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Respondent's Counsel

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

RUBY TORRES,
Bar No. 030347,

Respondent.

PDJ-2021- 9057

**AGREEMENT FOR DISCIPLINE
BY CONSENT**

[State Bar File Nos. 19-3454 and 20-1602]

The State Bar of Arizona and Respondent Ruby Torres, who is represented in this matter by Attorney Brian Holohan, hereby submit their Agreement for Discipline by Consent pursuant to Rule 57(a), Ariz. R. Sup. Ct. A probable cause order was entered on June 17, 2021, but no formal complaint has been filed in this

matter. 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 admissions and proposed form of discipline is approved.

Pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct., notice of this agreement was provided to Complainants Amanda O'Halloran and Barbara Marshall email on July 9, 2021. They were notified of the opportunity to file a written objection to the agreement with the State Bar within five business days of bar counsel's notice. Copies of Complainants' objections, if any, have been or will be provided to the presiding disciplinary judge.

Respondent conditionally admits that her conduct, as set forth below, violated Rule 42, Ariz. R. Sup. Ct., specifically ER 1.3, ER 1.4(a) and (b), ER 1.15(d), ER 3.4(c), and ER 8.1(b), and Rule 54(d)(2), Ariz. R. Sup. Ct. Upon acceptance of this agreement, Respondent agrees to accept imposition of a **Reprimand and Probation**, the terms of which are set forth in the Sanctions section below. Respondent also agrees to pay the costs and expenses of the disciplinary proceeding¹ within 30 days

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.

from the date of this order. If costs are not paid within the 30 days, interest will begin to accrue at the legal rate. The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

FACTS

GENERAL ALLEGATIONS

1. Respondent was admitted to practice law in Arizona on July 12, 2013.

COUNT ONE (File No. 19-3454/O'Halloran)

Representation of Amanda O'Halloran

2. Amanda O'Halloran was involved in an automobile accident on May 21, 2018.
3. O'Halloran hired Respondent to represent her regarding a personal injury claim based on her 2018 accident.
4. O'Halloran received treatment from Lewin Chiropractic Center (aka Lewin Chiropractic & Rehab), whose bills totaled \$530.
5. On July 3, 2018, Lewin Chiropractic Center filed a UCC financing statement with the Maricopa County Recorder's Office reflecting that Lewin Chiropractic Center was one of O'Halloran's creditors. It stated, "Pending settlement for medical bills resulting from auto accident occurring on 05/21/2018." The UCC financing statement is not the statutory health care provider's lien form. It also failed

to contain all of the requirements of a health care provider lien set out in A.R.S. §33-932.

6. O'Halloran settled her personal injury claim in or about May 2019. The proceeds of the settlement were sufficient to pay Lewin Chiropractic's claim.

7. O'Halloran received a letter from Lewin Chiropractic Center dated May 15, 2019, which stated: "I was told [Respondent] no longer represents you. Therefore, we ask at this time that you please call or stop by the office to submit payment for the balance of \$530.00."

8. O'Halloran disputed Lewin Chiropractic Center's charges; she claimed it was a preferred provider on her health insurance plan and that her liability to Lewin Chiropractic Center should be limited to the amount of her copayments (\$40). Lewin Chiropractic Center, on the other hand, disputed O'Halloran's position on coverage, and refused to discount O'Halloran's bills because she had signed a document that purportedly gave Lewin Chiropractic Center a lien on the proceeds of any settlement that O'Halloran might recover.

9. Respondent was unsure whether Lewin Chiropractic Center had properly recorded a health care provider lien under A.R.S. §33-932. The letter transmitting the settlement check also stated that the insurer considered it her "responsibility to see that all such obligations [health care liens] are satisfied from this settlement."

Respondent did not think she could therefore disburse the \$530 she held in her client trust account to Lewin Chiropractic Center. After reaching that conclusion, she failed to take steps to ensure that a prompt disbursement of those funds was made.

10. According to Respondent's distribution sheet dated May 29, 2019, Respondent kept \$3,000 for her fee and \$106 for costs related to the representation, and withheld \$530 until she could determine to whom those funds should be forwarded.

11. Respondent ended her representation of O'Halloran by letter dated May 29, 2019, stating: "I am unable to continue with representation due to a breakdown in communication[,] which has created an environment that is difficult to continue to render services."

12. Respondent did not distribute the \$530 to Lewin Chiropractic Center or O'Halloran, but rather continued to hold those funds in her client trust account.

13. Respondent never paid Lewis Chiropractic Center.

14. Respondent failed to respond to some of O'Halloran's telephone calls, text messages, and email messages.

- a. O'Halloran unsuccessfully attempted to contact Respondent by email on August 12, 2019; September 27, 2019; October 3, 2019; October 4, 2019; October 17, 2019; and, December 12, 2019.

- b. O'Halloran unsuccessfully attempted contact Respondent by text message on July 13, 2019; August 1, 2019; September 2, 2019; September 17, 2019; and, October 3, 2019.

15. As of at least March 16, 2021, Lewis Chiropractic Center had never received funds from Respondent's law office based on the UCC financing statement that it had filed with the County Recorder's Office, and Respondent had not taken any steps to address to whom those funds should be paid.

Failure to Respond to Bar Counsel

16. On June 5, 2020, bar counsel, through his assistant, emailed an initial screening letter dated June 5, 2020, to Respondent at lawrtorres@gmail.com, her email address on record with the State Bar. That letter stated in part:

Pursuant to ER 8.1(b) and Rule 54(d), Ariz. R. Sup. Ct., you have a duty to cooperate with this investigation. Failure to fully and honestly respond to, or cooperate with, the investigation is, in itself, grounds for discipline.

17. Bar counsel's June 5, 2020 letter directed Respondent to submit a written response and provide certain categories of documents to the State Bar by June 25, 2020.

18. Respondent failed to submit a written response to bar counsel, as directed in his letter dated June 5, 2020.

19. On July 1, 2020, bar counsel, through his assistant, emailed a non-response letter dated July 1, 2020, to Respondent at lawrtorres@gmail.com, her email address on record with the State Bar. That letter stated in part:

Reference is made to my letter dated June 5, 2020, advising you of the allegations of Amanda O'Halloran. It was requested that your response be filed within twenty (20) days of the date of my letter. This office has no record of the receipt of your response.

Pursuant to Rule 47(h) and 55(b)(1)(B), Ariz. R. Sup. Ct., you are hereby given notice that your failure to comply with this request for response **within ten (10) days of the date of this letter** may require the taking of your deposition pursuant to subpoena, or a recommendation to the Attorney Discipline Probable Cause Committee for an order of probable cause. Please be further advised that, should your failure to cooperate result in the taking of a deposition pursuant to Rule 47, you "shall be liable for the actual costs of conducting the deposition. . . [.]” If you fail to comply with an investigative subpoena, you may be subject to contempt proceedings, and could be summarily suspended.

I again refer you to Rule 54(d), and caution you that failure to cooperate with a disciplinary investigation is grounds, in itself, for discipline.

(Bold typeface in original).

20. Respondent failed to submit a written response to bar counsel, as directed in his letter dated July 1, 2020.

21. On July 31, 2020, bar counsel, through his assistant, granted Respondent until August 20, 2020, to submit a written response to the charges. On that same date, bar counsel's assistant emailed a copy of bar counsel's June 5, 2020 screening

letter to Respondent at rtorres@lernerandrowe.com, her work email address at the time.

22. On August 20, 2020, Respondent submitted a copy of the client file that she maintained on O'Halloran's behalf to the State Bar by email, but did not submit a written response to the charges of misconduct.

23. After bar counsel prepared a Report of Investigation for review by the Arizona Supreme Court's Attorney Discipline Probable Cause Committee, Respondent, through counsel, submitted a written response to the charges of misconduct.

Count One Violations

24. By engaging in the conduct set forth in Count One, Respondent violated ER 1.3, ER 1.4(a) and (b), ER 1.15(d), ER 8.1(b), ER 8.4(d), and Rule 54(d)(2), Ariz. R. Sup. Ct.

COUNT TWO (File No. 20-1602/Marshall)

25. On December 20, 2018, Respondent was transported by a Phoenix Police Officer to the Phoenix Police Station located at 620 West Washington Avenue, Phoenix, Arizona to obtain a DNA sample from her based on a court order that had been secured without Respondent's knowledge. The order was sought by the

authorities to gather evidence regarding a potential prosecution of Respondent's brother.

26. Once at the police station, Respondent was given a copy of the court order, but she initially refused to provide a DNA sample. She told the officer that she was an attorney and would not submit to the court order until she could speak with her attorney.

27. Although there was no established time frame for compliance with the order, the Phoenix Police Department gave Respondent one hour to speak with an attorney, during which time she made multiple calls to various attorney's offices on her personal cell phone.

28. Respondent eventually reached a lawyer who began efforts to challenge the order.

29. Despite agreeing that Respondent could have an hour, the Phoenix Police Department detectives insisted that Respondent provide the DNA sample. Respondent advised the PPD that her attorney was attempting to contact the court to quash the court order.

30. Respondent was subsequently asked to provide a DNA sample, and was advised that if she refused, she would be charged criminally with interfering with judicial proceedings. Respondent refused to provide a DNA sample.

31. While still at the Phoenix Police station, a police employee advised Respondent that she had been served with a court order. She, again, refused to give a DNA sample before her attorney arrived.

32. Respondent was yet again asked to provide a DNA sample, but she refused.

33. While attempting to physically obtain a DNA sample from Respondent, officers eventually managed to get a swab into Respondent's mouth.

Count Two Violations

34. By engaging in the conduct set forth in Count Two, Respondent violated ER 3.4(c) and ER 8.4(d).

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 she violated Rule 42, Ariz. R. Sup. Ct., specifically ER 1.3, ER 1.4(a) and (b), ER 1.15(d), ER 3.4(c), ER 8.1(b), ER 8.4(d), and Rule 54(d)(2), Ariz. R. Sup. Ct.

CONDITIONAL DISMISSALS

There are no conditional dismissals.

RESTITUTION

Respondent agrees to interplead within 30 days of the entry of an order accepting this consent agreement the \$530 held in her client trust account, if she has not already done so, to allow Amanda O'Halloran and Lewin Chiropractic Center to litigate distribution of the disputed funds.

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: **Reprimand** and **Probation** for eighteen (18) months. The terms of probation will consist of the standard term of probation (Respondent shall not violate the Rules of Professional Conduct during the period of probation) and:

1. CLE: In addition to the annual MCLE requirements, Respondent shall complete the following Continuing Legal Education ("CLE") program: the Arizona Association for Justice lien seminar titled "Annual Liens Seminar – 2022" within 18 months of the date of service of an order accepting this consent agreement. Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the program by providing a copy of her handwritten notes and certificate of completion. 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 program.

NON-COMPLIANCE WITH PROBATION

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 of probation, the burden of proof shall be on the State Bar 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. 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:

Standard 4.43 states: "Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client." In this case, Respondent failed to diligently take steps to address distribution of the \$530 she held in her client trust account, which resulted in a delay in distributing the funds.

Standard 6.22 states: "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." In this case, Respondent knowingly attempted to prevent Phoenix Police officer from obtaining a DNA sample from her.

Standard 7.3 states: "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." In this case, Respondent failed—on several occasions—to submit a written response to the State Bar addressing the charges of misconduct. Respondent's failure to respond hampered the State Bar's screening investigation and delayed resolution of the charges.

The duty violated

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

The lawyer's mental state

Respondent violated the Rules of Professional Conduct by **negligently** failing to (a) communicate with her client; (b) promptly resolve distribution of a portion of the settlement funds she recovered on her client's behalf; and (c) timely submit to the State Bar a written response to the charges of misconduct. However, Respondent also violated the Rules of Professional Conduct by **knowingly** refusing to comply with a court order authorizing law enforcement authorities to obtain a DNA sample from her.

The extent of the actual or potential injury

There was actual and potential harm to the client, the legal system, and the profession. The "harm" in this case resulted from the delay in distributing the funds and addressing the charges of misconduct.

Aggravating and mitigating circumstances

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

In aggravation:

- (a) *Standard 9.22(c)* – pattern of misconduct (as reflected by Respondent’s repeated failures to submit a written response to bar counsel during the screening investigation in File No. 20-1602);
- (b) *Standard 9.22(d)* – multiple offenses (as reflected in the two unrelated charges in File Nos. 19-3454 and 20-1602);
- (c) *Standard 9.22(i)* – substantial experience in the practice of law (Respondent was admitted to practice law in Arizona on July 12, 2013); and
- (d) *Standard 9.22(k)* – illegal conduct (Respondent failed to voluntarily comply with a court order authorizing law enforcement authorities to obtain a DNA sample from her).

In mitigation:

- (a) *Standard 9.32(a)* – absence of a prior disciplinary record;
- (b) *Standard 9.32(b)* – absence of a dishonest or selfish motion;
- (c) *Standard 9.32(c)* – personal or emotional problems (Respondent was arrested in December 2019 based on her failure to comply with the court order for a DNA sample (Count Two above). That arrest had a significant impact on Respondent’s state of mind during the time the charges were pending. Moreover, she suffered from personal and medical issues that further exacerbated her situation. In addition, Respondent lost her job at the law firm that had hired her in 2019. As a result of those stressors, Respondent at times became non-functional); and
- (d) *Standard 9.32(e)* – cooperative attitude toward the disciplinary proceedings (as reflected by Respondent’s willingness to enter into this consent agreement); this mitigating factor should be given limited weight since she failed to respond to bar counsel’s screening letters.

Discussion

The parties conditionally agree that upon application of the aggravating and mitigating factors the presumptive sanction is appropriate (the aggravating and mitigating facts essentially offset each other).

The parties conditionally agree that a greater or lesser sanction is not appropriate. A greater sanction is not warranted based on the limited actual and potential harm resulting from Respondent's conduct and her lack of prior discipline; a lesser sanction is not appropriate because she engaged in misconduct in two matters: one related to her representation of a client, and the other related to her failure to comply with a court order.

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 sanctions and will serve the purposes of lawyer discipline.

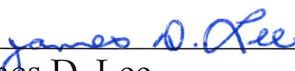
CONCLUSION

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 the objectives of discipline will be met by the imposition of the proposed sanction of

reprimand with probation and the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit B.

DATED this 9th day of July 2021.

STATE BAR OF ARIZONA



James D. Lee
Senior Bar Counsel

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

DATED this _____ day of July, 2021.

Ruby Torres
Respondent

DATED this _____ day of July, 2021.

Broening Oberg Woods & Wilson, PC

Brian Holohan
Counsel for Respondent

Approved as to form and content:

Maret Vessella
Chief Bar Counsel

reprimand with probation and the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit B.

DATED this 9th day of July 2021.

STATE BAR OF ARIZONA

James D. Lee
Senior Bar Counsel

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

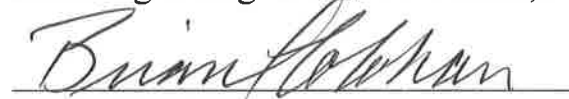
DATED this 9th day of July, 2021.



Ruby Torres
Respondent

DATED this 9th day of July, 2021.

Broening Oberg Woods & Wilson, PC



Brian Holohan
Counsel for Respondent

Approved as to form and content:

/s/Amy K. Rehm for
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 9th day of July, 2021.

Copy of the foregoing emailed
this 9th day of July, 2021, to:

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

Brian Holohan
Broening Oberg Woods & Wilson, PC
2800 North Central Avenue, Suite 1600
Phoenix, Arizona 85004-1047
Email: bh@bowwlaw.com
Respondent's Counsel

Copy of the foregoing hand-delivered
this 9th day of July, 2021, to:

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

by: /s/Jackie Brokaw
JDL/jlb

**BEFORE THE ATTORNEY DISCIPLINE
PROBABLE CAUSE COMMITTEE
OF THE SUPREME COURT OF ARIZONA**

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

**RUBY TORRES,
Bar No. 030347,**

Respondent.

No. 19-3454

PROBABLE CAUSE ORDER


The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on June 11, 2021, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation.

By a vote of 8-0-1¹, the Committee finds probable cause exists to file a complaint against Respondent in File No. 19-3454.

IT IS THEREFORE ORDERED pursuant to Rule 55(c) and 58(a), Ariz. R. Sup. Ct., authorizing the State Bar Counsel to prepare and file a complaint with the Disciplinary Clerk.

Parties may not file motions for reconsideration of this Order.

DATED this 17 day of June, 2021.



Judge Lawrence F. Winthrop, Chair
Attorney Discipline Probable Cause
Committee of the Supreme Court of Arizona

¹ Committee member Jack Dillenberg did not participate in this matter.

Original filed this 17th day

of June, 2021, with:

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

Copies emailed this 18th day
of June, 2021, to:

Ruby Torres
Law Office of Ruby Torres, PLLC
P.O. Box 6226
Phoenix, Arizona 85005-6226
Email: rtorres@lernerandrowe.com
Respondent

Attorney Discipline Probable Cause Committee
Of the Supreme Court of Arizona
1501 West Washington Street, Suite 104
Phoenix, Arizona 85007
E-mail: ProbableCauseComm@courts.az.gov

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
E-mail: LRO@staff.azbar.org

By: /s/ Sharon Berkley

**BEFORE THE ATTORNEY DISCIPLINE
PROBABLE CAUSE COMMITTEE
OF THE SUPREME COURT OF ARIZONA**

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

**RUBY TORRES,
Bar No. 030347,**

Respondent.

No. 20-1602

PROBABLE CAUSE ORDER


The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on June 11, 2021, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation.

By a vote of 8-0-1¹, the Committee finds probable cause exists to file a complaint against Respondent in File No. 20-1602.

IT IS THEREFORE ORDERED pursuant to Rule 55(c) and 58(a), Ariz. R. Sup. Ct., authorizing the State Bar Counsel to prepare and file a complaint with the Disciplinary Clerk.

Parties may not file motions for reconsideration of this Order.

DATED this 17 day of June, 2021.



Judge Lawrence F. Winthrop, Chair
Attorney Discipline Probable Cause
Committee of the Supreme Court of Arizona

¹ Committee member Jack Dillenberg did not participate in this matter.

Original filed this 17th day

of June, 2021, with:

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

Copies emailed this 18th day
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Ruby Torres
Law Office of Ruby Torres, PLLC
P.O. Box 6226
Phoenix, Arizona 85005-6226
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Respondent

Attorney Discipline Probable Cause Committee
Of the Supreme Court of Arizona
1501 West Washington Street, Suite 104
Phoenix, Arizona 85007
E-mail: ProbableCauseComm@courts.az.gov

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
E-mail: LRO@staff.azbar.org

By: /s/ Sharon Berkley

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona
Ruby Torres, Bar No. 030347, Respondent

File Nos. 19-3454 and 20-1602

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,

RUBY TORRES,
Bar No. 030347,

Respondent

PDJ- 2021-_____

**FINAL JUDGMENT
AND ORDER**

[State Bar Nos. 19-3454 and 20-1602]

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, **Ruby Torres**, is **Reprimanded** for her conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED that Respondent is placed on **probation** for a period of eighteen (18) months. The terms of probation are:

- a) CLE: In addition to annual MCLE requirements, Respondent shall complete the following Continuing Legal Education ("CLE") program: the Arizona Association for Justice lien seminar titled "Annual Liens Seminar

– 2022” within 18 months of the date of service of an order accepting this consent agreement. Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the program by providing a copy of handwritten notes and certificate of completion. 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 program.

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

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$ 1,200 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 July, 2021.

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 July, 2021.

Copies of the foregoing mailed/mailed
this _____ day of July, 2021, to:

Brian Holohan
Broening Oberg Woods & Wilson, PC
2800 North Central Avenue, Suite 1600
Phoenix, Arizona 85004-1047
Email: bh@bowwlaw.com
Respondent's Counsel

James D. Lee
Senior Bar Counsel
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Email: LRO@staff.azbar.org

Copy of the foregoing hand-delivered
this _____ day of July, 2021, to:

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

by: _____

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

RUBY TORRES,
Bar No. 030347

Respondent.

PDJ 2021-9057

**DECISION ACCEPTING
AGREEMENT FOR DISCIPLINE
BY CONSENT**

[State Bar Nos. 19-3454, 20-1602]

FILED AUGUST 6, 2021

A probable cause order issued on June 17, 2021 but no formal complaint has been filed. Pursuant to Rule 57(a), Ariz. R. Sup. Ct., an Agreement for Discipline by Consent (“Agreement”) was filed on July 9, 2021. The State Bar of Arizona is represented by Bradley F. Perry and James D. Lee. Respondent Ruby Torres is represented by Brian Holohan. Contingent on approval of the proposed form of discipline, Ms. Torres has voluntarily waived the right to an adjudicatory hearing, as well as all motions, defenses, objections, or requests that could be asserted.

The Agreement details a factual basis to support the conditional admissions and is incorporated by reference. *See* Rule 57(a)(4). Ms. Torres admits that she violated Rule 42, ERs 1.3 (diligence), 1.4(a) and(b) (communication), 1.15(d) (safekeeping client property), 3.4(c) (knowingly disobey an obligation under rules of a tribunal), 8.1(b) (knowing failure to respond to lawful demand for information

from disciplinary authority), 8.4(d) (conduct prejudicial to the administration of justice), and Rule 54(d)(2) (failure to furnish information). As a sanction, the parties agree to a reprimand and 18 months of probation (continuing legal education), plus the payment of costs in the sum of \$1,200.00.

As required by Rule 53(b)(3), notice of the Agreement was sent to the two complainants on July 9, 2021. One objection was received. Complainant Amanda O'Halloran asserts that a sanction more severe than a reprimand is warranted, requests a return of fees paid to Respondent, challenges costs in the sum of \$106.10, and asks that Respondent turn over medical records and resolve an outstanding chiropractic lien. When it submitted Ms. O'Halloran's objection to the PDJ, the State Bar addressed her objections, noting that the Agreement requires Ms. Torres to interplead \$530.00 held in her trust account due to uncertainty about the lien's validity. Respondent has also documented costs she incurred in the sum of \$106.10, which are unrelated to medical records Ms. O'Halloran provided. As for fees, the representation agreement includes a fee arbitration clause should Ms. O'Halloran wish to pursue that issue.

As to Count One, Ms. Torres conditionally admits that she represented Ms. O'Halloran in a personal injury matter and that she negligently failed to adequately communicate and diligently represent her client and failed to promptly distribute (or interplead) all of the settlement funds received.

As to Count Two, Ms. Torres admits that she knowingly attempted to prevent a Phoenix police officer from obtaining a DNA sample from her based on a court order that had been secured without Respondent's knowledge in a matter involving a family member. Ms. Torres also knowingly failed to respond to the State Bar's investigation into this matter.

Ms. Torres violated her duty to her client, the legal system, and the profession. Her conduct caused actual and potential harm. The Agreement states that the presumptive sanction is reprimand. The PDJ notes, though, that the admitted violations of ER 3.4(c) and ER 8.1(b) require a knowing mental state, which triggers § 6.22 of the *ABA Standards for Imposing Lawyer Sanctions* ("Suspension is appropriate when a lawyer knowingly violates a court order or rule . . .").

The parties stipulate to the existence of aggravating factors 9.22(c) (pattern of misconduct), 9.22(d) (multiple offenses), 9.22(i) (substantial experience in the practice of law), and 9.22(k) (illegal conduct). They further stipulate to the existence of mitigating factors 9.32(a) (absence of prior disciplinary record), 9.22(b) (absence of selfish or dishonest motive), 9.32(c) (personal or emotional problems) and 9.32(e) (full and free disclosure to disciplinary board or cooperative attitude towards proceedings).

According to the Agreement, "the aggravating and mitigating facts essentially offset each other." Accepting this statement at face value, the PDJ considered

directing the parties to address why suspension is not the appropriate sanction based on ABA Standard 6.22 and the “knowing” conduct at issue in Count Two. However, the stipulated sanction does appear appropriate when considering the context of the Count Two misconduct. The parties agree that the court order for DNA testing was issued without Respondent’s knowledge and that it stemmed from potential prosecution of a family member, not Respondent. The Agreement further states that Respondent was attempting to challenge the order through counsel, but that police officers proceeded with the testing notwithstanding her objections. This context, coupled with Respondent’s lack of prior discipline, despite her substantial experience in the practice of law, persuades the PDJ that the agreed-upon sanction is appropriate. *See, e.g., In re Owens*, 182 Ariz. 121, 127 (1995) (lengthy law practice “with a spotless disciplinary record is a very substantial mitigating factor”).

IT IS ORDERED accepting the Agreement for Discipline by Consent. A final judgment and order is signed this date.

DATED this 6th day of August 2021.

Margaret H. Downie

Margaret H. Downie
Presiding Disciplinary Judge

COPY of the foregoing e-mailed
on this 6th day of August 2021 to:

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BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

RUBY TORRES,
Bar No. 030347

Respondent.

PDJ 2021-9057

**FINAL JUDGMENT
AND ORDER**

[State Bar Nos. 19-3454, 20-1602]

FILED AUGUST 6, 2021

The Presiding Disciplinary Judge accepted the parties' Agreement for Discipline by Consent submitted pursuant to Rule 57(a), Ariz. R. Sup. Ct.

Accordingly:

IT IS ORDERED that Respondent, **RUBY TORRES, Bar No. 030347**, is reprimanded for her conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED that Respondent is placed on probation for a period of 18 months under the following terms and conditions:

- a) Continuing Legal Education (CLE): In addition to annual MCLE requirements, Respondent shall complete the following CLE program: the Arizona Association for Justice lien seminar titled "Annual Liens Seminar - 2022" within 18 months of the date of service of an order accepting this consent agreement. Respondent shall provide the State Bar

Compliance Monitor with evidence of completion of the program by providing a copy of handwritten notes and certificate of completion. Respondent shall contact the Compliance Monitor at 602-340-7258 to make arrangements to submit this evidence. Respondent shall be responsible for the cost of the CLE program.

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

IT IS FURTHER ORDERED that Respondent shall pay the costs and expenses of the State Bar of Arizona in the sum of \$ 1,200 within 30 days from the date of service of this order. There are no costs or expenses incurred by the Office of the Presiding Disciplinary Judge in these proceedings.

DATED this 6th day of August 2021.

Margaret H. Downie
Margaret H. Downie
Presiding Disciplinary Judge

Copies of the foregoing emailed
this 6th day of August 2021, to:

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