

**SUPREME COURT OF ARIZONA
DISCIPLINARY CASES MATRIX
(1995)**

<u>CASE NAME NUMBER/DATE</u>	<u>VIOLATIONS DESCRIPTION/ DISCIPLINARY RULES</u>	<u>COMMITTEE/ OFFICER RECOMMEND.</u>	<u>COMMISSION RECOMMEND.</u>	<u>COURT SANCTION</u>	<u>COMMENTS</u>
1995					
<u>Allen, Gove L.</u> 06/27/95 DC No. 93-1341 SB-95-0039-D (By Judgment)	Negligently filed and doggedly pursued lawsuit, despite rulings by both superior court and court of appeals that suit was frivolous. ER 1.1 ER 3.1 ER 8.4(d)	Reject Agreement	Accept Agreement for Censure	<u>Sua sponte</u> review declined	Only Commission heard parties at oral argument; Pursuit of suit despite adverse court rulings based on good faith belief in client; Misconduct negligent, not intentional; Allen fined over \$30,000 by courts; Court of Appeals published scathing opinion; Additional mitigation present; 3 prior Informal Reprimands
<u>Arrotta, Richard B.</u> 09/21/95 DC No. 95-1381 SB-95-0057-D (By Judgment)	Charged contingency fee to clients who were making claims under National Childhood Vaccine Injury Act of 1986 although Act specifically states US Treasury will reimburse attorneys fees and costs (also accepted fee paid by US Treasury); falsely told State Bar that he was not seeking fees or costs from clients; paid kickbacks to State of Arizona Risk Management Section employee to elicit confidential information on civil liability of Arizona. ER 8.4 Title 18, U.S.C., §1341 SCR 51	N/A	N/A	Consent to Disbarment	

**DISCIPLINARY CASES MATRIX
(1995)**

<p><u>Bachstein, Harry S., Jr.</u> 12/27/95 DC Nos. 92-2226 93-1377 SB-95-0062-D (By Judgment)</p>	<p>Failure to appear in court on client's behalf and failure to file timely responses resulted in summary judgment and \$3,000 judgment against client; failed to notify client and opposing party of his MCLE suspension; filed brief with court while suspended; failed to participate in disciplinary proceedings. ER 1.2 ER 5.5 SCR 51(h) ER 1.3 ER 8.1 SCR 51(i) ER 1.4 SCR 51(e) SCR 51(k)</p>	<p>Disbarment</p>	<p>Disbarment</p>	<p><u>Sua sponte</u> review declined</p>	<p>Made no attempt to rectify situation; Abandoned practice; Prior informal reprimand</p>
<p><u>Brown, Leonard G.</u> 01/27/95 DC No. 93-0249 SB-94-0052-D (By Memorandum Decision) 181 ARIZ 290 889 P.2d 1088</p>	<p>Failed to appear in court numerous times on behalf of two clients, in violation of court orders; failed to cooperate with State Bar's investigation. ER 1.3 ER 8.4 ER 3.2 SCR 51(e) ER 3.4 SCR 51(h) ER 8.1(b) SCR 51(i)</p>	<p>Suspension, 5 years & Restitution</p>	<p>Censure & Conditional Probation, 2 years</p>	<p>Censure & Conditional Probation, 2 years</p>	<p>Only Commission, not Hearing Officer, heard Brown speak on his own behalf; Expressed remorse; Personal problems; Lack of diligence resulted from "stretching himself too thin"; Voluntarily left private practice to avoid similar circumstances; Claimed current job performance satisfactory; No selfish or dishonest motive; Probation effective only if Brown leaves current employer</p>
<p><u>Camacho, Edward</u> 08/21/95 DC Nos. 93-0496 93-0978 SB-95-0053-D (By Judgment)</p>	<p>Falsely told client he was working obtaining custody or visitation for client/father; failed to respond to initial State Bar inquiries. ER 1.3 ER 8.1(b) SCR 51(i) ER 1.4 SCR 51(h)</p>	<p>Accept agreement for Censure & Probation, 1 year</p>	<p>Accept agreement for Censure & Probation, 1 year</p>	<p><u>Sua sponte</u> review declined</p>	<p>Sole term of probation is LOMAP audit; Client states Camacho later admitted he did no work, apologized, and returned retainer with interest; Prior informal reprimand; Exhibited remorse; Very cooperative during formal proceedings</p>

**DISCIPLINARY CASES MATRIX
(1995)**

<p><u>Castro, Ernesto Roland</u> 07/27/95 DC Nos. 90-1443 90-1457 90-0271 SB-94-0030-D (By Memorandum Decision)</p>	<p>Defrauded client's creditors by preparing a fraudulent transfer of his client's property; failed to diligently and competently represent accused child molester; misled Arizona Court of Appeals. ER 1.1 ER 4.1(b) ER 1.3 ER 8.4(a) ER 3.1 ER 8.4(c) ER 3.2 ER 8.4(d)</p>	<p>Suspension, 2 years & Probation, 1 year & Restitution</p>	<p>Suspension, 2 years & Probation, 1 year & Restitution</p>	<p>Suspension, 2 years & Probation, 1 year & Restitution probation</p>	<p>Prior informal reprimand for similar conduct; Prior censure; C.J. Feldman dissents in part, recommending disbarment; Terms of include LOMAP</p>
<p><u>Coburn, Maurice W.</u> 01/27/95 DC Nos. 92-0984 92-1143 92-0985 92-1193 92-1108 SB-94-0085-D (By Judgment) 181 ARIZ 250 889 P.2d 608</p>	<p>Failed to timely notify clients or opposing parties of his suspension; helped client prepare legal documents and engaged in plea negotiations on another client's behalf while suspended; failed to make diligent effort to expedite litigation; failed to diligently respond to requests from arbitrator; failed to participate in court-ordered telephone conference call regarding motion to continue; misplaced client's documents; failed to timely prepare client's will; failed to maintain communication with client; failed to notify client of office relocation. ER 1.3 ER 8.1 SCR 51(i) ER 1.4 SCR 51(e) SCR 51(k) ER 3.2 SCR 51(f) SCR 63 ER 5.5 SCR 51(h)</p>	<p>Suspension, 2 years (retroactive to 04/24/93) & Contact client regarding disposition of file</p>	<p>Suspension, 2 years (retroactive to 04/24/93) & Contact client regarding disposition of file</p>	<p><u>Sua sponte</u> review declined</p>	<p>04/24/93 is date Coburn's prior suspension expired; Received no fee from clients whose will he failed to prepare. Virtually all violations occurred while winding up practice due to suspension; No dishonest or selfish motive; Cooperative during proceedings; Remorse; Some misconduct result of Coburn's desire that clients not be prejudiced by his suspension; No monetary profit from practice conducted after suspension; Substantial experience; Prior Censure; 3 prior Informal Reprimands; Prior Suspension</p>

**DISCIPLINARY CASES MATRIX
(1995)**

<p><u>Condit, Lawrence Edwin</u> 04/12/95 DC No. 90-1030 SB-94-0021-D (By Memorandum Decision)</p>	<p>Because claim he settled against client's former lawyer (which alleged lawyer engaged in malpractice, conversion, embezzlement, and fraud) included confidentiality agreement, Condit did not report other lawyer to State Bar. ER 8.3</p>	<p>N/A</p>	<p>Reject agreement for Censure</p>	<p>Censure</p>	<p>Commission believed record contained insufficient facts; State Bar raised issue of whether ER 1.6 is so broad that there was no underlying duty to report at all under ER 8.3; Conduct was pre-<u>Himmel</u>; State Bar conceded it could not prove deliberate misconduct; Supreme Court asked third party attorney to file amicus brief in support of Commission's recommendation; Court referred ER 1.6 issue to Arizona Judicial Council</p>
<p><u>Connelly, Sean</u> 01/13/95 DC No. 90-0381 SB-93-0041-D (By Memorandum Decision) 181 ARIZ 288 889 P.2d 1086</p>	<p>Lack of diligence resulted in default judgment entered against client; Failed to inform client of judgment, telling him instead case was going to settle; Failed to timely respond to State Bar inquiries. ER 1.1 ER 1.4 ER 8.4(c) ER 1.2 ER 3.4(c) SCR 51(h) ER 1.3 ER 8.1 SCR 51(i)</p>	<p>Suspension, 4 months & Probation, 1 year</p>	<p>Suspension, 4 months</p>	<p>Censure</p>	<p>Connelly stipulated to facts; Extensive experience; Prior informal reprimand; Good reputation and character; No financial or selfish motive; Connelly acted as city magistrate and did not practice law at time</p>
<p><u>D'Antonio, Gregory D.</u> 06/08/95 DC No. 93-1480 SB-95-0019-D (By Judgment)</p>	<p>Pled guilty to felony offenses of possession with intent to distribute marijuana and tampering with a witness, victim, or informant. ER 3.4 ER 8.4 SCR 51(a)</p>	<p>N/A</p>	<p>N/A</p>	<p>Consent to Disbarment</p>	<p>Prior Informal Reprimand</p>

**DISCIPLINARY CASES MATRIX
(1995)**

Davis, Gaila Vivian

03/09/95
DC Nos. 89-1783
90-0791
90-1800
SB-94-0070-D

(By Opinion)
181 ARIZ 263
889 P.2d 621

Failed to comply with terms of previously imposed probation (to which she had consented), in that she failed to make trust account records available to LOMAP and refused to submit to follow-up audit, failed to cooperate with State Bar's requests for information on subsequent client complaints, failed to comply with subpoena to appear at deposition regarding bar complaints, failed to pay costs incurred during prior proceeding for over one year.
ER 1.3 SCR 51(h)
ER 8.1(b) SCR 51(i)

Suspension,
60 days &
Completion of
probationary
terms & MAP

Suspension,
60 days &
Completion of
probationary
terms &
Probation,
2 years, upon
reinstatement
& MAP

Suspension,
60 days &
Probation,
2 years, upon
reinstatement
& MAP

Proceedings instituted by notice of probation violation rather than complaint; Failure to respond to State Bar result of panic, not show of contempt; Personal problems; Virtually no harm to clients; Substantial experience; 3 prior Informal Reprimands; Ignored repeated efforts by State Bar to fulfill probationary terms; Unique circumstances indicate short-term suspension appropriate

Decker, Craig A.

03/13/95
DC No. 93-0077

(By Order)

Signed and filed documents with court whose signature block implied he was attorney, although he was not yet admitted in Arizona; represented client in request for continuance in court before he was admitted to State Bar, in mistaken belief he could appear in court on behalf of attorney-employer.
ER 5.5

Dismissal

Dismissal

N/A

Matter came before Commission when State Bar objected to Committee's recommendation; Had been admitted in California for nearly twenty years; Had taken and passed Arizona State Bar Exam at time, but had not yet been sworn in; Informed client and opposing party that he was not admitted to practice in Arizona; Despite violation of ethical rule, acts were isolated de minimus occurrence of negligence not warranting sanction

**DISCIPLINARY CASES MATRIX
(1995)**

<p><u>Duckworth, Francis A.</u> 09/25/95 DC No. 91-1810 SB-95-0049-D (By Order)</p>	<p>Suspension in effect until final disposition 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>Suspension imposed based on State Bar's Motion for Suspension Upon Recommendation of Disbarment Pursuant to Rule 53(d)(4).</p>
<p><u>Emanuel, Reuben M.</u> 05/11/95 DC No. 90-1505 SB-95-0029-D (By Judgment)</p>	<p>After claiming to client that he had negotiated \$500 settlement of client's dispute with homeowners' association, failed to reduce purported agreement to writing, and it was never accepted by Association; when Association continued to demand late fees, interest, and attorneys' fees from client, respondent told client he had to withdraw as he had become witness; although he assisted client in finding new counsel, fee agreement between client and new counsel was never clearly established, necessitating fee arbitration.</p> <p>ER 1.3 ER 1.4</p>	<p>Censure</p>	<p>Censure</p>	<p><u>Sua sponte</u> review declined</p>	<p>Client ultimately paid Association a \$2,000 settlement; Client paid new counsel \$500 pursuant to fee arbitration; No prior discipline in over 20 years of practice</p>
<p><u>Evans, James Thomas</u> 07/25/95 DC Nos. 91-1382 92-0175 93-0488 SB-95-0017-D (By Order) 183 ARIZ 74 900 P.2D 1210</p>	<p>Failed to maintain communication with clients, lost documents, failed to return clients' files, submitted false statements to State Bar, failed to handle matter with diligence, resulting in client retaining new counsel and paying twice for same work; failed to participate in disciplinary proceedings.</p> <p>ER 1.1 ER 1.15 ER 8.4(c) SCR 51(i) ER 1.3 ER 1.16 SCR 51(b) ER 1.4 ER 8.1 SCR 51(h)</p>	<p>Suspension, 1 year</p>	<p>Suspension, 1 year</p>	<p><u>Sua sponte</u> review declined</p>	<p>Prior informal reprimand; Prior censure, Prior probation (with which he has failed to comply); Respondent filed notice of appeal to Commission's recommendation, but filed no appellate brief with Court</p>

**DISCIPLINARY CASES MATRIX
(1995)**

Fee, Robert Edward
(and Montijo)

07/28/95
DC No. 91-0388
SB-93-0024-D

(By Opinion)
182 ARIZ 597
898 P.2d 975

Failed to inform settlement judge of side agreement with client that she would pay respondents' additional fees out of her share of settlement proceeds.
ER 3.3(a)(1) ER 8.4(c)

Suspension,
30 days

Suspension
60 days

Censure

Respondents did not pressure client, encouraging her to seek independent advice, insisting she meet with annuities expert outside their presence to review terms of settlement; Respondents intended to inform trial judge of side fee agreement; Settlement judge became adversarial; No prior discipline; No dishonest or selfish motive; Cooperative attitude; Respondents received extensive negative publicity; Court urges judges to carefully scrutinize practice of separate separate offers of attorneys' fees, which often drives wedge between lawyer and client; Court finds it unwise and unfair to focus on fees of one party without similar inquiry into other parties' fees; Good end does not justify deceitful means; Judge acting as mediator is still judge to whom ethical duty of candor is owed; State Bar asked for 6-month suspension; Justice Corcoran dissents, recommending suspension

**DISCIPLINARY CASES MATRIX
(1995)**

<p><u>Garrison, Kevin</u> (see also <u>Schwartz</u>) 08/03/95 DC No. 94-1053 SB-95-0046-D (By Judgment)</p>	<p>"Looked the other way" while teenage client's friend forged client's mother's name on settlement check obtained for client, after learning insurance company would only issue check to mother (who was legal guardian, but from whom client was estranged). ER 1.2(d) ER 8.4</p>	<p>N/A</p>	<p>Accept agree- ment for Censure</p>	<p><u>Sua sponte</u> review declined</p>	<p>After client's friend absconded with money, respondents convinced bank to reissue check (with interest) to client; Respondents voluntarily contacted State Bar concerning this matter; Respondents did not actively condone forgery, but did nothing to stop it; No aggravating factors</p>
<p><u>Hamblen, Clayton Ray</u> 12/28/95 DC No. 90-1521 SB-94-0056-D (By Memorandum Decision)</p>	<p>Failed to timely deliver interrogatories to opposing counsel despite court warnings, motion to compel, and a denied motion to dismiss; his inaction resulted in dismissal of client's case; failed to notify client of dismissal; failed to cooperate with State Bar. ER 1.1 ER 1.4 SCR 51(h) ER 1.3 ER 3.4(c)</p>	<p>Disbarment</p>	<p>Suspension, 1 year</p>	<p>Censure</p>	<p>Client's case reinstated; Court imposed financial sanction on respondent, which he did not immediately pay; Respondent currently sits as justice of the peace and does not intend to practice law; Personal and emotional problems; Remorse; Good character and reputation; No dishonest or selfish motive; Over twenty years' experience; No harm resulted to client</p>

**DISCIPLINARY CASES MATRIX
(1995)**

<p><u>Hirschfeld, Robert A.</u> 06/08/95 DC No. 95-0839 SB-95-0033-D (By Order)</p>	<p>Engaged in a pattern of behavior that will result in substantial harm, loss, or damage to public, the legal profession, and the administration of justice. ER 1.5 ER 4.4 ER 1.16(d) ER 8.4</p>	<p>N/A N/A</p>	<p>Interim Suspension</p>	<p>State Bar's first motion for interim suspension declined, despite Court's finding that Hirschfeld had engaged in pattern of behavior that raised questions about his fitness to continue practice of law; Court, instead, allowed him to practice with probationary requirements, including mentor; This motion arose when mentor resigned and new allegations of misconduct were charged.</p>
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**DISCIPLINARY CASES MATRIX
(1995)**

Irwin, Jeffrey Alan

10/31/95
DC Nos. 91-0827
91-2460
SB-95-0054-D

(By Judgment)

While representing client in arbitration, made verbal and written misrepresentations to arbitrator and a judge in effort to cover his own mistakes; cavalier actions resulted in unappealable dismissal of client's case. While representing another client, failed to timely respond to request for admissions; made vigorous argument before judge that was contrary to statements he had earlier presented to court; recommended client dismiss his action without informing client of opposing counsel's motion for summary judgment. During disciplinary proceedings, falsely claimed he had never made arguments set forth in judge's minute entry; knowingly presented affidavit containing false information; knowingly failed to notify State Bar that another affidavit contained errors.
ER 1.1 ER 1.4 ER 8.1(a) ER 8.4
ER 1.3 ER 3.3 ER 8.1(b)

Suspension,
1 year &
Probation,
3 years

Suspension,
3 years &
Probation,
2 years,
upon rein-
statement

Sua sponte
review
declined

No prior discipline;
Interim rehabilitation;
Majority of misconduct due
to carelessness; Commission
found aggravation not found
by Hearing Officer: Dishon-
est or selfish motive,
Multiple offenses

Johnson, Bertrand R.

01/18/95
DC No. 94-2443
SB-95-0004-D

(By Judgment)
181 ARIZ 289
889 P.2d 1087

Pled guilty to engaging in fraud- N/A
ulent schemes and practices, a
class 5 felony, in that he paid
over \$90,000 in secret kickbacks
to municipal court presiding
judge in return for judge's
directing annual public defender
contracts to him.

N/A

Consent to
Disbarment

**DISCIPLINARY CASES MATRIX
(1995)**

Karasek, David John

12/27/95

DC Nos. 91-1313 91-1444
 91-1778 91-1900
 91-2203 91-2205
 91-2229 91-2266
 91-2500 92-0006
 92-0021 92-0073
 92-1992

SB-95-0060-D

(By Judgment)

Practiced law while suspended; failed to inform clients, opposing counsel, and court of suspension; failed to honor medical lien; retained client's funds; failed to respond to client's calls; misrepresented status of case to client; withdrew from client's case without notice; gave misinformation to client which resulted in bench warrant and judgment of over \$3,000 against client; failed to notify client of judgment entered against her; failed to protect rights and assets of bankruptcy client; attempted to take steps not authorized by client; asked client for money to file appeal on case in which right to appeal had expired; failed to respond to State Bar inquiries into all twenty-five counts.

ER 1.1	ER 1.16	SCR 33(c)
ER 1.2	ER 3.3	SCR 51(e)
ER 1.3	ER 4.1	SCR 51(h)
ER 1.4	ER 5.5	SCR 51(i)
ER 1.5	ER 8.1(b)	SCR 51(k)
ER 1.15(b)	ER 8.4	SCR 63(a)

Disbarment

Disbarment

Sua sponte
 review
 declined

Despite prior consent to disbarment for conduct during same time period, sanction necessary in instant matter to properly recognize such flagrant and repeated misconduct; Failure to address his complete disregard for State Bar would send wrong message; Misconduct "appalling"; Abundant aggravation, no mitigation

Keefe, James Francis

02/10/95

DC No. 91-1140
 SB-92-0047-D

(By Order)

No ethical violations occurred.

N/A

N/A

Renew
 probation,
 2 years

Prior probation, effective upon his reinstatement, included terms regarding AA, practice and sobriety monitors, and MAP; When Keefe was arrested for DUI during that period, it was determined that probation should be extended, and additional term imposed ordering Keefe to abstain from alcohol

**DISCIPLINARY CASES MATRIX
(1995)**

<p><u>King, Victoria Ann</u> 06/22/95 DC Nos. 92-0202 92-1657 92-0568 92-1845 92-1321 93-0157 92-1390 93-0672 92-1474 93-1228 92-1593 93-1303 SB-95-0012-D (By Order)</p>	<p>Stipulated to interim suspension after State Bar filed motion with court.</p>	<p>N/A</p>	<p>N/A</p>	<p>Interim Suspension, effective in 90 days</p>	<p>King also stipulated to numerous terms relating to winding up her practice</p>
<p><u>Kobashi, John</u> 01/27/95 DC No. 93-0540 SB-94-0084-D (By Judgment) 181 ARIZ 253 889 P.2d 611</p>	<p>Failed to deliver \$15,000 of his client's money to her children as payment for their ownership interest in her deceased husband's home, nor did he return the money; failed to respond to client's requests for information; failed to respond to State Bar's letters of inquiry.</p>	<p>Disbarment & Restitution</p>	<p>Disbarment & Restitution</p>	<p><u>Sua sponte</u> review declined</p>	<p>Substantial experience; Prior suspension for similar conduct</p>
	<p>ER 1.2 ER 8.1(b) ER 1.3 ER 8.4 ER 1.4 SCR 51(h) ER 1.15 SCR 51(i)</p>				

**DISCIPLINARY CASES MATRIX
(1995)**

<p><u>Kreckow, Jodie K.</u> 06/27/95 DC No. 93-0710 SB-95-0038-D (By Judgment)</p>	<p>Failed to file opening brief for client in criminal matter, despite court orders; failed to comply with numerous subsequent court orders regarding that case, as well as those on the balance of her case load. ER 1.3 ER 3.4 SCR 51(e) ER 3.2 ER 8.4(d)</p>	<p>Accept agreement for Censure & Transfer to inactive status & Probation, 2 years</p>	<p>Accept agreement for Censure & Transfer to inactive status & Probation, 2 years</p>	<p><u>Sua sponte</u> review declined</p>	<p>Court of Appeals found Kreckow in contempt for failure to comply with its orders, and removed her as attorney of record in all pending appellate matters; Censure warranted due to extensive mitigation: no prior discipline, cooperative through disciplinary proceedings, remorse, serious emotional and personal problems; Probation terms include counseling and LOMAP</p>
<p><u>Linsenmeyer, Otto Henry</u> 04/12/95 DC No. 90-2328 SB-94-0058-D (By Memorandum Decision)</p>	<p>Failed to include judge's name on service certificate for supplemental affidavits concerning a motion for summary judgment, resulting in summary judgment against client, as judge had not seen affidavits; filed motion for reconsideration which failed to specifically put trial judge on notice of existence of the affidavits; failed to protect client's interests by filing notice of appeal after motion for rehearing and reconsideration denied; failed to advise client of necessity of filing timely appeal. ER 1.1 ER 1.3 ER 1.4</p>	<p>Informal Reprimand if he retires and pays restitution by 12/31/93 OR Suspension, 1 year, & Restitution</p>	<p>Censure</p>	<p>Censure</p>	<p>43 years' experience; Prior counsel had prepared supplemental affidavits and deficient certification; 3 prior Informal Reprimands (1 very remote in time); No dishonest or selfish motive; Cooperative attitude; Lack of remorse; Failure to offer restitution</p>

**DISCIPLINARY CASES MATRIX
(1995)**

<p><u>Maqness, Mickey Lea</u> 12/15/95 DC No. 95-0614 SB-95-0063-D (By Judgment)</p>	<p>Shared attorney's fees with non-lawyer, assisted non-attorney in practice of law, practiced with law office owned by non-attorney.</p>	<p>N/A</p>	<p>Censure</p>	<p><u>Sua sponte</u> review declined</p>	<p>Reciprocal discipline (Washington); Respondent initially unaware that office owner was not attorney; Left firm shortly after learning owner was practicing law; Misconduct result of carelessness; No prior discipline despite lengthy practice</p>
<p><u>Mirretti, Stephen P. Jr.</u> 01/18/95 DC No. 94-2444 SB-95-0005-D (By Judgment) 181 ARIZ 288 889 P.2d 1086</p>	<p>Pled guilty to engaging in fraudulent schemes and artifices (class 2 felony), bribery (class 4 felony), theft of public money (class 3 felony), and conspiracy to obstruct criminal investigation (class 5 felony), in that he accepted tens of thousands of dollars in secret money kickbacks for nearly eight years for directing court contracts to numerous entities.</p>	<p>N/A</p>	<p>N/A</p>	<p>Consent to Disbarment</p>	<p>Conduct occurred while Mirretti was judge</p>

**DISCIPLINARY CASES MATRIX
(1995)**

Montijo, John Marc
(and Fee)

07/28/95
DC No. 91-0389
SB-93-0025-D

(By Opinion)
182 ARIZ 597
898 P.2d 975

Failed to inform settlement judge of side agreement with client that would pay respondents additional fees out of her share of settlement proceeds.
ER 3.3(a)(1) ER 8.4(c)

Suspension,
30 days

Suspension
60 days

Censure

Respondents did not pressure client, encouraging her to seek independent advice, insisting she meet with annuities expert outside their presence to review terms of settlement; Respondents intended to inform trial judge of side fee agreement; Settlement judge became adversarial; No prior discipline; No dishonest or selfish motive; Cooperative attitude; Respondents received extensive negative publicity; Court urges judges to carefully scrutinize practice of separate offers of attorneys' fees, which often drives wedge between lawyer and client; Court finds it unwise and unfair to focus on fees of one party without similar inquiry into other parties' fees; Good end does not justify deceitful means; Judge acting as mediator is still judge to whom ethical duty of candor is owed; State Bar asked for 6-month suspension; Justice Corcoran dissents, recommending suspension

**DISCIPLINARY CASES MATRIX
(1995)**

<p><u>Mybeck, Walter R., II</u> 05/12/95 DC No. 95-0150 SB-95-0010-D (By Order)</p>	<p>Failed to pay court-ordered costs incurred in prior disciplinary proceedings.</p>	<p>N/A</p>	<p>N/A</p>	<p>Summary Suspension</p>	<p>Suspension in effect until previous costs paid in full to State Bar</p>
<p><u>Owens, Clarence D., Jr.</u> 05/10/95 DC Nos. 90-1512 90-1942 SB-94-0023-D (By Opinion) 182 ARIZ 121 893 P.2d 1284</p>	<p>Engaged in conflict of interest while representing client in divorce and subsequent bankruptcy; failed to list fees due him from divorce matter on client's bankruptcy petition; failed to fully consult with client on nature of a reaffirmation agreement; placed undue hardship on client. ER 1.7(b)</p>	<p>Disbarment</p>	<p>Suspension, 90 days</p>	<p>Censure</p>	<p>Cannot find violations of ethical rules not charged in complaint - State Bar must seek leave to amend complaint if additional allegations arise during proceedings; Misunderstanding of law need not always lead to violation of ER 8.4(c); Vulnerable client; Refusal to acknowledge wrongfulness of conduct. 44 years' experience without prior discipline constitutes substantial mitigation</p>
<p><u>Plotkin, Clayton W.</u> 12/27/95 DC No. 91-0692 SB-95-0061-D (By Judgment)</p>	<p>Applied all of client's settlement proceeds (\$500) to his attorney's fees (which totaled over \$1,000), without first getting client's approval; signed client's name on settlement check and release due to ongoing difficulty in contacting client; notarized both his own and client's forged signature; failed to provide client with written closing statement; initially failed to notify State Bar that he had signed his client's name. ER 1.2 ER 1.5(c) ER 8.1(b) ER 1.4 ER 8.4(c)</p>	<p>Accept agree- ment for Suspension, 30 days</p>	<p>Accept agree- ment for Suspension, 30 days</p>	<p><u>Sua sponte</u> review declined</p>	<p>Respondent's letters indicate he kept client informed (client denies); Respondent states he had been given oral power of attorney to sign client's name (client denies); Client was not entitled to any of settlement proceeds, as she was aware her costs exceeded settlement amount; Despite significant mitigation, forgery and false notarization require suspension</p>

**DISCIPLINARY CASES MATRIX
(1995)**

Redondo, William J.

09/11/95
DC Nos. 91-1006
91-1426
91-1677
93-0149
SB-95-0011-D

Failed to immediately honor physician's lien; approached and threw file at opposing counsel in court; failed to respond to State Bar.
ER 1.15 SCR 41(c)
ER 8.1(b) SCR 51(h)
ER 8.4(d) SCR 51(i)

Disbarment
& Restitution

Suspension,
1 year
(concurrent
with current
suspension,
i.e., retro-
active to
10/21/93)

Suspension,
1 year
(concurrent
with current
suspension,
i.e., retro-
active to
10/21/93)

Prior suspension; Because current conduct occurred before order of prior suspension, that suspension is not "true prior," thus making disbarment inappropriately harsh; court discourages "piecemeal" approach to discipline, encourages consolidation when feasible; Respondent promptly apologized for conduct in court; Unsuccessful representation does not indicate incompetence; Justice Corcoran dissents, calling prior suspension "true prior," and recommends disbarment

(By Memorandum Decision)

Rempe, Stephen M.R.

07/12/95
DC No. 92-2080
SB-95-0043-D

Responded untruthfully to three questions during deposition.
ER 8.4(c)

N/A

Accept agree-
ment for
Censure

Sua sponte
review
declined

Admitted his misrepresentations to both prosecution and defense lawyers within hours of deposition; Dishonest or selfish motive (misstatements made to prevent embarrassing admissions); No prior discipline in his 20-plus years of practice; Immediately rectified his actions; Full cooperation with State Bar; Exhibited remorse

(By Judgment)

**DISCIPLINARY CASES MATRIX
(1995)**

<p><u>Savoy, John E.</u> 03/03/95 DC No. 93-0481 SB-94-0088-D (By Judgment) 181 ARIZ 368 891 P.2d 236</p>	<p>Convicted of perjury, based on statement made while testifying before Arizona State Grand Jury. ER 3.3(a)(1) ER 8.4(c) SCR 51(a) ER 8.4(b) ER 8.4(d)</p>	<p>Suspension, 2 years</p>	<p>Suspension, 2 years, Stayed pending outcome of appeal process in underlying case - Dismissal, should conviction be reversed</p>	<p><u>Sua sponte</u> review declined</p>	<p>Appeal of perjury conviction pending before Arizona Court of Appeals; Appeal based in large part on court's denial of jury instruction on "literal truth" defense</p>
<p><u>Savoy, John E.</u> 10/14/95 DC No. 93-0481 SB-94-0088-D (By Judgment)</p>	<p>See Comments</p>	<p>N/A</p>	<p>N/A</p>	<p>Lift stay of Suspension; Suspend 2 years</p>	<p>Suspension originally ordered in March 1995 had been stayed pending final outcome of criminal appeal (if conviction reversed, case would have been dismissed)</p>
<p><u>Schwartz, Kevin</u> (see also <u>Garrison</u>) 08/03/95 DC No. 93-1952 SB-95-0047-D (By Judgment)</p>	<p>"Looked the other way" while teenage client's friend forged client's mother's name on settlement obtained for client, after learning insurance company would only issue check to mother (who was legal guardian, but from whom client was estranged). ER 1.2(d) ER 8.4</p>	<p>N/A</p>	<p>Accept agreement for Censure</p>	<p><u>Sua sponte</u> review declined</p>	<p>After client's friend absconded with money, respondents convinced bank to reissue check (with interest) to client; Respondents voluntarily contacted State Bar concerning this matter; Respondents did not actively condone forgery, but did nothing to stop it; No aggravating factors</p>

**DISCIPLINARY CASES MATRIX
(1995)**

Secrist, Stephen E.

03/23/95
DC No. 93-0207
SB-95-0008-D

(By Judgment)
181 ARIZ 526
892 P.2d 862

In handling client's bankruptcy, failed to file motions to dismiss Chapter 11 action and convert to Chapter 7, despite informing client he would do so; failed to file additional necessary bankruptcy documents; failed to appear for bankruptcy court hearing; lied to client that he had prepared documents concerning bankruptcy proceedings and had submitted them to counsel for IRS; failed to cooperate with State Bar's investigation.
ER 1.3 ER 1.5 ER 8.1 SCR 51(h)
ER 1.4 ER 1.16 ER 8.4 SCR 51(i)

Suspension,
1 year &
Restitution

Suspension,
1 year &
Restitution

Sua sponte
review
declined

Client forced to retain and pay other counsel; Prior disbarment

Story, Mary Arnold

10/31/95
DC No. 93-1852
SB-95-0040-D

(By Judgment)

After leaving state for personal reasons, failed to return client files to public defender's office when she decided not to return; failed to return telephone calls from public defender's office; failed to cooperate with State Bar investigation; failed to participate in formal disciplinary process.
ER 1.3 ER 1.16 ER 8.4 SCR 51(i)
ER 1.4 ER 8.1(b) SCR 51(h)

Disbarment

Disbarment

Sua sponte
review
declined

Abandoned practice; Clients were vulnerable

**DISCIPLINARY CASES MATRIX
(1995)**

<u>Struthers, Andrew L.</u>	Accepted retainers for clients in child support cases, then failed to perform work or respond to client inquiries.	N/A	N/A	Consent to Disbarment	Previously disbarred, effective 07/12/94
01/18/95 DC Nos. 91-0501 91-2234 91-1249 92-0106 91-1836 92-0195 91-1917 92-0765 SB-94-0082-D					
(By Judgment) 181 ARIZ 289 889 P.2d 1087					
<u>Varbel, Duane Norman</u>	Rejected settlement offer without consulting with clients; failed to inform clients of settlement offer. ER 1.2 ER 1.4	Disbarment	Disbarment	Suspension, 2 years (effective as of 06/29/95)	Majority of Court notes "Lack of credibility is not always the equivalent of intentional dishonesty"; Both client and respondent gave inconsistent testimony; No mitigation present; Justice Corcoran, in dissent, finds clear and convincing evidence that respondent lied during the disciplinary proceedings, and recommends disbarment
07/21/95 DC No. 91-1875 SB-93-0070-D					
(By Opinion) 182 ARIZ 451 897 P.2d 1337					

DISCIPLINARY CASES MATRIX
(1995)

Zalut, Henry Leonard

06/27/95
DC No. 91-2130
SB-95-0037-D

(By Judgment)

In representing clients in automobile accident case, conducted only marginal discovery; failed to complete discovery in timely manner; failed to have expert witnesses who would testify at trial; failed to notify court until one day before trial that he would be unable to proceed; failed to timely recognize conflict of interest and withdraw as counsel.

ER 1.1 ER 1.3 ER 1.7(b)

N/A

Accept
agreement
for Censure

Sua sponte
review
declined

Vulnerable clients; Substantial experience; Conduct negligent, rather than intentional; Good faith effort to rectify consequences; Cooperative in disciplinary proceedings; No dishonest or selfish motive; Good character and reputation; Remorse; Already fined \$5,000 by court; No serious harm to clients; Zalut retiring from practice