

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

ANNA CHRISTINA ORTIZ,
Bar No. 010690

Respondent.

PDJ 2021-9102

FINAL JUDGMENT AND ORDER

[State Bar No. 21-1047]

FILED NOVEMBER 29, 2021

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

IT IS THEREFORE ORDERED that Respondent **ANNA CHRISTINA ORTIZ Bar No. 010690**, is reprimanded, and placed on probation for two years, for her conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents. The terms of probation are as follows:

- a) Law Office Management Assistance Program (LOMAP/full assessment):
Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from the date this order is entered to schedule an initial LOMAP assessment meeting. Respondent shall then participate in the LOMAP assessment and shall complete all follow up deemed necessary by LOMAP, including any needed follow-up meetings throughout the period of participation. Respondent shall sign terms and conditions of participation,

including reporting requirements, which shall be incorporated herein.

Respondent shall be responsible for any costs associated with LOMAP.

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

IT IS FURTHER ORDERED that Respondent shall pay the costs and expenses of the State Bar of Arizona in the 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 29th day of November, 2021.

Margaret H. Downie _____
Margaret H. Downie
Presiding Disciplinary Judge

Copies of the foregoing emailed
this 29th day of November, 2021, to:

Anna Christina Ortiz
P.O. Box 612
390 S. Hill St.
Globe, AZ 85502-0612
Email: annaortiz56@gmail.com
Respondent

David L. Sandweiss
Senior 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,

ANNA CHRISTINA ORTIZ,
Bar No. 010690

Respondent.

PDJ 2021-9102

**DECISION ACCEPTING
AGREEMENT FOR DISCIPLINE
BY CONSENT**

[State Bar No. 21-1047]

FILED NOVEMBER 29, 2021

The State Bar is represented in this matter by Senior Bar Counsel David L. Sandweiss; Respondent Anna Ortiz is self-represented. A probable cause order issued on October 8, 2021, but no formal complaint has been filed. On November 18, 2021, the parties filed an Agreement for Discipline by Consent (“Agreement”) pursuant to Rule 57(a), Ariz. R. Sup. Ct.

Contingent on approval of the proposed form of discipline, Ms. Ortiz has voluntarily waived the right to an adjudicatory hearing, as well as all motions, defenses, objections, or requests that could be asserted. Pursuant to Rule 53(b)(3), notice of the Agreement was sent to the complainant on November 17, 2021. No objection has been received.

The Agreement details a factual basis to support the conditional admissions and is incorporated by reference. *See* Rule 57(a)(4). Ms. Ortiz admits that she violated Rule 42, ERs 1.3 (diligence), 1.4 (communication), 1.5(c) (fees), 3.2 (expediting litigation), 8.1 (knowingly fail to respond to a lawful demand for information from a disciplinary authority), 8.4(d) (conduct prejudicial to the administration of justice), and Rule 54(d) (refusal to

cooperate/furnish information). As a sanction, the parties agree to a reprimand, two years of probation with participation in the Law Office Management Assistance Program (LOMAP), and the payment of costs to the State Bar.

Ms. Ortiz accepted representation of clients in a personal injury matter. Thereafter, she failed to adequately communicate with or diligently represent the clients. The court ultimately dismissed the complaint she filed due to a lack of prosecution, and Ms. Ortiz failed to notify the clients of the dismissal. Ms. Ortiz also initially failed to respond to the State Bar's investigation of this matter.

Based on the conditional admissions, the parties agree that multiple sections of the ABA Standards for Imposing Lawyer Sanctions apply, ranging from suspension to admonition. Much of Ms. Ortiz' conduct was negligent, though her failure to cooperate with the State Bar was intentional. She violated duties owed to her clients, the legal system, and the legal profession, resulting in actual harm to the clients.

The parties stipulate to the existence of aggravating factors 9.22(d) (multiple offenses) and 9.22(i) (substantial experience in the practice of law). They further stipulate to the existence of mitigating factors 9.32(a) (absence of prior disciplinary offenses), 9.32(b) (absence of selfish or dishonest motive), 9.32(c) (personal or emotional problems), and 9.32(l) (remorse). Ms. Ortiz has provided her former clients' new lawyer with her malpractice insurance information, and she has identified the circumstances that led to her neglect of the clients' case. She has practiced law in Arizona since 1986 and has no prior discipline. *See In re Owens*, 182 Ariz. 121, 127 (1995) (lengthy law practice "with a spotless disciplinary record is a very substantial mitigating factor"). Upon consideration of the

aggravating and mitigating factors, the parties agree that the appropriate sanction is a reprimand plus probation with LOMAP terms. The PDJ concurs.

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

DATED this 29th day of November, 2021.

Margaret H. Downie
Margaret H. Downie
Presiding Disciplinary Judge

COPY of the foregoing e-mailed
this 29th day of November 2021 to:

David L. Sandweiss
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, AZ 85016-6288
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Respondent

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**ANNA CHRISTINA ORTIZ,
Bar No. 010690,**

Respondent.

PDJ 2021 -9102

State Bar File No. 21-1047

**AGREEMENT FOR DISCIPLINE
BY CONSENT**

The State Bar of Arizona, and Respondent Anna Christina Ortiz 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.¹ The Attorney Discipline Probable Cause Committee (“ADPCC”) entered a probable cause order on October 8, 2021, but the State Bar has not yet filed a formal complaint. Respondent voluntarily waives the right to an adjudicatory hearing, unless otherwise ordered, and waives all motions, defenses, objections or requests which have been made or raised, or could be asserted thereafter, if the conditional admissions and proposed form of discipline are approved.

Pursuant to Rule 53(b)(3) notice of this agreement was provided to the complainant by email on November 17, 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. Copies of Complainant’s objections, if any, will be provided to the presiding disciplinary judge upon receipt.

Respondent conditionally admits that her conduct, as set forth below, violated Rule 42, ERs 1.3, 1.4, 1.5(c), 3.2, 8.1, and 8.4(d); and Rule 54(d). Upon acceptance of this agreement, Respondent agrees to accept imposition of Reprimand with Probation, the terms of which are set forth in “Sanctions” below.

¹ All references herein to rules are to the Arizona Rules of the Supreme Court unless stated otherwise.

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.² The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

COUNT ONE of ONE (File no. 21-1047/Jared Osborn)

FACTS

1. Respondent was licensed to practice law in Arizona on May 10, 1986.
2. Complainant Jared Osborn and his sister Kaitlin ("Clients") were involved in a motor vehicle crash on September 21, 2015 and in 2016 retained Respondent to represent them. Respondent sued the liable driver on September 19, 2017, two days before the statutory limitations period expired. Thereafter Respondent did not advance the case and the court dismissed it without prejudice for lack of prosecution on September 27, 2018. Dismissal without prejudice was tantamount to dismissal with prejudice due to the expiration of the two-year limitations period.

² 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.

3. After Respondent filed suit for Clients they called or went to her office periodically for updates. The consistent response from Respondent's assistant was that "these things take time" and Respondent would contact them later to discuss the goings-on. Respondent spoke with Kaitlin by phone but never with Mr. Osborn after the initial meeting. Respondent's understanding was Kaitlin acted on behalf of them both.

4. In March 2021, Complainants' chiropractor called and asked about the case because he could not reach Respondent. A week later he called Clients to say he contacted Progressive Ins. Co., the liable driver's insurer, and was told the cases were closed. Clients contacted Progressive and learned it closed the cases due to not receiving information requested from Respondent and because the limitations period expired. Progressive had sent letters to Respondent and received no response.

5. A State Bar intake counsel spoke with Respondent in May 2021. Respondent reviewed "the file" and found the complaint and the summons. She had not served them on the liable driver. She said she'd put her malpractice carrier on notice and gave intake counsel the name of the insurer to share with Clients. Respondent said she does not know what happened and her assistant at the time of

the underlying events left in October 2019 for a different job. She did not contact the assistant because the ethical failures were Respondent's, not the assistant's; Respondent is solely responsible for missing a crucial deadline. Respondent did not have the court's minute entry dismissing the case. She had not notified Clients their cases had been dismissed.

6. On May 11, 2021, the State Bar sent Respondent a screening investigation letter asking her to address certain ERs and rules, and to provide a copy of her case file. Her response deadline was May 31, 2021. She did not timely respond. On June 3, 2021, Respondent emailed the State Bar:

When I received this complaint I was just beginning a two week vehicular manslaughter trial and could not address the complaint at that time. The trial ended the afternoon of May 21. I am a sole practitioner and I contract with Gila County to provide indigent legal services. I have been very busy catching up after 2 weeks in trial, appearing in court on various matters, meeting with clients and preparing for another jury trial to begin 6/16. I need additional time to answer this complaint. I will try to have my answer in the mail by tomorrow but am not entirely sure I can do so.

The State Bar granted Respondent an extension to June 21, 2021.

7. Respondent still did not respond so on August 6, 2021 the State Bar emailed her a non-response reminder letter and directed her to respond in ten days.

By return email she wrote: "Thank-you for the letter. I will respond ASAP." She still did not respond.

8. After ADPCC issued a probable cause order, Respondent contacted bar counsel to discuss a consent. Through an interview the following (among other things) came to light:

a. Respondent is a sole practitioner in Globe. She has handled simple PI cases and says she knows what's she's doing, but her practice emphasizes criminal defense and she no longer does PI. In the underlying PI case, she charged Clients a contingent fee and initially handled things in the conventional manner. Her file contains standard forms and communications although she did not prepare or obtain an ER 1.5(c) fee agreement. Clients had not completed their medical treatment so she couldn't settle the cases by the two-year statutory limitations deadline. She filed suit and made a handshake deal with the insurer not to serve it while they pursued settlement talks.

b. Respondent had always been assigned serious criminal defense cases (class 1-4 felonies) in Gila County. In July 2020 felony indigent contracts were changed so that all contract counsel would receive cases of all

categories of felonies. Respondent's compensation was cut by \$2,375/mo. but she continued to receive the more serious cases, with no reduction in the total number of cases assigned. Respondent used Amicus Attorney case management software, which was difficult to use and tech support cost \$300-400. Her legal assistant Coleen left in October 2019. It's hard to find good support staff in Globe so she handled administrative tasks herself. She got very busy with the criminal cases and basically forgot about Clients' PI case.

c. With no office support staff and with Respondent being in court frequently, it likely is true that Clients came to her office and found no one there to answer questions. This continued during the COVID-19 era. Respondent had a sign outside her office for 10-15 years stating her office hours were by appointment only, to discourage walk-ins. Globe is a small town, Respondent has worked there for a long time, many people know her even if she doesn't know them, and often they just walk in expecting to talk to her, which is very disruptive. In 2019 Respondent changed from Amicus Attorney to My Case. Amicus Attorney was expensive and difficult to use.

My Case has a docket control but Respondent doesn't use it and uses Google calendar instead.

d. Respondent gave her malpractice insurance information to Clients' new counsel.

e. Why she didn't respond to the State Bar:

(1) Partly psychological ("I couldn't believe I'd done this"). Respondent knows Complainant from court – he's in law enforcement and is a nice, shy guy, and she feels sheepish that she let him down. In 35 years of practice, although she's had bar charges all have been dismissed either in intake or after screening.

(2) Partly personal circumstances. The summer of 2021 was horrible. After her criminal trials ended (due to which she requested extensions to respond to this charge), there was a huge fire southeast of Superior that quickly moved to the mountains south of Globe. The canyons outside of Globe had to be evacuated, and Respondent lives in one of those canyons within the boundaries of the Tonto National Forest. In the middle of the day she got an emergency command to evacuate. She has dogs and had to take them somewhere. Then, she lived in ash and smoke for two weeks. Globe

courts were closed for a week but she remained busy with criminal and mental health hearings in Payson and Safford that occupied a lot of time planning, attending, driving, and detouring around roads closed due to the fire or for a tanker rollover. Then a flood washed out a foot bridge on her property; the bridge was her only way to get across the creek to the road when the creek is running swiftly. Life was chaotic and stressful and she “shut down emotionally.” Temperatures ran up to 113 degrees, which is unusual in her area and, added to ash and an orange sun, made living and working that much more difficult.

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, ERs 1.3, 1.4, 1.5(c), 3.2, 8.1, and 8.4(d); and Rule 54(d).

RESTITUTION

Restitution is not an issue. Clients have retained counsel to help them pursue a civil damages remedy.

SANCTION

Respondent and the State Bar of Arizona agree that based on the facts and circumstances of this matter a Reprimand with Probation for two (2) years is the appropriate sanction. The terms of probation are:

1. LOMAP (FULL ASSESSMENT): Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within ten days from the date the Presiding Disciplinary Judge issues an order approving this consent, to schedule an initial Law Office Management Assistance Program (LOMAP) assessment meeting. Respondent shall then participate in the LOMAP assessment and shall complete all follow up deemed necessary by LOMAP, including any needed follow-up meetings throughout the period of participation. Respondent shall sign terms and conditions of participation, including reporting requirements, which shall be incorporated herein. Respondent will be responsible for any costs associated with LOMAP.
2. Respondent shall commit no further violations of the Rules of Professional Conduct.

NON-COMPLIANCE WITH PROBATION

If Respondent fails to comply with any of the foregoing probation terms and the State Bar of Arizona receives information thereof, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5). The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether Respondent breached a term of probation and, if so, to impose 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.

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 duty violated

Respondent violated her duties to her clients, the legal system, and the legal profession.

The lawyer's mental state

Respondent conducted herself negligently in connection with some of the foregoing violations and knowingly with respect to others.

The extent of the actual or potential injury

There was actual harm to the clients and the legal system, and potential harm to the legal profession.

The parties agree that the following *Standards* are relevant:

ERs 1.3 and 1.4

Standard 4.43 Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.

ER 1.5(c)

Standard 4.64 - Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence in failing to provide a

client with accurate or complete information, and causes little or no actual or potential injury to the client.

ERs 3.2 and 8.4(d)

Standard 6.23 Reprimand is generally appropriate when a lawyer negligently fails to comply with a court order or rule, and causes injury or potential injury to a client or other party, or causes interference or potential interference with a legal proceeding.

ER 8.1 and Rule 54(d)

Standard 7.2 - Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

Aggravating and mitigating circumstances

The presumptive sanction for the most egregious violations is suspension.

The parties conditionally agree that the following aggravating and mitigating factors should be considered:

In aggravation: *Standard 9.22--*

- (d) multiple offenses;
- (i) substantial experience in the practice of law;

In mitigation: *Standard 9.32--*

- (a) absence of a prior disciplinary record;
- (b) absence of a dishonest or selfish motive;

(c) personal or emotional problems;

(l) remorse.

Discussion

The presumptive sanction should be mitigated to Reprimand with Probation. Mitigating factors outnumber and outweigh aggravating factors, so a step-down from suspension to reprimand is appropriate. That Respondent forgot about a case, and “shut down” when obligated to respond to the State Bar, are concerns that LOMAP can address. Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that reprimand with probation and costs are within the range of appropriate sanctions and will serve the purposes of lawyer discipline.

CONCLUSION

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. In re *Peasley, 208 Ariz. 27 (2004)*. Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent believe that the objectives of discipline will be met by the imposition of Reprimand

with Probation, and costs and expenses. A proposed form of order is attached hereto as Exhibit B.

DATED this 18th day of November 2021.

STATE BAR OF ARIZONA



David L. Sandweiss
Senior Bar Counsel

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

DATED this _____ day of November, 2021.

Anna Christina Ortiz
Respondent

Approved as to form and content



Maret Vessella
Chief Bar Counsel

believe that the objectives of discipline will be met by the imposition of Reprimand with Probation, and costs and expenses. A proposed form of order is attached hereto as Exhibit B.


DATED this _____ day of October 2021

STATE BAR OF ARIZONA

David L. Sandweiss
Senior Bar Counsel

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

DATED this 16TH day of ^{November 16th} ~~October~~, 2021.



Anna Christina Ortiz
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 18th day of November, 2021.

Copy of the foregoing emailed
this 18th day of November, 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 18th day of November, 2021, to:

Anna Christina Ortiz
P.O. Box 612
390 S. Hill St.
Globe, AZ 85502-0612
Email: annaortiz56@gmail.com
Respondent

Copy of the foregoing hand-delivered
this 18th day of November, 2021, to:

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

by: /s/Miriam Robinson
DLS/mr

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,
Anna Christina Ortiz, Bar No. 010690, Respondent

File No. 21-1047

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.

<i>General Administrative Expenses for above-numbered proceedings</i>	\$1,200.00
<u>TOTAL COSTS AND EXPENSES INCURRED</u>	<u>\$ 1,200.00</u>

EXHIBIT B

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**ANNA CHRISTINA ORTIZ,
Bar No. 010690,**

PDJ

**FINAL JUDGMENT AND
ORDER**

State Bar No. 21-1047

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 Anna Christina Ortiz is reprimanded, and placed on probation for two years, for her conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents. The terms of probation are:

- a) **LOMAP (FULL ASSESSMENT):** Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from the date this order is entered to schedule an initial Law Office Management Assistance Program (LOMAP) assessment meeting. Respondent shall

then participate in the LOMAP assessment and shall complete all follow up deemed necessary by LOMAP, including any needed follow-up meetings throughout the period of participation. Respondent shall sign terms and conditions of participation, including reporting requirements, which shall be incorporated herein. Respondent will be responsible for any costs associated with LOMAP.

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

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

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

Anna Christina Ortiz
P.O. Box 612
390 S. Hill St.
Globe, AZ 85502-0612
Email: annaortiz56@gmail.com
Respondent

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

David L. Sandweiss
Senior 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 November, 2021 to:

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

by: _____