

SUPREME COURT OF ARIZONA  
DISCIPLINARY CASES MATRIX  
(1994)

| <u>CASE NAME<br/>NUMBER/DATE</u>  | <u>VIOLATIONS DESCRIPTION/<br/>DISCIPLINARY RULES</u>  | <u>COMMITTEE/<br/>OFFICER<br/>RECOMMEND.</u>      | <u>COMMISSION<br/>RECOMMEND.</u>                                      | <u>COURT<br/>SANCTION</u>   | <u>COMMENTS</u>  |
|---|--|---|---|---|--|
| <p><u>Arrick, Kenneth McClain</u></p> <p>11/08/94<br/>DC Nos. 5-100, 5-1487<br/>SB-90-0057-D</p> <p>(By Opinion)<br/>ARIZ<br/>882 P.2d 943</p>                | <p>In advising client to plead no contest to manslaughter and child abuse charges, lied to client he had conducted thorough investigation into her case and had consulted experts, but found no viable defenses - based on this false assertion, client pled no contest and received a 10-year prison sentence. While representing another client, failed to advise client of potential adverse consequences; made no inquiries into opposing party's claims for 3 years; lost important documents; filed suit without conducting proper investigation resulting in dismissal of suit with prejudice; exhibited persistent pattern of insufficient communication.</p> <p>DR 1-102(A) (4)      DR 6-101(A) (2)<br/>DR 2-106(A)      DR 6-101(A) (3)</p> | <p>Suspension,<br/>1 year &amp;<br/>Probation</p> | <p>Disbarment</p>   | <p>Suspension,<br/>4 years<br/>(retroactive)<br/>&amp; Probation,<br/>2 years,<br/>upon rein-<br/>statement</p> | <p>Client's motion for post-conviction relief granted after serving 14 months in prison; Both clients recovered settlements in malpractice actions; Arrick's alcoholism during misconduct negates finding of intent; Justice Martone dissents in part, stating mere status of being an alcoholic insufficient to negate intent</p> |
| <p><u>Augenstein, Steven Todd</u></p> <p>02/03/94<br/>DC Nos. 91-0393<br/>91-1279<br/>SB-94-0009-D</p> <p>(By Judgment)<br/>177 ARIZ 581<br/>870 P.2d 399</p> | <p>Misplaced client's documents and failed to keep client informed about status of case, compelling client to settle claim for lesser sum; after signing medical lien on client's behalf, failed to pay doctor amounts due; failed to respond to State Bar's inquiries.</p> <p>ER 1.2      ER 1.15      SCR 51(h)<br/>ER 1.3      ER 8.1      SCR 51(i)<br/>ER 1.4</p>   | <p>Probation</p>                                  | <p>Censure &amp;<br/>Probation,<br/>2 years &amp;<br/>Restitution</p> | <p><u>Sua sponte</u><br/>review<br/>declined</p>  | <p>After initial failure to cooperate, respondent participated in disciplinary process; Probation includes CLE and LOMAP</p>   |

**DISCIPLINARY CASES MATRIX  
(1994)**

|  |  |   |   |                                |  |
|--|--|---|---|--------------------------------|--|
| <p><b><u>Augenstein, Steven Todd</u></b><br/>04/15/94<br/>DC Nos. 89-1605<br/>90-1454<br/>91-0039<br/>SB-92-0065-D<br/><br/>(By Opinion)<br/>178 ARIZ 133<br/>871 P.2d 254</p> | <p>Failed to have plaintiff client's complaint served on defendant; allowed clients' cases to be dismissed for lack of prosecution; failed to inform clients their cases were dismissed; failed to communicate with clients; failed to adequately investigate client's case; failed to cooperate with State Bar investigation.<br/>ER 1.1 ER 1.4 SCR 51(h)<br/>ER 1.3 ER 3.2 SCR 51(i)</p> | <p>Suspension,<br/>120 days, &amp;<br/>Probation,<br/>2 years</p> | <p>Suspension,<br/>2 years</p>                    | <p>Suspension,<br/>2 years</p> | <p>Chief Justice Feldman's special concurrence notes self-representation is unwise; Personal/emotional problems evidenced solely by respondent's testimony rejected as mitigation; Justice Zlaket's dissent states this mitigation evidence should have been considered, recommends shorter suspension; Distinguishable from <u>In re Hiser</u>; Additional disciplinary proceeding that arose during pendency of this matter, which resulted in censure of respondent prior to the completion of this matter, considered by Court as prior discipline</p> |
| <p><b><u>Beren, Peter D.</u></b><br/>06/07/94<br/>DC No. 89-1751<br/>SB-93-0009-D<br/><br/>(By Opinion)<br/>178 ARIZ 400<br/>874 P.2d 320</p>                                  | <p>Disciplinary complaint alleging that respondent violated ER 8.4(b) by committing criminal act was filed based on respondent's guilty plea to 12 counts of facilitation of money laundering (Class 6 undesignated offenses); however, crimes were later redesignated as misdemeanors, and convictions were vacated.</p>  | <p>Dismissal</p>  | <p>Suspension,<br/>6 months<br/>(retroactive)</p> | <p>Dismissal</p>               | <p>Committee found respondent's conduct was not reckless, knowing, intentional, nor "serious crime" (as required by ER 84. (b)); Court states Class 6 undesignated offenses are not felonies for disciplinary purposes until a court designates them felonies; Justice Corcoran dissents, recommending 6 months retroactive suspension</p>   |

**DISCIPLINARY CASES MATRIX  
(1994)**

|  |  |                                 |   |  |  |
|--|--|---------------------------------|---|--|--|
| <p><b><u>Bowen, Ted Butcher</u></b><br/>05/31/94<br/>DC Nos. 88-1821<br/>89-1466<br/>90-0726<br/>SB-93-0051-D<br/><br/>(By Opinion)<br/>178 ARIZ 283<br/>872 P.2d 1235</p>   | <p>Failed to communicate with clients; failed to take action on clients' behalf for 2-year period; failed to comply with discovery orders; knowingly filed answer on behalf of defendant clients which contained false statements; filed frivolous motions as stalling tactic; failed to respond to a State Bar inquiry.<br/>ER 1.3 ER 3.3 SCR 51(h)<br/>ER 1.4 ER 3.4(c) SCR 51(i)<br/>ER 3.1</p> | <p>Suspension,<br/>1 year</p>   | <p>Suspension,<br/>1 year</p>   | <p>Suspension,<br/>1 year</p>  | <p>2 prior Censures for similar misconduct specifically justify 1 year suspension</p>                    |
| <p><b><u>Brooks, Charles Ray</u></b><br/>05/06/94<br/>DC Nos. 93-0403 93-0601<br/>93-0664 93-1196 93-1229<br/>93-1230 93-1330 93-1331<br/>93-1332 93-1333 93-1351<br/>93-1385 93-1402 93-1602<br/>93-1665 93-1804<br/>SB-94-0027-D<br/><br/>(By Order)</p> | <p>Suspension in effect until final disposition of all charges or complaints pending against him before the State Bar of Arizona and Disciplinary Commission.</p>  | <p>N/A</p>                      | <p>N/A</p>  | <p>Interim<br/>Suspension</p>  |  |
| <p><b><u>Carrasco, Daniel, Jr.</u></b><br/>06/13/94<br/>DC No. 92-1642<br/>SB-94-0008-D/Susp.<br/><br/>(By Opinion)<br/>178 ARIZ 468<br/>875 P.2d 127</p>  | <p>After accepting retainer to assist client with application for U.S. immigrant visa, stopped performing any work and failed to maintain communication; failed to respond to State Bar inquiries.<br/>ER 1.3 ER 8.1(b) SCR 51(h)<br/>ER 1.4 SCR 51(i)</p>   | <p>Suspension,<br/>3 months</p> | <p>Suspension,<br/>3 months<br/>(consecutive to any other current suspension) &amp; Restitution</p> | <p>Suspension,<br/>9 months,<br/>(retroactive to 12/12/93)<br/>&amp; Restitution</p> | <p>Currently on 6 month suspension as of 12/12/93 for similar misconduct; 1 prior Informal Reprimand</p> |

**DISCIPLINARY CASES MATRIX  
(1994)**

**Chard, Robert A.**

09/06/94  
DC Nos. 89-1188  
89-1733  
90-0310  
SB-94-0072-D

(By Judgment)  
180 ARIZ 1  
881 P.2d 333

Allowed client's Pennsylvania case to be dismissed by failing to determine applicable statute of limitations; failed to adequately prepare for another client's trial; failed to advise client of speculative nature of claim; after withdrawing from client's case, inadvertently mailed subsequent pleadings to client's incorrect address, resulting in client not filing timely appeal, and judgment being entered against client; failed to adequately communicate with client; prepared third client's bill based only on estimates of time spent, although time sheets were available.  
ER 1.1 ER 1.3 ER 1.4

Accept agree-  
ment for  
Censure &  
Probation,  
2 years

Accept agree-  
ment for  
Censure &  
Probation,  
2 years

Sua sponte  
review  
declined

Probation includes restitu-  
tion; Over 20 years' exper-  
ience; Personal problems;  
Interim rehabilitation;  
Remorse; Pennsylvania law  
unclear and in state of  
flux at the time; Excessive  
caseload

**Barry B. Cline**

09/09/94  
DC No. 92-1863

(By Order of Commission)

Represented deceased client's husband, whose interests were adverse to those of the deceased wife, without consent of repre-  
sentatives of her estate; charged unreasonable fee; knowingly filed document with court containing false information; failed to main-  
tain contact with representatives of wife's estate after her death.  
ER 1.4 ER 1.7 ER 3.3  
ER 1.5 ER 1.9 ER 8.4

Informal  
Reprimand

Informal  
Reprimand

N/A

No prior discipline in nearly  
30 years' practice; No dis-  
honest or selfish motive;  
Cooperative attitude; Excel-  
lent character and reputation

**Diettrich, Charles C.**

02/24/94  
DC No. 93-1271  
SB-93-0048-D

(By Order)

Disobeyed Court order of disbar-  
ment by using letterhead purport-  
ing to hold himself out as  
attorney at law.

N/A

N/A

In Contempt

Ordered to discontinue use  
of letterhead and refrain  
from any conduct indicating  
he is attorney

**DISCIPLINARY CASES MATRIX  
(1994)**

**Flowitz, Steven H.**

02/04/94  
DC Nos. 90-0533  
90-1349  
90-2000  
91-0499  
SB-93-0015-D

(By Opinion)  
177 ARIZ 240  
866 P.2d 1326

Failed to diligently handle clients' probate matters; failed to respond to clients' requests for information; failed to safeguard clients' and estate property; failed to perform services for clients; failed to return retainer; charged unreasonable fee; failed to deal appropriately with funds received on behalf of clients and/or estate; made misrepresentations in motions filed with court and during disciplinary proceedings; signed names of clients and secretary on documents without their knowledge; used secretary's seal to notarize forged documents; induced secretary to testify falsely regarding notarization; failed to cooperate with State Bar investigation.

Disbarment

Disbarment  
&  
Restitution

Disbarment  
&  
Restitution

Placed on Interim Suspension 08/05/92

|           |           |           |
|-----------|-----------|-----------|
| ER 1.1    | ER 1.15   | ER 8.4(b) |
| ER 1.3    | ER 3.4(b) | ER 8.4(c) |
| ER 1.4(a) | ER 8.1(a) | ER 8.4(d) |
| ER 1.4(b) | ER 8.1(b) | SCR 51(h) |
| ER 1.5(a) | ER 8.4(a) | SCR 51(i) |

**DISCIPLINARY CASES MATRIX  
(1994)**

**Engan, Thomas Keith**

09/23/94  
DC Nos. 89-1554  
89-1907  
90-0721  
90-1846  
SB-94-0066-D

(By Judgment)  
180 ARIZ 13  
881 P.2d 345

Continued trial dates without client's knowledge; failed to appear at trial; mishandled client's case to extend that warrants issued for her arrest; failed to cooperate with subsequent counsel; paid court filing fee with NSF check; failed to refund unearned retainers; failed to cooperate with State Bar; failed to provide adequate communication; failed to provide diligent and competent representation.

|           |            |           |
|-----------|------------|-----------|
| ER 1.1    | ER 1.15(a) | SCR 41(c) |
| ER 1.2    | ER 1.16(d) | SCR 51(e) |
| ER 1.3    | ER 3.5     | SCR 51(h) |
| ER 1.4(a) | ER 8.1     | SCR 51(i) |
| ER 1.5    | ER 8.4(d)  |           |

Disbarment  
&  
Restitution

Disbarment  
&  
Restitution

Sua sponte  
review  
declined

Abandoned practice;  
Prior Disbarment for  
virtually identical  
conduct; Prior Informal  
Reprimand

**DISCIPLINARY CASES MATRIX  
(1994)**

**Feeley, James Byers**

09/23/94  
DC Nos. 92-0227  
          92-0280  
          92-1133  
SB-94-0039-D

(By Judgment)  
180 ARIZ 41  
881 P.2d 1146

Misrepresented to court that he had received no fees prior to bankruptcy proceeding; demanded and received additional \$30,000 in fees from client without bankruptcy court approval; failed to notify clients of his suspension; presented contradictory positions to court without client's authorization; represented client in lawsuit against former client; rejected defendant's offer to secure loans without client's knowledge; improperly withdrew money from trust account to pay his own fee; allowed convicted felon to participate in formation of corporation; filed petition in bankruptcy without knowledge of all partners to bankruptcy; failed to alert anyone that partner in corporation was using corporation monies for his own benefit; failed to cooperate with State Bar.

Disbarment

Disbarment

Sua sponte  
review  
declined

Injury to client; Prior Informal Reprimand; Prior Suspension; Prior Disbarment; Dishonest/selfish motive; Substantial experience

|        |               |           |
|--------|---------------|-----------|
| ER 1.1 | ER 1.15       | SCR 44    |
| ER 1.3 | ER 3.3        | SCR 51(e) |
| ER 1.4 | ER 3.4(c)     | SCR 51(f) |
| ER 1.5 | ER 5.5        | SCR 51(h) |
| ER 1.7 | ER 8.4        | SCR 51(i) |
| ER 1.9 | SCR 31(c) (3) | SCR 63    |

**DISCIPLINARY CASES MATRIX  
(1994)**

**Gamble, Albert R.**

10/18/94  
DC No. 92-1207  
SB-94-0078-D

(By Judgment)  
ARIZ  
882 P.2d 1271

Failed to file appearance in inmate client's case for months; failed to respond to client's letters; lack of diligence resulted in partial summary judgment against client; failed to notify client of denial of motion for reconsideration of summary judgment, resulting in client being unable to file timely notice of appeal.  
ER 1.3                      ER 1.4

Suspension,  
6 months

Censure &  
Probation,  
2 years

Sua sponte  
review  
declined

Misconduct negligent, not knowing; Prior suspension remote in time and subject matter; Over 40 years' experience; Cooperative attitude

**Gawlowski, Richard G.**

02/09/94  
DC No. 91-0140  
SB-94-0015-D

(By Judgment)  
177 ARIZ 311  
868 P.2d 324

Failure to serve process in client's case resulted in dismissal; allowed client's case to be dismissed due to firm's failure to follow established office procedures; inadvertently failed to have supersedeas bond exonerated for 1 year; failed to timely conduct discovery; failed to file list of witnesses and exhibits; failed to maintain adequate communication.  
ER 1.3                      ER 3.2                      ER 1.4

N/A

Accept  
agreement  
for Censure

Sua sponte  
review  
declined

Agreement for discipline tendered prior to issuance of formal complaint; Admitted misconduct; Good faith effort at restitution; Remorse; Extremely cooperative; Respondent under extreme stress during period of misconduct

**DISCIPLINARY CASES MATRIX  
(1994)**

|   |   |                                |   |   |   |
|---|---|--------------------------------|---|---|---|
| <p><b><u>Giles, Charles Millard</u></b><br/>04/26/94<br/>DC Nos. 86-1508<br/>88-0307<br/>SB-93-0013-D</p> | <p>In collections matter, falsely led client to believe garnishment bond had been posted, resulting in client paying unnecessary annual bond fee for five years; failed to respond to client's repeated requests for information and files; failed to comply with client's instructions to settle case; held monies on behalf of client for nine years without notifying client. In another collection matter, knowingly allowed case to be dismissed without client's consent; never informed client of dismissal; monetary value of claim reduced by running of statute of limitations.<br/>DR 6-101(A)(3) ER 1.2(a) ER 1.16(d)<br/>FR 7-101(A)(1) ER 1.3<br/>DR 7-101(A)(3) ER 1.4<br/>DR 9-102(B)(1) ER 1.15(b)</p> | <p>Suspension,<br/>30 days</p> | <p>Suspension,<br/>90 days, &amp;<br/>Restitution</p> | <p>Suspension,<br/>90 days, &amp;<br/>Restitution</p> | <p>Prior Informal Reprimand; Respondent's testimony not credible; Issue of restitution in one count remanded by Court for further evidence</p>  |
| <p>(By Opinion)<br/>178 ARIZ 146<br/>871 P.2d 693</p>   |   |                                |   |   |   |
| <p><b><u>Hansen, Linda J.</u></b><br/>07/14/94<br/>DC No. 93-0417<br/>SB-94-0065-D</p>                    | <p>Misled court into believing she did not know the reason for witness's absence, although she had earlier allowed witness to leave; made false entry in case log that witness had not shown up, all resulting in dismissal of case.<br/>ER 1.3 ER 4.1(a) ER 8.4(c)<br/>ER 3.3(a(1) ER 8.4(a) ER 8.4(d)</p>   | <p>N/A</p>                     | <p>Accept agree-<br/>ment for<br/>Censure</p>         | <p><u>Sua sponte</u><br/>review<br/>declined</p>      | <p>Only 2 years' experience in practice of law; Remorse; Cooperative attitude; Resigned on day misconduct occurred; Case later refiled; Agreement for discipline tendered prior to issuance of formal complaint</p> |
| <p>(By Judgment)<br/>179 ARIZ 229<br/>877 P.2d 802</p>  |   |                                |   |   |   |

**DISCIPLINARY CASES MATRIX  
(1994)**

|   |   |  |  |  |  |
|---|---|--|--|--|--|
| <p><b><u>Higgins, Thomas E., Jr.</u></b><br/>10/27/94<br/>DC Nos. 88-1885<br/>89-1460<br/>89-1998<br/>89-2069<br/>90-0597<br/>SB-92-0051-D<br/><br/>(By Opinion)<br/>ARIZ<br/>884 P.2d 1094</p> | <p>Used client's property without permission; failed to keep client's property separate from his own; allowed dissolution decree, which differed from court's minute entry and was detrimental to his client, to become final by failing to file opposing motion for four months; in divorce case, misrepresented to court that opposing party had approved his <i>ex parte</i> motion providing for payment of his fee from escrow funds; failed to cooperate with State Bar.<br/>ER 1.1      ER 3.2      ER 8.1(b)<br/>ER 1.3      ER 3.3(d)      SCR 51(h)<br/>ER 1.15(a)      ER 4.1      SCR 51(i)</p> | <p>Probation</p>   | <p>Suspension<br/>2 years<br/>(retroactive)<br/>&amp; Probation,<br/>2 years</p> | <p>Continued<br/>Probation,<br/>2 years<br/>(including<br/>counseling,<br/>MAP, practice<br/>monitor, drug<br/>testing, no<br/>DR cases)</p> | <p>Substance abuse and personal problems during period of misconduct; Exemplary behavior and rehabilitation efforts in interim; 3 prior Informal Reprimands for similar conduct; Existing interim probation terms have successfully prevented recurrence</p>   |
| <p><b><u>Hirschfeld, Robert A.</u></b><br/>05/25/94<br/>DC No. 94-0928<br/>SB-94-0049-D<br/><br/>(By Order)</p>   | <p>Failed to appear in response to order or warrant issued by superior court judge, and pattern of behavior exhibited by respondent raises question of whether his continued practice may present danger to public.</p>   | <p>N/A</p>   | <p>N/A</p>   | <p>Probation,<br/>which<br/>includes<br/>obtaining DR<br/>lawyer as<br/>mentor and<br/>supervisor</p>  | <p>Probation imposed in lieu of (State Bar's request for) Interim Suspension</p>   |
| <p><b><u>Horwits, Richard A.</u></b><br/>11/02/94<br/>DC No. 90-1945<br/>SB-93-0056-D<br/><br/>(By Opinion)<br/>180 ARIZ 20<br/>881 P.2d 352</p>  | <p>Pled guilty to two counts of negligent homicide arising from a car accident in which two people were killed, immediately after which cocaine and two prescription drugs were found in his system.<br/>ER 8.4(b)      SCR 51(a)</p>   | <p>Suspension,<br/>indefinite &amp;<br/>probation,<br/>2 years</p> | <p>Disbarment</p>  | <p>Disbarment<br/>(retroactive<br/>to 12/18/90)</p>  | <p>Disbarment retroactive to date placed on interim suspension; Misconduct preceded by 10-year pattern of drug and alcohol abuse and DUI convictions; Currently serving 8-year prison sentence for this conduct; Successfully completed several drug rehab programs while in jail; No drug or alcohol problems while in prison; No prior discipline; Cooperative attitude; Remorse</p> |

**DISCIPLINARY CASES MATRIX  
(1994)**

**Kaplan, Jerold**

06/21/94  
DC No. 90-1051  
SB-94-0059-D

(By Judgment)  
179 ARIZ 175  
877 P.2d 274

In collection matter, failed to adequately communicate with client and failed to notify client suit was dismissed; failed to consult with client when debtor could not be found; ceased pursuing case without client's consent.  
ER 1.1 ER 1.3 ER 1.4 ER 1.16

Accept agree-  
ment for  
Censure &  
Probation,  
1 year &  
Restitution

Accept agree-  
ment for  
Censure &  
Probation,  
1 year &  
Restitution

Sua sponte  
review  
declined

Virtually no harm to client, as neither debt was collectible & statute of limitations had not run; Over 30 years' experience; 2 prior Informal Reprimands for similar conduct; Remorse; Made efforts to improve office procedures; Very cooperative attitude; Probation includes LOMAP

**Kobashi, John**

03/08/94  
DC No. 91-1721  
SB-94-0012-D

(By Judgment)  
177 ARIZ 584  
870 P.2d 402

Allowed statute of limitations to expire before filing lawsuit for client injured in auto accident; failed to respond to client's requests for information; failed to return client's personal documents; failed to participate in disciplinary proceedings.  
ER 1.1 ER 1.4(a) SCR 51(h)  
ER 1.3 ER 8.1(b) SCR 51(i)

Suspension,  
6 months &  
1 day

Suspension,  
6 months &  
1 day

Sua sponte  
review  
declined

Failure to timely file lawsuit apparently precludes future recompense for client; Lack of respect for disciplinary process

**Legg, Wayne E.**

04/19/94  
DC Nos. 92-1569 93-1493  
93-1867  
SB-94-0033-D

(By Order)

N/A

N/A

Interim  
Suspension

Parties filed joint Stipulation for Transfer to Interim Suspension

**Manning, Michael S.**

02/16/94  
DC No. 90-1767  
SB-94-0019-D

(By Judgment)  
177 ARIZ 496  
869 P.2d 172

Failed to respond to discovery requests; failed to notify court or opposing counsel that case was stayed due to bankruptcy; allowed default judgment to be entered against client for failure to attend hearing; failed to pay court-ordered sanctions.  
ER 3.2 ER 3.4 ER 8.4(d)

Censure &  
Restitution

Censure &  
Restitution

Sua sponte  
review  
declined

Respondent failed to keep current address on file with State Bar

**DISCIPLINARY CASES MATRIX  
(1994)**

**Manning, Michael S.**

09/23/94  
DC Nos. 92-1692 92-1912  
92-1932 92-1983  
92-2029 92-2048  
SB-94-0068-D

(By Judgment)  
180 ARIZ 45  
881 P.2d 1150

Accepted retainers from clients over 3-year period, then failed to pursue their cases; lied to clients that cases were progressing, providing one client with false docket number of case never filed; failed to notify existing clients of a 1991 suspension; accepted new clients while suspended; refunded unused retainers only after formal disciplinary complaints filed.  
ER 1.3 ER 5.5 SCR 51(h)  
ER 1.4 ER 8.4(c) SCR 51(i)  
ER 3.2 SCR 51(f) SCR 63(a)

Suspension,  
4 years

Suspension,  
4 years

Sua sponte  
review  
declined

Knowing misconduct; Abandoned practice; Remorse; Cooperative attitude; Manning requested credit for "time served" for period he was previously suspended, although he practiced during that suspension in a dishonest and unethical manner - contempt shown by such conduct and such request caused three members of Commission to vote for disbarment

**Merrill, Fredrick D.**

05/24/94  
DC No. 92-0485  
SB-94-0028-D

(By Judgment)  
178 ARIZ 469  
875 P.2d 128

After accepting \$4,000 from client to have paintings appraised, failed to provide client with written appraisal (although he did obtain appraisal); obtained loans from client without advising her to seek independent counsel.  
ER 1.8(a) ER 1.15

Accept agree-  
ment for  
Suspension,  
90 days, &  
LOMAP &  
12 Hrs. CLE

Accept agree-  
ment for  
Suspension,  
90 days, &  
LOMAP &  
12 Hrs. CLE

Sua sponte  
review  
declined

Returned \$4,000 to client; Repaid loans to client; Personal friend of client; Extremely cooperative; Excellent reputation; Remorse

**DISCIPLINARY CASES MATRIX  
(1994)**

|  |  |   |   |  |  |
|--|--|---|---|--|--|
| <p><b><u>Miller, Michael A.</u></b><br/>04/12/94<br/>DC Nos. 90-1928<br/>90-2347<br/>90-2383<br/>SB-94-0018-D<br/><br/>(By Judgment)<br/>178 ARIZ 257<br/>872 P.2d 661</p>       | <p>Failed to adequately supervise non-lawyer employee, resulting in misappropriation of clients' funds and destruction of clients' files; failed to pay collection agency for services, as he was unaware that agency had performed any work; failed to timely respond to State Bar inquiries.<br/>ER 1.15 ER 5.3 ER 8.1</p> | <p>Accept agreement for Suspension, 12 months (concurrent to current disbarment) &amp; Restitution &amp; Submit to fee arbitration if client requests &amp; Submit written compliance</p> | <p>Accept agreement for Suspension, 12 months (concurrent to current disbarment) &amp; Restitution &amp; Submit to fee arbitration if client requests &amp; Submit written compliance</p> | <p><u>Sua sponte</u> review declined</p> | <p>Made restitution; Failed to give proper attention to two State Bar complaints due to pending investigation and indictment on criminal charges; Ex-wife admitted destroying third complaint without informing respondent of its existence; Consent to Disbarment in 1991; Current conduct occurred prior to convictions and disbarment</p> |
| <p><b><u>Mybeck, Walter R., II</u></b><br/>09/09/94<br/>DC No. 92-1375<br/><br/>(By Order of Hearing Officer)</p>  | <p>Failed to timely respond to motion for summary judgment; failed to immediately notify client of motion for summary judgment entered against her; moved office without immediately notifying clients.<br/>ER 1.3 ER 1.4</p>  | <p>Informal Reprimand</p>   | <p>N/A</p>  | <p>N/A</p>                               |  |
| <p><b><u>O'Brien-Reyes, Sharon A.</u></b><br/>02/09/94<br/>DC Nos. 90-0523<br/>90-1034<br/>91-0539<br/>SB-94-0016-D<br/><br/>(By Judgment)<br/>177 ARIZ 362<br/>868 P.2d 945</p> | <p>Failed to file notice of appeal from client's DUI conviction until 2 days after deadline; failed to file motion to reconsider for four months; failed to keep clients apprised of status of cases; failed to timely respond to State Bar inquiries.<br/>ER 1.1 ER 1.4 SCR 51(h)<br/>ER 1.3 ER 8.1(b) SCR 51(i)</p>        | <p>Accept agreement for Censure &amp; Probation, 1 year</p>   | <p>Accept agreement for Censure &amp; Probation, 1 year</p>   | <p><u>Sua sponte</u> review declined</p> | <p>Severe health and personal problems; Inadequate staff assistance; Client received \$12,000 settlement on subsequent malpractice action against respondent's firm; 1 prior Informal Reprimand for similar misconduct during same time period</p>   |

**DISCIPLINARY CASES MATRIX  
(1994)**

|  |  |            |            |   |   |
|--|--|------------|------------|---|---|
| <b><u>Olsen, K. David</u></b>  | Submitted false affidavit in support of request to appear <u>pro hac vice</u> ; failed to cooperate with State Bar.<br>ER 3.3(a)(1) ER 8.4(c)  | Censure    | Censure    | <u>Sua sponte</u><br>review<br>declined | Commission states conduct warrants disbarment, but can only impose censure as he is not member of Arizona State Bar; Commission strongly condemns his deception |
| 09/06/94<br>DC No. 92-0913<br>SB-94-0069-D   |  |            |            |   |   |
| (By Judgment)<br>180 ARIZ 5<br>881 P.2d 337  |  |            |            |   |   |
| <b><u>Peartree, Patrick J.</u></b>   | Abandoned practice; failed to notify clients of move to Indiana; failed to comply with court order; incorrectly told client her divorce was final; failed to respond to State Bar inquiries; failed to participate in disciplinary process.<br>ER 1.2 ER 1.5 ER 3.4(c) ER 8.4<br>ER 1.3 ER 1.15 ER 5.3 SCR 51(h)<br>ER 1.4 ER 1.16 ER 8.1(b) SCR 51(i)   | Disbarment | Disbarment | <u>Sua sponte</u><br>review<br>declined | Currently on suspension for non-payment of dues   |
| 03/18/94<br>DC Nos. 92-0474 92-0514<br>92-1003 92-1144<br>92-1429 92-1491<br>92-1540<br>SB-94-0013-D |  |            |            |   |   |
| (By Judgment)<br>178 ARIZ 114<br>871 P.2d 235  |  |            |            |   |   |
| <b><u>Peartree, Patrick J.</u></b>   | Abandoned client's case; failed to collect on and record judgment entered in client's favor; failed to increase amount of supersedeas bond that had become inadequate, despite judge's specific permission to do so; lack of diligence harmed client's efforts to fully collect on judgment; failed to cooperate with subsequent counsel; failed to cooperate with State Bar.<br>ER 1.1 ER 1.4 ER 8.1<br>ER 1.2 ER 1.15 SCR 51(h)<br>ER 1.3 ER 1.16(d) SCR 51(i) | Disbarment | Disbarment | <u>Sua sponte</u><br>review<br>declined | Prior Disbarment for similar misconduct   |
| 12/02/94<br>DC No. 92-1838<br>SB-94-0077-D   |  |            |            |   |   |
| (By Judgment)<br>ARIZ<br>885 P.2d 1083   |  |            |            |   |   |

**DISCIPLINARY CASES MATRIX  
(1994)**

|  |   |   |  |  |   |
|--|---|---|--|--|---|
| <p><b><u>Redeker, Harry S., Jr.</u></b><br/>02/03/94<br/>DC Nos. 90-1885 90-2005<br/>90-2208 91-0906<br/>91-1136 91-1155<br/>SB-94-0005-D<br/><br/>(By Judgment)<br/>177 ARIZ 305<br/>868 P.2d 318</p> | <p>Failed to respond to clients' calls &amp; letters; made no attempt to clear up clients' confusion over his handling of their cases; filed motions to continue without client's knowledge or consent; failed to provide client with witness's depositions prior to trial; failed to inform client of pending dismissal of case; failed to provide fee agreements clearly stating scope of representation; involved in signature forgery on trust documents which were backdated and notarized; knowingly distributed forged documents; made misrepresentations during disciplinary process concerning his involvement in the forgery; repeatedly failed to respond to State Bar inquiries.<br/>ER 1.4 ER 8.1(b) SCR 51(i)<br/>ER 1.16 ER 8.4(c)<br/>ER 8.1(a) SCR 51(h)</p> | <p>Disbarment<br/>&amp;<br/>Restitution</p> | <p>Disbarment<br/>&amp;<br/>Restitution</p>  | <p><u>Sua sponte</u><br/>review<br/>declined</p> | <p>Respondent determined not to cooperate; Made many false statements during disciplinary process; No selfish motive; Personal problems; Misguided and unauthorized effort to comply with deceased client's wishes; 1 prior Informal Reprimand</p>  |
| <p><b><u>Retter, Carl R.</u></b><br/>12/02/94<br/>DC No. 91-1270<br/>SB-94-0076-D<br/><br/>(By Judgment)<br/><u>ARIZ</u><br/>885 P.2d 1080</p>   | <p>In order to avoid IRS tax lien imposed on business checking account, deposited personal funds into trust account, mistakenly believing no client monies were in account; failed to maintain complete trust account records, all resulting in deficit in client's monies in trust account for one day, when he withdrew what he thought were all of his own funds from trust account.<br/>SCR 43(a) SCR 44(a)</p>   | <p>N/A</p>                                  | <p>Accept agreement for<br/>Suspension,<br/>120 days &amp;<br/>Probation,<br/>upon reinstatement</p> | <p><u>Sua sponte</u><br/>review<br/>declined</p> | <p>2 Commissioners dissented, believing suspension should be shorter than 120 days; Inexperienced in managing complex or lengthy trust account transactions; No actual injury; No prior discipline; Immediate good faith effort to rectify conduct; Extreme remorse; Cooperative attitude; Although Retter's counsel believed censure was appropriate, he did not withdraw agreement for suspension; Agreement tendered prior to issuance of formal complaint</p> |

**DISCIPLINARY CASES MATRIX  
(1994)**

|   |   |   |   |                                   |  |
|---|---|---|---|-----------------------------------|--|
| <b><u>Riches, Victor Wallis</u></b>           | For 5-year period, regularly misappropriated money belonging to his law firm.<br>ER 8.4(b)      ER 8.4(c)   | N/A   | Accept agreement for Suspension, 3 years (retroactive to 11/27/91)  | <u>Sua sponte</u> review declined | Suspension retroactive to date Riches placed on voluntary interim suspension; Serious manic depressive bipolar mental disorder present, which was mitigating but not causal; Amount of funds involved not certain, although insurance paid out policy limits of \$250,000, over Riches' objections; Interim rehabilitation; Agreement tendered prior to issuance of formal complaint |
| 07/08/94<br>DC No. 91-0913<br>SB-94-0048-D    |   |   |   |                                   |  |
| (By Judgment)<br>179 ARIZ 212<br>877 P.2d 785 |   |   |   |                                   |  |
| <b><u>Riggs, L. Alton, Jr.</u></b>            | Deposited client's estate funds into office non-interest-bearing trust account, commingling trust assets with other clients' and respondent's monies for 5 years.<br>ER 1.15    SCR 43    SCR 44                        | N/A   | Accept agreement for Censure & Probation, 1 year  | <u>Sua sponte</u> review declined | Settled lawsuit with full compensation for losses incurred; Cooperated fully with opposing attorneys in lawsuit; Some delay in compensation due to respondent's serious illness  |
| 02/16/94<br>DC No. 93-0046<br>SB-94-0020-D    |   |   |   |                                   |  |
| (By Judgment)<br>177 ARIZ 494<br>869 P.2d 170 |   |   |   |                                   |  |
| <b><u>Rubenstein, Dennis N.</u></b>           | Improperly took, as part of contingency fee, 1/3 of payments client received from insurance carrier; refused to comply with decision of fee arbitrator to return those payments.<br>ER 1.5(a)    ER 8.4(c)    ER 8.4(d) | Suspension, 5 years & MAP (or Okla. Program) & CLE & Restitution & Probation, 2 years, upon reinstatement | Suspension, 5 years & MAP (or Okla. Program) & CLE & Restitution & Probation, 2 years, upon reinstatement | <u>Sua sponte</u> review declined | Failed to cooperate with disciplinary proceedings; Indifferent to making restitution; 1 prior Informal Reprimand; 1 prior Censure  |
| 05/26/94<br>DC No. 90-1944<br>SB-94-0031-D    |   |   |   |                                   |  |
| (By Judgment)<br>178 ARIZ 550<br>875 P.2d 783 |   |   |   |                                   |  |

**DISCIPLINARY CASES MATRIX  
(1994)**

**Secrist, Stephen Eugene**

09/23/94

DC Nos. 91-1338

91-2285

92-0083

SB-94-0062-D

(By Judgment)

180 ARIZ 50

881 P.2d 1155

Failed to timely file proceeding to discharge client's student loans; failed to respond to client's attempts to communicate; misinformed client about her ability to resolve student loan obligation; after signing medical lien on client's behalf, failed to respond to doctor's inquiries or advise him as to possible settlement; failed to diligently handle client's bankruptcy, resulting in dismissal of bankruptcy; failed to remedy dismissal or refund retainer; failed to cooperate with State Bar.

ER 1.1      ER 1.5      ER 8.1  
ER 1.3      ER 1.15     SCR 51(h)  
ER 1.4      ER 1.16     SCR 51(i)

Disbarment

Disbarment

Sua sponte  
review  
declined

Respondent abandoned his practice; Failed to respond to State Bar inquiries at every level of proceedings; Failed to participate in disciplinary proceedings; Commission finds Respondent lacks character, ethics, and fitness necessary to practice law

**DISCIPLINARY CASES MATRIX  
(1994)**

**Shannon, John Adair**

10/27/94  
DC Nos. 88-1932  
89-0710  
SB-92-0001-D

(By Opinion)  
179 ARIZ 52  
876 P.2d 548

Represented 2 clients with adverse interests, in that parties' versions of events conflicted, and substantially different possibilities of settlement existed for each; failed to explain conflict of interest; failed to keep client informed about lawsuit; prepared answers to interrogatories without client's review, then submitted answers to court after client informed him they were inaccurate; cashed judgment check without signing satisfaction of judgment, although its cashing was conditioned on execution of satisfaction; failed to sign satisfaction of judgment until compelled by court.

ER 1.4(a) ER 1.15 ER 8.4(c)  
ER 1.4(b) ER 3.2 ER 8.4(d)  
ER 1.7(b) ER 3.3

Suspension,  
1 year

Suspension,  
1 year &  
Restitution

Suspension,  
1 year &  
Probation &  
Restitution

Selfish motive; Vulnerable victim; Indifferent to making restitution; Refusal to acknowledge misconduct; No prior discipline; Cooperative attitude; Shannon's motion for reconsideration denied; Justice Zlaket dissents, finding: 1) failure to acknowledge wrongful nature of conduct was merely aggressive defense, not aggravation, 2) failure to return executed satisfaction of judgment was not prejudicial to administration of justice, and 3) majority of court actually considered his substantial experience in aggravation, despite its intent to the contrary

**Stevens, Rowland S.**

04/12/94  
DC No. 93-0821  
SB-93-0034-D

(By Judgment)  
178 ARIZ 261  
872 P.2d 665

One day after filing delinquent MCLE affidavit, but prior to reinstatement from MCLE suspension, appeared in court and prepared post-dissolution decree for court's signature on behalf of long-standing client.

ER 5.5 SCR 51(e)

N/A

Accept  
agreement  
for Censure

Sua sponte  
review  
declined

Apologized to court; Intentionally failed to file MCLE affidavit in preparation of Rule 45; Unique circumstances indicate censure appropriate despite unauthorized practice of law

**DISCIPLINARY CASES MATRIX  
(1994)**

|                                    |   |            |            |                                   |   |
|------------------------------------|---|------------|------------|-----------------------------------|---|
| <b><u>Struthers, Andrew L.</u></b> | Knowingly gave control of office and trust account access to incompetent and untrustworthy non-lawyer assistants; allowed employees to maintain inadequate and improper trust account records; in handling overdue child support collections, kept all funds collected on client's behalf until his preset fee was fully paid; failed to notify clients of receipt of payments made on their behalf until his fee paid in full; entered into fee agreements allowing him to retain all court-awarded fees in addition to contingency fee, resulting in double recovery of fees; failed to diligently represent client; failed to maintain adequate communication with clients; failed to return file to client who terminated his representation. | Disbarment | Disbarment | Disbarment                        | 28 clients affected; Over 25-30 violations of some ER's; Flagrant disregard for Rules of Professional Conduct; Danger to public |
| 08/03/94                           |   |            |            |                                   |   |
| DC Nos. 90-1272                    | 90-1323   |            |            |                                   |   |
| 90-1450                            | 90-1757   |            |            |                                   |   |
| 90-1785                            | 90-1830   |            |            |                                   |   |
| 90-1863                            | 91-0301   |            |            |                                   |   |
| 91-0310                            | 91-0375   |            |            |                                   |   |
| 91-0386                            | 91-0416   |            |            |                                   |   |
| 91-0528                            | 91-0631   |            |            |                                   |   |
| 91-0707                            | 91-0884   |            |            |                                   |   |
| 91-0926                            | 91-0949   |            |            |                                   |   |
| 91-0966                            | 91-0967   |            |            |                                   |   |
| 91-0982                            | 91-1058   |            |            |                                   |   |
| 91-1072                            | 91-1089   |            |            |                                   |   |
| 91-1188                            | 91-1278   |            |            |                                   |   |
| 91-1314                            | 91-1497   |            |            |                                   |   |
| SB-93-0035-D                       |   |            |            |                                   |   |
| (By Opinion)                       |   |            |            |                                   |   |
| 179 ARIZ 216                       |   |            |            |                                   |   |
| 877 P.2d 789                       |   |            |            |                                   |   |
|                                    | ER 1.2  | ER 1.15    | ER 8.1     |                                   |   |
|                                    | ER 1.3  | ER 1.16    | SCR 43     |                                   |   |
|                                    | ER 1.4  | ER 5.3     | SCR 44     |                                   |   |
|                                    | ER 1.5  | ER 5.4     | SCR 51     |                                   |   |
| <b><u>Stuhff, Michael V.</u></b>   | One day prior to hearing on motion to withdraw as client's attorney, filed complaint alleging judicial misconduct against judge who was presiding over client's trial, and personally served it on judge.   | N/A        | Censure    | <u>Sua sponte</u> review declined | Reciprocal Discipline (Nevada); Also licensed in Utah   |
| 03/15/94                           |   |            |            |                                   |   |
| DC No. 93-0808                     |   |            |            |                                   |   |
| SB-94-0025-D                       |   |            |            |                                   |   |
| (By Judgment)                      |   |            |            |                                   |   |
| 177 ARIZ 547                       |   |            |            |                                   |   |
| 869 P.2d 1200                      |   |            |            |                                   |   |

**DISCIPLINARY CASES MATRIX  
(1994)**

|   |  |            |  |  |  |
|---|--|------------|--|--|--|
| <p><b><u>Taylor, Timothy E.</u></b><br/>11/03/94<br/>DC Nos. 92-1966<br/>93-0790<br/>93-1918<br/>SB-94-0075-D<br/><br/>(By Judgment)<br/>ARIZ<br/>883 P.2d 1046</p> | <p>Failed to file affidavit obtained from client in support of summary judgment; failed to respond to client's repeated attempts to communicate; represented clients while suspended for nonpayment of dues and MCLE violations; failed to timely respond to State Bar inquiries.<br/>ER 1.3 ER 5.5 SCR 51(i)<br/>ER 1.4 SCR 51(h)</p> | <p>N/A</p> | <p>Accept agreement for Suspension, 3 years</p>  | <p><u>Sua sponte</u> review declined</p> | <p>Agreement tendered prior to issuance of formal complaint</p>  |
| <p><b><u>Varbel, Duane Norman</u></b><br/><br/>02/18/94<br/>DC No. 91-1875<br/>SB-93-0064-D<br/><br/>(By Order)</p>   | <p>Suspension in effect until final resolution of all pending proceedings against respondent, unless earlier vacated or modified.</p>  | <p>N/A</p> | <p>N/A</p>   | <p>Interim Suspension</p>                |  |
| <p><b><u>Wayland, Land</u></b><br/><br/>09/23/94<br/>DC No. 93-1938<br/>SB-94-0055-D<br/><br/>(By Judgment)<br/>180 ARIZ 15<br/>881 P.2d 347</p>                    | <p>In assisting client obtain permanent residence visa, repeatedly fabricated stories to cover up his lack of diligence; presented doctored document to client to corroborate his misrepresentations.</p>  | <p>N/A</p> | <p>Suspension, 2 years (stayed) &amp; Probation, 2 years (effective dates identical to California)</p> | <p><u>Sua sponte</u> review declined</p> | <p>Reciprocal discipline (CA); First term of probation is 9-month suspension; Refunded unearned fee to client; Stipulated to misconduct and sanction</p> |

**DISCIPLINARY CASES MATRIX  
(1994)**

|   |  |                                |  |  |  |
|---|--|--------------------------------|--|--|--|
| <b><u>Wilkinson, W. Joseph</u></b>  | In representing clients for collection of judgment against third party, failed to take any action despite client's specific direction on how to proceed; failed to respond to client's numerous requests for information; failed to provide clients with timely notice of deposition; failed to adequately notify clients of counterclaim filed against them; after improperly filing client's complaint, failed to act on court's order allowing additional time to amend and properly serve complaint. | Suspension,<br>3 months        | Suspension,<br>9 months &<br>Restitution | Suspension,<br>9 months &<br>Probation,<br>2 years, upon<br>reinstatement<br>& Restitution | Ruling rendered by memorandum decision; Clients unable to collect on their judgments due to Wilkinson's lack of diligence; 3 prior Informal Reprimands; Vulnerable victims; No dishonest or selfish motive; Cooperative attitude |
| 10/24/94<br>DC Nos. 89-1398<br>90-0788<br>90-1437<br>SB-94-0001-D   |  |                                |  |  |  |
| (By Judgment)   | ER 1.3                      ER 1.4   |                                |  |  |  |
| <b><u>Woltman, Bradford Carey</u></b>   | Mishandled cases of 24 clients, involving conversion of funds, failure to perform work after accepting retainers, failure to maintain communication with client, misrepresentations to clients regarding status of their cases, and failure to return client files and property; practiced law while suspended; threatened adverse parties with violence; failed to remit money received on clients' behalf; allowed cases to be dismissed or delayed; failed to participate in disciplinary process.    | Disbarment<br>&<br>Restitution | Disbarment<br>&<br>Restitution           | <u>Sua sponte</u><br>review<br>&<br>declined   | Abandoned practice; Egregious conduct involving 24 clients; 11 clients suffered financial harm   |
| 05/24/94<br>DC Nos. 90-2379 91-1005<br>91-1009 91-1104<br>91-1190 91-1473<br>91-1670 91-1927<br>91-1928 91-2238<br>91-2239 91-2253<br>92-0055 92-0155<br>92-0307 92-0617<br>92-0746 92-0852<br>92-0885 92-0936<br>92-0960 92-1046<br>92-1229 92-1341<br>92-1484 |  |                                |  |  |  |
| SB-94-0032-D  | ER 1.1    ER 3.2    ER 8.4<br>ER 1.2    ER 3.3    SCR 41(g)<br>ER 1.3    ER 3.4    SCR 41(e)<br>ER 1.4    ER 4.2    SCR 51(f)<br>ER 1.5    ER 4.4    SCR 51(h)<br>ER 1.15   ER 5.5    SCR 51(i)<br>ER 1.16   ER 8.1    SCR 63  |                                |  |  |  |
| (By Judgment)<br>178 ARIZ 548<br>875 P.2d 781   |  |                                |  |  |  |

**DISCIPLINARY CASES MATRIX  
(1994)**

|  |  |                   |   |  |   |
|--|--|-------------------|---|--|---|
| <p><b><u>Wulfers, William C., Jr.</u></b><br/>08/29/94<br/>DC Nos. 93-1249 93-1490<br/>93-1583 94-0023<br/>94-0060 94-0198<br/>SB-94-0071-D<br/><br/>(By Order)</p>  | <p>Appears to be misappropriating funds and engaged in a pattern of conduct evidencing severe neglect of client matters.</p>   | <p>N/A</p>        | <p>N/A</p>                                  | <p>Interim<br/>Suspension</p>                    |   |
| <p><b><u>Wurts, Dennis Joseph</u></b><br/>03/08/94<br/>DC Nos. 89-1575 91-0254<br/>91-1207 91-1238<br/>91-1239 91-1421<br/>91-1428 91-1443<br/>91-1498 91-1510<br/>91-1533 91-2094<br/>91-2127 91-2179<br/>91-2441 92-1015<br/>SB-94-0010-D<br/><br/>(By Judgment)<br/>177 ARIZ 586<br/>870 P.2d 404</p> | <p>Accepted representation of or retainers from 11 clients then performed little or no work, resulting in \$17,000 default judgment entered against one client and warrant being issued for another client's arrest; failed to appear at meetings and hearings; filed discovery response containing false information; directed clients to sign responses before responses prepared, then had signatures notarized by person who had not witnessed signatures; accepted new clients and retainers, appeared in court, and filed documents in court while suspended; cooperated minimally with State Bar investigation; failed to participate in formal disciplinary proceedings.</p> | <p>Disbarment</p> | <p>Disbarment<br/>&amp;<br/>Restitution</p> | <p><u>Sua sponte</u><br/>review<br/>declined</p> | <p>Abandoned practice; Placed on interim suspension prior to final disposition; State Bar established conservatorship over client files; 10 clients suffered financial harm</p> |
|  | <p>ER 1.1 ER 3.1 ER 8.4<br/>ER 1.2 ER 3.2 SCR 31(a)(3)<br/>ER 1.3 ER 3.4 SCR 33(c)<br/>ER 1.4 ER 4.1 SCR 51(h)<br/>ER 1.5 ER 5.5 SCR 51(i)<br/>ER 1.15 ER 8.1(b)</p>   |                   |   |  |   |