and reinstatement. I understand these duties may include notification of clients, return of property and other rules pertaining to suspension.

DATED this _____ day of May, 2023.



Walid A. Zarifi
Respondent

Approved as to form and content

/s/ Maret Vessella

Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this ___ day of May, 2023.

Copy of the foregoing emailed
this ___ day of May, 2023, to:

The Honorable Margaret H. Downie
Presiding Disciplinary Judge
Supreme Court of Arizona
1501 West Washington Street, Suite 102
Phoenix, Arizona 85007
E-mail: officepdj@courts.az.gov

Copy of the foregoing emailed
this _____ day of May, 2023, to:

Walid A. Zarifi
Greenbriar Law PLC
4602 E. Thomas Road, Suite S8
Phoenix, Arizona 85018-7710
Email: waz@greenbriarlaw.com
Respondent

Copy of the foregoing hand-delivered
this ____ day of May, 2023, to:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266

by: /s/ Donato Zavala
CDH/dz

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Member of
The State Bar of Arizona, Walid A. Zarifi
Bar No. 024079, Respondent.

File No(s). 21-1677, 21-2305, 22-2623, 23-0148, and 23-0422

Administrative Expenses

The Supreme Court of Arizona has adopted a schedule of administrative expenses to be assessed in lawyer discipline. If the number of charges/complainants exceeds five, the assessment for the general administrative expenses shall increase by 20% for each additional charge/complainant where a violation is admitted or proven.

Factors considered in the administrative expense are time expended by staff bar counsel, paralegal, secretaries, typists, file clerks and messenger; and normal postage charges, telephone costs, office supplies and all similar factors generally attributed to office overhead. As a matter of course, administrative costs will increase based on the length of time it takes a matter to proceed through the adjudication process.

*General Administrative Expenses
for above-numbered proceedings*

\$1,200.00

Additional costs incurred by the State Bar of Arizona in the processing of this disciplinary matter, and not included in administrative expenses, are itemized below.

Additional Costs

Total for additional costs \$ 0.00

TOTAL COSTS AND EXPENSES INCURRED \$1,200.00

EXHIBIT B

BEFORE THE PRESIDING DISCIPLINARY JUDGE

**IN THE MATTER OF A MEMBER
OF THE STATE BAR OF
ARIZONA,**

**WALID A. ZARIFI,
Bar No. 024079,**

PDJ 2023-9001

**FINAL JUDGMENT AND
ORDER**

State Bar File Nos. 21-1677 Nos. 21-
1677 and 21-2305
and
Pre-ADPCC File Nos. SB22-2623,
23-0148 and 23-0442

The Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent pursuant to Rule 57(a), Ariz. R. Sup. Ct., accepts the parties' proposed agreement.

Accordingly:

IT IS ORDERED that Respondent, Walid A. Zarifi, is suspended for six months and one (1) day for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective 60 days from the date of this order.

IT IS FURTHER ORDERED that, if reinstated, Respondent shall be placed on probation for a period of two (2) years the terms of probation which will consist of:

- a) LOMAP (FULL ASSESSMENT): Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from the date this order is executed to schedule an initial Law Office Management Assistance Program (LOMAP) assessment meeting. Respondent shall then participate in the LOMAP assessment and shall complete all follow up deemed necessary by LOMAP, including any needed follow-up meetings throughout the period of participation. Respondent shall sign terms and conditions of participation, including reporting requirements, which shall be incorporated herein. Respondent will be responsible for any costs associated with LOMAP.
- b) LRO MAP: Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from the date of service of this Order, to schedule an assessment. The Compliance Monitor shall develop terms and conditions of participation if the results of the assessment so indicate and the terms, including reporting requirements, shall be incorporated

herein. Respondent will be responsible for any costs associated with participation with compliance.

c) CLE: In addition to annual MCLE requirements, Respondent shall complete the following Continuing Legal Education ("CLE") program(s):

- Candor, Courtesy & Confidences: Common Courtroom Conundrums
- 10 Deadly Sins of Conflicts
- Braving the Storm: Dealing with Opposing Counsel and the Court
- Ethics Cafe : ER 3.1 - Meritorious Claims and Contentions
- Ethics Cafe : ER 3.3 - Candor Toward the Tribunal
- Ethics Café Series: ER 3.4 - Fairness to Opposing Party and Counsel
- 17 Tips to Help the Way toward the Ethical, Professional and Enjoyable Practice of Law

within 90 days from the date of service of this Order. Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the program by providing a copy of (a) his/her handwritten notes; or (b) typed or electronic notes, accompanied by a declaration, statement or affidavit that complies with Civil Rule 80(c), and which states he/she personally typed the notes while viewing the CLE program. Respondent should contact the Compliance Monitor at 602-340-7258 to make arrangements to submit this evidence. Respondent will be responsible for the cost of the CLE.

d) Respondent shall commit no further violations of the Rules of Professional Conduct.

IT IS FURTHER ORDERED that Respondent shall be subject to any additional terms imposed by the Presiding Disciplinary Judge as a result of reinstatement hearings held.

IT IS FURTHER ORDERED that, pursuant to Rule 72 Ariz. R. Sup. Ct., Respondent shall immediately comply with the requirements relating to notification of clients and others.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$ _____, within 30 days from the date of service of this Order.

IT IS FURTHER ORDERED that Respondent shall pay the costs and expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings in the amount of _____, within 30 days from the date of service of this Order.

DATED this _____ day of May, 2023.

Margaret H. Downie, Presiding Disciplinary Judge

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this _____ day of May, 2023.

Copies of the foregoing mailed/mailed
this _____ day of May, 2023, to:

Walid A. Zarifi
Greenbriar Law PLC
4602 E. Thomas Road, Suite S8
Phoenix, Arizona 85018-7710
Email: waz@greenbriarlaw.com
Respondent

Copy of the foregoing emailed/hand-delivered
this ____ day of May, 2023, to:

Craig D. Henley
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Copy of the foregoing hand-delivered
this ____ day of May, 2023 to:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266

by: _____