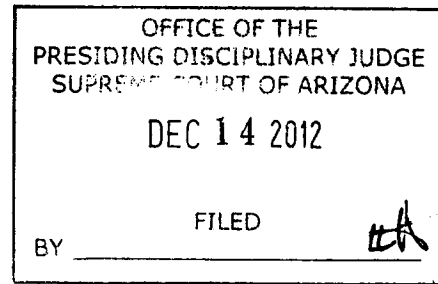


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Respondent's Counsel

**BEFORE THE PRESIDING DISCIPLINARY JUDGE
OF THE SUPREME COURT OF ARIZONA**

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

**Rachel L. Yosha,
Bar No. 011780,**

Respondent.

PDJ-2012-9086

**AGREEMENT FOR DISCIPLINE BY
CONSENT**

[State Bar No. 11-1083, 11-2105
and 11-3940]

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent Rachel L Yosha, who is represented in this matter by counsel, Ralph W. Adams, hereby submits their Tender of Admissions and Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. Respondent voluntarily waives the right to an adjudicatory hearing on the complaint, 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.

Respondent conditionally admits that her conduct, as set forth below, violated in Count One: Rule 42, ERs 8.4(d); and Count Two: Rule 42, ERs 3.1,

3.2, and 8.4(d). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Reprimand and Two (2) Years of Probation. Respondent also agrees to pay the costs and expenses of the disciplinary proceeding.¹ The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit "A."

FACTS

GENERAL ALLEGATIONS

1. At all times relevant, Respondent was a lawyer licensed to practice law in the state of Arizona having been first admitted to practice in Arizona on October 24, 1987.

COUNT ONE (File nos. 11-1083/Judicial Referral and 11-3940/Gray)²

1. Respondent represented Complainant, Ben Gray, in the extremely contentious post-decree of dissolution proceedings in Maricopa County Superior Court matter, *In re: The Marriage of Tammy Meade and Ben Gray*, FN2006-004400.

2. Between February 2008 and October 2010, the Court held and/or continued several hearings on post-decree issues.

3. On October 1, 2010, a Notice of Full Settlement and Motion to Vacate Trial was filed.

4. Between November 5, 2010, and January 12, 2011, the parties filed several motions disputing the nature and terms of the settlement agreement.

5. On February 8, 2011, Respondent filed a pleading entitled "Motion to Hold Petitioner in Contempt of Court" (hereinafter referred to as "contempt motion").

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.

² Although there are two files, both matters arise out of the same facts; However the Complaint does not allege misconduct for the conduct complained of in the client's bar charge.

6. In the contempt motion filed by Respondent on February 8, 2011, Respondent requested the Court's expedited consideration on the basis that there was an imminent risk of foreclosure on the property secured by the loan on which Meade had defaulted.

7. The Honorable M. Scott McCoy denied the request for expedited consideration in a minute entry dated February 11, 2011 (entered February 15, 2011) but set a 15 minute Resolution Management Conference on the Motion.

8. The contempt motion recited Meades' numerous defaults under the Decree since Gray's Petition to Enforce was filed in February of 2008 and stated "...and the Court has (sic) nothing to stop her."

9. At the RMC, the Court addressed, among other things, the statement regarding the Court's purported inaction.

10. Also at the March 15, 2011 RMC, Respondent represented that she had five (5) similar cases involving refinance wherein the court "within sixty (60) days" ordered either: i) the sale of the property; ii) transfer of the property to the other spouse; or iii) some security posted.

11. Based upon Respondent's representation, Judge McCoy ordered Respondent to submit in writing a list of the five other cases and the minute entry or order where the court granted relief on an expedited basis.

12. On March 18, 2011, Respondent filed the document that Judge McCoy had ordered which clarified her statement regarding the 5 cases and the relief granted therein and identified and described her refinance cases- none of which supported her previous statement regarding the court taking the outlined action(s) within sixty days.

13. This document also clarified that she never intended to blame the court for inaction on the issue.

14. On March 31, 2011, Judge McCoy entered a minute entry finding that the cases listed did not support Respondent's March 15, 2011 representation to the Court and that Respondent's statements were "*palpably false*".

15. Also, in the March 31, 2011, minute entry, Judge McCoy determined "that Husband was blaming the Court for somehow failing to prevent Wife from permitting a separate property to go into foreclosure."

16. On May 31, 2011, Judge McCoy, recused himself from any further proceedings in the case based upon his "very negative impression of all currently involved in this case." The case was reassigned to The Honorable James Blomo.

17. By letter dated April 4, 2011, Judge McCoy submitted to the State Bar, a copy of the March 31, 2011, minute entry and a copy of the recording of the March 15, 2011 proceeding.

a. Judge McCoy's April 4, 2011, letter to the State Bar stated "Given her misrepresentations to the Court and her unprofessional demeanor during and after the March 15, 2011 proceeding, I have significant reservations about her fitness to practice at this time."

18. On or about June 13, 2011, Respondent e-mailed her client an Application for Withdrawal with Client Consent requesting that her client sign and return the document.

19. On June 16, 2011, Respondent called her client and left a voice message inquiring about the status of the signed consent to withdraw.

20. On June 20, 2011, Respondent spoke to her client and received assurances that the consent would be returned shortly.
21. On June 22, 2011, Respondent called her client and left a voice message inquiring about consent.
22. On June 26 and 30, 2011, Respondent e-mailed her client about the status of the consent.
23. On July 11, 2011, at 9:05 pm, after receiving no response from her client, Respondent e-mailed a copy of a revised Application for Withdrawal without Client Consent.
24. On July 12, 2011, Respondent filed the revised Application without client consent.
25. On July 14, 2011, Respondent received the executed signature page of the original Application.
26. On July 29, 2011, Respondent filed a Motion for Summary Disposition of Motion To Withdraw.
27. On August 26, 2011, the Court signed the Order for Withdrawal of Counsel.
28. Respondent's conduct regarding the withdrawal was appropriate.
29. In September 2011, the client requested certain documents from the client file. Respondent provided certain documents but informed the client that certain documents were never produced by the opposing party.
30. On October 13, 2011, the parties resolved all of their differences except the status of a group home owned by the parties.
31. On October 13, 2011, a Judgment and Order was signed by the Court accepting the mutually agreed upon resolutions.

32. On October 25, 2011, the Court filed a minute entry ordering the sale of the group home. This was one of the possible remedies sought by Respondent during the previous arguments to Judge McCoy.

COUNT TWO (File nos. 11-2105/Heim)

33. On February 18, 2011, Complainant, Shari Heim, retained Respondent to represent her in the Maricopa County Superior Court post-decree of dissolution matters in *In re: the Marriage of Robert John Kretkowski and Shari Heim*, FC2007-093005.

34. Respondent filed an Objection to Plaintiff's Motion for Entry of Order of Restitution of Premises.

35. The Court set an evidentiary hearing on the matter for May 6, 2011 and issued the standard minute entry as to pretrial tasks.

36. On May 6, 2011, the Court held an evidentiary hearing in Maricopa County Superior Court post-decree of dissolution matter *In re: the Marriage of Robert John Kretkowski and Shari Heim*, FC2007-093005, regarding various issues raised by the parties including, but not limited to, restitution of the marital residence.

37. At the May 6, 2011 hearing, the Court found that his prior court orders regarding the transfer of the marital home to Husband was a final order affirmed by a Court of Appeals memorandum decision on November 18, 2010, and that the rulings became final when no motion for reconsideration or petition for review was filed.

38. At the May 6, 2011 hearing, the Court ordered Respondent to file a position statement as to why her pleadings should not be found to violate Rule 31, A.R.F.L.P.

39. Respondent complied with the Court's order by filing her position statement on April 13, 2011.

40. The Court also found that Respondent's argument was contrary to her client's testimony in that Wife/Respondent's failure to refinance the property was not due to the lender's denial as argued by Respondent, but by Wife/Respondent's dilatory application for the refinance in 2009.

41. On May 27, 2011, Respondent filed an Emergency Motion to Withdraw without client consent requesting that the representation be terminated based upon the conflict created by the Court's ruling and her client's failure to comply with the financial terms of the fee agreement.

42. On May 31, 2011, the Court signed an order of withdrawal.

43. Respondent's conduct regarding the withdrawal was appropriate.

44. Rule 31 reads in pertinent part, "[t]he signature of an attorney or party constitutes a certificate by the signer...that to the best of the signer's knowledge, information and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law...".

45. On June 7, 2011, Petitioner'/Father's counsel submitted an application and affidavit for attorney's fees and costs.

46. On June 28, 2011, the Court issued a minute entry making the following factual and legal statements and findings:

- a. Respondent takes the position that the Court is at fault for setting a hearing on Father's Petition to Enforce;
- b. The Court finds that [Respondent] violated Rule 31, A.R.F.L.P. three times: (1) On April 1, 2011, when she filed the Motion for Rule 89 Order Against Petitioner re: Tender of Quit Claim Deed to Marital

Residence, (2) On April 26, 2011, when she filed the Pretrial Statement for May 6, 2011 hearing; and (3) On June 13, 2011, when she filed her Position Statement Re ARFLP 31 Violation.

47. The Court specifically found that Respondent violated Rule 31 as follows:
- a. As to the April 1, 2011, filing...[Respondent] had no legal basis to seek to have Father sign a quit claim deed. At that point, the Court of Appeals had affirmed the court order awarding the marital residence to Father because Mother had not complied with the terms of the decree.
 - b. As to the April 26, 2011, [filing, Respondent] was aware of an appellate proceeding that had affirmed the Court's ruling...[Respondent], nonetheless, pursued an unsustainable and legally unsupportable collateral attack on that order.
 - c. As to the June 13, 2011, [filing, Respondent] has said that the Court issued "False" minute entries. She goes on to say that she had a duty to "zealously" represent her client, using zealotry as an excuse for overstepping the bounds of professionalism. [Respondent's] tone is inappropriate and shows that she has no understanding of how she has violated Rule 31, A.R.F.L.P.

48. The Court ordered Respondent to address the violation by completing the following no later than June 30, 2012:

- a. Take the Mandatory Professionalism Course offered by the State Bar of Arizona;
- b. Take a continuing legal education program on appellate practice addressing a litigant's options once an order has been affirmed on appeal;
- c. Contact the Arizona State Bar Member Assistance Program for support regarding her unprofessional attitude toward the Court in this matter, which suggests to the Court that (Respondent) is dealing with an anger or anger management issue;
- d. Affirm for the Court that she has read and understands Rule 42, Ariz. R. Sup. Ct. and Rule 31, A.R.F.L.P

49. The Court concluded by stating "[t]he Court is hopeful that [Respondent] will see this order as an opportunity to learn and to grow as an attorney".

50. Respondent complied with the Court's orders purging her Rule 31 violation.

51. On July 1, 2011, the parties submitted and the Court accepted a stipulation regarding the division of property including the marital home.

52. On August 4, 2011, the Court signed a judgment for attorney's fees and costs against Wife/Respondent and in favor of Husband/Petitioner in the amount of \$4063.50³. This award was not premised on Respondent's conduct.

CONDITIONAL ADMISSIONS

Respondent's admissions are being tendered in exchange for the form of discipline stated below and is submitted freely and voluntarily and not as a result of coercion or intimidation.

Respondent conditionally admits that her conduct violated in Count One: Rule 42, ERs 8.4(d); Count Two: Rule 42, ERs 3.1, 3.2 and 8.4(d).

CONDITIONAL DISMISSALS

While the State Bar would be prepared to present evidence of the following allegations if this matter proceeded to trial, the State Bar has conditionally agreed to dismiss two allegations in Count One:

1. Rule 42, Ariz. R. Sup. Ct., ER 3.3 – Respondent denies that she knowingly made a false statement of fact or law to a tribunal by claiming that she had five (5) similar cases involving refinance wherein the court "within sixty (60) days" ordered either: i) the sale of the property; ii) transfer of the property to the other spouse; or iii) some security posted.
2. Rule 42, Ariz. R. Sup. Ct., ER 8.4(c) – Respondent denies that she engaged in conduct that is prejudicial to the administration of justice by making false claim and submitting pleading purportedly "clarifying" her prior statement.

RESTITUTION

Restitution is not an issue in this matter.

³ Father/Petitioner requested \$5602.32.

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 sanction is appropriate:

Reprimand and Two (2) Years of Probation. The agreed upon terms of probation will be to complete a Law Office Management Assistance Program (LOMAP) consultation and follow any recommendation as well as provide the State Bar with evidence of her successful participation in the Member Assistance Program (MAP) and Peer Monitoring Program. With regard to the LOMAP requirement, Respondent must participate in the initial consultation and implement the suggested changes. However, there is no requirement for ongoing participation in LOMAP. Respondent must complete the initial consultation and implementation within two years.

Respondent also agrees to complete no less than three (3) of the following continuing legal education programs (CLE) regarding professionalism and/or courtroom candor and decorum [in addition to her annual requirement] along with the payment of the costs and expenses of the disciplinary proceeding:

1. The Importance of Professionalism and Reputation to Today's Lawyers;
2. Ethics for Trial Lawyers;
3. Nuts and Bolts of Civil Practice and Procedure: Interactions with the Court, Persuasion and Recovering From Mistakes;
4. Nuts and Bolts of Civil Practice and Procedure: Appellate Considerations;
5. Candor, Courtesy and Confidences: Common Courtroom Conundrums;
6. Nuts and Bolts of Civil Practice and Procedure: Interactions with the Clerk of Court; and/or

7. Tips for Making Law Practice More Enjoyable.

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. *Standards* 1.3, Commentary. The *Standards* provide guidance with respect to an appropriate sanction in this matter. *In re Peasley*, 208 Ariz. 27, 33, 35, 90 P.3d 764, 770 (2004); *In re Rivkind*, 162 Ariz. 154, 157, 791 P.2d 1037, 1040 (1990).

In determining an appropriate sanction consideration is given to 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. *Peasley*, 208 Ariz. at 35, 90 P.3d at 772; *Standard* 3.0.

The parties agree that *Standard* 6.23 is the appropriate *Standard* given the facts and circumstances of this matter. *ABA Standard* 6.23 [Abuse of the Legal Process] holds that a Reprimand is generally appropriate when a lawyer negligently fails to comply with a court order or rule, and causes injury or potential injury to a client or other party, or causes interference or potential interference with a legal proceeding.

In this case, Respondent violated ER 8.4(d) by engaging in the following conduct that was prejudicial to the administration of justice:

Count 1: By submitting pleading containing a discussion of previous cases which the court found to be inapposite to her prior statement in open court;

Count 2: By reasserting various issues which were previously affirmed by the Court of Appeals by memorandum decision on November 18, 2010.

In Count 2, Respondent violated ERs 3.1 by asserting various issues which were previously affirmed by the Court of Appeals by memorandum decision on November 18, 2010 thereby making the rulings final when no motion for reconsideration or petition for review was filed and ER 3.2 by failing to make reasonable efforts to expedite litigation by failing to comply with Rule 31, A.R.F.L.P. and asserting various issues which were previously affirmed by the Court of Appeals by memorandum decision on November 18, 2010.

The duty violated

As described above, Respondent's conduct violated her duty to the legal system and the public.

The lawyer's mental state

For purposes of this agreement the parties agree that Respondent negligently committed the above-referenced misconduct and that her conduct was in violation of the Rules of Professional Conduct.

The extent of the actual or potential injury

For purposes of this agreement, the parties agree that there was little, if any, actual harm to her client, the legal system and public.

Aggravating and mitigating circumstances

The presumptive sanction in this matter is reprimand. The parties conditionally agree that the following aggravating and mitigating factors should be considered.

In aggravation:

Standard 9.22(c) – pattern of misconduct;

Standard 9.22(i) – substantial experience in the practice of law [Admitted October 24, 1987].

In mitigation:

Standard 9.32(a) – absence of a prior disciplinary record [None, in twenty five (25) years of practice];

Standard 9.32(d) – timely good faith effort to make restitution or to rectify consequences of misconduct [Respondent produced letters of apology to the individually affected judges as well as proof that she immediately complied with the Court ordered sanctions];

Standard 9.32(e) – full and free disclosure to disciplinary board or cooperative attitude toward proceedings;

Standard 9.32(g) – character and reputation [Respondent would produce live testimony and letters regarding twenty five (25) years of *pro bono* and other legal services];

Standard 9.32(k) – imposition of other penalties or sanctions [Respondent produced Certificate of Completion of court-ordered completion of Professionalism Course, CLE courses and voluntarily entered the MAP program];

Standard 9.32(l) – remorse [Respondent produced letters of apology to the individually affected judges as well as proof that she immediately complied with the Court ordered sanctions].

Proportionality

In *In re Cook*, SB-10-0085-D (2010), Respondent accepted a censure and was placed on probation for two years [LOMAP/MAP/CLE]. In multiple counts, Respondent engaged in concurrent conflicts of interests by representing both the

debtors and creditors in the same bankruptcy case without an appropriate written waiver. In addition, Respondent failed to comply with rules of procedure, failed to pursue client objectives, failed to effectively communicate with clients, failed to clarify the scope of his representation, filed a non-meritorious fee application which was prejudicial to the administration of justice. There were four aggravating factors: (a) - prior disciplinary offenses; (c) - a pattern of misconduct, (d) - multiple offenses and (i) - substantial experience in the practice of law. There were five mitigating factors: (b) - absence of dishonest or selfish motive, (d) - timely good faith effort to rectify, (g) - character or reputation, (k) - imposition of other penalties or sanctions and (l) remorse. Respondent was sanctioned for violating Rule 42, Ariz.R.S.Ct., specifically ERs 1.1, 1.2, 1.3, 1.4, 1.5, 1.7, 3.1, 3.2, 5.3 and 8.4(d).

In *In re Yragui*, SB-10-0061-D (2010), Respondent accepted a censure and was placed on probation for one year [MAP]. Respondent made a false statement to the court by stating in her motion for continuance that she had to attend an out of state funeral for a relative, when in fact Respondent scheduled an emergency appointment with a healthcare provider to discuss help for a gravely ill family member. There was one aggravating factor: (i) - substantial experience in the practice of law, and four mitigating factors: (a) - absence of prior disciplinary record, (c) - personal or emotional problems, (e) - full and free disclosure to disciplinary board and (l) remorse. Respondent was sanctioned for violation of Rule 42, Ariz.R.S.Ct., specifically ERs 3.3(a)(1).

Discussion

The parties have conditionally agreed that a greater or lesser sanction would not be appropriate under the facts and circumstances of this matter. This agreement was based on the following: Not only is the sanction is proportional with both the *Standards* and prior case law, Respondent has had approximately twenty five years of practice without discipline and has been previously sanctioned by the two underlying courts.

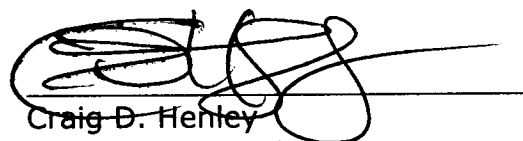
Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

CONCLUSION

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. *Peasley, supra* at ¶ 64, 90 P.3d at 778. 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 Reprimand with Two (2) Years Probation along with the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit "B."

DATED this 13th day of December, 2012.

STATE BAR OF ARIZONA



Craig D. Henley
Staff Bar Counsel

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

DATED this 8th day of December, 2012.


Rachel L. Yosha
Respondent.

DATED this 12th day of December, 2012.


Ralph W. Adams
Counsel for Respondent

Approved as to form and content

Maret Vessella
Chief Bar Counsel

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

DATED this _____ day of _____, 2012.

Rachel L. Yosha
Respondent

DATED this _____ day of _____, 2012.

Ralph W. Adams
Counsel for Respondent

Approved as to form and content

Maret Vessella
Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk
of the Office of the Presiding Disciplinary Judge
this 14th day of December, 2012.

Copies of the foregoing mailed/emailed
this 14th day of December, 2012, to:

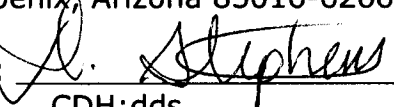
Ralph W. Adams
Adams & Clark PC
520 E Portland St Ste 200
Phoenix, AZ 85004-1843
Email: thefirm@adamsclark.com
Respondent's Counsel

Copy of the foregoing emailed
this 14th day of December, 2012, to:

William J. O'Neil
Presiding Disciplinary Judge
Supreme Court of Arizona
Email: officepdj@courts.az.gov
lhopkins@courts.az.gov

Copy of the foregoing hand-delivered
this 14th day of December, 2012, to:

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

By: 
CDH:dds

STANDARD PROBATION TERMS (including non-compliance language)

LOMAP

Respondent shall contact the director of the State Bar's Law Office Management Assistance Program (LOMAP), at 602-340-7332, within 30 days of the date of the final judgment and order. Respondent shall submit to an initial LOMAP examination of her office's procedures and follow all recommended terms and conditions. In addition Respondent shall complete, no less than three (3) of the following continuing legal education programs (CLE) regarding professionalism and/or courtroom candor and decorum [in addition to her annual requirement]:

1. The Importance of Professionalism and Reputation to Today's Lawyers;
2. Ethics for Trial Lawyers;
3. Nuts and Bolts of Civil Practice and Procedure: Interactions with the Court, Persuasion and Recovering From Mistakes;
4. Nuts and Bolts of Civil Practice and Procedure: Appellate Considerations;
5. Candor, Courtesy and Confidences: Common Courtroom Conundrums;
6. Nuts and Bolts of Civil Practice and Procedure: Interactions with the Clerk of Court; and/or
7. Tips for Making Law Practice More Enjoyable. The director of LOMAP shall develop "Terms and Conditions of Probation", and those terms shall be incorporated herein by reference. The probation period will commence at the time of the entry of the judgment and order and will conclude [term of probation] from that date. Respondent shall be responsible for any costs associated with LOMAP.

MAP

Respondent shall submit to a Member Assistance Program (MAP) assessment or provide the State Bar with evidence of her successful participation in MAP and Peer Monitoring Program.

The probation period will begin to run at the time of the entry of the final judgment and order and will conclude two (2) years from that date or upon successful completion of the terms stated herein if early than two years. Respondent shall be responsible for any costs associated with MAP or LOMAP.

NON-COMPLIANCE LANGUAGE

In the event that Respondent fails to comply with any of the foregoing probation terms, and information thereof is received by the State Bar of Arizona, 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 a term of probation has been breached and, if so, to recommend an appropriate sanction. If there is an allegation 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.

EXHIBIT "A"

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,
Rachel L. Yosha, Bar No. 011780, Respondent

File No(s). 11-1083, 11-2015, 11-3940

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.

Staff Investigator/Miscellaneous Charges

12/05/12 Travel and mileage to pick up CD \$ 7.77

Total for staff investigator charges \$ 7.77

TOTAL COSTS AND EXPENSES INCURRED **\$1,207.77**



Sandra E. Montoya
Lawyer Regulation Records Manager

12-14-12
Date

EXHIBIT "B"

**BEFORE THE PRESIDING DISCIPLINARY JUDGE
OF THE SUPREME COURT OF ARIZONA**

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

**Rachel L. Yosha
Bar No. 011780**

Respondent.

PDJ-2012-9086

FINAL JUDGMENT AND ORDER
[State Bar No. 11-1083, 11-2105
and 11-3940]

The undersigned Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on December 7, 2012, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

IT IS HEREBY ORDERED that Respondent, **Rachel L. Yosha**, is hereby reprimanded with two (2) years probation for her conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective thirty (30) days from this Order or _____.

IT IS FURTHER ORDERED that Respondent shall be placed on probation for a period of two (2) years subject to early termination upon successful completion of the probation terms.

IT IS FURTHER ORDERED that, the terms of probation are to complete a Law Office Management Assistance Program (LOMAP) consultation and follow any recommendation as well as provide the State Bar with evidence of her successful participation in the Member Assistance Program (MAP) and Peer Monitoring Program.

IT IS FURTHER ORDERED that, Respondent shall complete no less than three (3) of the following continuing legal education programs (CLE) regarding professionalism and/or courtroom candor and decorum [in addition to her annual requirement] along with the payment of the costs and expenses of the disciplinary proceeding:

1. The Importance of Professionalism and Reputation to Today's Lawyers;
2. Ethics for Trial Lawyers;
3. Nuts and Bolts of Civil Practice and Procedure: Interactions with the Court, Persuasion and Recovering From Mistakes;
4. Nuts and Bolts of Civil Practice and Procedure: Appellate Considerations;
5. Candor, Courtesy and Confidences: Common Courtroom Conundrums;
6. Nuts and Bolts of Civil Practice and Procedure: Interactions with the Clerk of Court; and/or
7. Tips for Making Law Practice More Enjoyable.

LOMAP

Respondent shall contact the director of the State Bar's Law Office Management Assistance Program (LOMAP), at 602-340-7332, within 30 days of the date of the final judgment and order. Respondent shall submit to an initial LOMAP examination of her office's procedures and follow all recommended terms and conditions. The director of LOMAP shall develop "Terms and Conditions of Probation", and those terms shall be incorporated herein by reference. Respondent shall be responsible for any costs associated with LOMAP.

MAP

Respondent shall submit to a Member Assistance Program (MAP) assessment or provide the State Bar with evidence of her successful participation in MAP and Peer Monitoring Program. Respondent shall be responsible for any costs associated with MAP.

NON-COMPLIANCE LANGUAGE

In the event that Respondent fails to comply with any of the foregoing probation terms, and information thereof is received by the State Bar of Arizona, 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 a term of probation has been breached and, if so, to recommend an appropriate sanction. If there is an allegation 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.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$ _____.

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

_____.

DATED this _____ day of _____, 2012.

The Honorable William J. O'Neil
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 _____, 2012.

Copies of the foregoing mailed/emailed
this _____ day of _____, 2012, to:

Ralph W. Adams
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520 E Portland St Ste 200
Phoenix, AZ 85004-1843
Email: thefirm@adamsclark.com
Respondent's Counsel

Copy of the foregoing hand-delivered/emailed
this _____ day of _____, 2012, to:

Craig D. Henley
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Lawyer Regulation Records Manager
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By: _____