

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**MARIANNE GONKO,
Bar No. 019099**

Respondent

PDJ 2021-9100

FINAL JUDGMENT AND ORDER

[State Bar No. 21-0862]

FILED DECEMBER 30, 2021

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

IT IS THEREFORE ORDERED that Respondent, **MARIANNE GONKO, Bar No. 019099** is suspended from the practice of law in Arizona for 30 days, effective 30 days from the date of this order, for her conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED that upon reinstatement, Respondent shall be placed on probation for a period of one year under the following the terms:

- a) Continuing Legal Education (CLE): In addition to annual MCLE requirements, Respondent shall complete the following CLE program(s): "Immigration Laws and Ethical Representation" within 90 days from the date of service of this order. Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the program(s) 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.

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

IT IS FURTHER ORDERED that pursuant to Rule 72 Ariz. R. Sup. Ct., Respondent shall comply with the requirements relating to notification of clients and others.

IT IS FURTHER ORDERED that Respondent shall pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200.00 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 30th day of December, 2021.

Margaret H. Downie

Margaret H. Downie

Presiding Disciplinary Judge

Copies of the foregoing emailed
this 30th day of December, 2021, to:

Marianne Gonko
Gonko Law Firm
PO Box 1295
Gilbert, Arizona 85299-1295
Email: Mgonko@netzero.com
Respondent

Sierra M. Taylor
Staff Bar Counsel
State Bar of Arizona

4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

by: SHunt

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

MARIANNE GONKO,
Bar No. 019099

Respondent.

PDJ 2021-9100

**DECISION ACCEPTING
AGREEMENT FOR DISCIPLINE BY
CONSENT**

[State Bar No. 21-0862]

FILED DECEMBER 30, 2021

On December 28, 2021, the parties filed an Agreement for Discipline by Consent (“Agreement”) pursuant to Rule 57(a), Ariz. R. Sup. Ct. The State Bar of Arizona is represented in this matter by Sierra M. Taylor. Respondent Marianne Gonko is self-represented. A probable cause order issued on November 15, 2021, and a formal complaint was filed on November 18, 2021.

Contingent on approval of the proposed form of discipline, Ms. Gonko has voluntarily waived her right to an adjudicatory hearing, as well as all motions, defenses, objections, or requests that could be asserted. As required by Rule 53(b)(3), notice of the Agreement was sent to the complainant by email on December 10, 2021. No objection has been received.

The Agreement details a factual basis in support of Ms. Gonko’s conditional admissions and is incorporated by reference. *See* Rule 57(a)(4). Ms. Gonko admits violating Rule 42, ERs 1.1 (competence), 1.2 (scope of representation), 1.3 (diligence), 1.4 (communication), 1.5 (fees), 3.2 (expedite litigation), 8.4(c) (conduct involving dishonesty,

fraud, deceit or misrepresentation), and 8.4(d) (conduct prejudicial to the administration of justice).¹ As a sanction, the parties agree to a 30-day suspension, one year of probation (continuing legal education), and payment of costs to the State Bar.

Ms. Gonko was retained to handle an immigration matter and thereafter failed to adequately communicate with or diligently represent the client. She also failed to provide a written fee agreement and, on several occasions, misrepresented the status of filing a particular document.

Based on the conditional admissions, the parties agree that the presumptive sanction under the ABA Standards for Imposing Lawyer Sanctions is suspension under § 4.62 (lack of candor). *See, e.g., In re Moak*, 205 Ariz. 351, 353 (2003) (“When an attorney faces discipline for multiple charges of misconduct, the most serious charge serves as the baseline for the punishment. We assign the less serious charges aggravating weight.”).

Ms. Gonko knowingly violated her duty to her client, the profession, the legal system and the public, resulting in actual harm. The parties stipulate to the existence of aggravating factors 9.22(h) (vulnerability of victim) and 9.22(i) (substantial experience in the practice of law) and mitigating factors 9.32(a) (absence of prior disciplinary record), 9.32(d) (timely good faith effort to make restitution or to rectify consequences of misconduct), and 9.32(e) (full and free disclosure to disciplinary board or cooperative attitude toward proceedings). After weighing the aggravating and mitigating factors, the PDJ agrees that a short-term suspension plus probation is appropriate.

¹ A violation of ER 1.1 was inadvertently omitted from the conditional admissions in the Agreement and ER 3.3 was inadvertently included in the conditional admissions.

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

DATED this 30th day of December 2021.

Margaret H. Downie
Margaret H. Downie
Presiding Disciplinary Judge

COPY of the foregoing e-mailed
this 30th day of December 2021 to:

Sierra M. Taylor
Staff Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, AZ 85016-6288
Email: LRO@staff.azbar.org

Marianne Gonko
Gonko Law Firm
PO Box 1295
Gilbert, AZ 85299-1295
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Respondent

by: SHunt

Sierra M. Taylor, Bar No. 031687
Staff Bar Counsel
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PO Box 1295
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Email: Mgonko@netzero.com
Respondent

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

MARIANNE GONKO,
Bar No. 019099,

Respondent.

PDJ 2021-9100

State Bar File No. **21-0862**

**AGREEMENT FOR DISCIPLINE
BY CONSENT**

The State Bar of Arizona, and Respondent Marianne Gonko who has chosen not to seek the assistance of counsel, hereby submit their Agreement for Discipline by Consent pursuant to Rule 57(a), Ariz. R. Sup. Ct. A probable cause order was entered on November 15, 2021. A formal complaint was filed November 18, 2021. 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 admission and proposed form of discipline is approved.

Pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct., notice of this agreement was provided to the Complainant by email on December 10, 2021. Complainant has been notified of the opportunity to file a written objection to the agreement with the State Bar within five (5) business days of bar counsel's notice. Complainant did not submit an objection.

Respondent conditionally admits that her conduct, as set forth below, violated Rule 42, ER 1.2, ER 1.3, ER 1.4, ER 1.5, ER 3.2, ER 3.3, ER 8.4(c), and ER 8.4(d). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: **thirty (30) days Suspension and upon reinstatement shall be placed on one (1) year Probation.** Respondent also agrees to pay the costs and expenses of the disciplinary proceeding, within 30 days from the date of this order. If costs are not paid within the 30 days interest will begin to accrue at the legal rate.¹ The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

FACTS

GENERAL ALLEGATIONS

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.

1. Respondent was licensed to practice law in Arizona on October 16, 1998.

COUNT ONE (File no. 21-0862/ Campos)

2. Respondent was retained by Evelin Campos to prepare and file an I-212 Application for Permission to Reapply for Admission into the United States After Removal (“Waiver”) for her husband.

3. Ms. Campos was referred to Respondent by Latino Community Services. Community Legal Services had already assisted Ms. Campos with initiation of Ms. Campos’s husband’s consular processing. Consular processing is a multi-step process that involves an interview with the consulate and awaiting notification as to whether the interviewee has been granted a visa.

4. Respondent was aware that the consular processing had already been initiated when she was retained to prepare the Waiver.

5. On June 29, 2017, Ms. Campos met with Respondent and discussed how important it was to her that her husband be able to reunite with their family. They discussed the scope of representation (preparation and filing of the Waiver) and verbally agreed to a flat rate of \$1800.00. Respondent never provided a written fee agreement to Ms. Campos.

6. Respondent met with Ms. Campos in October 2017 and confirmed that Ms. Campos wanted to go forward with the Waiver. Respondent wrote in her meeting notes that the “consular process [was] nearly completed.”

7. Thereafter, Respondent did not complete any work for over a year.

8. Respondent and Ms. Campos met again in November 2018. They discussed the need for a specific police certificate to be provided as part of the consular processing. Respondent assisted Ms. Campos with obtaining and providing the certificate.

9. In December 2018, Respondent noted in her file: “Prepare packet to mail out. Need a few more documents.” Ms. Campos believed the Waiver was submitted at that time and paid \$930.00 to the Department of Homeland Security for the Waiver fee.

10. No additional work was completed by Respondent for 10 months. Ms. Campos continued to make payments to Respondent during this time.

11. Ms. Campos periodically reached out to Respondent requesting updates. Respondent told Ms. Campos that the Waiver had been filed and they were waiting for a response. When Respondent told Ms. Campos this, Respondent knew that she had not yet filed the Waiver.

12. Ms. Campos eventually realized that the Waiver had not been filed. Respondent allowed Ms. Campos to pick up the Waiver and file it herself without

informing her that the Waiver could not be filed until the consular processing was completed.

13. In November 2019, Respondent received a Request for Evidence from the United States Citizenship and Immigration Services (“USCIS”), requesting that Respondent provide proof the Ms. Campos’s husband had attended his consulate interview and had been given paperwork directing him to file the Waiver.

14. Respondent realized that because the consular interview had not yet taken place, the Waiver had been prematurely filed.

15. Respondent then requested a consular interview and submitted a response to USCIS requesting that the Waiver be held in abeyance until the interview had been completed.

16. The Waiver was denied in January 2020, four months after Ms. Campos had filed it.

17. In March 2020, Respondent noted in her file: “Need to wait for consular interview. Problems with delay because of wrong filing.” Due to the onset of the pandemic, the consular office was not conducting interviews.

18. In March 2021, Respondent noted in her file that they were still waiting on the interview.

19. Respondent’s conduct in this matter violated Arizona Supreme Court Rule 42, specifically:

- a. ER 1.1 (competency)
- b. ER 1.2 (scope of representation)
- c. ER 1.3 (diligence)
- d. ER 1.4 (communication)
- e. ER 1.5 (fees)
- f. ER 3.2 (failing to expedite litigation)
- g. ER 8.4(c)(dishonesty)
- h. ER 8.4(d) (conduct prejudicial to the administration of justice)

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 1.1, ER 1.2, ER 1.3, ER 1.4, ER 1.5, ER 3.2, ER 8.4(c), and 8.4(d).

CONDITIONAL DISMISSALS

There are no conditional dismissals.

RESTITUTION

Restitution is not an issue in this matter.

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: **Suspension of thirty (30) days, and one (1) year Probation upon Reinstatement, the terms of probation will consist of:**

1. CLE: In addition to annual MCLE requirements, Respondent shall complete the following Continuing Legal Education ("CLE") program(s): "Immigration Laws and Ethical Representation" within 90 days from the date of service of this Order. Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the program(s) 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.

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

NON-COMPLIANCE LANGUAGE

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 the burden of proof shall be on the State Bar of Arizona 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. *Standards* 1.3, Commentary. 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 *Standard 4.6 Lack of Candor* is the appropriate *Standard* given the facts and circumstances of this matter: *Standard 4.6*

Lack of Candor provides that Suspension is generally appropriate when a lawyer knowingly deceives a client and causes injury or potential injury to the client.

The duty violated

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

The lawyer's mental state

Respondent knowingly deceived the client about the status of her case in violation of the Rules of Professional Conduct.

The extent of the actual or potential injury

There was actual harm to the client and the legal system.

Aggravating and mitigating circumstances

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

In aggravation:

- a) 9.22 (h) vulnerability of the client;
- b) 9.22(i) substantial experience in the practice of law; (Respondent has been licensed for 23 years)

In mitigation:

- a) 9.32(a) absence of a prior disciplinary record;

- b) 9.32(d) timely good faith effort to rectify consequences of misconduct; (as it related to the proper procedure to be used)
- c) 9.32(e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings;

Discussion

The presumptive sanction should remain as a Suspension with Probation.

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

CONCLUSION

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. 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 that the objectives of discipline will be met by the imposition of the proposed sanction of Suspension with Probation and the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit B.

DATED this 27th day of December 2021.

STATE BAR OF ARIZONA

Sierra M. Taylor
Sierra M. Taylor
Staff Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation. I acknowledge my duty under the Rules of the Supreme Court with respect to discipline and reinstatement. I understand these duties may include notification of clients, return of property and other rules pertaining to suspension.

DATED this _____ day of December, 2021.

Marianne Gonko
Respondent

Approved as to form and content

Maret Vessella
Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 28th day of December, 2021.

DATED this _____ day of December 2021.

STATE BAR OF ARIZONA

Sierra M. Taylor
Staff Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation. I acknowledge my duty under the Rules of the Supreme Court with respect to discipline and reinstatement. I understand these duties may include notification of clients, return of property and other rules pertaining to suspension.

DATED this 22 day of December, 2021.



Marianne Gonko
Respondent

Approved as to form and content

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 ___ day of December, 2021.

Copy of the foregoing emailed
this 28th day of December, 2021, to:

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

Copy of the foregoing mailed/emailed
this 28th day of December, 2021, to:

Marianne Gonko Esq
Gonko Law Firm
PO BOX 1295
GILBERT, AZ 85299-1295
Email: Mgonko@netzero.com
Respondent

Copy of the foregoing hand-delivered
this 28th day of December, 2021, to:

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

by: Jennifer Smith
SMP/js

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona
Marianne Gonko, Bar No. 019099, Respondent

File No(s). 21-0862

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,**

**MARIANNE GONKO,
Bar No. 019099,**

PDJ 2021-9100

**FINAL JUDGMENT AND
ORDER**

State Bar No. 21-0862

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, **Marianne Gonko**, is **Suspended for thirty (30) days** for her conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective 30 days from the date of this order.

IT IS FURTHER ORDERED that, upon reinstatement, Respondent shall be placed on probation for a period of **one (1) year the terms of probation which will consist of:**

- a) CLE: In addition to annual MCLE requirements, Respondent shall complete the following Continuing Legal Education ("CLE") program(s):

“Immigration Laws and Ethical Representation” within 90 days from the date of service of this Order. Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the program(s) 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.

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

IT IS FURTHER ORDERED that Respondent shall be subject to any additional terms imposed by the Presiding Disciplinary Judge as a result of reinstatement hearings held.

IT IS FURTHER ORDERED that, pursuant to Rule 72 Ariz. R. Sup. Ct., Respondent shall immediately comply with the requirements relating to notification of clients and others.

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

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

Marianne Gonko
Gonko Law Firm
PO Box 1295
Gilbert, Arizona 85299-1295
Email: Mgonko@netzero.com
Respondent

Copy of the foregoing emailed/hand-delivered
this _____ day of December, 2021, to:

Sierra M. Taylor
Staff Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Copy of the foregoing hand-delivered
this ____ day of December, 2021 to:

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

by:_____