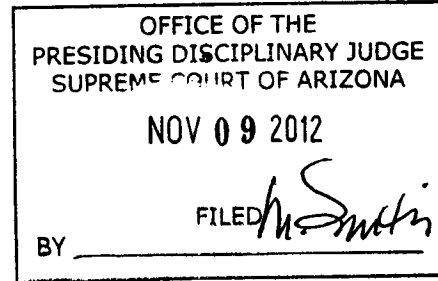


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Respondent's Counsel

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

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

**Eddie A. Pantiliat,  
Bar No. 015231,**

Respondent.

**PDJ-2012-9073**

**AGREEMENT FOR DISCIPLINE  
BY CONSENT**

State Bar No. 11-3213

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent Eddie A. Pantiliat, who is represented in this matter by counsel, Karen Clark, hereby submit their Tender of Admissions and Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct.<sup>1</sup> 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.

<sup>1</sup> All references herein to rules are to the Arizona Rules of the Supreme Court unless otherwise specifically designated.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ERs 1.5(a) and 4.3. Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Suspension for 30 days effective December 1, 2012; restitution of \$8,333.33 to Dustin Braeger, \$8,333.33 to Chandra Braeger, and \$7,045.40 to Sofia Kramer, by December 31, 2012; probation for six months following reinstatement to obtain six continuing legal education ("CLE") hours (in addition to the annual requirement) on the topics of reasonable fees, attorney/client relations, and attorney conduct toward unrepresented parties. The CLE classes must be approved in advance by bar counsel, who will not withhold approval unreasonably. In addition, the probationary period is subject to early termination, and will terminate upon receipt by bar counsel of proof that Respondent has completed the pre-approved CLE courses. Furthermore, Respondent may obtain the CLE beginning after the effective date of the final judgment and order herein. Finally, Respondent agrees to pay the costs and expenses of the disciplinary proceeding.<sup>2</sup> The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit "A."

#### **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

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<sup>2</sup> 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.

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.

### **FACTS**

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 23, 1993.

2. Complainant, Olga Sofia Kramer ("Mrs. Kramer") is Colombian and Spanish is her native language. During the time of the events in question, her immigration status in the U.S. was uncertain.

3. Mrs. Kramer's husband, Gary Kramer, was killed on May 30, 2008, in a private airplane crash. Mr. Kramer was a sightseeing passenger at the time; the pilot was killed, too. The plane was operated by Arrow West Aviation ("AWA").

4. A friend of Mrs. Kramer who also knew Mr. Kramer suggested that Complainant consult David Goldstein, an attorney in Scottsdale.

5. Mrs. Kramer met with Mr. Goldstein and signed a fee agreement for representation in her probate matter. For that representation, Mrs. Kramer paid Respondent's firm approximately \$3,000.00 in fees and \$600.00 in costs. When Mr. Goldstein learned that Mr. Kramer was killed in a plane crash, he told Mrs. Kramer that she should meet with his partner, Respondent, who handled bodily injury and wrongful death cases.

6. Mrs. Kramer met with Respondent and signed a contingent fee agreement dated June 19, 2008 for representation in a wrongful death action

related to Mr. Kramer's death. The fee was a percentage "of any amounts recovered by way of suit or settlement . . . . Client agrees to pay Attorney a fee of 33 1/3 percent of the total amount recovered" if the case settled without a lawsuit, plus costs."

7. Respondent gathered necessary information and sent AWA's insurer a settlement demand for \$1,000,000.00. The insurer revealed that there was a third-party liability limit of \$100,000.00, plus \$5,000.00 of first-party no-fault medical payments and funeral expense reimbursement insurance.

8. The insurer offered the full liability limit; Respondent conveyed this to Mrs. Kramer, who agreed to accept it.

9. When Respondent furnished evidence of approximately \$4,045.40 in funeral and related expenses, the insurer agreed to pay that sum as well.

10. At the end of the representation, and without a request from Mrs. Kramer that he do so (and without her prior knowledge that he would do so), Respondent voluntarily agreed to reduce his fee from \$33,333.33, with the result that the fees charged to Mrs. Kramer totaled \$30,663.85.

11. Respondent itemized 14.2 hours of time that he and other firm attorneys devoted to Mrs. Kramer's case (a paralegal worked 11.2 hours on the case) from June 19, 2008 to February 23, 2009.

12. It was not necessary that Respondent file suit against AWA on Mrs. Kramer's behalf. After the work Respondent performed in working up the demand and negotiating on behalf of Mrs. Kramer with the carrier concerning the funeral expenses, Mrs. Kramer indicated she wanted to settle the case without filing a lawsuit.

13. Respondent advanced \$48.21 in costs on Mrs. Kramer's behalf.

14. Mr. Kramer had two adult children from a prior relationship named Dustin and Chandra Braeger.

15. At the time of the events in question, Dustin was 21 years old and starting his senior year of college, while Chandra was 18 years old and starting her freshman year of college.

16. Dustin and Chandra had been estranged from their father, Mr. Kramer, for several years. They were not invited to and did not attend the wedding of Mr. and Mrs. Kramer.

17. Under relevant Arizona law, Mrs. Kramer and Respondent each owed Dustin and Chandra a fiduciary duty in conducting and settling the wrongful death action.

18. Under relevant Arizona law, Dustin, Chandra and Mrs. Kramer were each entitled to a share of the finite amount of insurance proceeds available to compensate them for their respective losses. Because Mrs. Kramer had initiated the claim, she and Respondent each owed fiduciary duties toward Dustin and Chandra in carrying on the action on their behalf.

19. Respondent told Dustin that the most he and Chandra would receive was a share of the total policy limits of \$100,000.00 and proposed that Dustin and Chandra receive \$33,333.33 to be divided equally between them. Were this matter to proceed to a contested hearing, the State Bar would offer evidence that Respondent more than merely "proposed that Dustin and Chandra receive \$33,333.33 to be divided equally between them" and, instead, essentially dictated those settlement terms to Dustin and Chandra and left them believing they had no

choice but to accept those terms. The State Bar would offer further evidence that Respondent's breach of ethics was not merely failing to confirm information with Dustin and Chandra in writing. Respondent would present evidence that he spoke with Dustin several times over a period of time; that Dustin and Chandra were free to reject the settlement; that he did nothing to coerce them into accepting the settlement; that they likely felt they had no choice but to accept it – not because of anything Respondent said – but because of the finite amount of coverage available; and that the settlement was actually favorable to them, as frequently in cases where adult step children are estranged from a deceased parent, the surviving spouse receives a greater share of wrongful death settlement proceeds. Nonetheless, Respondent now realizes that he should have confirmed to Dustin and Chandra in writing that they could hire their own counsel to represent them and outlined in that writing the advantages and disadvantages of hiring their own counsel.

20. Respondent told Dustin that if he and Chandra retained counsel, they would most likely receive less money than if they accepted their one-third share of the settlement, because their lawyer would have to be paid and would likely charge them on a contingency as Respondent had charged Mrs. Kramer, therefore reducing the overall size of the fund available to all claimants. Were this matter to proceed to a contested hearing, the State Bar would offer evidence that the information Respondent imparted to Dustin and Chandra was false, and that Respondent's breach of ethics was not merely failing to confirm information with Dustin and Chandra in writing. Respondent would present evidence that his statements to Dustin and Chandra were completely accurate. Nonetheless, Respondent now

realizes that he should have confirmed to Dustin and Chandra in writing that they could hire their own counsel to represent them and outlined in that writing the advantages and disadvantages of hiring their own counsel.

21. Respondent knew that Dustin and Chandra were unrepresented, and reasonably should have known that their interests were or had a reasonable possibility of being in conflict with Mrs. Kramer's interests.

22. Dustin told Respondent that they would not agree to the settlement if Respondent was going to allocate more of the \$100,000.00 in insurance proceeds available to Mrs. Kramer than were allocated to Dustin and Chandra combined.

23. Respondent told Dustin that Mrs. Kramer would not receive any more settlement money than Dustin and Chandra combined. He told Dustin that the \$100,000.00 insurance policy limit would be divided three ways: one-third to him, one-third to Mrs. Kramer, and one-third to Dustin and Chandra (to split). Should this matter proceed to hearing, Respondent would produce evidence that he also told Dustin that Mrs. Kramer would not receive more than a one-third share unless it were to come out of his fees – and that Dustin voiced no objection to that possibility. Were this matter to proceed to a contested hearing, the State Bar would offer testimony from Dustin denying that Respondent told Dustin that Mrs. Kramer would not receive more than a one-third share unless it were to come out of his fees.

24. Should this matter proceed to hearing, the State Bar would produce evidence that Respondent dissuaded Dustin and Chandra from retaining counsel. Respondent would produce evidence that he advised Dustin that he and Chandra had the right to retain counsel, and never told them they should not retain counsel.

25. In screening, Respondent claimed that dissuading Dustin and Chandra from retaining counsel was the single most important factor proving that the fees he charged were reasonable.

26. In screening, Respondent wrote:

Suffice it to say that the Braegers did not think highly of Ms. Kramer and were adamant that she not recover more than them in any way, shape or form. They were also strongly considering hiring their own lawyer to represent them in the wrongful death claim, which only would have driven up the fees and costs in this case, delayed the recovery and, most certainly, reduced any final recovery that Ms. Kramer would receive in this case. . . . After several lengthy and numerous conversations with them, they finally agreed to receive 1/3 of the total limits available and not pursue hiring their own attorney and litigating.

I believe that this fact is extremely important when determining the reasonableness of my firm's fees pursuant to ER 1.5. If I was not successful in these difficult negotiations with the children of Mr. Kramer's former spouse, litigation most certainly would have ensued and Ms. Kramer's recovery would have been much less at the end.

27. In screening, Respondent wrote further:

[T]hey were adamant that Ms. Kramer not receive a cent more than them. Notwithstanding, in my final Allocation of Settlement Proceeds distribution to Ms. Kramer, she actually received \$40,000 based on my voluntary fee reduction, which would have never been approved by the Braeger step-children had they known about it.

28. Should this matter proceed to hearing, Respondent would produce evidence that he indeed told Dustin and Chandra that Mrs. Kramer would not receive more than her one-third share of the settlement proceeds and that in fact she did not: what he intended to convey to them (and to the State Bar in its investigation) was that any additional funds she received did **not** come out of the \$100,000.00 in settlement proceeds, but instead came out of his attorney's fees. He would also produce evidence that he had previously told this to Dustin, who did



not object. Were this matter to proceed to a contested hearing, the State Bar would offer testimony from Dustin denying that Respondent told Dustin that Mrs. Kramer would not receive more than a one-third share unless it were to come out of his fees.

29. After Respondent received the settlement funds and he was ready to distribute the net proceeds to Mrs. Kramer, Dustin, and Chandra, he prepared two different "Allocation of Settlement Proceeds" forms.

30. One of the "Allocation of Settlement Proceeds" forms was sent to Dustin and Chandra representing their portions of the settlement, and the other was sent to Mrs. Kramer for her portion of the settlement.

31. On the form used for Dustin and Chandra's settlements, Respondent identified a \$100,000.00 gross recovery; \$33,333.33 in attorney fees; \$33,333.34 to Dustin and Chandra (\$16,666.67 each); and \$33,333.33 to Mrs. Kramer.

32. Mrs. Kramer signed the form used for Dustin and Chandra's settlements on January 27, 2009, Respondent signed it on February 9, 2009, and he sent it and the \$16,666.67 checks to Dustin and Chandra on February 18, 2009.

33. The second "Allocation of Settlement Proceeds" form, for Mrs. Kramer's benefit, showed a gross recovery of \$100,000.00; attorneys fees (\$30,663.85) and costs (\$48.21) totaling \$30,712.06; \$33,333.34 to Dustin and Chandra; and \$40,000.00 to Mrs. Kramer that included the \$4,045.40 no fault funeral expense reimbursement coverage.

34. Respondent gave Mrs. Kramer \$35,954.60 from the \$100,000.00 settlement, which was inconsistent with the allocation statement he had prepared for Dustin and Chandra.

35. Should this matter proceed to hearing, the State Bar would offer evidence that unbeknownst to Dustin and Chandra, Mrs. Kramer and Respondent already had privately agreed that Mrs. Kramer would receive \$40,000. The State Bar would offer further evidence that Respondent knew that the allocation information he provided to Dustin and Chandra on February 18, 2009, to the effect that Mrs. Kramer received \$33,333.33, was false. The \$40,000.00 check he wrote to Mrs. Kramer was dated a week earlier, on February 11, 2009. Respondent would assert that he did not knowingly deceive anyone in this regard. For purposes of the consent agreement, the State Bar agrees to dismiss the charge that Respondent deliberately misled Dustin and Chandra in violation of ERs 4.1 and 8.4(c).

36. Respondent did not send to Dustin and Chandra a copy of the Allocation of Settlement Proceeds form that he used for Mrs. Kramer's allocation.

37. Should this matter proceed to hearing, the State Bar would offer evidence that when Respondent obtained Dustin and Chandra's consent to distribute the settlement proceeds in the amounts he represented he would distribute to them, he did not fully disclose to them all relevant facts including but not necessarily limited to the fact that he planned to give Mrs. Kramer \$40,000.00 including the no fault benefits, or \$35,954.60 excluding the no fault benefits. Respondent would present evidence that he had previously informed Dustin that he might refund some of his attorney's fees to Mrs. Kramer, increasing the total amount of her recovery. For purposes of the consent agreement, the State Bar agrees to dismiss the charge that Respondent deliberately misled Dustin and Chandra in violation of ERs 4.1 and 8.4(c).

38. In his distribution letter to Mrs. Kramer, Respondent wrote: "Enclosed please find a settlement proceeds check in the amount of \$40,000 which constitutes the balance due you from the settlement proceeds of \$100,000."

39. Should this matter proceed to hearing, the State Bar would offer evidence that Respondent's distribution letter to Mrs. Kramer was false. Mrs. Kramer received \$40,000.00 only after Respondent added the no fault benefit of \$4,045.40 to her check; the amount she actually received from the \$100,000 settlement was \$35,954.60. Respondent would assert that he did not knowingly deceive anyone in this regard. For purposes of the consent agreement, the State Bar agrees to dismiss the charge that Respondent deliberately misled Mrs. Kramer in violation of ERs 4.1 and 8.4(c).

#### **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 his conduct violated Rule 42, Ariz. R. Sup. Ct., specifically ERs 1.5(a) and 4.3.

#### **CONDITIONAL DISMISSALS**

The State Bar conditionally agrees to dismiss charges that Respondent violated ERs 4.1 and 8.4(c). For purposes of this consent, the State Bar conditionally agrees that there is not clear and convincing evidence that Respondent intentionally or knowingly acted dishonestly in his dealings with Complainant or the Braegers, and that instead his mental state was negligent.

## **RESTITUTION**

Respondent conditionally agrees to pay restitution of \$8,333.33 to Dustin Braeger, \$8,333.33 to Chandra Braeger, and \$7,045.40 to Sofia Kramer, by December 31, 2012.

## **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: Suspension for 30 days effective December 1, 2012; restitution of \$8,333.33 to Dustin Braeger, \$8,333.33 to Chandra Braeger, and \$7,045.40 to Sofia Kramer, by December 31, 2012; probation for six months following reinstatement to obtain six continuing legal education ("CLE") hours (in addition to the annual requirement) on the topics of reasonable fees, attorney/client relations, and attorney conduct toward unrepresented parties. The CLE classes must be approved in advance by bar counsel, who will not withhold approval unreasonably, the probationary period may terminate before six months if Respondent completes the CLE within that time, and Respondent may obtain the CLE beginning after the effective date of the final judgment and order herein.

## **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: **A.** the duty violated; **B.** the lawyer's mental state; **C.** the actual or potential injury caused by the misconduct; and **D.** the existence of aggravating and mitigating factors. *Peasley*, 208 Ariz. at 35, 90 P.3d at 772; *Standard* 3.0.

**A. The duty violated**

Respondent violated his duties to his client (ER 1.5(a)), the profession (ER 1.5(a)), and the legal system (ER 4.3).

**B. The lawyer's mental state**

Respondent's mental state was "negligent." "Negligence" is the failure of a lawyer to heed a substantial risk that circumstances exist or that a result will follow, which failure is a deviation from the standard of care that a reasonable lawyer would exercise in the situation. *Standards*, §III. at 1.1, "Definitions."

**C. The extent of the actual or potential injury**

There was actual harm to Respondent's client, the Braegers (public), the legal system, and the profession.

The following *Standards* are relevant given the facts and circumstances of this matter:

*Standard* 4.63: Reprimand is generally appropriate when a lawyer negligently fails to provide a client with accurate or complete information, and causes injury or potential injury to the client.

*Standard* 7.3: Reprimand is generally appropriate when a lawyer negligently 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.

The foregoing *Standards* provide that reprimand is the presumptive sanction when a lawyer negligently engages in conduct that violates lawyerly duties, and causes injury to a client, the profession, the legal system, and/or the public.

#### **D. Aggravating and mitigating circumstances**

The presumptive sanction in this matter is reprimand. The following aggravating and mitigating factors should be considered:

##### **1. In aggravation:**

Standard 9.22: Aggravating factors include:

- (b) Dishonest or selfish motive – Respondent selfishly benefited from collecting an unreasonably high fee;
- (d) multiple offenses;
- (g) Refusal to acknowledge wrongful nature of conduct (until entering into this consent, Respondent has steadfastly denied that he did anything wrong);
- (h) Vulnerability of the victim (representation commenced in response to death of client's husband; Mrs. Kramer was worried about her immigration status at the time of representation; she was unsophisticated and did not understand the claim procedure (she thought Respondent was collecting "life insurance" for her); although adults, Dustin and Chandra were college students, unrepresented and apparently unsure of the options available to them in this matter);
- (i) Substantial experience in the practice of law - 19 years;
- (j) indifference to making restitution – Respondent rejected the State Bar's A/CAP counsel's offer to resolve this matter pre-screening by attending State Bar-sponsored fee arbitration with Mrs. Kramer, and until this consent never agreed to pay any amount of restitution to the Braeger children.

##### **2. In mitigation:**

Standard 9.23: Mitigating factors include:

- (a) Absence of a prior disciplinary record;
- (e) full and free disclosure to a disciplinary board or cooperative attitude toward proceedings;
- (g) character or reputation (Attached as Exhibit B are letters attesting to his character and reputation).

## **PROPORTIONALITY AND DISCUSSION**

Rule 58(k), which pertains to a disciplinary panel's report following a hearing, states that the panel's sanction decision shall include a proportionality analysis "if appropriate." There is no similar reference to proportionality in Rule 57 which pertains to discipline by consent. Rather, Rule 57 requires a "discussion" of why a greater or lesser sanction than that to which the parties consent would not be appropriate under the circumstances of the case. The "discussion" is more meaningful when considered in the context of some proportionality cases.

This charge originated with Complainant's allegation that Respondent charged an excessive fee. The State Bar expanded the investigation to assess whether there is clear and convincing evidence that Respondent acted dishonestly toward the Braegers as non-client statutory beneficiaries of his client's wrongful death claim. The State Bar conditionally agrees that the evidence of Respondent's misconduct toward the Braegers is sufficiently clear and convincing to establish only a negligent mental state; the unreasonable fee that he collected remains the primary focus of the case.

For the foregoing reasons, the State Bar offers the excessive fee proportionality cases of *In re Swartz*, 141 Ariz. 266, 686 P.2d 1236 (1984), and *In re Mercer*, 126 Ariz. 274, 614 P.2d 816 (1980). Mr. Swartz was suspended for six months and ordered to refund the excessive portion of the fee he collected. He collected a contingent fee on a \$150,000 gross recovery in a bodily injury case and distributed most of the balance to a Workers' Compensation lienholder. The small balance remaining for the client constituted a future credit against Workers'

Compensation benefits with the net result that the client recovered nothing in the injury case.

Mr. Mercer was suspended for 60 days after collecting a fee deemed excessive because he charged his client a fee for which he performed no services. Both *Swartz* and *Mercer* were decided under D.R. 2-106 (the predecessor to ER 1.5(a)) that proscribed charging or collecting clearly excessive fees. Respondent collected a clearly excessive and, therefore, unreasonable fee thereby making suspension the appropriate sanction. This case is distinguishable from *Swartz* because Respondent's client did receive a one-third share of settlement, he did perform the required "backward look" analysis and refunded the client a portion of his one-third contingent fee without being asked to do so. It is distinguishable from *Mercer* because Respondent did perform services on behalf of his client. The parties therefore agree that the suspension should be shorter than the six months in *Swartz* or 60 days in *Mercer*.

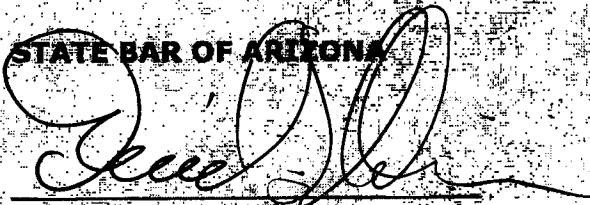
The parties have conditionally agreed that a greater or lesser sanction would not be appropriate under the facts and circumstances of this matter. While the presumptive principal sanction under the *Standards* is reprimand the multiple duties violated, the extent of the actual harm, the preponderance of aggravating over mitigating factors, and the proportionality cases render a short-term suspension the appropriate sanction. 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**

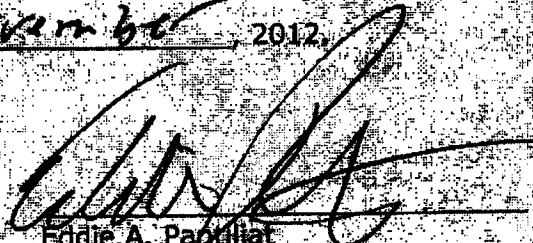
The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. *Peasley, supra* at ¶ 64, 90 P.3d at 778. Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of a suspension for 30 days, restitution and probation as described above, and the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit "C."

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

STATE BAR OF ARIZONA  
  
David L. Sandwells  
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 5 day of November, 2012.

  
Eddie A. Papaliat  
Respondent

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

DATED this 9<sup>th</sup> day of November, 2012.

Karen Clark  
Karen Clark  
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 9<sup>th</sup> day of November, 2012.

Copies of the foregoing mailed/emailed  
this 9<sup>th</sup> day of November, 2012, to:

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

Copy of the foregoing emailed  
this 9<sup>th</sup> day of November, 2012, to:

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

Copy of the foregoing hand-delivered  
this 9<sup>th</sup> day of November, 2012, to:

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

By: Rodney T. Davis  
DLS:dds

# EXHIBIT "A"

## Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,  
Eddie A. Pantiliat, Bar No. 015231, Respondent

File No. 11-3213

### **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**

Total for staff investigator charges \$ 0.00

**TOTAL COSTS AND EXPENSES INCURRED** **\$1,200.00**

  
\_\_\_\_\_  
Sandra E. Montoya

Lawyer Regulation Records Manager

10-16-12  
Date

# EXHIBIT "B"



# HYMSON GOLDSTEIN & PANTILIAT, PLLC

ATTORNEYS, MEDIATORS & COUNSELORS

16427 N. SCOTTSDALE RD., SUITE 300 | SCOTTSDALE, AZ 85254  
480.991.9077 | 480.443.8854 FAX | WWW.LEGALCOUNSELORS.COM

*Our Business is Your Peace of Mind®*

FROM THE DESK OF  
KEVIN J. NEWELL  
KJN@LEGALCOUNSELORS.COM

October 23, 2012

State Bar of Arizona  
c/o David L. Sandweiss, Senior Bar Counsel  
4201 N. 24th St. Suite 200  
Phoenix, AZ 85016

***Re: Character letter for Eddie A. Pantiliat(SBN 015231)***

To whom it may concern,

Mr. Pantiliat and I have worked together for close to fourteen years at our current firm. I have known Eddie as an Associate Attorney, a Vice President of our law firm Corporation and now as the Managing Member of our law firm.

Over the years I have gotten to know Eddie and his family quite well. His devotion to his family, clients and our law firm is for many to emulate. Eddie has always demonstrated a rare ability to be able to listen to people of all walks of life. His integrity, honesty and ethics are above reproach.

Please accept my character letter for Eddie A. Pantiliat. If you should have any questions, please do not hesitate to contact me at 480-991-9077.

Sincerely,

**HYMSON GOLDSTEIN & PANTILIAT, PLLC**

Kevin J. Newell  
Chief Operating Officer

KJN/zea

October 23, 2012

State Bar of Arizona  
4201 N. 24<sup>th</sup> St., Suite 200  
Phoenix, Arizona 85016

Re: Eddie A. Pantiliat (SBN 015231)

To Whom It May Concern:


I have known Eddie now for nine years. He and I have worked together at the law firm of Hymson Goldstein & Pantiliat, PLLC - he in the capacity of President and Managing Member and I as his legal assistant.

Eddie is extremely competent, detail-oriented, efficient, and conscientious and has an excellent rapport with people of all ages. He is hard-working, dependable, courteous, and a man of integrity, generosity, fair-mindedness and trustworthiness. He is very devoted to his family, friends, clients, his partners and his employees.

I could continue but instead would simply like to say how much I have thoroughly enjoyed working with him over the last nine years and am looking forward to many more years. I would not hesitate for a minute to recommend or refer him as an attorney to anyone I know.

I am happy to provide further information, if required.

Respectfully,



Janice Whitaker

# EXHIBIT "C"



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

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

**Eddie A. Pantiliat,  
Bar No. 015231,**

Respondent.

**PDJ-2012-9073**

**FINAL JUDGMENT AND ORDER**

State Bar No. 11-3213

**COPY**

The undersigned Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on November 9, 2012, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

**IT IS HEREBY ORDERED** that Respondent, **Eddie A. Pantiliat**, is hereby suspended for 30 days for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective December 1, 2012.

**IT IS FURTHER ORDERED** that Respondent shall pay restitution of \$8,333.33 to Dustin Braeger, \$8,333.33 to Chandra Braeger, and \$7,045.40 to Sofia Kramer, by December 31, 2012.

**IT IS FURTHER ORDERED** that, upon reinstatement, Respondent shall be placed on probation for a period of six months to obtain six continuing legal education ("CLE") hours (in addition to the annual requirement) on the topics of reasonable fees, attorney/client relations, and attorney conduct toward unrepresented parties. The CLE classes must be approved in advance by bar counsel, who will not withhold approval unreasonably, the probationary period may

terminate before the end of six months if Respondent completes the CLE within that time, and Respondent may obtain the CLE beginning after the date of this final judgment and order.

**NON-COMPLIANCE LANGUAGE**

COPY

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 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 of that rule including but not limited to those 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 \$1,200.00.

**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.

**COPY**

**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:

Karen Clark  
*Adams & Clark PC*  
520 East Portland Street, Ste. 200  
Scottsdale, Arizona 85004-1843  
Email: [karen@adamsclark.com](mailto:karen@adamsclark.com)  
Respondent's Counsel

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

David L. Sandweiss  
Senior Bar Counsel  
State Bar of Arizona  
4201 North 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
Email: [lro@staff.azbar.org](mailto:lro@staff.azbar.org)

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

By: \_\_\_\_\_