# BOARD OF LEGAL DOCUMENT PREPARERS

**Meeting Agenda - Monday, May 20, 2013**

Arizona Supreme Court -1501 West Washington Street
Phoenix, Arizona 85007 – 10:00 a.m. – Conference Room 109
General Inquiries Call: (602) 452-3378 (Certification and Licensing Division Line)
Members of the Public May Attend Meeting in Person

AGENDA

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**For any item listed on the agenda, the Board may vote to go into Executive Session for advice of counsel and/or to discuss records and information exempt by law or rule from public inspection, pursuant to the Arizona Code of Judicial Administration § 1-202(C).**

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**CALL TO ORDER** .......................................................................... ***Mary Carlton, Chair***

**1) REVIEW AND APPROVAL OF MEETING MINUTES**.............. ***Mary Carlton, Chair***

*1-A: Review, discussion, and possible action regarding approval of the regular session minutes of the meeting of March 25, 2013.*

*1-B: Review, discussion, and possible action regarding approval of the executive session minutes of the meeting of March 25, 2013.*

**2) REVIEW OF PENDING COMPLAINTS**........................................... ***Linda Grau***

*2-A: Review, discussion and possible action regarding the following certificate holder complaints:*

*Complaint Number 11-L005 – Carlos Galindo and Agencia Hispana*
*Complaint Number 11-L013 – Carlos Galindo and Agencia Hispana*
*Complaint Number 11-L047 – Carlos Galindo and Agencia Hispana*
*Complaint Number 11-L048 – Carlos Galindo and Agencia Hispana*
*Complaint Numbers 11-L053 and 12-L053 – Carlos Galindo and Agencia Hispana*
*Complaint Number 12-L005 – Carlos Galindo and Agencia Hispana*
*Complaint Number 12-L033 – Carlos Galindo and Agencia Hispana*
*Complaint Number 12-L042 – Carlos Galindo and Agencia Hispana*

*2-B: Review, discussion and possible action regarding the pending formal disciplinary action involving Susan Fuquay in complaint number 12-L045.*

*2-C:* *Review, discussion and possible action regarding the pending formal disciplinary action involving Brenda Smith, CB Document Preparation and complaint number 09-L086.*

*2-D:* *Review, discussion and possible action regarding non-certificate holder complaints:*

*Complaint Number NC09-L056 – RCS Preliminary Lien Services*
*Complaint Number NC12-L055 – CivilTree.com*
*Complaint Number NC12-L046 – Manny Montana/Oasis Wealth Management*
*Complaint Number NC12-L034 – Karina Hale*
*Complaint Number NC12-L039 – Karina Hale*
*Complaint Number NC12-L030 – Glen Hadley*
*Complaint Number NC12-L050 – Thanhtam Van Phan*

*2-E:* *Quarterly report regarding complaints processed by diversion pursuant to Administrative Order 2012-83.*

**3) ADMINISTRATIVE ISSUES ..................................................................*Division Staff***

*There are no issues for the board to consider at this time.*

**4) INITIAL CERTIFICATION APPLICATIONS ......................................*Kimberly Siddall***

*4-A:* *Review, discussion and possible action regarding the following pending applications for the 2011-2013 standard certification period:*

1. *Credit Management Association (Kimberly Lambert)*
2. *Jeffrey Biro*

**5) CERTIFICATION AND ELIGIBILITY ..........................................*Kimberly Siddall***

*5-A:* *Review, discussion and possible action regarding the proposed Consent Agreement for resolution of non-compliance with Continuing Education Requirements.*

*5-B:* *Review, discussion, and possible action regarding request for placement on Inactive Status received from certified legal document preparer Gregory B. Carlson, certification number 81327.*

*5-C:* *Review, discussion, and possible action regarding Voluntary Surrender requests received from Diane J. Terribile, certification number 81318 and Document Lab, LLC, certification number 81319.*

5-D: *Review, discussion and possible action regarding Hearing Officer Judge William O'Neil's Finding of Fact, Conclusions of Law, and Recommendation Report involving the denial of initial certification application submitted by Julie A. Haigh.*

**6) REQUESTS FOR BOARD REVIEW..........................................................*Division Staff***

6-A: *Review, discussion and possible action regarding certificate holder Elaine Anghel's request for reconsideration of sanctions imposed in the Consent Agreement resolution of complaint numbers 09-L088 and 10-L030 entered on November 22, 2010.*

**CALL TO THE PUBLIC.......................................................................*Mary Carlton, Chair***

**ADJOURN...................................................................................................*Mary Carlton, Chair***

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# BOARD OF LEGAL DOCUMENT PREPARERS

**Agenda Summary – May 20, 2013**

**1) REVIEW AND APPROVAL OF MINUTES**

*1-A:* *Review, discussion, and possible action regarding approval of the regular session minutes of the meeting of March 25, 2013.*

A draft of the regular session minutes for the meeting of March 25, 2013, is attached for the Board's review and consideration.

# Board of Legal Document Preparers

Arizona State Courts Building
1501 West Washington Street
Phoenix, Arizona 85007

Date: March 25, 2013
Time: 10:00 a.m.
Hearing Room 109

**Draft Regular Meeting Minutes**

**MEMBER ATTENDANCE:**

| Present: | Telephonically Present: | Absent: |
|---|---|---|
| Paul Friedman | Mary Jo Randall | |
| Cheri Clark | Mary Carlton | |
| | Deborah Colon-Mateo | |
| | Debra A. Griffin | |
| | Bonnie Matheson | |
| | Judge Samuel J. Myers | |
| | Pamela Milburn | |
| | Rebecca L. Nilsen | |
| | Deborah Young | |

**OTHER ATTENDEES**

| AOC Staff: | Guests: |
|---|---|
| Mark Wilson | Patricia Rockwell |
| Debbie MacDougall | Martha Barraza |
| Linda Grau | Maria Ortiz |
| Kimberly Siddall | Jennifer Cabble |
| Anne Hunter | |
| Michelle Jackson | |

## CALL TO ORDER

***Called to Order By:*** Mary Carlton, Chair

***Time: 10:00 a.m.***

## *1)* REVIEW AND APPROVAL OF MEETING MINUTES

***Individuals Addressing the Board:*** Mary Carlton, Chair

***1-A:*** *Review, discussion, and possible action regarding approval of the regular session minutes of the meeting of January 28, 2013.*

| | | |
|---|---|---|
| ***Discussion:*** | None | |
| ***Motion:*** | Move to approve. | |
| ***Motion Proposals:*** | First | Paul Friedman |
| | Second | Becky Nilsen |
| ***Motion Results:*** | Pass | |
| ***Recused:*** | | Cheri Clark |

***1-B:*** *Review, discussion, and possible action regarding approval of the executive session minutes of the meeting of January 28, 2013.*

| | | |
|---|---|---|
| ***Discussion:*** | None | |
| ***Motion:*** | Move to approve. | |
| ***Motion Proposals:*** | First | Paul Friedman |
| | Second | Becky Nilsen |
| ***Motion Results:*** | Pass | |
| ***Recused:*** | | Cheri Clark |

## 2) REVIEW OF PENDING COMPLAINTS

***Individuals Addressing the Board:*** Linda Grau

*2-A: Review, discussion and possible action regarding the following certificate holder complaints*

Complaint Number 08-L011 – David Goulet
Complaint Number 09-L031 – Ramon Garcia
Complaint Number 11-L014 – Elizabeth Moore
Complaint Number 12-L037–Shannon Trezza and AZ Statewide Paralegal
Complaint Number 09-L086 –Brenda Smith and CB Document Preparation, LLC
Complaint Numbers 05-L056/05-L068 – Carlos Galindo and Agencia Hispana
Complaint Number 09-L009 –Carlos Galindo and Agencia Hispana
Complaint Number 09-L066 –Carlos Galindo and Agencia Hispana
Complaint Number 12-L049 –Carlos Galindo and Agencia Hispana
Complaint Number 11-L005 –Carlos Galindo and Agencia HispanaComplaint Number 11-L013 –Carlos Galindo and Agencia Hispana
Complaint Number 11-L048 –Carlos Galindo and Agencia Hispana
Complaint Numbers 11-L053 and 12-L053Carlos Galindo and Agencia Hispana
Complaint Number 12-L005 –Carlos Galindo and Agencia Hispana
Complaint Number 12-L033 –Carlos Galindo and Agencia Hispana

***Discussion:*** Complaint Number *08-L011 – David Goulet*

***Motion:*** Move to close the matter with no further action.

***Motion Proposals:*** First Paul Friedman
Second Becky Nilsen

***Motion Results:*** Pass

***Discussion:*** Complaint Number *09-L031 – Ramon Garcia*

***Motion:*** Move to dismiss.

***Motion Proposals:*** First Paul Friedman
Second Becky Nilsen

***Motion Results:*** Pass

| | | |
|---|---|---|
| ***Discussion:*** | Complaint Number *11-L014 – Elizabeth Moore* | |
| ***Motion:*** | Move to accept staff's recommendation to send Moore a letter requesting she reimburse complainant Pennington and require Moore to provide the Division with documentation of the reimbursement. | |
| ***Motion Proposals:*** | First | Paul Friedman |
| | Second | Becky Nilsen |
| ***Motion Results:*** | Pass | |

| | | |
|---|---|---|
| ***Discussion:*** | Complaint Number *12-L037–Shannon Trezza and AZ Statewide Paralegal* | |
| ***Motion:*** | Move to dismiss complaint. | |
| ***Motion Proposals:*** | First | Paul Friedman |
| | Second | Becky Nilsen |
| ***Motion Results:*** | Pass | |

| | | |
|---|---|---|
| ***Discussion:*** | Complaint Number *09-L086 –Brenda Smith and CB Document Preparation, LLC* | |
| ***Motion:*** | Move to accept staff's recommendation to enter consent a agreement. | |
| ***Motion Proposals:*** | First | Paul Friedman |
| | Second | Cheri Clark |
| ***Motion Results:*** | Pass | |

| | | |
|---|---|---|
| ***Discussion:*** | Complaint Number 05-L056/05-L068 – Carlos Galindo and Agencia Hispana | |
| ***Motion:*** | Move to close the matter with no further action. | |
| ***Motion Proposals:*** | First | Paul Friedman |
| | Second | Becky Nilsen |
| ***Motion Results:*** | Pass | |

| | | |
|---|---|---|
| ***Discussion:*** | Complaint Number *09-L009 – Carlos Galindo and Agencia Hispana* | |
| ***Motion:*** | Move to dismiss complaint. | |
| ***Motion Proposals:*** | First | Paul Friedman |
| | Second | Becky Nilsen |

***Motion Results:*** Pass

***Discussion:*** Complaint Number *09-L066 – Carlos Galindo and Agencia Hispana*

***Motion:*** Move to dismiss complaint.

***Motion Proposals:*** First Paul Friedman
Second Becky Nilsen

***Motion Results:*** Pass

***Discussion:*** Complaint Number *12-L049 – Carlos Galindo and Agencia Hispana*

***Motion:*** Move to dismiss.

***Motion Proposals:*** First Paul Friedman
Second Becky Nilsen

***Motion Results:*** Pass

***Discussion:*** Complaint Number *11-L005 – Carlos Galindo and Agencia Hispana*
Complaint Number *11-L013 – Carlos Galindo and Agencia Hispana*
Complaint Number *11-L048 – Carlos Galindo and Agencia Hispana*
Complaint Number *11-L053 and 12-L053 – Carlos Galindo and Agencia Hispana*
Complaint Number *12-L005 – Carlos Galindo and Agencia Hispana*
Complaint Number *12-L033 – Carlos Galindo and Agencia Hispana*

***Motion:*** Move to enter into executive session.

***Motion Proposals:*** First Paul Friedman
Second Becky Nilsen

***Motion Results:*** Pass

10:32 a.m.: Entered into Executive Session to discuss confidential matters.

10:35 a.m.: Returned to Regular Session.

***Motion:*** Move to have further discussion with Mr. Galindo regarding the suspension or revocation of his business entity certification.

| | | |
|---|---|---|
| ***Motion Proposals:*** | First | Paul Friedman |
| | Second | Becky Nilsen |
| ***Motion Results:*** | Pass | |

***2-B:*** *Review, discussion and possible action regarding the proposed Consent Agreement resolution of complaint numbers 12-L006 and 12-L018 involving certified legal document preparers Misty Coppedge and Southeast Arizona Paralegal Services.*

***Discussion:*** Complaint Number 12-L006 and 12-L018

***Motion:*** Move to enter the agreement and authorize the Chair to sign the Consent Agreement on behalf of the full Board.

| | | |
|---|---|---|
| ***Motion Proposals:*** | First | Paul Friedman |
| | Second | Becky Nilsen |
| ***Motion Results:*** | Pass | |

***2-C:*** *Review, discussion and possible action regarding the proposed Consent Agreement resolution of complaint numbers 11-L054, 11-L055, 11-L057, 12-L013, 12-L025, 12-L038 and 12-L043 involving certified legal document preparer Sandra Coffman.*

***Discussion:*** Complaint numbers: 11-L054, 11-L055, 11-L057, 12-L013, 12-L025, 12-L038 and 12-L043 involving certified legal document preparer Sandra Coffman.

***Motion:*** Move to enter into Consent Agreement and authorize the Chair to sign the Consent Agreement on behalf of the full Board.

| | | |
|---|---|---|
| ***Motion Proposals:*** | First | Paul Friedman |
| | Second | Becky Nilsen |
| ***Motion Results:*** | Pass | |
| ***Recused:*** | | Pamela Milburn |

***2-D:*** *Review, discussion and possible action regarding non-certificate holder complaint number 13-L005 involving Holly Stautberg.*

***Discussion:*** Complaint number 13-L005 Holly Stautberg.

***Motion:*** Move to close complaint.

| | | |
|---|---|---|
| ***Motion Proposals:*** | First | Paul Friedman |
| | Second | Becky Nilsen |
| ***Motion Results:*** | Pass | |

*2-E:* *Update consent agreement compliance regarding Maria Ortiz and complaint number 07-L075.*

***Discussion:*** This update is offered for informational purposes. No Board action is needed.

*2-F:* *Review, discussion and possible action regarding the proposed Consent Agreement resolution of complaint number 10-L045 involving certified legal document preparer Kenneth Singer.*

***Discussion:*** Complaint number 10-L045 Kenneth Singer.

***Motion:*** Move to enter into Consent Agreement and authorize the Chair to sign the Consent Agreement on behalf of the full Board.

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| ***Motion Proposals:*** | First | Paul Friedman |
| | Second | Becky Nilsen |
| ***Motion Results:*** | Pass | |

*2-G:* *Review, discussion and possible action regarding the following certificate holder complaints:*

*Complaint Number 11-L025 – Carlos Galindo and Agencia Hispana*
*Complaint Number 11-L047 – Carlos Galindo and Agencia Hispana*
*Complaint Number 12-L042 – Carlos Galindo and Agencia Hispana*

***Motion:*** Move to have further discussion with Mr. Galindo regarding the suspension or revocation of his business entity certification.

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|---|---|---|
| ***Motion Proposals:*** | First | Paul Friedman |
| | Second | Becky Nilsen |
| ***Motion Results:*** | Pass | |

## 3) ADMINISTRATIVE ISSUES

***Individuals Addressing the Board:*** Linda Grau

*3-A:* *Update regarding Administrative Order No. 2013-25 and pending legislation.*

This update is offered for informational purposes. No Board action is needed.

***3-B:*** *Review, discussion and possible action regarding pending Petition to Amend Rule 31(d)(24) number R-13-0001.*

***Discussion:*** None.

***Motion:*** Move to accept the proposed comment and authorize the Chair to sign the draft on behalf of the full Board.

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| ***Motion Proposals:*** | First | Paul Friedman |
| | Second | Becky Nilsen |
| ***Motion Results:*** | Pass | |

## *4)* INITIAL CERTIFICATION APPLICATIONS

***Individuals Addressing the Board:*** Kimberly Siddall

***4-A:*** *Review, discussion and possible action regarding the following pending applications for the 2011-2013 standard certification period:*

1. *Beth Cornell*
2. *James Carter*
3. *Dovan Associates, Inc (Donna Vangury*
4. *Heather Yearnack*
5. *Greg Shannon-Levitt*
6. *Tamara Hirsch*
7. *Deisy Perez*
8. *Stefanie Montgomery Jochums*
9. *Yvonne Gutierrez*
10. *Edil Fernandez*
11. *Sandra Bunfill*
12. *Carmen Dominguez*
13. *Credit Management Association (Kimberly Lamberty)*

***Discussion:*** Beth Cornell

***Motion:*** Move to grant initial certification.

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|---|---|---|
| ***Motion Proposals:*** | First | Paul Friedman |
| | Second | Becky Nilsen |
| ***Motion Results:*** | Pass | |

| | | |
|---|---|---|
| ***Discussion:*** | James Carter | |
| ***Motion:*** | Move to deny initial certification. | |
| ***Motion Proposals:*** | First | Paul Friedman |
| | Second | Becky Nilsen |
| ***Motion Results:*** | Pass | |

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| ***Discussion:*** | Dovan Associates, Inc. (Donna Vangury) | |
| ***Motion:*** | Move to grant standard certification and include language regarding non-disclosure on future applications may result in denial of renewal or disciplinary action. | |
| ***Motion Proposals:*** | First | Paul Friedman |
| | Second | Becky Nilsen |
| ***Motion Results:*** | Pass | |

| | | |
|---|---|---|
| ***Discussion:*** | *Heather Yearnack* | |
| ***Motion:*** | Move to grant initial certification. | |
| ***Motion Proposals:*** | First | Paul Friedman |
| | Second | Becky Nilsen |
| ***Motion Results:*** | Pass | |

| | | |
|---|---|---|
| ***Discussion:*** | *Greg Shannon-Levitt*<br>*Tamara Hirsch*<br>*Deisy Perez*<br>*Stefanie Montgomery Jochums*<br>*Yvonne Gutierrez*<br>*Edil Fernandez*<br>*Sandra Bunfill*<br>*Carmen Dominguez*<br>*Credit Management Association (Kimberly Lamberty)* | |
| ***Motion:*** | Move to defer to the May 2013 meeting. | |
| ***Motion Proposals:*** | First | Paul Friedman |
| | Second | Becky Nilsen |
| ***Motion Results:*** | Pass | |

## 5) CERTIFICATION AND ELIGIBILITY

***Individuals Addressing the Board:*** Kimberly Siddall

**5-A:** *Interview with and possible action regarding applicant Jennifer Cabble.*

***Discussion:*** Interview with Jennifer Cabble.

***Motion:*** Move to grant standard certification.

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| ***Motion Proposals:*** | First | Paul Friedman |
| | Second | Becky Nilsen |
| ***Motion Results:*** | Pass | |
| ***Recused:*** | | Mary Jo Randall and Pamela Milburn |

**5-B:** *Interview with and possible action regarding applicant Patricia Rockwell.*

***Discussion:*** Interview with Patricia Rockwell.

***Motion:*** Move to grant standard certification.

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| ***Motion Proposals:*** | First | Paul Friedman |
| | Second | Becky Nilsen |
| ***Motion Results:*** | Pass | |

**5-C:** *Review, discussion and possible action regarding Hearing Officer William O'Neil's Recommendation Report involving the denial of the initial certification application submitted by Julie Haigh.*

***Discussion:*** Discussed board listening to audio link regarding Julie Haigh.

***Motion:*** Move to defer to next meeting.

| | | |
|---|---|---|
| ***Motion Proposals:*** | First | Paul Friedman |
| | Second | Becky Nilsen |
| ***Motion Results:*** | Pass | |
| ***Recused:*** | | Pamela Milburn |

**5-D:** *Review, discussion, and possible action regarding request for placement on Inactive Status received from certified legal document preparer Walter Marcus, certification number 80706.*

***Motion:*** Move to grant inactive status.

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| ***Motion Proposals:*** | First | Paul Friedman |
| | Second | Becky Nilsen |
| ***Motion Results:*** | Pass | |

## CALL TO THE PUBLIC — Mary Carlton, Chair

*None.*

## ADJOURNMENT — Mary Carlton, Chair

***Motion:*** Move to adjourn.

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|---|---|---|
| ***Motion Proposals:*** | First | Paul Friedman |
| | Second | Becky Nilsen |
| ***Motion Results:*** | Pass | |

***Time: 11:23 a.m.***

# BOARD OF LEGAL DOCUMENT PREPARERS

## Agenda Summary – May 20, 2013

**1) REVIEW AND APPROVAL OF MINUTES**

*1-B:* *Review, discussion, and possible action regarding approval of the executive session minutes of the meeting of March 25, 2013.*

A draft of the executive session minutes for the meeting of March 25, 2013, is attached for the Board's review and consideration.

# Board of Legal Document Preparers

Arizona State Courts Building
1501 West Washington Street, Phoenix, Arizona 85007
Conference Room 109

Date: March 25, 2013
Time: 10:00 A.M.

**Draft Executive Meeting Minutes**

## MEMBER ATTENDANCE:

| Present: | Telephonically Present: | Absent: |
|---|---|---|
| Paul Friedman | Pamela Milburn | Debra Griffin |
| Cheri Clark | Judge Samuel Myers | Deborah Colon-Mateo |
| | Deborah Young | |
| | Mary Jo Randall | |
| | Bonnie Matheson | |
| | Mary Carlton | |
| | Becky Nilsen | |

## OTHER ATTENDEES

| AOC Staff: | Guest: |
|---|---|
| Mark Wilson | Patricia Rockwell |
| Debbie MacDougall | Martha Barraza |
| Linda Grau | Maria Ortiz |
| Kimberly Siddall | Jennifer Cabble |
| Anne Hunter | Patricia Rockwell |
| Michelle Jackson | Martha Barraza |

## EXECUTIVE SESSION

***Start Time:*** ***10:32 a.m.***

## 2) REVIEW OF PENDING COMPLAINTS

*2-A: Review, discussion and possible action regarding the following certificate holder complaints:* Carlos Galindo and Agencia Hispana

***Individuals Addressing the Board:*** Linda Grau

***Discussion:*** Confidential issues.

***End time:*** ***10:35 a.m.***

# BOARD OF LEGAL DOCUMENT PREPARERS

## Agenda Summary – May 20, 2013

### 2) REVIEW OF PENDING COMPLAINTS

*2-A: Review, discussion and possible action regarding the following certificate holder complaints:*

*Complaint Number 11-L005 – Carlos Galindo and Agencia Hispana*
*Complaint Number 11-L013 – Carlos Galindo and Agencia Hispana*
*Complaint Number 11-L047 – Carlos Galindo and Agencia Hispana*
*Complaint Number 11-L048 – Carlos Galindo and Agencia Hispana*
*Complaint Numbers 11-L053 and 12-L053 – Carlos Galindo and Agencia Hispana*
*Complaint Number 12-L005 – Carlos Galindo and Agencia Hispana*
*Complaint Number 12-L033 – Carlos Galindo and Agencia Hispana*
*Complaint Number 12-L042 – Carlos Galindo and Agencia Hispana*

At the March meeting, the Board reviewed and considered the above reference complaints and discussed options for action, including resolving the matters by consent. Per the Board's direction, staff is following up with Mr. Galindo. Staff anticipates a proposed Consent Agreement will be available for Board review, discussion and consideration at the meeting.

# BOARD OF LEGAL DOCUMENT PREPARERS
## Agenda Summary – May 20, 2013

### 2) REVIEW OF PENDING COMPLAINTS

*2-B: Review, discussion and possible action regarding the pending formal disciplinary action involving Susan Fuquay in complaint number 12-L045.*

Previously, the Board moved for and Ms. Fuquay was served with the attached Notice of Formal Statement of Charges in complaint number 12-L045. Ms. Fuquay timely filed the attached Answer and requested a hearing. The case summary materials are also attached for reference purposes. Though not originally offered by the Board, during the pre-hearing proceedings Ms. Fuquay requested consent resolution consideration. Through Assistant Attorney General Fred Stork, Ms. Fuquay was provided an opportunity to enter a proposed Consent Agreement that would include she waive her right to a hearing, voluntarily surrender her certification under discipline, agree never to seek reinstatement or legal document preparer certification in the future, remit costs in the amount of $418.87, and be the subject of a cease and desist order. An additional caveat of the proposed agreement included Fuquay would not enter and admission of committing misconduct but the Board would enter findings of violation.

Ms. Fuquay countered with an alternative proposed Consent Agreement (attached) which she signed and submitted in advance of the Board's review. The alternative proposed resolution removes the Board's entry of findings of violation, the cease and desist provision, and the imposition of costs. It is recommended the Board not enter Ms. Fuquay's proposed alternative agreement.

Hearing on the matter is presently scheduled for June 6, 2013 pending the outcome of the Board's review of the proposed Consent Agreement. The Board may wish to consider re-offering the earlier agreement proposed by staff and the AG with a strict deadline for Ms. Fuquay to enter the agreement by close of business on May 24, 2013; otherwise allow the hearing to proceed as scheduled.

In the event the Board determines to enter Ms. Fuquay's proposed resolution, it is further recommended the Board take a separate action to consolidate any and all other pending complaints against Ms. Fuquay.

SUPREME COURT OF ARIZONA

BOARD OF LEGAL DOCUMENT PREPARERS

| | | |
|---|---|---|
| IN THE MATTER OF CERTIFIED LEGAL DOCUMENT PREPARER: **Susan Fuquay** **Certificate No. 81035** | ) ) ) ) ) ) ) ) | **No. LDP –NFC-12-L045** **CONSENT AGREEMENT** |

## JURISDICTION

Pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201, as adopted by Supreme Court Administrative Order No. 2007-103, and ACJA § 7-208, as adopted by Administrative Order No. 2006-75, the Board of Legal Document Preparers ("Board") served a Notice of Formal Statement of Charges and Right to Hearing to Susan Fuquay ("Fuquay") regarding complaint number 12-L045.

The Notice of Formal Statement of Charges alleged that:

1. Fuquay violated Arizona Supreme Court Rule 31 ("Rule 31") (a)(2)(B), ACJA § 7-201(F)(1), and ACJA § 7-208(F)(1)(b), (F)(2), (J)(5)(a), (J)(5)(b), and (J)(5)(c) by engaging in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by expressing legal opinions and offering compelling arguments in documents she prepared for consumer Burton in *Burton v. Lussier,* Case No. S1400DO201000892, Superior

Court in Yuma County; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3).

2. Fuquay violated ACJA § 7-201(F)(1), and ACJA § 7-208(F)(1)(a), (F)(2) and (J)(5)(a) by offering to and contracting to provide legal document preparation services to Lussier, knowing Lussier was represented by an attorney; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a).

3. Fuquay violated ACJA § 7-201(F)(1), § 7-208(F)(2), (J)(1)(a), (J)(1)(b) and (J)(5)(a) by offering to and providing document preparation services to Lussier and Burton jointly in a tax lien matter while providing legal document preparation services separately to Burton individually in Superior Court in Yuma County case number S1400-DO2010-00892, *Burton v. Lussier,* in which Lussier was the opposing party; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(7).

4. Fuquay violated Rule 31(a)(2)(B), ACJA § 7-201(F)(1), § 7-208(F)(1), (F)(2) and (J)(5)(a) by engaging in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by offering and providing legal research services to consumer Burton; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3).

5. Fuquay violated Rule 31(a)(2)(B), ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(5)(a), (J)(5)(b) and (J)(5)(c) by engaging in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting and attempting to consult with Lussier's Arizona attorney, Vinci, on behalf of Burton, for the purpose of discussing a possible

settlement in Superior Court in Yuma County case number S1400-DO2010-00892; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3).

6. Fuquay violated Rule 31(a)(2)(B), ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(5)(a), (J)(5)(b) and (J)(5)(c) by engaging in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting and consulting with Lussier's California attorney, Ardagna, on behalf of Burton, attempting to negotiate the settlement of a dispute between Burton and Lussier; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3).

7. Fuquay violated Rule 31(a)(2)(B), ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(5)(a), (J)(5)(b) and (J)(5)(c) by engaging in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting opposing party Lussier on behalf of Burton, seeking to convince Lussier to sign documents that would transfer property to Burton; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3).

8. Fuquay violated Rule 31(a)(2)(B), ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(5)(a), (J)(5)(b) and (J)(5)(c) by exceeding the authority of a certified legal document preparer by contacting Yuma County Chief Deputy Treasurer Ann Hernandez on behalf of Burton, seeking to have a check, which originally was issued jointly to Burton and Lussier, reissued in Burton's name only; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3).

9. Fuquay violated ACJA § 7-201(H)(3)(c) by failing to submit a written response within 30 days of receiving notice of the complaint; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a).

Fuquay filed a timely Answer to the Notice of Formal Statement of Charges, denying that she had committed any of the violations alleged in the Notice of Formal Statement of Charges, alleging affirmative defenses, and requesting a hearing.

By entering this Consent Agreement, Fuquay and the Board agree to resolve this case under the following terms and conditions:

1. The Board is entering into this Consent Agreement under its authority in ACJA § 7-201(E)(7)(b), to resolve this matter pursuant to subsection (H)(24)(a)(6)(c), by terms including the surrender of Fuquay's certificate.

2. Fuquay understands that upon the Board's acceptance and approval of this Consent Agreement, Fuquay will waive her right to a hearing regarding case number LDP – NFC-12-L045 and that her failure to comply with the terms of this Consent Agreement may result in the Board's taking disciplinary action which may include assessing costs and civil penalties associated with the investigation and disciplinary proceedings in Case No. LDP – NFC-12-L045.

3. By entering into this Consent Agreement, Fuquay is not admitting to any of the Charges contained in the Notice of Formal Statement of Charges, and the Board is not making any finding of guilt as to any of the Charges contained in the Notice of Formal Statement of Charges.

4. Fuquay agrees to withdraw her Request for a Hearing, to surrender her certificate number 81035 and not to seek future certification as a legal document preparer in Arizona.

5. The Board agrees to accept Fuquay's surrender of certificate number 81035 pursuant to ACJA § 7-201(E)(7)(b) and to accept her agreement not to seek future certification as a legal document preparer in Arizona.

6. From and after the Board's acceptance and approval of this Consent Agreement, Fuquay agrees that she will not represent to the public that she is a certified legal document preparer in Arizona and will not engage in any activity that constitutes the unauthorized practice of law in Arizona.

7. Fuquay is informed and understands that this Consent Agreement is not in effect until the Board has accepted and approved the Consent Agreement and a duly authorized representative of the Board has signed the Consent Agreement on behalf of the Board.

Entered into on this date by:

Susan Fuquay 4/25/13

Susan Fuquay Date

Entered into on this date by:

Mary Carlton, Chair Date
Board of Legal Document Preparers

#3220328 (04-04-2013)

# ARIZONA SUPREME COURT
# ADMINISTRATIVE OFFICE OF THE COURTS
# INVESTIGATION SUMMARY

| | | |
|---|---|---|
| ***CERTIFICATE HOLDER INFORMATION*** | **Certificate Holder:** | Susan Fuquay |
| | **Certification Number:** | 81035 |
| | **Type of Certificate:** | Legal Document Preparer |
| ***COMPLAINANT*** | **Name:** | Heather C. Vinci |
| ***INVESTIGATION INFORMATION*** | **Complaint Number:** | 12-L045 |
| | **Investigator:** | Richard Sczerbicki |

| | |
|---|---|
| **Complaint Received:** | September 25, 2012 |
| **Complaint Forwarded to the Certificate Holder:** | September 25, 2012 |
| **Certificate Holder Received Complaint:** | September 27, 2012 |
| **Response From Certificate Holder:** | October 29, 2012 |
| **Period of Active Certification:** | March 17, 2008 – Present |
| **Status of Certification:** | Active |
| **Availability of Certificate Holder:** | Available |
| **Availability of Complainant:** | Available |
| **Report Date:** | October 30, 2012 |

## ALLEGATIONS:

1. Susan Fuquay ("Fuquay") engaged in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by expressing legal opinions in documents she prepared for consumer Bruce Burton in Superior Court in Yuma County case number SC1400DO201000892, Burton v. Lussier.
2. Fuquay engaged in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting and attempting to consult with Lussier's Arizona attorney, Heather Vinci, on behalf of Burton, for the purpose of discussing a possible settlement in Superior Court in Yuma County case number SC1400DO201000892.
3. Fuquay engaged in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting and consulting with Lussier's California attorney, Ned Ardagna, on behalf of Burton attempting to negotiate the settlement of a property dispute.
4. Fuquay engaged in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting opposing party Lussier on behalf of Burton, seeking to convince Lussier to sign documents that would transfer property to Burton.

## ADDITIONAL ALLEGATIONS:

5. Fuquay engaged in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting Yuma County Chief Deputy

Treasurer Ann Hernandez on behalf of Burton, seeking to have a check reissued in Burton's name only.

6. Fuquay failed to submit a written response within 30 days of receiving notice of the complaint, as required by ACJA § 7-201(H)(3)(c).

**List of sources for obtaining information: (Investigative, records, outside resources, etc.):**

- Written complaint and documentation submitted by Arizona attorney Heather Vinci ("Vinci")
- Written response from certificate holder Susan Fuquay
- Email documentation obtained from California attorney Ned Ardagna ("Ardagna")
- Written statement received from Bruce Burton
- Investigatory interview with Denise Lussier ("Lussier")
- Review of applicable records in Superior Court in Yuma County in case number S1400DO2010 00892.
- Review of applicable Certification and Licensing Division ("Division") records
- Review of applicable sections of Arizona Revised Statutes ("ARS"), Arizona Codes of Judicial Administration ("ACJA") § 7-201 and § 7-208, and Arizona Supreme Court Rules

**PERSONS INTERVIEWED:**

1. Bruce Burton
2. Heather Vinci
3. Denise Lussier
4. Ned Ardagna

**SUMMARY OF INVESTIGATION:**

Vinci submitted a written complaint alleging Fuquay engaged in the unauthorized practice of law by expressing legal opinions on behalf Burton and by acting as if she [Fuquay] was opposing counsel in the Burton v. Lussier case. Vinci stated Fuquay came to Vinci's office to discuss the case. Vinci reported Fuquay also communicated with Lussier's California attorney, Ned Ardagna, on behalf of Burton. Vinci expressed concern about Fuquay making direct contact with Lussier while knowing Lussier was represented by counsel. Vinci reported Fuquay attended a court hearing with Burton on September 17, 2012. Vinci provided a copy of the Reply to Response to Petition to Modify Court Order document prepared by Fuquay prepared for Burton which was filed on October 9, 2012. In the document, Fuquay described the contacts she made with California attorney Ardagna, Yuma County Chief Deputy Treasurer Ann Hernandez, and Lussier on behalf of Burton.

Fuquay received notice and a copy of the complaint on September 27, 2012. On October 29, 2012, Fuquay submitted a written response by email to the Division. In her response, Fuquay denied violating Rule 31 and did not engage in the unauthorized practice of law. Fuquay also denied violating ACJA § 7-201 or 7-208.

**SUMMARY OF FACTUAL FINDINGS OF INVESTIGATION:**

On September 25, 2012, the Division received a complaint forwarded from the State Bar of Arizona Unauthorized Practice of Law Office. In the written complaint, attorney Vinci alleged Fuquay was engaging in the unauthorized practice of law. Vinci, who represents Lussier in Burton v. Lussier, expressed concern about Fuquay's involvement in the case while purportedly providing document preparation services to Burton, including that Fuquay was engaging in the unauthorized practice of law. Vinci indicated she contacted Burton seeking case related disclosure and Burton directed her to Fuquay to secure information. Vinci reported Fuquay came to her office on Thursday, September 13, 2012. Vinci stated:

> Our conversation was very concerning to me. She [Fuquay] spoke to me as if she represented Bruce [Burton], as if she were opposing counsel. I have never met Susan before but she told me she has been a document preparer in Yuma for a long time. One of the most concerning statements was when she stated, "Doctors and lawyers practice, I play with the law."

Vinci reported Fuquay turned over to Vinci original checks written to Fuquay from Lussier's California attorney explaining she [Fuquay] never cashed the checks because of the ongoing issues in the case. Vinci had contacted Burton seeking disclosure and a stipulation to continue. In response, while meeting with Vinci, Fuquay stated she knew the judge would not continue the hearing.

Vinci reported Burton and Fuquay later returned to her office together. During this second visit, Fuquay indicated she would be at the court hearing scheduled for the following Monday as "...she liked to see what happens with her documents." Vinci confirmed Fuquay attended the hearing and sat in the gallery of the courtroom.

Vinci alleged approximately 40 minutes after the hearing, Fuquay called Lussier directly and asked Lussier to sign foreclosure documents "...since she [Fuquay] knew that was what the judge is going to do anyway." Lussier declined and contacted Vinci. Vinci advised Lussier not to speak to Fuquay and then called Fuquay, leaving a voice mail message requesting Fuquay not contact Lussier directly.

On September 26, 2012, Investigator Richard Sczerbicki ("Investigator Sczerbicki") conducted a telephonic interview with Vinci. Vinci stated when Fuquay came and met with her, she thought she was bringing her the sought after discovery documents. Vinci noted Fuquay did not make an appointment, she just stopped in. Vinci alleged Fuquay was asking her if she was going to accept Burton's settlement. Vinci reported Fuquay asked Vinci how much she knew about tax liens and starting telling Vinci about tax liens and that Fuquay does tax lien work as well. Fuquay continued asking Vinci questions, which made Vinci wonder if Fuquay had a financial interest in the case. Vinci stated after Fuquay left from her initial visit, she later returned a short time later with Burton. Fuquay allegedly sat with Burton while he made a settlement offer that Vinci indicated she would speak with Lussier about. Vinci noted Fuquay did not interject while Burton was speaking but appeared very interested in what was being discussed.

At the September 17th hearing, Vinci provided Burton a copy of her Motion to Continue Fuquay purportedly asserted, "I guess she is not accepting the settlement offer." Vinci noted the Court granted the requested continuance and upon exiting the courtroom, Burton asked her if they could negotiate the matter at that time. Vinci told Burton they could make an appointment to discuss settlement at a later date. Vinci reported she went to another court hearing and later received a phone call from Lussier stating Fuquay called indicating she [Fuquay] knew what the Judge was going do in the case and Lussier should come sign the paper work and not waste everyone's time. Vinci instructed Lussier not to speak with Fuquay and decided to file the complaint because she felt Fuquay was over-stepping boundaries.

On September 26, 2012, Division Investigator Sczerbicki conducted a telephonic interview with Burton. Burton was asked how he came to use Fuquay as a legal document preparer. Burton confirmed he found Fuquay in the phone book while searching for a legal document preparer. Burton was asked what services Fuquay offered and Burton indicated she informed him she could only prepare documents. Burton was asked if Fuquay provided suggestions as to what he should do or what he should file in his case. Burton stated she did not. Burton stated he was dealing with a matter involving his ex-wife and only needed Fuquay to prepare his court documents. Burton asserted he provided Fuquay with the information he wanted included the documents and Fuquay prepared the documents based on what he told her. Burton explained Fuquay prepared the documents and then emailed them to Burton for him to review for spelling and content. Burton stated he would correct any misspelled words and ask Fuquay make changes if she noted anything was not accurate. Burton was asked about the information in the Petition to Modify Court Orders Fuquay prepared for him. Burton stated most of the information was obtained from what had come out of his divorce case. Burton was asked about the recommendations that were made to the court in this document. Burton stated he provided the information with the help of Fuquay. Burton stated the only thing he relied on Fuquay to do was the needed legal research. Burton confirmed the legal opinions and statutory references noted in the documents came from Fuquay. Burton was asked if Fuquay had attempted to negotiate any matters with his ex-wife's attorneys. Burton stated she did not and noted he tried to negotiate with the attorneys directly. Burton indicated Lussier did not accept his settlement proposal and the Judge recommended they continue to negotiate. Burton stated he was informed he could not speak directly with his ex-wife and had to make contact through her attorney. Burton confirmed Fuquay attended the September 17th hearing as a spectator. Burton acknowledged he wanted to meet with Vinci after but she had another hearing to attend but they could meet after that hearing.

Burton confirmed he was present when Fuquay called Lussier after the hearing about signing a document but Lussier would not talk with them. Burton was asked when Lussier's attorney contacted him, if he would refer them to Fuquay. Burton stated when Fuquay prepared his documents he relied on her to do all of the legal research and thought it was her job as a legal document preparer. He explained he thought Fuquay had to research the legal issues because he did not have a clue about legal matters. Burton stated Fuquay did not provide him with legal advice or recommendations as to what to file. Burton stated if he wanted something prepared she would tell him what he could file or if something would have been illegal. Burton was asked if Fuquay provided him any suggestions or recommendations as to what to put in the documents and he stated, "Not really." Burton explained Fuquay knew what he was trying to accomplish and would sometimes call him about types of documents he should consider filing. Burton stated when Fuquay would recommend he file a certain document, he would ask her why and she would explain why the document was necessary and Burton would decide whether to file the recommended document or not.

Burton was asked if Fuquay made contact with a California attorney on his behalf. Burton responded, "Apparently she did.", but he did not know for sure. Burton stated California attorney Ned Ardagna told him not to make direct contact with Lussier. Burton indicated Ardagna had asked Fuquay for various forms of what he already started. Burton stated he did not know the entire story regarding the Fuquay's contact with Ardagna. Burton denied he asked Fuquay to contact counsel on his behalf. Burton was asked if Fuquay ever tried to contact Vinci and he reported Fuquay was with him the first time he met with Vinci. Burton indicated Fuquay just listened to what he offered Vinci as a possible settlement. Burton confirmed Fuquay attended the court hearing but said she sat in the gallery with Lussier's boyfriend and did not say anything. Burton reported he specifically asked Fuquay if she was available to go with him to meet with the attorney and to go to court and she informed him she was available. Burton denied knowledge of Fuquay having met with Vinci without him.

On October 2, 2012, Investigator Sczerbicki conducted a telephonic interview with Lussier regarding her contact with Fuquay. Lussier reported Fuquay sent her emails and called approximately 7 times in the past 4 to 5 months. Lussier indicated Fuquay had basically been attempting to have her sign over everything to Burton. Lussier stated each time Fuquay called, she attempted to get Lussier to sign documents and/or pay money to resolve a property dispute with Burton. Lussier described Fuquay as being "a legal advisor" to Burton and noted Fuquay attended the last court hearing with Burton. Lussier stated approximately 30 minutes after the court hearing Fuquay called her and asked if she was still in town. Fuquay wanted her to come to Fuquay's office to sign papers to resolve the matter. Lussier reported Fuquay even went to Vinci's office making an effort to resolve the matter. Lussier stated she was not comfortable with Fuquay contacting her.

On October 4, 2012, Investigator Sczerbicki contact Lussier's California attorney, Ardagna, to obtain information about any direct contact he had with Fuquay while he was representing Lussier. Ardagna stated Fuquay made direct contact with him at least a dozen times. Ardagna reported she sent him numerous emails with requests as well.

Ardagna described Fuquay as an "over enthusiastic document preparer." Ardagna stated he became involved with this matter because Lussier was being harassed by Burton about signing papers to sign over property from their divorce. Ardanga stated he really could not make contact with Burton and all of his correspondence with Burton was made through Fuquay. Ardagna indicated he was dealing with Fuquay as he would with another attorney. Ardagna stated when he received the contract Fuquay prepared he advised Lussier they could not sign the contract. Ardagna stated it was after he received the contract that he started to become suspicious of Fuquay. NOTE: In Fuquay's communications with Ardagna regarding the dispute between Burton and Lussier, Fuquay drafted and presented several drafts of a service agreement contracting to provide service to both Lussier and Burton, with each party to pay portions of Fuquay's document preparation fees. Ardagna explained that because Lussier was suspicious of Fuquay, they opted to pay Lussier's portion of Fuquay's service fees through Ardagna's trust account. Though Lussier never signed Fuquay's service contract, she did agree to and paid portions of owed property taxes and fees to Fuquay. Ardagna confirmed Fuquay also communicated with him by email and he provided copies of some of the emails he received from Fuquay. Two examples of the emails Fuguay sent to Ardagna include:

> From: Susan Fuquay
>
> Sent: 09/01/12 01:12 AM
>
> To: Denise Lussier, Bruce Burton, Ned Ardagna, Susan Fuquay, AZCLDP
>
> Subject: received check for 776.00
>
> I received a second check for $776.00, but no comment addressing the concern I expressed in the email on August 18, 2012. So we are still NOT on the same page.
>
> --
>
> Susan Fuquay, AZ CLDP

And,

> From: Susan Fuquay
>
> Sent: 07/19/12 03:38 PM
>
> To: Denise Lussier, Bruce Burton, Ned Ardagna, Susan Fuquay, AZCLDP
>
> Subject: Cost and Fees and Funds
>
> Dear Ms Lussier,
>
> Yesterday, about noon time, I received a call from Attorney Ned Ardagna. He said he was calling let me know that Mr. Burton presented you an *Assignment of Certificate of Purchase*, with an offer to reimburse you your interest in the Certificate of Purchase in the amount of $300.00, and you refused his offer. So, I should be aware that if Mr. Burton presented me with a signed Assignment of a Certificate of Purchase, that you had not signed it.

I assured Mr. Ardagna Mr. Burton had already informed me that you refused Mr. Burton's offer for to buy-you-out and you declined to sign *Assignment of Certificate of Purchase*.

Attorney Ned Ardagna also stated that upon receipt of my revision of the Agreement of Terms and Disclosures, removing the 12126 S Shell Ave, Yuma AZ 85367 Tax Lien Property which had already been redeemed, you would be signing the Agreement and sending me the funds for my fees and the estimated cost. I informed Attorney Ned Ardagna that my Agreement did not include your portion of the tax lien that Mr. Burton has paid towards the tax lien.

Attorney Ned Ardagna also asked me if I could provide you with that amount. ....

Mr. Burton has told me he will not move forward until you have fully complied with the Court Order.

And if you do not voluntarily comply, he go back to court to force either compliance buy-out and he will ask the Court for an Order reimbursing him for the Cost, Attorney fees, or legal document preparers fees, expended to take her to court.

(As you may know statistically, the most tax liens are redeemed prior to the issuance of a tax deed and are purchased by investors primarily for the 9 to 16% interest they will earn on their money.

The previous redemption of the Shell Avenue property is an example:

They were sent the "30 day Preliminary Notice" and they redeemed within the 30 days time frame.

On October 25, 2012, Vinci emailed Investigator Sczerbicki a copy of the Reply to Response to Petition to Modify Court Order ("Reply") prepared by Fuquay for Burton and filed on October 9, 2012. This pleading contains numerous references to Fuquay's actions, identifying herself as "the AZ CLDP" throughout the document. For example, page 2, paragraph 2 of the Reply states:

AZ CLDP discovered this while doing research for the Respondent and her California Attorney Ned Ardagna and AZ CLDP included this information in correspondence with Respondent, Petitioner, and Respondent's California Attorney, on August 12, 2012.

Page 3, paragraph 20, line 15 of the Reply provides:

August 13, 2012, Anna Hernandez, Yuma County Chief Deputy Treasure (928) 539-779, was contacted by the AZ CLDP, regarding the re-issuance of the check in Mr. Burton's name only....

On page 4, line 18 of the Reply, Fuquay notes an email she sent to Lussier which stated, in part:

> Per our telephone conversation Thursday morning, August 9, 2012, I am sending you a revised Agreement of Terms and Disclosures. ....And you will be paying Mr. Burton for the endorsements he paid to keep the liens from being loss... A copy of this email was also sent to Mr. Burton and your Attorney Ned Ardagna.

Page 7, paragraph 39, line 5 of the Reply reads:

> The Respondent's California Attorney Ned Ardagna made the initial contact with the Respondent and the AZ CLDP to complete the AGREEMENT between the AZ CLPD and the Respondent. The Attorney requested the AZ CLDP provide the Respondent with the calculations of what the Respondent owed towards subsequent payment of the Tax Lien.

Page 7, paragraph 40, line 10 of the Reply states:

> The AZ CLDP has an written Agreement with the Respondent regarding the *Judicial Foreclosure of the Right to Redeem a Tax Lien* that was executed by the respondent under advice of Respondent's California Attorney Ned Ardagna, August 14, 2012.

Page 11, paragraph 62, line 19 of the Reply asserts:

> ... Under the "Doctrine of Unclean Hands", the respondent is not entitled collect cost or attorney's fees....

On October 22, 2012, the Division received an unsolicited letter from Burton. Burton asserted he contacted Fuquay during June of 2012 to prepare documents necessary to foreclose on tax liens. Burton acknowledged Fuquay forwarded emails to him that she received from Ardagna, including an email directing all communication with Lussier be directed to Ardagna. Burton explained Ardagna and Lussier were non-responsive in the tax lien negotiations and he then pursued Fuquay for legal document preparation services to modify Burton and Lussier's decree of dissolution.

Superior Court in Yuma County records in case number S1400DO2010 00892 reflect Burton filed a Petition to Modify Court Orders ("Petition") on August 17, 2012, seeking to amend Burton and Lussier's decree of dissolution. The Petition contains Fuquay's name, title and certificate number identifying Fuquay as the legal document preparer responsible for the pleading.

In an October 25, 2012 email, Vinci reported Fuquay did not show up at the October 24, 2012 court hearing in the case.

On October 29, 2012, Fuquay submitted a late written response to the complaint. Fuquay denied violating Rule 31 and did not engage in the unauthorized practice of law and denied violating ACJA § 7-201 or 7-208. Fuquay provided a 35 page, line by line, breakdown of Vinci's complaint and offered a copy of the aforementioned Reply.

Fuquay denies she engaged in the unauthorized practice of law or violated any provision of ACJA. Fuquay acknowledged that September 12, 2012, she proceeded to Vinci's office to deliver documents. When Vinci's staff indicated she would need to make an appointment with Vinci in case Vinci had questions about the document, Fuquay made an appointment for the next day. Fuquay admits she met with Vinci on September 13th and engaged in a discussion with Vinci regarding tax liens. Fuquay stated:

> The AZ CLDP also explained to Attorney Vinci what the tax lien related documents were and way the AZ CLDP believed was the significance about the document.

In recognizing the dispute between Burton and Lussier could possibly be resolved by settlement in advance of the ensuing court hearing, Fuquay injected herself into the settlement negotiations by offering to hold the then un-cashed checks she received from Lussier's California attorney; hoping this would assist in a resolution being achieved.

Regarding the hire date at which Fuquay's services were engaged, she offered:

> ...Attorney Vinci also failed to mention both Ms. Lussier and Mr. Burton hired the AZ CLDP in June 2012 to prepare documents for the Judicial Foreclosure of the Right to Redeem Tax Lien. Both parties signed Agreements with the AZ CLDP and more specifically Ms. Lussier signed the Agreement to hire AZ CLDP under the direct supervision of her California Attorney Ned Ardagna.

This statement reflects Fuquay was aware Lussier was represented by counsel at the time Lussier entered the Agreement (which was modified by Lussier) and not actually entered into until August 14, 2012.

Fuquay reported on September 11, 2012, Burton asked her to do what she could to help Vinci. Fuquay had no authority to engage with or offer assistance to opposing counsel. While meeting with Vinci on September 13th, Fuquay reported:

> While in the office, Attorney Vinci began questioning the AZ CLDP about her experience and about the Judicial Foreclosure case that AZ CLDP was working on. The AZ CLDP freely provided information about the document (sic) relating to the Judicial Foreclosure of a Tax Lien. The Judicial Foreclosure is the case both Ms. Lussier and Mr. Burton paid the AZ CLDP to prepare the documents.
>
> We also talked briefly about Mr. Burton's *Petition to Modify a Court Order*. This is the case Attorney Vinci was currently working. Mr. Burton was not the attorney's client. Attorney Vinci (sic) clien was Ms. Lussier, the Respondent and ex-wife of Mr. Burton.

According to Fuquay's acknowledgements regarding the judicial foreclosure action, she was simultaneously preparing documents for Lussier and Burton in one matter, shortly after she had prepared documents for Burton in the family court petition to modify case where in Burton and Lussier were opposing parties. Fuquay acknowledged she told Vinci, "Doctors and Lawyers practice, I play with the law." Fuquay asserted this meant she was acting in accordance with Arizona Supreme Court Rules governing legal document preparers.

In addressing Vinci allegation Fuquay stated she knew the judge would not continuing the upcoming hearing, Fuquay explained:

> The AZ CLDP did not say the judge WOULD NOT honor the motion. The AZ CLDP did said (sic) the AZ CLDP didn't believe a Judge will honor a request for a continuance, when the continuance is requested three business days before the scheduled hearing, the party requesting the continuance had notice of the hearing for more than three weeks, and the other party traveled more than 250 miles to attend the hearing.
>
> The AZ CLDP discussed legal theories with attorneys in the past and giving opinions as to why a judicial officer may or may not rule in a specific way, which is exactly what the AZ CLDP did with Attorney Vinci.
>
> The AZ CLDP was giving Attorney Vinci an opinion as to why the judge would probably not grant the continuance. It was not a statement of fact as Attorney Vinci described. That type of presumptive attitude would be discourteous and disrespectful to the court and the legal system.

Regarding Vinci's report Fuquay attended the September 17, 2012 court hearing, Fuquay stated, "The AZ CLDP being in court as an observer is not a violation of Rule 31 or the ACJA § 7-208. Attending court is a learning experience." Regarding her making direct contact with Lussier, outside Vinci involvement, following the September 17th hearing, Fuquay offered:

> The AZ CLDP contacted Ms. Lussier after the hearing in regards to the *Judicial Foreclosure of the Right to Redeem a Tax Lien.* The AZ CLDP called to ask Ms. Lussier if she wanted to sign the papers (the Revised *30 Day Preliminary Notice*), while she was in town, because it was difficult to get a response from Ms. Lussier. Ms. Lussier said she would call Attorney Vinci to see what Attorney Vinci wanted her [Lussier] to do.
>
> During the hearing on September 17, 2012, the Court stated there are limited reason (sic) why the court would go back and modify a decree that was filed more than a year ago and it did not appear this action fell into any of those categories, and unless the Petitioner had some reason for modifying the decree other than what he had already stated, the orders would stand as is, but the court would issue a judgment if he

found a party was not in compliance with payments that were previously ordered by the court.

Fuquay offered a "history of events" section in her response. In this section, Fuquay acknowledged she contacted the Yuma County Treasurer's office on June 26, 2012 in an attempt to ascertain whether the tax liens had been redeemed. Fuquay also included a the narrative of a July 19, 2012 email she received from attorney Ardagna which purportedly read, in part, "Also, if you are in communication with Bruce please advise him to discontinue all communications with my client [Lussier]. She now desires all communication go to me as her legal representative." Fuquay provided an email she sent to Ardagna on August 2, 2012, (after she was informed all communication needed to go through Ardagna) in which she offered "to assist her [Lussier] after Court."

Fuquay provided an excerpt of "Agreement 3" which references paragraph 8 of the agreement to read:

> An AZ CLDP is authorized to file and arrange for service of legal forms and documents <u>for a person in a legal matter when that person is not represented by an attorney</u>,... [Emphasis added.]

Paragraph 27 identified in the same excerpt reflects Fuquay knowledge of Lussier being represented by attorney Ardagna at the time the agreement was drafted and entered. The initialed and signed version of the agreement with Lussier that Fuquay provided with her written response contained numerous strike-throughs of the provision in Fuquay draft. On August 14, 2012, Lussier sent a letter to Fuquay with the returned, modified and signed agreement. The letter stated, in part:

> I took the liberty of crossing-out language in the Agreement that is not relevant to my position in this matter and apparently meant to gain an advantage for my ex-husband. As you already know he improperly obtained a "replacement" check from the County of Yuma, Arizona in his name only, that should have been made in both our names. He then cashed the check and retained the funds for himself, monies not fully accounted for in you calculation. In reviewing the Agreement (and the other that have been offered by you) it has clearly been written to favor Bruce's interest over mine: begging the question – are you a legal advocate for Bruce?

**SUBMITTED BY:**

10/30/12

Richard Sczerbicki, Investigator      Date
Certification and Licensing Division

## ARIZONA SUPREME COURT
## ADMINISTRATIVE OFFICE OF THE COURTS
## ALLEGATION ANALYSIS REPORT and PROBABLE CAUSE EVALUATION and DECISION

| | | |
|---|---|---|
| *CERTIFICATE HOLDER INFORMATION* | **Certificate Holder:** | Susan Fuquay |
| | **Certification Number:** | 81035 |
| | **Type of Certificate:** | Legal Document Preparer |
| *INVESTIGATION INFORMATION* | **Complaint Number:** | 12-L045 |
| | **Investigator:** | Richard Sczerbicki |

**ANALYSIS OF ALLEGATIONS:**

***Allegation 1: Fuquay engaged in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by expressing legal opinions in documents she prepared for consumer Bruce Burton in Superior Court in Yuma County case number SC1400DO201000892, Burton v. Lussier.***

Arizona Supreme Court Rule 31 ("Rule 31") (a)(2)(B) states the "unauthorized practice of law includes but is not limited to engaging in the practice of law by persons or entities not authorized to practice". The definition of the practice of law contained in Rule 31 states:

"Practice of law" means providing advice or services to or for another by:
(1) preparing any document in any medium intended to affect or secure legal rights for a specific person or entity;
(2) preparing or expressing legal opinions;
(3) representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process such as arbitration and mediation;
(4) preparing any document through any medium for filing in any court, administrative agency or tribunal for a specific person or entity;
(5) negotiating legal rights or responsibilities for a specific person or entity.

Arizona Code of Judicial Administration ("ACJA") § 7-208 exists as an exception to the prohibition of the unauthorized practice of law [Rule 31(d)(24)] and provides specifically authorized services a certified legal document preparer may offer and provide. ACJA § 7-208(F)(1) provides a list of "authorized services" a certified legal document preparer can provide to non-represented parties but this list does not include authorization for a certified legal document preparer engage in motion practice. ACJA § 7-208(F)(1)(b) provides a certified legal document preparer may:

> Provide general legal information, but may not provide any kind of specific advice, opinion, or recommendation to a consumer about possible legal rights, remedies, defenses, options, or strategies;

ACJA § 7-201(F)(1) and § 7-208(F)(2) require all certified legal document preparers to comply with the Code of Conduct contained in ACJA § 7-208(J). ACJA § 7-208(J)(5)(a) requires all certified legal document preparers to perform all duties and discharge all obligations in accordance with applicable laws, rules or court orders. ACJA § 7-208(J)(5)(b) states, in part:

> A legal document preparer shall not represent they are authorized to practice law in this state, not shall the legal document preparer provide advice or services to another by expressing opinions, either verbal or in written, or by representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process, except as authorized by Rule 31(d), Rules of the Supreme Court.

ACJA § 7-208(J)(5)(c) reads, in part:

> A legal document preparer shall not provide any kind of advice, opinion or recommendation to a consumer about possible legal rights, remedies, defenses, options, or strategies.

No provision of Rule 31 or ACJA authorizes a certified legal document preparer to conduct case specific legal research, engage in motion practice or offer compelling arguments on behalf of a self-representing litigant. Fuquay did so in the Reply to Response to Petition to Modify Court Order. Burton, Fuquay's customer, explained during the investigation he told Fuquay what he wanted and she decided on the content of the legal documents. Burton confirmed Fuquay handle legal research for him and presented with options for what documents he could file and he would decide how to proceed based on the option Fuquay offered. Burton was candid with Investigator Sczerbicki that he [Burton] did not know about legal matters and, therefore, relied on Fuquay. Whether the options offered by Fuquay to Burton, or to any other prospective or actual customer, are or were accurate, complete, and legally sound cannot be established. The potential and risk of actual harm to Burton and other unknowing consumers is Fuquay is high. Therefore, Allegation 1 is substantiated.

***Allegation 2: Fuquay engaged in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting and attempting to consult with Lussier's Arizona attorney, Vinci, on behalf of Burton, for the purpose of discussing a possible settlement in Superior Court in Yuma County case number SC1400DO201000892.***

***Allegation 3: Fuquay engaged in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting and consulting with Lussier's California attorney, Ned Ardagna, on behalf of Burton attempting to negotiate the settlement of a property dispute.***

***Allegation 4: Fuquay engaged in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting opposing party Lussier***

***on behalf of Burton, seeking to convince Lussier to sign documents that would transfer property to Burton.***

***Allegation 5: Fuquay engaged in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting Yuma County Chief Deputy Treasurer Ann Hernandez on behalf of Burton, seeking to have a check reissued in Burton's name only.***

Rule 31(a)(2)(B) states the "unauthorized practice of law includes but is not limited to engaging in the practice of law by persons or entities not authorized to practice." ACJA § 7-208 which governs legal document preparers exists as an exemption to the prohibition of the unauthorized practice of law contained in Rule 31. As detailed in the Reply to Response to Petition to Modify Court Order prepared by Fuquay for Burton and filed on October 9, 2012, Fuquay took numerous actions and made numerous contacts acting on behalf of Burton in an attempt to negotiate the settlement of the dispute between Burton and Lussier. Even Burton was unaware Fuquay had met with Vinci about the case prior to Fuquay's joining Burton in a meeting with Vinci at Vinci's office where Burton offered a proposed settlement.

The list of "authorized services" a certified legal document preparer can provide to non-represented parties contained in ACJA § 7-208(F)(1) does not include acting in a representative capacity on behalf of a consumer, engaging in the act of negotiation, or attempting to secure settlement of any dispute on behalf of a customer. Rule 31 specifically defines these acts as the practice of law. ACJA § 7-208(F)(1) also does not authorize Fuquay to contact or communicate with the Yuma County Treasurer's Office on Burton's behalf or establish herself as the recipient of or accept Lussier's tax payment. Fuquay repeatedly communicated with the opposing party, both of her attorneys, and a County agency on behalf of Burton. Fuquay acknowledged expressing legal opinions in some of these conversations and appeared to attempt to justify these actions as necessary to assist her customer. Fuquay's pattern of exceeding the authority of a certified legal document preparer by establishing and engaging in communications on behalf of her customer suggests either a lack of understanding of Rule 31 and ACJA,. a flagrant disregard for and disinterest in complying, or both. Therefore, Allegation 2, 3, 4 and 5 are substantiated.

***Allegation 6: Fuguay failed to submit a written response within 30 days of receiving notice of the complaint, as required by ACJA § 7-201(H)(3)(c).***

ACJA § 7-201(H)(3)(c) provides:

> Certificate Holder's Response to Notification of Complaint. The certificate holder shall provide a written response to the complaint within thirty days of the notification of the complaint. The board shall not proceed with disciplinary action without providing the certificate holder the complaint and an opportunity to respond to the complaint, except in a matter regarding an emergency suspension pursuant to subsection (H)(9)(d). Failure by the certificate holder to accept notification of a

complaint or failure to respond to the complaint shall not prevent division staff from proceeding with an investigation and the board from taking any disciplinary action.

Division records reflect Fuquay received a copy of the complaint and notice of the response requirement. Fuquay's late written response was received by the Division on the thirty-third day following her receipt of notice of the complaint and the response requirement. Therefore, Allegation 6 is substantiated.

**REFERRAL TO PROBABLE CAUSE EVALUATOR:**

The Investigation Summary and Allegation Analysis Report on complaint number 12-L045 have been reviewed and approved for forwarding to the Probable Cause Evaluator and it is recommended the Probable Cause Evaluator enter a finding probable cause exists.

**SUBMITTED BY:**

11/6/12

Linda Grau, Unit Manager Date
Certification and Licensing Division

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**DECISION OF THE PROBABLE CAUSE EVALUATOR:**

Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number 12-L045, the Probable Cause Evaluator:

[ ] requests division staff to investigate further.

[ ] determines probable cause does not exist the certificate holder has committed the alleged acts of misconduct as to Allegation(s):

______________________________

[X] determines probable cause exists the certificate holder committed the alleged acts of misconduct as to Allegation(s):

#1, 2, 3, 4, 5, & 6.

11/20/12

Mike Baumstark Date
Probable Cause Evaluator

# ARIZONA SUPREME COURT
# ADMINISTRATIVE OFFICE OF THE COURTS
# ORDER OF THE BOARD

| | | |
|---|---|---|
| ***CERTIFICATE HOLDER INFORMATION*** | **Certificate Holder:** | Susan Fuquay |
| | **Certification Number:** | 81035 |

**RECOMMENDATION TO THE BOARD OF LEGAL DOCUMENT PREPARERS ("BOARD"):**

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Susan Fuquay committed the alleged acts of misconduct detailed in the Investigation Summary and Allegation Analysis Report in complaint number 12-L045.

It is further recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a), (H)(6)(c), (H)(6)(k)(3) for acts of misconduct involving ACJA § 7-201(F)(1) and (H)(3)(c), ACJA § 7-208(F)(1), (F)(2), (J)(5)(a), (J)(5)(b) and (J)(5)(c).

Mitigating Factors:

None noted.

Aggravating Factors:

1. Multiple offenses. Fuquay, by her own presentation to the Superior Court in Yuma County, communicated directly with both Arizona and California attorneys representing the party opposing her customer in a dispute in an attempt to negotiate the settlement of the dispute. Additionally, Fuquay contact the Yuma County Treasurer's Office seeking action on behalf of her customer. Fuquay accepted payments from the opposing party for assessed taxes and document preparation services. Fuquay accepted and sent correspondences and emails to and from the California attorney on her customer's behalf. [ACJA § 7-201(H)(22)(b)(2)(d)]

2. Refusal to acknowledge wrongful nature of the conduct. When questioned by opposing counsel (Arizona attorney Vinci) about her role and involvement in the case, Fuquay purportedly asserted, "Doctors and lawyers practice, I play with the law." Court records and Fuquay's written response to the complaint reflect Fuquay repeatedly undertook to engage in misconduct with respect to communicating with the parties, counsel, and governmental agencies on behalf of her customer(s) without the authority to do so. Fuquay's written response to the complaint denied she engaged in the unauthorized practice of law, exceeded the authority of a certified legal document preparer, or engaged in any misconduct. Fuquay's denial, at the very least, demonstrates an indifference to her obligations as a certified legal document

preparer and the Arizona Supreme Court Rules and ACJA. [ACJA § 7-201(H)(22)(b)(2)(g)]

3. Substantial experience in the profession. Division records reflect Fuquay has held certification since 2008. However, she advertizes having 35 years of experience in the legal profession, including 20 years providing legal document preparation services. [ACJA § 7-201(H)(22)(b)(2)(i)]

Proportionality Analysis:

The stated purpose of the Legal Document Preparer Program, as defined by ACJA § 7-208 (C), is to:

> Protect the public through the certification of legal document preparers to ensure conformance to the highest ethical standards and performance of responsibilities in a professional and competent manner, in accordance with all applicable statutes, code sections, and Arizona court rules.

Historically, the Board has recognized engaging in the unauthorized practice of law as a serious matter and a threat to the protection of the public with recognition of the potential harm to the public, judicial system, and document preparer profession. In prior matters where it has been determined a certificate holder has committed unauthorized practice of law violations, the Board has revoked and suspended certificates, ordered the emergency suspension of certifications, issued cease and desist orders, established conditions for reinstatement, issued Censures and Letters of Concern, mandated additional continuing education, assessed costs, and imposed civil penalties.

In prior disciplinary matters involving legal document preparers attempting to negotiate settlements or resolutions of disputes on behalf of parties, otherwise acting in a representative capacity on behalf of a consumer, or offering legal advice or recommendation regarding legal rights, remedies, options, defenses or strategies, the Board has revoked and suspended individual and business entity certificates, issued Censures and Letters of Concerns, placed certificate holders on probation, and mandated business practice changes and continuing education intended to ensure future compliance as conditions of reinstatement or the disciplinary probation. [See Moreno, Toon, Sobol and Quick and Legal Paralegal Services, Meza, Riyad and MSB Riyad Legal Consultants, LLC, Wyner, Stevenson, Ehlinger and Mtn. Holiday, Inc., Henderson and Haigh and Majestic's Paralegal Center, Hall, Volk, Heimer and Divorce and Family Documents, Thomas and Vasquez.]

Should the Board ultimately enter a finding these violations have occurred, it is recommended the Board impose the following sanctions pursuant to ACJA § 7-201(H)(24)(a)(6):

a) Revoke Fuquay's individual legal document preparer certification, pursuant to ACJA § 7-201(H)(24)(a)(6)(i);

b) Issue a cease and desist order enjoining Fuquay from offering to or preparing legal documents, representing herself to the public as certified legal document preparer, or conducting any activity that constitutes the unauthorized practice of law until such time as any and all conditions for reinstatement are met in full, as determined by the Board, pursuant to ACJA § 7-201(H)(24)(a)(6)(g);

c) Order and mandate as a condition for reinstatement, Fuquay participate in no less than ten (10) hours of continuing education in the curriculum areas of the unauthorized practice of law, professional responsibility and ethics, in addition to the hours of continuing education required for renewal of certification, pursuant to ACJA § 7-201(H)(24)(a)(6)(f);

d) Assess costs associated with the investigation and related disciplinary proceedings to be remitted no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(j); and,

e) Impose civil penalties in the amount of $250.00 per found violation to be remitted no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(k).

**SUBMITTED BY:**

11/29/17

Mark Wilson, Division Director        Date
Certification and Licensing Division

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**FINAL DECISION AND ORDER:**

The Board having reviewed the above Investigation Summary, Allegation Analysis Report, finding of the Probable Cause Evaluator, and Recommendation regarding complaint number 12-L045 and Susan Fuquay, certificate number 81035, makes a finding of facts and this decision, based on the facts, evidence, and analysis as presented and enters the following order:

[ ] requests division staff to investigate further.

[ ] refers the complaint to another entity with jurisdiction.

Referral to: ______________________________

[ ] dismisses the complaint, and:

[ ] requests division staff prepare a notice of dismissal pursuant to ACJA § 7-201(H)(5)(c)(1).

[ ] requests division staff prepare a notice of dismissal and an Advisory Letter pursuant to ACJA § 7-201(H)(5)(c)(2).

[ ] determines grounds for discipline exist demonstrating the certificate holder committed the alleged act(s) of misconduct and:

[ ] enter a finding the alleged act(s) of misconduct or violation(s) be resolved through informal discipline, pursuant to ACJA § 7-201(H)(7) and issue a Letter of Concern.

[ ] enter a finding the alleged act(s) of misconduct or violation(s) be resolved through formal disciplinary proceeding, pursuant to ACJA § 7-201(H)(9).

[ ] requests the certificate holder appear before the Board to participate in a Formal Interview, pursuant to ACJA § 7-201(H)(8).

[ ] orders the filing of Notice of Formal Charges, pursuant to ACJA § 7-201(H)(10).

[ ] enters a finding the public health, safety or welfare is at risk, requires emergency action, and orders the immediate emergency suspension of the certificate and sets an expedited hearing for:

Date, Time, and Location: ______________________________

[X] adopts the recommendations of the Division Director.

[ ] does not adopt the recommendations of the Division Director and orders:

_______________________________________________________________

_______________________________________________________________

_______________________________________________________________

_______________________________________________________________

Mary Carlton 12/17/12

Mary Carlton, Chair Date

Board of Legal Document Preparers

*Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP Fuquay, Susan 12-L045\FINAL Formal Case Summary Fuquay 12-L045.docx*

**SUPREME COURT OF ARIZONA**
**BOARD OF LEGAL DOCUMENT PREPARERS**

| | |
|---|---|
| IN THE MATTER OF CERTIFIED LEGAL DOCUMENT PREPARER:<br><br>SUSAN FUQUAY,<br>Certificate Number 81035. | No. LDP-NFC-12-L045<br><br>NOTICE OF FORMAL STATEMENT of CHARGES and RIGHT to HEARING |

## JURISDICTION

Pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(10), the Board of Legal Document Preparers ("Board") serves this Notice of Formal Statement of Charges and provides notice to Susan Fuquay ("Fuquay") that she has a right to request a hearing on the proposed disciplinary action against certificate number 81035. The Board has jurisdiction over this matter as Fuquay became a certified legal document preparer effective March 17, 2008 and Fuquay has renewed her certification without interruption through the current certification period which ends June 30, 2013. Fuquay was provided an opportunity to respond to the complaint and participate in the investigation of the complaint. The Board holds the authority to proceed with this action pursuant to ACJA § 7-201(H).

The complainant alleged Fuquay engaged in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by expressing legal opinions in documents she prepared; by contacting and attempting to consult with two attorneys; and by contacting the opposing party is an ongoing settlement in Superior Court in Yuma County case SC1400DO201000892 (Allegations 1 through 4). Two additional allegations were derived from the facts and evidence secured during the investigation. Allegation 5 alleged Fuquay engaged in the authorized practice of law and exceeded the authority of a certified legal document preparer by contacting the Yuma County Chief Deputy Treasurer, seeking to have a check reissued for a consumer. Allegation 6 alleged Fuquay violated ACJA § 7-201(H)(3)(c) by failing to submit a written response to the complaint within thirty (30) days. Pursuant to ACJA § 7-201(H)(24)(a), the Board ma y find no violation has occurred and dismiss the complaint or may enter a finding of violation(s) and impose sanction(s) through and including revocation, assessment of costs, and civil penalties.

On November 20, 2012, pursuant to ACJA § 7-201(H)(5)(a)(3), the Probable Cause Evaluator entered a finding probable cause exists in Allegations 1 through 6 of complaint number 12-L045.

On December 17, 2012, the Board entered a finding grounds for discipline exists, pursuant to ACJA 7-201(H)(6)(a), (H)(6)(c) and (H)(6)(k)(3) in complaint number 12-L045. The particular sections of the court rules and AJCA relevant to these matters are ACJA § 7-201(F)(1) and (H)(3)(c), ACJA § 7-208(F)(1), (F)(2), (J)(5)(a), (J)(5)(b) and (J)(5)(c).

## ANSWER OF CERTIFICATE HOLDER

Pursuant to ACJA § 7-201(H)(11), Fuquay shall file an Answer to this Notice of Formal Statement of Charges within fifteen (15) days of receipt of this Notice. Fuquay's Answer shall comply with Rule 8 of the Arizona Rules of Civil Procedure. Any defenses not raised in the Answer are waived. If Fuquay fails to file an Answer within the time provided, she is in default and the factual allegations in the formal charges are deemed admitted and the Board may determine the matter against her. Fuquay's Answer shall be filed with the Arizona Supreme Court Office of the Presiding Disciplinary Judge, 1501 West Washington, Suite 104, Phoenix, Arizona 85007.

## NOTICE OF RIGHT TO HEARING

Pursuant to ACJA § 7-201(H)(12), Fuquay may request a hearing within fifteen (15) days of receipt of the Notice of Formal Charges and Right to Hearing. The Request for Hearing must comply with ACJA § 7-201(H)(12), and shall be filed with the Arizona Supreme Court Office of the Presiding Disciplinary Judge, 1501 West Washington, Suite 104, Phoenix, Arizona 85007. If Fuquay does not timely file a Request for Hearing, she will not have a right to a hearing.

## BACKGROUND FACTS

1. On September 25, 2012, the Division received a complaint from Arizona attorney Heather Vinci involving Fuquay.

2. On September 27, 2012, Fuquay received a copy of the complaint and notice of the ACJA § 7-201(H)(3)(c) requirement she submit a written response to the complaint within thirty (30) days.

3. The Division received Fuquay's written response on October 29, 2012.

## FACTUAL ALLEGATIONS OF MISCONDUCT

The Board, having knowledge sufficient to form a belief as to the truth of this information, hereby alleges and finds as follows:

4. On September 25, 2012, the Division received a complaint forwarded from the State Bar of Arizona Unauthorized Practice of Law Office. In the written complaint, attorney Vinci alleged Fuquay was engaging in the unauthorized practice of law. Vinci, who represents Defendant Lussier in the matter of Burton v. Lussier, expressed concern about Fuquay's involvement in the case while purportedly providing document preparation services to Burton. Vinci alleged Fuquay engaged in the unauthorized practice of law by acting as if she [Fuquay] was opposing counsel, evidenced by Fuquay appearing at Vinci's office to discuss the case. Vinci noted when she contacted Burton seeking case related disclosure, Burton directed Vinci

to Fuquay to secure the information. Vinci reported Fuquay came to her office on Thursday, September 13, 2012 and engaged in a conversation about Burton's case. During the conversation, Fuquay acknowledged she was an attorney admitted to practice in Arizona and speculated the judge would not continue an upcoming hearing. A short time later, Fuquay returned to Vinci's office with Burton and indicated she would be at the court hearing scheduled for the following Monday as "...she liked to see what happens with her documents."

5. Vinci confirmed Fuquay attended the hearing and sat in the gallery of the courtroom. Approximately 40 minutes after the hearing, Fuquay called Lussier directly and asked Lussier to sign foreclosure documents "...since she [Fuquay] knew that was what the judge is going to do anyway." Lussier declined and contacted Vinci. Vinci advised Lussier not to speak to Fuquay and then called Fuquay, leaving a voice mail message requesting Fuquay not contact Lussier directly.

6. On September 26, 2012, Investigator Richard Sczerbicki ("Investigator Sczerbicki") conducted a telephonic interview with Vinci. Vinci stated when Fuquay came and met with her, she thought she was bringing her the sought after discovery documents. Vinci noted Fuquay did not make an appointment, she just stopped in. Vinci alleged Fuquay was asking her if she was going to accept Burton's settlement. Vinci reported Fuquay asked Vinci how much she knew about tax liens and starting telling Vinci about tax liens and that Fuquay does tax lien work as well. Fuquay continued asking Vinci questions, which made Vinci wonder if Fuquay had a financial interest in the case. Vinci stated after Fuquay left from her initial visit, she later returned a short time later with Burton. Fuquay allegedly sat with Burton while he made a settlement offer that Vinci indicated she would speak with Lussier about. Vinci noted Fuquay did not interject while Burton was speaking but appeared very interested in what was being discussed.

7. On September 26, 2012, Division Investigator Sczerbicki conducted a telephonic interview with Burton. Burton confirmed he found Fuquay in the phone book while searching for a legal document preparer. Burton was asked what services Fuquay offered and Burton indicated she informed him she could only prepare documents. Burton was asked if Fuquay provided suggestions as to what he should do or what he should file in his case. Burton stated she did not. Burton asserted he provided Fuquay with the information he wanted included the documents and Fuquay prepared the documents based on what he told her. Burton was asked about the information in the Petition to Modify Court Orders Fuquay prepared for him. Burton was asked about the recommendations that were made to the court in this document. Burton stated the only thing he relied on Fuquay to do was the needed legal research. Burton confirmed the legal opinions and statutory references noted in the documents came from Fuquay. Burton was asked if Fuquay had attempted to negotiate any matters with his ex-wife's attorneys. Burton stated she did not and noted he tried to negotiate with the attorneys directly.

8. Burton confirmed he was present when Fuquay called Lussier after the hearing about signing a document but Lussier would not talk with them. Burton was asked when Lussier's attorney contacted him, if he would refer them to Fuquay. Burton stated when Fuquay prepared his documents he relied on her to do all of the legal research and thought it was her job as a legal document preparer. He explained he thought Fuquay had to research the legal issues because he did not have a clue about legal matters. Burton stated Fuquay did not provide him with legal advice or recommendations as to what to file. Burton stated if he wanted something prepared she would tell him what he could file or if something would have been illegal. Burton was asked if Fuquay provided him any suggestions or recommendations as to what to put in the documents and he stated, "Not really." Burton explained Fuquay knew what he was trying to accomplish and would sometimes call him about types of documents he should consider filing. Burton stated when Fuquay would recommend he file a certain

document, he would ask her why and she would explain why the document was necessary and Burton would decide whether to file the recommended document or not.

9. Burton was asked if Fuquay made contact with a California attorney on his behalf. Burton responded, "Apparently she did.", but he did not know for sure. Burton stated California attorney Ned Ardagna told him not to make direct contact with Lussier. Burton denied he asked Fuquay to contact counsel on his behalf. Burton was asked if Fuquay ever tried to contact Vinci and he reported Fuquay was with him the first time he met with Vinci. Burton indicated Fuquay just listened to what he offered Vinci as a possible settlement. Burton confirmed Fuquay attended the court hearing but said she sat in the gallery and did not say anything. Burton reported he specifically asked Fuquay if she was available to go with him to meet with the attorney and to go to court and she informed him she was available. Burton denied knowledge of Fuquay having met with Vinci without him.

10. On October 2, 2012, Investigator Sczerbicki conducted a telephonic interview with Lussier regarding her contact with Fuquay. Lussier reported Fuquay sent her emails and called approximately 7 times in the previous 4 to 5 months. Lussier stated each time Fuquay called, she attempted to get Lussier to sign documents and/or pay money to resolve a property dispute with Burton. Lussier described Fuquay as Burton's "legal advisor" and noted Fuquay attended the last court hearing with Burton. Lussier stated approximately 30 minutes after the court hearing, Fuquay called her and asked if she would come to Fuquay's office to sign papers to resolve the matter. Lussier noted Fuquay even went to Vinci's office making an effort to resolve the matter. Lussier stated she was not comfortable with Fuquay contacting her.

11. On October 4, 2012, Investigator Sczerbicki contact Lussier's California attorney, Ardagna, to obtain information about any direct contact he had with Fuquay while he was representing Lussier. Ardagna stated Fuquay made direct contact with him at least a dozen times and sent him numerous emails. Ardagna described Fuquay as an "over enthusiastic

document preparer." Ardagna stated he became involved with this matter because Lussier was being harassed by Burton about signing over property from their divorce. Ardanga stated he really could not make contact with Burton and all of his correspondence with Burton was made through Fuquay. Ardagna indicated he was dealing with Fuquay as he would with another attorney.

12. Ardagna stated he become suspicious when he received a contract Fuquay had prepared. Fuquay drafted and presented several versions of a service agreement to provide services to both Lussier and Burton, with each party to pay a portion of Fuquay's document preparation fees. Ardagna explained that because Lussier was suspicious of Fuquay, they opted to pay Lussier's portion of Fuquay's service fees through Ardagna's trust account. Though Lussier never signed Fuquay's service contract, she did agree to and paid portions of owed property taxes and fees to Fuquay. Ardagna provided copies of emails he received from Fuquay. On July 19, 2012, Fuquay emailed Lussier and copied Ardagna and Burton stating, in part:

> Yesterday, about noon time, I received a call from Attorney Ned Ardagna. He said he was calling let me know that Mr. Burton presented you an *Assignment of Certificate of Purchase*, with an offer to reimburse you your interest in the Certificate of Purchase in the amount of $300.00, and you refused his offer. So, I should be aware that if Mr. Burton presented me with a signed Assignment of a Certificate of Purchase, that you had not signed it. I assured Mr. Ardagna Mr. Burton had already informed me that you refused Mr. Burton's offer for to buy-you-out and you declined to sign *Assignment of Certificate of Purchase*. Attorney Ned Ardagna also stated that upon receipt of my revision of the Agreement of Terms and Disclosures, removing the 12126 S Shell Ave, Yuma AZ 85367 Tax Lien Property which had already been redeemed, you would be signing the Agreement and sending me the funds for my fees and the estimated cost. I informed Attorney Ned Ardagna that my Agreement did not include your portion of the tax lien that Mr. Burton has paid towards the tax lien. Attorney Ned Ardagna also asked me if I could provide you with that amount. Mr. Burton has told me he will not move forward until you have fully complied with the Court Order. And if you do not voluntarily comply, he go back to court to force either compliance buy-out and he will ask the Court for an Order reimbursing him for the Cost, Attorney fees, or legal document preparers fees, expended to take her to court. (As you may know statistically, the most tax liens are redeemed prior to the issuance of a tax deed and are purchased by investors primarily for the 9 to 16% interest they will earn on their money.)

13. On October 25, 2012, Vinci emailed Investigator Sczerbicki a copy of the Reply to Response to Petition to Modify Court Order ("Reply") prepared by Fuquay for Burton and filed on October 9, 2012. This pleading contains numerous references to Fuquay's actions, identifying herself as "the AZ CLDP" throughout the document. For example, page 2, paragraph 2 of the Reply states:

> AZ CLDP discovered this while doing research for the Respondent and her California Attorney Ned Ardagna and AZ CLDP included this information in correspondence with Respondent, Petitioner, and Respondent's California Attorney, on August 12, 2012.

Page 3, paragraph 20, line 15 of the Reply provides:

> August 13, 2012, Anna Hernandez, Yuma County Chief Deputy Treasure (928) 539-779, was contacted by the AZ CLDP, regarding the re-issuance of the check in Mr. Burton's name only....

On page 4, line 18 of the Reply, Fuquay notes an email she sent to Lussier which stated, in part:

> Per our telephone conversation Thursday morning, August 9, 2012, I am sending you a revised Agreement of Terms and Disclosures. ....And you will be paying Mr. Burton for the endorsements he paid to keep the liens from being loss... A copy of this email was also sent to Mr. Burton and your Attorney Ned Ardagna.

Page 7, paragraph 39, line 5 of the Reply reads:

> The Respondent's California Attorney Ned Ardagna made the initial contact with the Respondent and the AZ CLDP to complete the AGREEMENT between the AZ CLPD and the Respondent. The Attorney requested the AZ CLDP provide the Respondent with the calculations of what the Respondent owed towards subsequent payment of the Tax Lien.

Page 7, paragraph 40, line 10 of the Reply states:

> The AZ CLDP has an (sic) written Agreement with the Respondent regarding the *Judicial Foreclosure of the Right to Redeem a Tax Lien* that was executed by the respondent under advice of Respondent's California Attorney Ned Ardagna, August 14, 2012.

Page 11, paragraph 62, line 19 of the Reply asserts:

> ... Under the "Doctrine of Unclean Hands", the respondent is not entitled collect cost or attorney's fees....

14. On October 22, 2012, the Division received an unsolicited letter from Burton. Burton asserted he contacted Fuquay during June of 2012 to prepare documents necessary to foreclose on tax liens. Burton acknowledged Fuquay forwarded emails to him that she received from Ardagna, including an email directing all communication with Lussier be directed to Ardagna. Burton explained Ardagna and Lussier were non-responsive in the tax lien negotiations and he then pursued Fuquay for legal document preparation services to modify Burton and Lussier's decree of dissolution. Superior Court in Yuma County records in case number S1400DO2010 00892 reflect Burton filed a Petition to Modify Court Orders ("Petition") on August 17, 2012, seeking to amend Burton and Lussier's decree of dissolution. The Petition contains Fuquay's name, title and certificate number identifying Fuquay as the legal document preparer responsible for the pleading.

15. On October 29, 2012, Fuquay submitted a late written response to the complaint. Fuquay denied violating Arizona Supreme Court Rule 31 ("Rule 31"), asserted she did not engage in the unauthorized practice of law and denied violating ACJA § 7-201 or 7-208. Fuquay provided a 35 page, line by line, breakdown of Vinci's complaint and offered a copy of the aforementioned Reply. Fuquay acknowledged she proceeded to Vinci's office on September 12, 2012, purportedly to deliver documents. When Vinci's staff indicated she would need to make an appointment with Vinci, Fuquay made an appointment for the next day. Fuquay admitted she met with Vinci on September 13$^{th}$ and engaged in a discussion with Vinci regarding tax liens. Fuquay stated, "The AZ CLDP also explained to Attorney Vinci what the tax lien related documents were and way the AZ CLDP believed was the significance about the document." Upon recognizing the dispute between Burton and Lussier could possibly be resolved by settlement in advance of the ensuing court hearing, Fuquay injected herself into the settlement negotiations by offering to hold the then un-cashed checks she received from

Lussier's California attorney, hoping this would assist in a resolution being achieved. Regarding the hire date at which Fuquay's services were engaged, she offered:

> Attorney Vinci also failed to mention both Ms. Lussier and Mr. Burton hired the AZ CLDP in June 2012 to prepare documents for the Judicial Foreclosure of the Right to Redeem Tax Lien. Both parties signed Agreements with the AZ CLDP and more specifically Ms. Lussier signed the Agreement to hire AZ CLDP under the direct supervision of her California Attorney Ned Ardagna.

Fuquay was aware Lussier was represented by counsel at the time Lussier entered the Agreement (which was modified by Lussier) and not actually entered into until August 14, 2012.

16. Fuquay reported on September 11, 2012, Burton asked her to do what she could to help Vinci. Fuquay had no authority to engage with or offer assistance to opposing counsel. While meeting with Vinci on September 13, 2012 Fuquay reported:

> While in the office, Attorney Vinci began questioning the AZ CLDP about her experience and about the Judicial Foreclosure case that AZ CLDP was working on. The AZ CLDP freely provided information about the document (sic) relating to the Judicial Foreclosure of a Tax Lien. The Judicial Foreclosure is the case both Ms. Lussier and Mr. Burton paid the AZ CLDP to prepare the documents.
>
> We also talked briefly about Mr. Burton's *Petition to Modify a Court Order*. This is the case Attorney Vinci was currently working. Mr. Burton was not the attorney's client. Attorney Vinci (sic) client was Ms. Lussier, the Respondent and ex-wife of Mr. Burton.

17. According to Fuquay's acknowledgements regarding the judicial foreclosure action, she was simultaneously preparing documents for Lussier and Burton in one matter, shortly after she prepared documents for Burton in the family court petition to modify case where in Burton and Lussier were opposing parties. Fuquay acknowledged she told Vinci, "Doctors and Lawyers practice, I play with the law." Fuquay asserted this meant she was acting in accordance with Arizona Supreme Court Rules governing legal document preparers. In addressing Vinci allegation Fuquay stated she knew the judge would not continue an upcoming hearing, Fuquay explained:

> The AZ CLDP did not say the judge WOULD NOT honor the motion. The AZ CLDP did said (sic) the AZ CLDP didn't believe a Judge will honor a request for a continuance, when the continuance is requested three business days before the scheduled hearing, the party requesting the continuance had notice of the hearing for more than three weeks, and the other party traveled more than 250 miles to attend the hearing.
>
> The AZ CLDP discussed legal theories with attorneys in the past and giving opinions as to why a judicial officer may or may not rule in a specific way, which is exactly what the AZ CLDP did with Attorney Vinci.
>
> The AZ CLDP was giving Attorney Vinci an opinion as to why the judge would probably not grant the continuance. It was not a statement of fact as Attorney Vinci described. That type of presumptive attitude would be discourteous and disrespectful to the court and the legal system.

18. Regarding Vinci's report Fuquay attended the September 17, 2012 court hearing with Burton, Fuquay stated, "The AZ CLDP being in court as an observer is not a violation of Rule 31 or the ACJA § 7-208. Attending court is a learning experience." Regarding her making direct contact with Lussier, outside Vinci's involvement, following the September 17th hearing, Fuquay offered:

> The AZ CLDP contacted Ms. Lussier after the hearing in regards to the *Judicial Foreclosure of the Right to Redeem a Tax Lien.* The AZ CLDP called to ask Ms. Lussier if she wanted to sign the papers (the Revised *30 Day Preliminary Notice*), while she was in town, because it was difficult to get a response from Ms. Lussier. Ms. Lussier said she would call Attorney Vinci to see what Attorney Vinci wanted her [Lussier] to do.

19. Fuquay offered a "history of events" section in her response. Fuquay acknowledged she contacted the Yuma County Treasurer's Office on June 26, 2012 in an attempt to ascertain whether the tax liens had been redeemed. Fuquay also included a the narrative of a July 19, 2012 email she received from attorney Ardagna which purportedly read, in part, "Also, if you are in communication with Bruce please advise him to discontinue all communications with my client [Lussier]. She now desires all communication go to me as her legal representative." Fuquay provided an email she sent to Ardagna on August 2, 2012, (after she was informed all communication needed to go through Ardagna) in which she offered "to assist her [Lussier]

after Court." Fuquay provided an excerpt of "Agreement 3" which references paragraph 8 of the agreement to read:

> An AZ CLDP is authorized to file and arrange for service of legal forms and documents <u>for a person in a legal matter when that person is not represented by an attorney</u>,... [Emphasis added.]

20. Paragraph 27 of the agreement also reflects Fuquay knew Lussier was being represented by Ardagna at the time the agreement was drafted and entered. The version of the agreement Lussier initialed and signed (that Fuquay provided with her written response to the complaint) contained numerous strike-throughs of the provisions in Fuquay draft. On August 14, 2012, Lussier sent a letter to Fuquay with the returned, modified and signed agreement. The letter stated, in part:

> I took the liberty of crossing-out language in the Agreement that is not relevant to my position in this matter and apparently meant to gain an advantage for my ex-husband. As you already know he improperly obtained a "replacement" check from the County of Yuma, Arizona in his name only, that should have been made in both our names. He then cashed the check and retained the funds for himself, monies not fully accounted for in you calculation. In reviewing the Agreement (and the other that have been offered by you) it has clearly been written to favor Bruce's interest over mine: begging the question – are you a legal advocate for Bruce?

## FORMAL CHARGES

21. Fuquay violated Arizona Supreme Court Rule 31 ("Rule 31") (a)(2)(B), ACJA § 7-201(F)(1), and ACJA § 7-208(F)(1)(b), (F)(2), (J)(5)(a), (J)(5)(b), and (J)(5)(c) by engaging in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by expressing legal opinions and offering compelling arguments in documents she prepared for consumer Burton in Superior Court in Yuma County case number SC1400DO201000892; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3).

22. Fuquay violated ACJA § 7-201(F)(1), and ACJA § 7-208(F)(1)(a), (F)(2) and (J)(5)(a) by offering to and contracting to provide legal document preparation services to Lussier

knowing Lussier was represented by an attorney; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a).

23. Fuquay violated ACJA § 7-201(F)(1), § 7-208(F)(2), (J)(1)(a), (J)(1)(b) and (J)(5)(a) by offering to and providing document preparation services to Lussier and Burton jointly in the tax matter while providing legal document preparation services to only Burton in a separate action in which Lussier was the opposing party; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(7).

24. Fuguay violated Rule 31(a)(2)(B), ACJA § 7-201(F)(1), § 7-208(F)(1), (F)(2) and (J)(5)(a) by engaging in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by offering and providing legal research services to consumer Burton; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3).

25. Fuguay violated Rule 31(a)(2)(B), ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(5)(a), (J)(5)(b) and (J)(5)(c) by engaging in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting and attempting to consult with Lussier's Arizona attorney, Vinci, on behalf of Burton, for the purpose of discussing a possible settlement in Superior Court in Yuma County case number SC1400DO201000892; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3).

26. Fuguay violated Rule 31(a)(2)(B), ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(5)(a), (J)(5)(b) and (J)(5)(c) by engaging in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting and consulting with Lussier's California attorney, Ardagna, on behalf of Burton, attempting to negotiate the settlement of a property dispute; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3).

27. Fuguay violated Rule 31(a)(2)(B), ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(5)(a), (J)(5)(b) and (J)(5)(c) by engaging in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting opposing party Lussier on behalf of Burton, seeking to convince Lussier to sign documents that would transfer property to Burton; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3).

28. Fuguay violated Rule 31(a)(2)(B), ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(5)(a), (J)(5)(b) and (J)(5)(c) by exceeding the authority of a certified legal document preparer by contacting Yuma County Chief Deputy Treasurer Ann Hernandez on behalf of Burton, seeking to have a check reissued in Burton's name only; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3).

29. Fuquay violated ACJA § 7-201(H)(3)(c) by failing to submit a written response within 30 days of receiving notice of the complaint; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a).

## PROPOSED DISCIPLINARY SANCTIONS

The Board, based on the foregoing factual allegations of misconduct, is seeking the following disciplinary sanctions pursuant to ACJA § 7-201(H)(24)(a)(6):

a) Revocation of Fuquay's individual certification, pursuant to ACJA § 7-201(H)(24)(a)(6)(i);

b) Issuance of a cease and desist order enjoining Fuquay from offering to or preparing legal documents, representing to the public they are certified legal document preparers, or conducting any activities that constitutes the unauthorized practice of law during the period of revocation and until such time as any and all conditions for reinstatement are met, to the satisfaction of the Board, pursuant to ACJA § 7-201(H)(24)(a)(6)(g);

c) Order and mandate as a condition for reinstatement Fuquay participate in no less than ten (10) hours of continuing education in the curriculum areas of professional responsibility, ethics, and the unauthorized practice of law, in addition to any hours otherwise required for renewal, pursuant to ACJA § 7-201(H)(24)(a)(6)(f);

d) Assess costs associated with the investigation and any related administrative proceedings involving complaint number 12-L045 to be remitted no later than sixty (60) days following entry of the Board's Final Order as a condition of reinstatement, pursuant to ACJA § 7-201(H)(24)(a)(6)(j); and,

e) Impose civil penalties in the amount of $250.00 per found violation to be remitted no later than sixty (60) days following entry of the Board's Final Order as a condition of reinstatement, pursuant to ACJA § 7-201(H)(24)(a)(6)(k).

DATED this 7th day of January, 2013.

Mary Carlton

Mary Carlton, Chair
Board of Legal Document Preparers

An original copy of the foregoing to be served to:

Susan Fuquay

An original copy of the foregoing hand delivered and/or mailed this 7th day of January 2013, to:

Certification and Licensing Division
Arizona Supreme Court
1501 West Washington, Suite 104
Phoenix, Arizona 85007

Rex Nowlan
Administrative Law Section
Office of the Attorney General
15 South 15th Avenue, 4th Floor
Phoenix, Arizona 85007

Nina Preston, Assistant Counsel
Administrative Office of the Court
1501 West Washington
Phoenix, Arizona 85007

By: ______________________________
Linda Grau, Manager
Certification and Licensing Division

*Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP Fuquay, Susan 12-L045\NFC Fuquay, Susan 12-L045.doc*

FILED

FEB 19 2013

DISCIPLINARY CLERK OF THE SUPREME COURT OF ARIZONA


Susan Fuquay

[redacted]

*In Propria Persona*


**SUPREME COURT OF ARIZONA BOARD OF LEGAL DOCUMENT PREPARERS**

| | | |
|---|---|---|
| IN THE MATTER OF CERTIFIED LEGAL DOCUMENT PREPARER: | ) | No. LDP-NFC- 12-L045 |
| | ) | **Ms. FUQUAY's ANSWER TO NOTICE OF FORMAL STATEMENT of CHARGES and RIGHT to HEARING** |
| SUSAN FUQUAY. Certificate Number 81035. | ) | |

**COMES NOW**, Susan Fuquay, Certificate Holder Number 81035, and for her *Answer to the Notice of Formal Statement of Charges and Right of Hearing*, admits, denies and alleges as follows:

1. In answer to Page 1, paragraph entitled "Jurisdiction", lines 11-20 I admit in part and I deny in part and I further allege:
   a. I admit to the statements in lines 11-16
   b. I deny that there is any truth to the Board's statements: "Fuquay was provided an opportunity to … participate in the investigation of the complaint."
   c. I allege: If Jurisdiction is dependent on Fuquay having been provided an opportunity to participate in the investigation of the complaint, then Jurisdiction is lacking, because Ms. Fuquay was not provided an opportunity to participate in the investigation.
   d. I allege: Investigator Richard Sczerbicki completed his "*Investigation Summary*" October 30, 2012, and Ms. Fuquay had no contact with the Investigator Richard Sczerbicki before the December 17, 2012, LDP Board Meeting.
   e. I allege: Ms. Fuquay received no notice from the LDP Board or Staff that the matter was going


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before the LDP Board and Ms. Fuquay would not have known about the *Investigation Summary* and other documents except for the fact she came across them December 16, 2012, within the online Agenda for the December 17, 2012, LDP Board Meeting.

2. In answer to Page 1, paragraph entitled "Jurisdiction", lines 21- 24 I admit in part and I deny in part and I further allege:
   a. I admit, the Complainant, Attorney Heather C. Vinci, alleged Susan Fuquay AZ CLDP # 81035, engaged in the unauthorized practice of law:
   b. I deny, Mrs. Fuquay engaged in the unauthorized practice of law.
   c. I deny, the balance of that portion of the Paragraph entitled "Jurisdiction", and
   d. I allege, what Attorney Vinci, said in her complaint was, she believed Susan Fuquay engaged in the unauthorized practice of law by:
      i. giving legal advice,
      ii. preparing legal documents,
      iii. negotiating legal rights or responsibilities for a specific person or entity, and
      iv. contacting Ms. Lussier [*See footnote* 1] on September 17, 2012, to ask Ms. Lussier if Ms. Lussier wanted to sign a paper regarding the *Judicial Foreclosure of the Right to Redeem a Tax Lien.*

3. In answer to Page 1, paragraph entitled "Jurisdiction", line 24 and Page 2, paragraph entitled "Jurisdiction", lines 1 – 5:
   a. I admit Investigator Richard Sczerbicki added two additional allegations against Ms. Fuquay.
   b. I deny the two additional allegations were derived from the "facts and evidence secured during the investigation," and

---

1 Ms. Lussier, is purportedly and simultaneously

a. Co-owner of two tax liens with Mr. Burton and as such was listed as a one of the two Plaintiff in the paperwork prepared regarding the *Judicial Foreclosure of the Right to Redeem a Tax Lien*, and both Ms. Lussier and Mr. Burton were self-representing.

b. Both Ms. Lussier and Mr. Burton were Ms. Fuquay's consumer regarding the preparation of legal documents in the legal matter of the *Judicial Foreclosure of the Right to Redeem a Tax Lien*, a civil action.

c. Ms. Lussier was also Attorney Ned Ardagna's client in the legal matter regarding Mr. Burton purportedly harassing Ms. Lussier.

d. Ms. Lussier was also Attorney Vinci's client and the Respondent, in the legal matter regarding a *Modification of a Court Order*, a family law action in Superior Court in Yuma County Case SC1400DO201000892, and

e. Ms. Lussier is also the ex-wife of Mr. Burton, who is the Petitioner in the legal matter regarding a *Modification of a Court Order*, a family law action in Superior Court in Yuma County Case SC1400DO201000892, Mr. Burton's documents were prepared by Ms. Fuquay.

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c. I allege the two additional allegations were derived either by Investigator Richard Sczerbicki's lack of investigative skill or because Investigator Richard Sczerbicki deliberately ignored the "facts and evidence provided during the investigation."

d. I allege the facts and evidence provided during the investigation show Allegation #5 is completely erroneous and show the purpose of the AZCLDP's phone call to the Yuma. County Chief Deputy Treasurer had nothing to do with "seeking to have a check reissued for a consumer,"

e. I allege the facts show Allegation #6 is completely erroneous and the facts show Ms. Fuquay submitted her written response to the Complaint within thirty (30) days pursuant to ACJA § 7-201, subsection (D)(6.) *Computation of Time [See footnote*.2]

4. In answer to Page 2, paragraph entitled "Jurisdiction", lines 6-8, I admit
5. In answer to Page 2, paragraph entitled "Jurisdiction", lines 9-11, I admit.
6. In answer to Page 2, paragraph entitled "Jurisdiction", lines 12-15, I admit.
7. In answer to Page 2, paragraph entitled "Answer of Certificate Holder", lines 17-25: Although no response is required, I allege the date for the receipt of the "*Notice of Formal Statement of Charges and Right to Hearing*" is February 1, 2014, the same day Susan Fuquay's signature was notarized on "Acceptance of Service" as provided to the LDP staff and the "15 days" time period shall be calculated in accordance with ACJA § 7-201, subsection (D)(6.) *Computation of Time, [See footnote 2]* which means, the *Answer* will be timely if filed with the Arizona Supreme Court, Office of the Presiding Disciplinary Judge, 1501 West Washington, Suite 104, Phoenix, Arizona 85007, before February 20, 2013.
8. In answer to Page 3, paragraph entitled "*Notice of Right to Hearing*" lines 1-7, Although no response is required, I allege the date for the receipt of the "*Notice of Formal Statement of Charges and Right to Hearing*" is February 1, 2014, the same day Susan Fuquay's signature was notarized on "Acceptance of Service" as provided to the LDP staff and the "15 days" time period shall be calculated in accordance with ACJA § 7-201, subsection (D)(6.) *Computation of Time [See footnote*

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[2] 6. Computation of Time. For the purposes of this section and the ACJA specific section, the computation of days pursuant to Rule 6(a), Rules of Civil Procedure is calculated as follows: [T]he day of the act, event or default from which the designated period of time begins to run shall not be included . . . if less than 11 days, intermediate Saturdays, Sundays and legal holidays shall not be included in the computation. When that period of time is 11 days or more, intermediate Saturdays, Sundays and legal holidays shall be included in the computation. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday.

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*2]* which means, the *Request for Hearing* will be timely if filed with the Arizona Supreme Court, Office of the Presiding Disciplinary Judge, 1501 West Washington, Suite 104, Phoenix, Arizona 85007, before February 20, 2013.

9. In answer to Page 3, paragraph entitled "Background Fact", lines 8-14, I admit
10. In answer to Page 3, paragraph entitled "Factual Allegations of Misconduct", line 15, I deny and allege,
    a. I deny that these are the "Factual Allegations of Misconduct",
    b. I allege that the title of the paragraph is a contradiction-of-terms. IE: Factual vs. Allegation. Either it is (Factual) Misconduct (as in a final decision) or it is an Allegation of Misconduct (prior to a final decision).
11. In answer to Page 3, the first paragraph under "Factual Allegations of Misconduct", lines 16 – 17, I deny that the board had sufficient knowledge to form a belief as to the truthfulness of the information.
    a. I alleged the Board had no personal knowledge of what was in Attorney Vinci's Complaint or what was in Ms. Fuquay's Response,
    b. I alleged the Board based their belief only in the information presented to them by the staff and on the assumption that the Staff provided them with sufficient knowledge to form a belief.
    c. I alleged the Board never verified the information presented to them.
12. In answer to Page 3, paragraph 4, under "Factual Allegations of Misconduct", lines 18 – 22, I admit.
13. In answer to Page 3, paragraph 4, under "Factual Allegations of Misconduct", lines 21-22
    a. I deny the Board's allegations: "Vinci who represents Defendant Lussier in the matter of Burton v. Lussier expressed concern about Fuquay's involvement in the case, while purportedly providing document preparation services to Burton."
    b. I allege in the Complaint dated September 19, 2012, Attorney Vinci said "Susan has inserted herself in a continuous manner into this case". Without any specific details of what that statement was based on.
    c. I deny that at that time Attorney Vinci filed the Complaint, Ms. Fuquay had inserted herself in a "continuous manner" into "this case."
    d. I allege Ms. Fuquay's contact with Attorney Vinci was in relation to Ms. Fuquay being a legal

document preparer for Ms. Lussier and Mr. Burton who were self-representing in the legal matter of the *Judicial Foreclosure of the Right to Redeem a Tax Lien.*

i. Ms. Fuquay went to the office on September 12, 2012, to deliver the papers regarding the *Judicial Foreclosure of the Right to Redeem a Tax Lien* matter. Attorney Vinci was not in and Ms. Fuquay made an appointment for the next day.

ii. Ms. Fuquay returned on September 13, 2012 at 3:00 to deliver the papers regarding the *Judicial Foreclosure of the Right to Redeem a Tax Lien.* Not counting the 25 minutes Ms. Lussier made Ms. Fuquay wait. Ms. Fuquay was there about 15 minutes. Ms. Fuquay left the checks that Ms. Lussier and Attorney Ardagna sent to Ms. Fuquay for the *Judicial Foreclosure of the Right to Redeem a Tax Lien* matter, Ms. Fuquay returned on September 13, 2012, at 3:00 to deliver the papers regarding the *Judicial Foreclosure of the Right to Redeem a Tax Lien.* Not counting the 25 minutes Ms. Lussier made Ms. Fuquay wait. Ms. Fuquay was there about 15 minutes.

iii. At the conclusion of the 3:00 appointment, Attorney Vinci asked Ms. Fuquay to come back in 45 minutes.

iv. Ms. Fuquay returned 45 minutes after the first appointment. Mr. Burton arrived at the same time. Attorney Vinci told Mr. Burton that she had not been able to reach Ms. Lussier. She told Ms. Fuquay, Ms. Fuquay could pick up her checks on Monday.

v. Ms. Fuquay emailed Attorney Vinci, an "Assignment of a Certificate of Purchase", as Ms. Fuquay agreed to do at the 3:00 meeting. This document was prepared July 7, 2012, in the proper format, contained all the information regarding the tax lien and the property.

vi. On Monday, September 17, 2012, Ms. Fuquay sat in the galley during the hearing, listening.

vii. After the hearing concluded, Ms. Fuquay went to Attorney Vinci's office to pick up Ms. Fuquay's checks for preparing the documents regarding the *Judicial Foreclosure of the Right to Redeem a Tax Lien.* These are the checks Attorney Vinci agreed to return to Ms. Fuquay if the parties did not reach an out-of-court-settlement before the hearing on September 17, 2012. Attorney Vinci was not in and her office staff said

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only Attorney Vinci could release the checks.

viii. About 30 minutes after court, Ms. Fuquay called Ms. Lussier to ask if she was still in town and if she wanted to sign the papers for the *Judicial Foreclosure of the Right to Redeem a Tax Lien.* She said she had to ask Attorney Vinci and would get back to me.

ix. When Ms. Fuquay got home, Ms. Fuquay received the phone message Attorney Vinci left on Ms. Fuquay voice mail asking Ms. Fuquay not to contact Ms. Lussier.

x. I allege Attorney Vinci violated Rules of Professional Conduct contained within Rule 42, Ariz. R. Sup. Ct., or other applicable Supreme Court Rules, by discussing with Mrs. Fuquay; on September 13, 2012, that Ms. Lussier was most likely going to accept the settlement offer made by Mr. Burton made to Attorney Vinci, on September, 11, 2012.

xi. I allege Attorney Vinci violated Rules of Professional Conduct contained within Rule 42, Ariz. R. Sup. Ct., or other applicable Supreme Court Rules by discussing Attorney Vinci's negotiations between Ms. Lussier and Mr. Burton with Mrs. Fuquay.

xii. I allege Attorney Vinci violated Rules of Professional Conduct contained within Rule 42, Ariz. R. Sup. Ct., or other applicable Supreme Court Rules by Attorney Vinci agreeing to hold on to Ms. Fuquay's two un-cashed checks, (payable to Susan Fuquay for $1,950.00 and $776.00) which she should have realized was a conflict of interest and

xiii. I allege Attorney Vinci violated Rules of Professional Conduct contained within Rule 42, Ariz. R. Sup. Ct., or other applicable Supreme Court Rules by not returning the checks issued to Ms. Fuquay on Monday September 17, 2012 as she agreed to do, was a violation of her fiduciary duties to a third party.

xiv. I allege Attorney Vinci violated Rules of Professional Conduct contained within Rule 42, Ariz. R. Sup. Ct., or other applicable Supreme Court Rules by not returning the checks issued to Ms. Fuquay when Ms. Lussier said she wanted to proceed with the *Judicial Foreclosure of the Right to Redeem a Tax Lien* with Mr. Burton.

xv. I allege Attorney Vinci violated Rules of Professional Conduct contained within Rule



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42, Ariz. R. Sup. Ct., or other applicable Supreme Court Rules by telling Ms. Lussier's California Attorney Ned Ardagna the court ordered her to return Ms. Fuquay's check, when that was not true.

xvi. I allege Attorney Vinci violated Rules of Professional Conduct contained within Rule 42, Ariz. R. Sup. Ct., or other applicable Supreme Court Rules by not returning the checks issued to Ms. Fuquay and telling Ms. Fuquay that the Court ordered Attorney Vinci to return the check to Attorney Ardagna.

xvii. I allege Attorney Vinci violated Rules of Professional Conduct contained within Rule 42, Ariz. R. Sup. Ct., or other applicable Supreme Court Rules by lying to the court when on October 24, 2012, the Court asked Attorney Vinci directly

> THE COURT [to Attorney Vinci]: Is Mr. -- is [sic] – [did] your client [Ms. Lussier] signed something? I meant is there - - has she [Ms. Lussier] engaged Ms. Fuquay
>
> VINCI: The agreements were never signed.

*TRANSCRIPT* OCTOBER 24, 2012, Hearing: Arizona Superior Court, Yuma Case No. S1400DO2010 00892.

xviii. I allege Attorney Vinci agreed that, if Attorney Vinci's negotiations between Ms. Lussier and Mr. Burton resulted in an out-of-court settlement, where Mr. Burton was refunding Ms. Lussier her portion of the tax lien payments, before the hearing on Monday, September 17, 2012, then Ms. Fuquay would relinquish Ms. Fuquay's checks from Ms. Lussier, to be returned to Attorney Ardagna. If Attorney Vinci negotiations between Ms. Lussier and Mr. Burton did not reach an out-of –court-settlement, the checks would be returned to the AZ CLDP on Monday, September 17, 2012; Attorney Vinci agreed.

xix. I allege it was Attorney Vinci who was doing the negotiations between Ms. Lussier and Mr. Burton, not Ms. Fuquay.

xx. I allege Attorney Vinci violated Rules of Professional Conduct contained within Rule 42, Ariz. R. Sup. Ct., or other applicable Supreme Court Rules by telling Dee Dee Cantwell, Yuma County Superior Court, Deputy Clerk, that as of February 14, 2013, Susan Fuquay was no longer licensed or certified in the state of Arizona to prepare legal documents. And Dee Dee Cantwell passed that message on to Susan's consumer, Matthew A. Ieler.

e. I allege Attorney Vinci intentionally exaggerated the statements she made in her complaint regarding Ms. Fuquay's "involvement" in her Family Law case. It was Attorney Vinci who was seeking Ms. Lussier's documents, which were in Ms. Fuquay's possession. It was Attorney Vinci who told Ms. Fuquay on September 13, 2012, that there was probably going to be an out of court settlement in this case before the hearing on Monday, September 17, 2012, and it was Attorney Vinci who told Ms. Fuquay on September 13, 2012, that she was going to ask for a continuance.

f. I allege an LDP is a "Legal Document Preparer" and this means an individual certified to prepare or provide legal documents, without the supervision of an attorney, for an entity or a member of the public who is engaging in self representation in any legal matter.

g. I allege Attorney Vinci knew Ms. Fuquay was hired July 12, 2012, by both Ms. Lussier and Mr. Burton to prepare or provide legal document for both Ms. Lussier and Mr. Burton regarding the legal matter of the *Judicial Foreclosure of the Right to Redeem a Tax and* at all times relevant to these proceeding [between June 11, 2012 and December 12, 2012], Ms. Lussier and Mr. Burton were both engaging in self representation in the legal matter of the *Judicial Foreclosure of the Right to Redeem a Tax Lien*, and at no time did Ms. Lussier and Mr. Burton hired an attorney for that specific legal matter.

14. In answer to Page 3, paragraph 4, under "Factual Allegations of Misconduct", lines 23 -25,

a. I deny the statement [Attorney] "Vinci alleged Fuquay engaged in the unauthorized practice of law by "acting" as if she [Fuquay] was opposing counsel, evidenced by Fuquay appearing at Attorney Vinci's office to discuss the case."

*b.* I allege the documents in Ms. Fuquay's possession were Ms. Lussier's and Mr. Burton's documents regarding the legal matter of the *Judicial Foreclosure of the Right to Redeem a Tax Lien.*

c. I allege on September 13, 2012, while Attorney Vinci was purportedly representing Ms. Lussier, it was Attorney Vinci who talked to Ms. Fuquay as if Ms. Fuquay was Attorney Vinci's personal assistant.

*i.* Attorney Vinci told Ms. Fuquay that she had no experience with legal matter of a



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*Judicial Foreclosure of the Right to Redeem a Tax Lien*, she had not worked on a *Judicial Foreclosure of the Right to Redeem a Tax Lien* case before, and it took Ms. Fuquay less than five minutes to show Attorney Vinci where the documents regarding *Judicial Foreclosure of the Right to Redeem a Tax Lien* showed when the tax lien was purchase and where it showed how much interest had been earned and when a subsequent payments (endorsements) had been made and where it showed how much interest was earned on the endorsements and how to calculate the value of a Certificate of Purchase.

ii. Attorney Vinci discussed with Ms. Fuquay some the details of a settlement agreement Attorney Vinci was negotiating between Ms. Lussier and Mr. Burton.

iii. In addition to the proposed settlement offer that Attorney Vinci was negotiating, between Ms. Lussier and Mr. Burton, Attorney Vinci also discussed with Ms. Fuquay the other details of her legal strategies including the fact that she was still planning on filing a Motion for a Continuance.

iv. Attorney Vinci made an agreement with Ms. Fuquay to hold on to Ms. Fuquay's two check in the amounts of $1,950.00 and $776.00 to assist Ms. Vinci in her negotiations between Ms. Lussier and Mr. Burton,

v. Both checks were issued to Ms. Fuquay from Attorney Ned Ardagna.

vi. Attorney Vinci knew the $1,950.00 check was Ms. Lussier's portion of the payment of Ms. Fuquay's fees for preparing the documents for the *Judicial Foreclosure of the Right to Redeem a Tax Lien* and the $776.00 was Ms. Lussier's portion of the payment for the additional cost of the *Judicial Foreclosure of the Right to Redeem a Tax Lien.*

vii. Attorney Vinci told Ms. Fuquay that she would call Ms. Lussier as soon as Ms. Fuquay left to see if Ms. Lussier was going to accept the settlement offer Attorney Vinci negotiated with Mr. Burton on September 11, 2012.

viii. Attorney Vinci asked Ms. Fuquay to come back in 45 minutes.

d. I allege Ms. Fuquay appearances at Attorney Vinci's office on both September 12, 2012 and September 13, 2012 were both for the purpose of delivering to Attorney Vinci, Ms. Lussier's and Mr. Burton's documents regarding the legal matter of the *Judicial Foreclosure of the Right*

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*to Redeem a Tax Lien of the Right to Redeem a Tax Lien.* apparently the documents Attorney Vinci "sought"

e. I allege Ms. Fuquay did not know what, if any, of Ms. Lussier's and Mr. Burton's documents in Ms. Fuquay's possession, Attorney Vinci was seeking.

f. I allege prior to Ms. Fuquay meeting with Attorney Vinci on September 13, 2012, Attorney Vinci never specified to Ms. Fuquay which documents she was seeking.

g. I allege when Ms. Fuquay took all of Ms. Lussier's and Mr. Burton's documents regarding the legal matter of the *Judicial Foreclosure of the Right to Redeem a Tax Lien* to Attorney Vinci, Ms. Fuquay did so with the "implied" permission of Ms. Lussier and the "direct" permission of Mr. Burton.

h. I allege there is nothing in ACJA § 7 201, and ACJA § 7-208, which prohibits an LDP from assisting an attorney.

i. I allege when Ms. Fuquay went to delivered to Ms. Lussier's and Mr. Burton's the documents regarding the legal matter of the *Judicial Foreclosure of the Right to Redeem a Tax Lien* to Attorney Vinci, Ms. Fuquay was in compliance with Arizona Supreme Court Rule 31 ("Rule 31") ACJA § 7 201, and ACJA § 7-208, because ACJA § 7-208(J)(3)(d) specially states: *A legal document prepare may consult, associate, collaborate with and involve other professionals in order to assist the consumer.*

j. I allege when Attorney Vinci said:

    i. "She [Fuquay] spoke to me as if she represented Bruce, as if she were opposing counsel." (The complaint 9/25/12), Attorney Vinci knew Ms. Fuquay was legal document preparer as Ms. Fuquay's Name was on every page of the Petitioner to Modify the Court Order in Arizona Superior Court Case in Yuma County Case Number S1400 DO 201000892, and

    ii. Attorney Vinci knew Ms. Fuquay was hired by both Ms. Lussier and Mr. Burton, to prepare the legal documents for the *Judicial Foreclosure of the Right to Redeem a Tax Lien.*

    iii. Attorney Vinci knew Ms. Fuquay was not opposing counsel but that Attorney Vinci was exaggerating and

k. I allege that Ms. Fuquay told Attorney Vinci that Ms. Fuquay was a document prepare working for both Ms. Lussier and Mr. Burton, in the legal matter of the *Judicial Foreclosure of the Right to Redeem a Tax Lien* and what Attorney Vinci actually said was:

i. "I have never met Susan before but she [Fuquay] told me **she has been a document preparer** in Yuma for a long time", (emphasis and name added)

l. I allege that Ms. Fuquay made an appointment to deliver Ms. Lussier's and Mr. Burton's documents regarding the legal matter of the *Judicial Foreclosure of the Right to Redeem a Tax Lien* to Attorney Vinci and Attorney Vinci knew that was the purpose of the meeting.

i. "Upon speaking with Bruce on September 11, 2012 and requesting a stipulation to continue and disclosure, he told me that Susan had everything that I was asking for and he would have her send it to me." (The complaint 9/25/12).

ii. Attorney Vinci told the Investigator, "When she came in to meet with her she thought she was bringing her the sought after disclosure documents", translates to: When she [Fuquay] came in to meet with her [Attorney Vinci], she [Attorney Vinci] thought she [Fuquay] was bringing her [Attorney Vinci] the sought after disclosure documents" (Page 3 of the *Investigation Summary*). (emphasis and names added).

m. I further allege, in some matters, Ms. Fuquay is very passionate and articulate, and can appear overzealous, but Ms. Fuquay was there by appointment to deliver discovery documents and Ms. Fuquay was not there representing either Ms. Lussier or Mr. Burton

15. In answer to Page 3, paragraph 4, under "Factual Allegations of Misconduct", line 25,

16. I deny the portion Vinci noted when she contacted Burton seeking case related disclosure. Burton directed Vinci to Fuquay to secure the information.

a. I allege: Mr. Burton informed Attorney Vinci "Susan had everything that I was asking for and he would have her send it to me.", he did not direct Attorney Vinci to Fuquay but directed Ms. Fuquay to take the documents to Attorney Vinci.

17. In answer to Page 4, paragraph 4, under "Factual Allegations of Misconduct", lines 1 -,

a. I agree and I allege: On Thursday, September 13, 2012 when Ms. Fuquay delivered the documents related to the *Judicial Foreclosure of the Right to Redeem a Tax Lien* , we engaged in conversation.

18. In answer to Page 4, paragraph 4, under "Factual Allegations of Misconduct", line 3, I deny

a. I allege this purported statement is a fabrication of whoever prepared the *Notice of Formal*

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*Statement of Charges* and that it never happened and that Attorney Vince did not make that accusation in the Complaint dated September 19, 2012.

19. In answer to Page 4, paragraph 4, under "Factual Allegations of Misconduct", line 5- 6, I admit.
20. In answer to Page 4, paragraph 5, under "Factual Allegations of Misconduct", I admit in part and deny in part, and I allege:
    a. I deny that portion that says "Since she [Fuquay] knew that was what the judge is going to do anyway."
    b. I allege: Ms. Fuquay did not tell Ms. Lussier that Ms. Fuquay knew what the Judge was going to or say.
    c. I further allege: During the hearing on September 17, 2012, the Court stated there are limited reason why the court would go back and modify a decree that was filed more than a year ago and it did not appear that this action fell into any of those categories, and unless the Petitioner had some very good reason for the modifying the decree other than what he had already stated, the orders would stand as is, but the court would issue a judgment if he found a party was not in compliance with payments that were previously order by the court.
21. In answer to Page 4, paragraph 6, under "Factual Allegations of Misconduct", I admit in part and deny in part, and I allege:
    a. I admit that these statements may be Investigator Richard Sczerbick's, *Investigation Summary*,
    b. I deny the accuracy of all of statements made therein.
    c. I allege that several of the statements purportedly made by Attorney Heather C. Vinci are false.
    d. I further allege: Investigator Richard Sczerbick's asked questions in such a bias way so that the answers would support the Complaint filed against the LDP and in the interview process Investigator Richard Sczerbick's failed to address any of the facts Ms. Fuquay addressed in her Responses filed on October 29, 2012.
22. In answer to Page 5 and 6, paragraphs 7, 8, and 9, under "Factual Allegations of Misconduct", I admit in part and deny in part, and I allege:
    a. I admit that these statements are in Investigator Richard Sczerbick's, *Investigation Summary*,
    b. I deny the accuracy of all of statements made therein,
    c. I allege that Mr. Burton read the information in the interview summary and stated that the investigator twisted what Mr. Burton told him, changed the meaning of what he said and that



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the investigator left off pertinent parts of Mr. Burton's responses

d. I allege that several of the statements purportedly made by Mr. Burton are false.

e. I further allege: Investigator Richard Sczerbick asked questions in such a bias way so that the answers would support the Complaint filed against the LDP and in the interview process Investigator Richard Sczerbick's failed to address any of the facts Ms. Fuquay addressed in her Responses filed on October 29, 2012.

23. In answer to Page 6, paragraph 10, under "Factual Allegations of Misconduct", I admit in part and deny in part, and I allege:

a. I admit that these statements are in Investigator Richard Sczerbick's, *Investigation Summary*,

b. I deny the accuracy of all of statements made therein,

c. I allege that several of the statements purportedly made by Ms. Lussier are false.

d. I further allege: Investigator Richard Sczerbick's asked questions in such a bias way so that the answers would support the Complaint filed against the LDP and in the interview process Investigator Richard Sczerbick's failed to address any of the facts Ms. Fuquay addressed in her Responses filed on October 29, 2012.

24. In answer to Page 6 and 7, paragraph 11 and 12, under "Factual Allegations of Misconduct", I admit in part and deny in part, and I allege:

a. I admit that these statements may be in Investigator Richard Sczerbick's, *Investigation Summary*,

b. I deny the accuracy of all of statements made therein,

c. I allege that a few of the statements purportedly made by Attorney Ned Ardagna are false.

d. I further allege: Investigator Richard Sczerbick has asked questions in such a bias way so that the answers would support the Complaint filed against the LDP and in the interview process Investigator Richard Sczerbick's failed to address any of the facts Ms. Fuquay addressed in her Responses filed on October 29, 2012.

25. In answer to Page 8, paragraph 13, under "Factual Allegations of Misconduct", I admit in part and deny in part, and I allege:

a. I admit that these statements may be in Investigator Richard Sczerbick's, *Investigation Summary*,

b. I allege the statements made in Mr. Burton's Reply were authorized by Mr. Burton. I deny that the statements accurately reflect the statements made by Ms. Fuquay. :

c. I allege: Investigator Richard Sczerbick deliberately misrepresented statement made in Mr.

Burton's *Reply* filed with the Court on October 9, 2012, in such a bias way so that it appears the statements Investigator Richard Sczerbick filed in his *Investigation Summary* supported the charges Investigator Richard Sczerbick filed with the LDP Board.

The statement in the *REPLY* was:

> "August 13, 2012, Anna Hernandez, Yuma County Chief Deputy Treasurer (928) 539-7791, was contacted by the AZ CLDP, regarding the re-issuance of the check in Mr. Burton's name only and Ms. Hernandez, said when Mr. Burton's Affidavit for the check to be re-issued was entered into the Treasurer's Office's new computer program, the program removed Denise's name from the Certificate of Purchase. That was not done at the request of Mr. Burton. She would note the computer glitch needed to be addressed.

d. I allege Investigator Richard Sczerbick's distorted that statement by only quoting the first half of the first sentences in the *Investigation Summary* as shown below, and that is what he presented to the LDP Board and subsequently that is what was carried over to the Notice of Formal Statement of Charges.

> Page 3, paragraph 20, line 15 of the Reply provides:
>
> August 13. 2012, Anna Hernandez, Yuma County Chief Deputy Treasure (928) 539-779, was contacted by the AZ CLDP, regarding the re-issuance of the check in Mr. Burton's name only....

e. I allege Investigator Richard Sczerbicki refused to inform the Board that the information regarding Ms. Fuquay's conversation with Yuma County Deputy Treasurer Anna Hernandez on AUGUST 13, 2012, (taken from Mr. Burton's *Reply* filed on October 9, 2012, page 3 lines 15-18) clearly show that the conversation was not "seeking to have a check reissued in Mr. Burton's name only" as Richard Sczerbicki stated in allegation #5, but rather the conversation was to inform the Treasurer that something was wrong with the "system of re-issuing checks" because duplicate check, mistakenly issued in Mr. Burton's name only, because of computer glitch had been cashed July 16, 2012, almost a full month before Ms. Fuquay had that conversation with Anna Hernandez.

f. I allege that not only was this portion of Investigator Richard Sczerbicki's *Investigation*



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*Summary* deliberately slanted against the LDP, but that his whole *Investigation Summary* is bias against the LDP,

g. I allege I went to the Board meeting on December 17, 2012 and I addressed this issue with the Board, but the Board deferred it back to Investigator Richard Sczerbicki.

h. I allege Investigator Richard Sczerbicki refused to acknowledge that Ms. Fuquay's contact with Yuma County's Deputy Treasurer Anna Hernandez on August 13, 2012, was regarding Ms. Fuquay's concerns that Yuma County's computer program used for reissuing checks was not working properly, the conversation was not about "seeking to have a check reissued in Mr. Burton's name only" as Richard Sczerbicki stated in allegation #5. Because that had been done a month before the August 13, 2012 conversation.

i. I allege Investigator Richard Sczerbicki told me that it didn't matter whether the misconception was corrected because I had so many other allegations against me.

j. I allege that the subsequent safeguards to assure that the Allegations in the *Investigation Summary* are accurate and are in-fact supported by the Rules, Regulations, Codes, and Statute, such as the *Allegation Analysis Report* and the *Referral to the Probable Cause Evaluation Probable Cause Evaluation and Decision*, and even the *Notice of Formal Statement of Charges* seemingly are just "rubber stamps" of the information provided in Investigator Richard Sczerbicki's *Investigation Summary.*

k. I allege this is not how the highest court in the State is supposed to work!

26. In answer to Page 9, paragraph 14, under "Factual Allegations of Misconduct",

a. I admit that these statements may be in Investigator Richard Sczerbick's, *Investigation Summary*,

27. In answer to Page 9 and 10, paragraph 15, under "Factual Allegations of Misconduct", lines 12- 20, I admit in part and deny in part, and I allege:

a. I admit that these statements may be in Investigator Richard Sczerbick's, *Investigation Summary*,

b. I deny the truthfulness of the portion of the paragraph which states: Fuquay submitted a late written response to the complaint.

c. I allege I did not file a late written response to the complaint I filed the Response to the Complaint timely in accordance with ACJA § 7-201, subsection (D)(6).

d. I allege is another example of Investigator Richard Sczerbicki's *Investigation Summary* deliberately being slanted against the LDP, because I went to the Board meeting on December

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17, 2012 and I addressed this issue, but the Board deferred it back to Investigator Richard Sczerbicki.

e. I allege Investigator Richard Sczerbicki refused to acknowledge that my Response was filed timely,

f. I allege Investigator Richard Sczerbicki told me that it didn't matter whether the record was corrected as to whether or not my Response was timely because I had so many other allegations against me.

28. In answer to Page 9 and 10, paragraph 15, under "Factual Allegations of Misconduct", lines 20 - 21 and line 1, I admit:

a. This statement is in Ms. Fuquay's Response. "The AZ CLDP also explained to Attorney Vinci what the tax lien related documents were and what the AZ CLDP believed was significance about the document."

29. In answer to Page 9 and 10, paragraph 15, under "Factual Allegations of Misconduct", lines 22 - 25 and page 10 line 1:

a. I deny. The following statement is true: "Upon recognizing the dispute between Burton and Lussier could possibly be resolved by settlement in advance of the ensuing court hearing. Fuquay injected herself into the settlement negotiations by offering to hold the then un-cashed checks she received from Lussier s California attorney, hoping this would assist in a resolution being achieved.

b. I allege: Ms. Fuquay explained to Attorney Vinci the reason the two checks were not cashed, as to the first check for $1,950.00, dated August 14, 2012:

i. According to the Agreements, Terms and Disclosures dated revised July 18, 2012, and again revised August 9, 2012, the $1,950.00 check Ms. Lussier sent to Ms. Fuquay with the signed Agreement of Terms, was only Ms. Lussier's portion of Ms. Fuquay's document preparation fee.

ii. In Ms. Lussier's letter dated August 14, 2012, Ms. Lussier directed the AZ CLDP to use the $1,950.00 to pay all of Ms. Lussier's other expenses relating to the *Judicial Foreclosure of the Right to Redeem a Tax Lien* , including paying the County Treasurer an undisclosed amount of money to completed a tax sale that had actually been completed February 2009 (Ms. Lussier didn't have a tax bill with the County

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Treasurer so this request was very bizarre). See the August 14, 2012, Letter from Ms. Lussier Also see the Ms. Fuquay's History of Events filed with her Response, attachment, 8, 9, and 10, and Emails attachment in both the Complaint and the Ms. Fuquay's Response and see the Agreements of Terms and Disclosures signed by D.M. Lussier, on August 14, 2012, more specifically, see Paragraphs 8, 12, 16, 19, 21, 22, 23, 24, 25, 26, 44, 47, & 48.

iii. The concept of dividing the check as instructed in the letter was contrary to the Agreement between the AZ CLDP, Mr. Burton, and Ms. Lussier, and

iv. Ms. Fuquay using Ms. Fuquay fee to pay Ms. Lussier's debt as instructed in Ms. Lussier's letter, would have been in violation of the ACJA §7-208 (J) Code of Conduct.

v. If the Ms. Fuquay had cashed the check and ignored Ms. Lussier's letter that would have been violation of the ACJA §7-208 (J) Code of Conduct.

vi. Attorney Vinci failing to mention Ms. Lussier's August 14, 2012, letter to Ms. Fuquay and she failing to attach her copy of the August 14, 2012 letter to the Complaint

vii. On August 18, 2012, Ms. Fuquay emailed a letter to Ms. Lussier enumerating reasons Ms. Fuquay was not comfortable cashing the check under the terms of Ms. Lussier Letter.

c. As to the second check date August 27, 2012, for $776.00.

i. On August 27, 2012, Ms. Fuquay received the following email from Ms. Lussier: Susan Fuquay. I have made good faith payment for your services, the $776.00 of paragraph 8 will be paid when due. If due now please let me know. The payment to Bruce Burton is between him and I and not subject to this particular matter. Thank you going to get my papers at post office tomorrow will send then back within one day. Please proceed on my behalf as stated in the Agreement. Thank you Denise Lussier.

ii. On August 30, 2012, Ms. Fuquay received the second check directly from Attorney Ned Ardagna. In the amount of $776.00.

iii. Between August 18, 2012, and September 13, 2012, when Ms. Fuquay took the

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documents regarding the legal matter of the *Judicial Foreclosure of the Right to Redeem a Tax Lien* to Attorney Vinci office, there was no mention by Ms. Lussier of Ms. Fuquay. August 18, 2012, email letter to Ms. Lussier enumerating reasons Ms. Fuquay was not comfortable cashing the check.

iv. It was after I explained this to Attorney Vinci that she told me that that Ms. Lussier wanted out of this so she could move on with her life, and

v. that she was negotiating an out of court IDA

vi. Ms. Fuquay asked Attorney Vinci if it would help Ms. Vinci's negotiations between Ms. Lussier and Mr. Burton, if Attorney Vinci held on to the Ms. Fuquay's two un-cashed checks, (payable to Susan Fuquay for $1,950.00 and $776.00 respectfully) so Ms. Lussier would "know", Ms. Fuquay had kept her word. If they reached an out-of-court settlement and did a stipulation before the hearing Monday, September 17, 2012, Ms. Fuquay would relinquish the checks to be returned to Ms. Lussier's California Attorney Ned Ardagna, if they didn't reach an out of court settlement, the checks would be returned to the Ms. Fuquay on Monday, September 17, 2012. At the time Attorney Vinci agreed. But she never returned the checks to Ms. Fuquay.

30. In answer to Page 10, paragraph 15, under "Factual Allegations of Misconduct", lines 2 – 5, I Admit

31. In answer to Page 10, paragraph 15, under "Factual Allegations of Misconduct", lines 6 – 8, I Admit in part and deny in part and allege
    a. I admit Ms. Fuquay was aware Ms. Lussier was represented by California Attorney Ned Ardagna between July 17, 2012 and August 29, 2012.
    b. I deny that Ms. Lussier was representing by an attorney in the legal matter of the *Judicial Foreclosure of the Right to Redeem a Tax Lien*
    c. I alleges that at all times relevant to these proceeding, (from June 12, 2012 – Dec 12, 2012), Ms. Lussier was representing herself in the matter of the *Judicial Foreclosure of the Right to Redeem a Tax Lien*
    d. I deny that Ms. Lussier did not actually enter into an agreement until August 14, 2012.
    e. I allege that Ms. Lussier entered into agreement with Ms. Fuquay on June 12, 2012, and Ms.

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Lussier signed the second revision of the June 12, 2012 Agreement (Agreement 3) on August 14, 2012.

f. I agree that the agreement was modified by Ms. Lussier and

g. I allege Ms. Fuquay thanked Ms. Lussier for catching the wrong property address and

h. I allege Ms. Fuquay only objected to one of the modification and that Ms. Lussier made, it was to which address the USPS Return Receipts Notice would be returned to. which was probably a moot point, because the signed Return Receipts for the 30 day notices had already been mailed and returned, this was only applicable if Ms. Lussier wanted them to be sent out again with her name and signature on them, which is what I was calling her about on September 17, 2012. On June 12, 2012, Ms. Fuquay prepared four (4) 30 day notices with places for both Ms. Lussier's and Mr. Burton's signatures, when Ms. Lussier said she couldn't pay for 30 days, Mr. Burton asked Ms. Fuquay to redo the documents with just Mr. Burton's name and signature. Ms. Fuquay redid the documents and Mr. Burton signed them and mailed them out on June 12, 2012.

32. In answer to Page 10, paragraph 15, under "Factual Allegations of Misconduct", lines 9.5, I Admit

33. In answer to Page 10, paragraph 15, under "Factual Allegations of Misconduct", lines 10.5, I deny.

a. I allege that Attorney Vinci was not "opposing" Counsel. I am not an attorney and I am not a party to the ensuing lawsuits. Ms. Lussier and Mr. Burton each agreed to hire me. I provide full disclosure to both parties. Ms. Lussier hired Attorney Vinci to respond to a family law issue. Ms. Lussier hired Ms. Fuquay to prepare or provide documents for a civil law issue.

b. I allege nowhere in Rule 31 or ACJA § 7-201 or ACJA § 7-208 does the phrase "Opposing Counsel" appear!

c. I allege nowhere in Rule 31 or ACJA § 7-201 or ACJA § 7-208 does not prohibit an LDP from assisting an attorney nor do they prohibit an Attorney from helping an LDP.

d. I allege an LDP is a "Legal Document Preparer" and this means an individual certified to prepare or provide legal documents, without the supervision of an attorney, for an entity or a member of the public who is engaging in self representation in any legal matter.

e. I allege that at all times relevant to these proceeding, (from June 12, 2012 – Dec 12, 2012) Ms. Lussier was representing herself in the matter of the *Judicial Foreclosure of the Right to Redeem a Tax Lien.*

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f. I further allege that ACJA § 7-208(J) (3)(d) **provides that** a legal document preparer may consult, associate, collaborate with, and involve other professionals in order to assist the consumer.

34. In answer to Page 10, paragraph 17, under "Factual Allegations of Misconduct", lines 17.5 – 25, I admit

35. In answer to Page 11, paragraph 17, under "Factual Allegations of Misconduct", lines 1 - 8, I admit

36. In answer to Page 11, paragraph 18, under "Factual Allegations of Misconduct", lines 9 - 17, I admit in part and I deny in part and I allege

37. In answer to Page 11, paragraph 19 under "Factual Allegations of Misconduct", lines 17.5 – 25,. I

38. In answer to Page 12, paragraph 19, under "Factual Allegations of Misconduct", lines, 1-4, I admit
In answer to Page 12 paragraph 20, under "Factual Allegations of Misconduct", lines 5 - 15, I admit

FORMAL CHARGES

39. Complaint One: Paragraph 21: Fuguay violated Arizona Supreme Court Rule 31 ("Rule 31") (a)(2)(B). ACJA § 7 201(F)(1), and ACJA § 7-208(F)(l)(b), (F)(2). (J)(5)(a), (J)(5)(b), and (J)(5)(c) by engaging in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by expressing legal opinions and offering compelling arguments in documents she prepared for consumer Burton in Superior Court in Yuma County case number SC1400DO201000892; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3), In answer to Complaint on: I deny and I allege.
    a. I deny that my name is FUGUAY
    b. I deny that I expressed my legal opinions and offered my compelling arguments in documents I prepared for consumer Burton in Superior Court in Yuma County case number S1400DO201000892;
    c. I deny that I violated Arizona Supreme Court Rule 31 ("Rule 31") (a)(2)(B). ACJA § 7 201(F)(1), and ACJA § 7-208(F)(l)(b), (F)(2). (J)(5)(a), (J)(5)(b), and (J)(5)(c).
    d. I allege that regardless of the *Investigation Summary* regarding Mr. Sczerbicki interview with Mr. Burton, and Ms. Grau Allegation Analysis Report. Mr. Burton is a very intelligent man and is he is able to express himself very well Ms. Grau's observation that "Burton was candid with Investigator Sczerbicki that he (Burton) did not know about legal matters and therefore, relied

on Fuquay", is not accurate.

e. I allege Mr. Burton and Ms. Fuquay spent hours on the phone going over the details of Ms. Lussier's Response to the Petition to Modify.

f. I allege Ms. Fuquay provided Mr. Burton with factual information.

g. I allege that any legal opinions or compelling arguments in Mr. Burton's paper work were from Mr. Burton.

    i. Mr. Burton and Ms. Fuquay went thought Ms. Lussier's Response line-by-line.
    ii. The first questions Ms. Fuquay asked Mr. Burton was do you agree or disagree with the statement at page "x" and paragraph "y"? .
    iii. Then; If you agree do you agree with everything or do you agree in part?
    iv. Or if you disagree do you disagree with everything or do you disagree in part?
    v. If you disagree either in-full or in-part, explain to the court what portion you disagree with and why you disagree,
    vi. If you disagree explain to the court what your reference is for disagreeing?
    vii. Mr. Burton gave me his answers. If he agreed it was so stated. If he disagreed it was so stated.
    viii. Together we diligently went through all of Ms. Lussier's her responses. He would tell me the answer and I would write it.
    ix. Where Mr. Burton used the word "statement", I used the word "allegation". Where he said he disagreed in part, I generally added the phrase "to clarify" and then put his statements in. When he said "you" (referring to the Ms. Fuquay), did such and such I wrote "the AZ CLDP" did such and such. When he said Denise (referring to Ms. Lussier) I wrote in Ms. Lussier etc.
    x. When Mr. Burton said something happened, I asked him to give me a date as to when it happened. When he said he couldn't remember when a certain paper was filed I looked it up in public access, When he said he couldn't remember when or why he was receiving USPS green returned receipts from the Treasurer's Office and the home owner's, I had to remind him that he had mailed the 30 Day notice to those peoples and these were his proof of delivery.
    xi. When Mr. Burton couldn't remember exactly when he made a payment on the tax



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lien, I was generally able to look it up on line to verify that I was typing it correctly and provided him with a payment date. When he said that a statue said something, I generally looked it up to verify that I was typing it correctly.

xii. When Mr. Burton said something was not fair, I looked up equitable.

xiii. When Mr. Burton got really adamant about something, I typed it in all CAPs, or I underlined it.

xiv. When Mr. Burton referred to the title of a document, I typed it in Italics with the first letter of each important word of the title in caps, *"Assignment of the Certificate of Purchase"*

xv. When Ms. Lussier said the 30 day notice expired on the thirtieth day; He knew that was not correct, but he didn't remember if it was 120 days, 160 days, or 180 days; Mr. Burton asked me to looked up expiration of the 30 day notice.

xvi. When Mr. Burton stated the same reason he referred to in a previous answer he just referred to the answer previously given. Between June 26, 2012, (this is when I got Ms. Lussier's email address from Mr. Burton and August 13, 2012, most of the emails created by Ms. Fuquay were sent to both Ms. Lussier and Mr. Burton. This was to keep each party informed.

xvii. Mr. Burton asked me when I received the check for $776.00 and I gave him that information. Mr. Burton was aware that I had not received any funds or an executed agreement from Ms. Lussier between June 12, 2012 and August 18, 2012.

xviii. When Mr. Burton asked me how the tax liens are calculated, I looked up the information by Googling a search for "Arizona how is the interest calculated for redemption of tax liens" this took us to: http://www.azauditor.gov/Reports/Counties/FAQs/County_FAQ_PropertyTax2.htm which says that Arizona calculates redemption values bases on the Arizona Court of Appeals decision in *Ulan v. Pima County Bd. of Supervisors, 213 Ariz. 553, 145 P.3d 650 (October 31, 2006)*. Mr. Burton said he wanted this in his paperwork.

h. I further allege Mr. Burton said Ms. Lussier should not be entitled to attorney's fees because it wasn't fair that he should have to pay her attorney fees when she was not acting in good faith because she knew that she hadn't made any of the payments. I googled "acting in good faith

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equitable defense", and then I sent him the phrases "clean hands doctrine" and "unclean hands doctrine". Mr. Burton did the research and he came up with the statement in paragraph 62, of the REPLY.

i. I allege Mr. Burton told me how he wanted to respond and when he references a statute, I added the statute that he was referencing. Mr. Burton coined the concept for me that a tax lien was just a financial instrument; I had never heard that before.

j. I allege that I provided services to Mr. Burton incompliance with and as allowed by ACJA § 7-208. (f) (1) (a), (b), (c), (d), and (e).

k. I allege this is basically the same format that I use in preparing documents with my consumers.

40. Complaint Two: Paragraph 22: Fuquay violated ACJA § 7-201(F)(l), and ACJA § 7-208(F)(l)(a). (F)(2) and (J)(5)(a) by offering to and contracting to provide legal document preparation services to Lussier knowing Lussier was represented by an attorney; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a)." In answer to Complaint Two: I deny and I allege

a. I deny that I violated ACJA § 7-201(F)(l), and ACJA § 7-208(F)(l)(a). (F)(2) and (J)(5)(a) by offering to and contracting to provide legal document preparation services to Lussier knowing Lussier was represented by an attorney

b. I deny that by offering to and contracting to provide legal document preparation services to Lussier knowing Lussier was represented by an attorney was a violation of ACJA § 7-201(F)(l), and ACJA § 7-208(F)(l)(a). (F)(2) and (J)(5)(a).

c. I allege that offering to and contracting to provide legal document preparation services to Lussier knowing Lussier was represented by an attorney is not a violation as the words "offer", "offering" and "contract" and "contracting" are not found in ACJA § 7-201(F)(l), and ACJA § 7-208(F)(l)(a). (F)(2) and (J)(5)(a).

d. Furthermore, ACJA § 7-208 (A) states "Legal document preparer" means an individual or business entity certified pursuant to this section to prepare or provide legal documents, without the supervision of an attorney, for an entity or a member of the public who is engaging in self representation in any legal matter. Therefore because Ms. Lussier was self-representing in the legal matter of the *Judicial Foreclosure of the Right to Redeem a Tax Lien,* Complaint Two cannot be a violation



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e. If a person read ACJA § 7-201(F)(l), and ACJA § 7-208(F)(l)(a). (F)(2) and (J)(5)(a) The words offer/offering and contract/contracting are not found in in ACJA § 7-201(F)(l), and ACJA § 7-208(F)(l)(a). (F)(2) and (J)(5)(a) Therefore it could not be a violation of ACJA § 7-201(F)(l), and ACJA § 7-208(F)(l)(a). (F)(2) and (J)(5)(a) for an AZ CLDP to offer or contract to provide legal document preparation service to a consumer (IE: Lussier) even if they are represented by an attorney.

f. I offered and contracted to provide legal document preparation services to Lussier for *Judicial Foreclosure of the Right to Redeem a Tax Lien* June 12, 2012. Between June 12, 2012 and December 12, 2012, Ms. Lussier was NOT represented by an attorney in the Matter of the *Judicial Foreclosure of the Right to Redeem a Tax Lien.*

***g.* Furthermore this would not apply as Ms. Lussier was not represented by an attorney to assist her in the legal matter of the *Judicial Foreclosure of the Right to Redeem a Tax Lien and***

h. ***This would not be applicable because*** ACJA § 7-208(J)(3)(d) provides A legal document preparer may consult, associate, collaborate with, and involve other professionals in order to assist the consumer.

***i. And Ms. Lussier was my consumer* in the legal matter of the *Judicial Foreclosure of the Right to Redeem a Tax***

41. Complaint Three: Paragraph 23: Fuquay violated ACJA § 7-201(F)(l), § 7-208(F)(2), (J)(l)(a), (J)(l)(b) and (J)(5)(a) by offering to and providing document preparation services to Lussier and Burton jointly in the tax matter while providing legal document preparation services to only Burton in a separate action in which Lussier was the opposing party; constituting grounds for disciplinary action pursuant to ACJA § 7-201 (H)(6)(a) and (H)(6)(k)(7). In answer to Complaint Three: I deny and allege.

a. I deny that I violated ACJA § 7-201(F)(l), § 7-208(F)(2), (J)(l)(a), (J)(l)(b) and (J)(5)(a by offering to and providing document preparation services to Lussier and Burton jointly in the tax

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matter while providing legal document preparation services to only Burton in a separate action in which Lussier was the opposing party was a violation of ACJA § 7-201(F)(l), § 7-208(F)(2), (J)(l)(a), (J)(l)(b) and (J)(5)(a

b. I allege that "offer" "offering" is not found in in ACJA § 7-201(F)(l), § 7-208(F)(2), (J)(l)(a), (J)(l)(b) and (J)(5)(a) therefore it is not a violation of ACJA § 7-201(F)(l), § 7-208(F)(2), (J)(l)(a), (J)(l)(b) and (J)(5)(a)

c. I allege Ms. Fuquay did not provide document preparation services Lussier and Burton jointly in the Tax Lien matter while providing legal document preparation services to only Burton in a separate action in which Lussier was the opposing party;

   i. I prepared 2 sets of 4 30 day notices for on June 12, 2012.

   ii. I began preparing the documents for Mr. Burton and Ms. Lussier for filing the *Judicial Foreclosure of the Right to Redeem a Tax Lien,* on the Turner Certificate of Purchase JUNE 26, 2012, (this is the same day I called and was told the Chavez Certificate of Purchase had been redeemed). ON June 28, 2012 I prepared an amendment to the original AGREEMENT. I had the papers prepared before July 7, 2012, (Ms. Lussier agreed to pay me by July 12, 2012 and I made sure I had the papers ready so they could be filed by July 23, 2012, (the date indicated in the preliminary notice) However, Ms. Lussier didn't pay my fee as agreed and by August 13, 2012, Mr. Burton was convinced Ms. Lussier did not have the funds and was not going to be able to come up with the funds to pay her portion of the fees and cost for the legal matter of the *Judicial Foreclosure of the Right to Redeem a Tax* Lien and Mr. Burton asked me prepare the paperwork for the *Modification of a Court Order,* He said that He would dismiss it if she was able to make the payments

   iii. Ms. Fuquay prepared legal documents for Ms. Lussier only on the following dates, June 12, 2012, on June 28, 2012 and on July 7, 2012; Ms. Fuquay prepared *Assignment of a Certificate of Purchase* for Ms. Lussier. Ms. Lussier hired Attorney Ned Ardagna on July 17, 2012.

   iv. FURTHER MORE a ACJA § 7-208 (A) "Legal document preparer" means an individual or business entity certified pursuant to this section to prepare or provide legal documents, without the supervision of an attorney, for an entity or a member of



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the public who is engaging in self representation in any legal matter. Ms. Lussier was not represented by an attorney in the legal matter of a *Judicial Foreclosure of the Right to Redeem a Tax Lien* of a right to redeem a TAX LIEN.

42. It is not a violation of ACJA § 7-201(F)(l), § 7-208(F)(2), (J)(l)(a), (J)(l)(b) and (J)(5)(a) for an CLDP to offer to prepare legal documents.

   a. **I did offer to provide document preparation services to Lussier and Burton jointly in the *Judicial Foreclosure of the Right to Redeem a* Tax Lien matter on JUNE 12, 2012, and they both agreed to hire me and pay me for my services. On June 12, 2012 I prepared $400.00 in legal documents on their behalf. Mr. Burton paid me his portion and Ms. Lussier agreed to pay me prior to July 13, 2012, but delayed making the payment until August 14, 2012. (which I received on August 18, 2012, but I never cashed her checks).**

   b. **On June 12, 2012 when I was hired by both Lussier and Burton to do the work at that time, neither party was involved in any other Court Case.**

   c. **I did provide legal document preparation services to only Burton in a separate action in which Lussier was named as the other party in August 17, 2012. S1400DO201000892.**

   d. **I did continue to offer to provide legal document preparation services to Lussier for *Judical Foreclosure of the Right to Redeem a Tax Lien*, after the August 17, 2012 filing, she was still NOT represented by any attorney on the *Judicial Foreclosure of the Right to Redeem a Tax Lien* matter. On October 24, 2012, the Court stated that Susan may provide legal document preparation services to Lussier for *Judicial Foreclosure of the Right to Redeem a Tax Lien*, providing she agreed. At that time Ms. Lussier was in agreement. this was permissive from the Arizona Superior Court as the court stated**

   e. Fuguay violated Rule 31(a)(2)(B). ACJA § 7-201(F)(l); § 7-208(F)(l), (F)(2) and (J)(5)(a) by engaging in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by offering and providing legal research services to consumer Burton; constituting grounds for disciplinary action pursuant to ACJA § 7- 201(H)(6)(a) and (H)(6)(k)(3).In answer to Complaint Four, paragraph 24, under Formal Charge", I deny and allege.

   f. I deny that Ms. Fuquay violated Rule 31(a)(2)(B). ACJA § 7-201(F)(l); § 7-208(F)(l), (F)(2) and (J)(5)(a) by engaging in the unauthorized practice of law and exceeded the authority of a

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certified legal document preparer by offering and providing legal research services to consumer Burton; constituting grounds for disciplinary action pursuant to ACJA § 7- 201(H)(6)(a) and (H)(6)(k)(3).

g. I allege I do not know who FUGUAY is. As written, this does not apply to AZ CLDP certificate holder Susan Fuquay.

h. I allege upon reading ule 31(a)(2)(B) the words “research “is not found. Rule 31(d)(24) is a “definition” for the Unauthorized practice of Law” and AZ CLDP certificate holder Susan Fuquay would be exempt for a violation of Rule 31(a)(2)(B) under Rule 31(d)(24). Therefore until a person is in violation of Rule 31(d)(24).which means they would have to be in violation of ACJA § 7-201 and ACJA § 7-208 They are not in violation of Rule 31(a)(2)(B).

**Rule 31(a)(2)(b):**

**(a) Supreme Court Jurisdiction Over the Practice of Law**

2. *Definitions.*

B. "Unauthorized practice of law" includes but is not limited to:

(1) engaging in the practice of law by persons or entities not authorized to practice pursuant to paragraphs (b) or (c) or specially admitted to practice pursuant to Rule 33(d);

(2) using the designations "lawyer," "attorney at law," "counselor at law," "law," "law office," "J.D.," "Esq.," or other equivalent words by any person or entity who is not authorized to practice law in this state pursuant to paragraphs (b) or (c) or specially admitted to practice pursuant to Rule 33(d), the use of which is reasonably likely to induce others to believe that the person or entity is authorized to engage in the practice of law in this state.

**Rule 31(d)(24):**

**(d) Exemptions.** Notwithstanding the provisions of section (b), but subject to the limitations of section (c) unless otherwise stated:

24. Nothing in these rules shall prohibit a certified legal document preparer from performing services in compliance with Arizona Code of Judicial Administration, Part 7, Chapter 2,

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Section 7-208. This exemption is not subject to paragraph (c) of this rule, as long as the disbarred attorney or member has been certified as provided in § 7-208 of the Arizona Code of Judicial Administration.

i. Therefore if I am not in violation of ACJA § 7-208 I am not in violation of Rule 31(a)(2)(B).

j. If you READ. ACJA § 7-201(F)(l); § 7-208(F)(l), (F)(2) and (J)(5)(a) The words offering is not found in in Rule 31(a)(2)(B). ACJA § 7-201(F)(l); § 7-208(F)(l), (F)(2) and (J)(5)(a) therefore it in not a violation of Rule 31(a)(2)(B). ACJA § 7-201(F)(l); § 7-208(F)(l), (F)(2) and (J)(5)(a) for an AZ CLDP to offer legal research services to consumer.

k. If you READ § 7-208 the only people or entities who are prohibited from legal research are :

l. Persons who are not certified or a person whose individual certificate has been revoked by the board SEE ACJA § 7-208 (E)(3)(d)(7) and ACJA § 7-208 (E)(3)(d)(8).

m. Therefore being as the ACJA provides limitation on who may NOT do legal research, it is reasonable to believe that an certificate holder who's certification has not been revoked is not in violation and has not exceeded the authority of the to do legal research.

n. Therefore Ms. Fuquay would not be "engaging in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by offering and providing legal research services and would not have violated Arizona Superem Court Rule 31(a)(2)(B). ACJA § 7-201(F)(l); § 7-208(F)(l), (F)(2) and (J)(5)(a) if she had provided legal research services for a consumer.

o. the Rule 31(a)(2)(B). ACJA § 7-201(F)(l); § 7-208(F)(l), (F)(2) and (J)(5)(a) therefore it in not a violation of Rule 31(a)(2)(B). ACJA § 7-201(F)(l); § 7-208(F)(l), (F)(2) and (J)(5)(a) for an AZ CLDP to offer legal research services to consumer Burton

p. HOWEVER, I did not offer or provide "legal" research services to Mr. Burton.

q. A disbarred (attorney) who has not been reinstated, a person whose individual application has been denied and whose individual certificate has been revoked by the board is prohibited from providing legal research services because pursuant to ACJA § 7-208 (E)(3)(d)(7).and ACJA § 7-208 (E)(3)(d)(8).

r. Ms. Fuquay does not fall into any of these categories therefore she is not in violation of Rule

s. **E. Certification.** In addition to the requirements of ACJA § 7-201(E) the following

t. requirements apply:

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u. 3. Individual Standard Certification.

v. d. Eligibility for Business Entity Standard Certification.

w. (8) A person whose individual application has been denied or whose individual certificate has been revoked by the board may not:

x. (a) retain any ownership interest in a certified legal document preparer business;

y. or

z. (b) provide any legal document preparation or legal services to or on behalf of a certified legal document preparer business, including training and legal research, whether for or without compensation.

43. Complaint Five, paragraph 25: Fuguay violated Rule 31(a) (2)(B). ACJA § 7-201(F) (l). ACJA § 7-208(F)(2), (J)(5)(a), (J)(5)(b) and (J)(5)(c) by engaging in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting and attempting to consult with Lussier's Arizona attorney, Attorney Vinci, on behalf of Burton, for the purpose of discussing a possible settlement in Superior Court in Yuma County case number SC1400D0201000892: constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3).
   a. I deny that I am Fuguay and I do not know who FUGUAY is. As written, this does not apply to AZ CLDP certificate holder Susan Fuquay In answer to Complaint Five, paragraph 25, under Formal Charge", I admit in part and deny in part and allege
44. Complaint Six, paragraph 26 Fuguay violated Rule 31 (a) (2)(B). ACJA § 7-201(F)(l). ACJA § 7-208(F)(2), (J)(5)(a). (J)(5)(b) and (J)(5)(c) by engaging in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting and consulting with Lussier s California attorney, Ardagna, on behalf of Burton, attempting to negotiate the settlement of a property dispute; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3).
   a. I deny that I am Fuguay and I do not know who FUGUAY is. As written, this does not apply to AZ CLDP certificate holder Susan Fuquay
45. In answer to Complaint Six, paragraph 26, under Formal Charge", I deny and allege
   a. I do not know who FUGUAY is. As written, this does not apply to AZ CLDP certificate holder

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Susan Fuquay.

b. I deny that Ms. Fuquay Violated

46. Complaint Seven, Fuguay violated Rule 31(a)(2)(B). ACJA § 7-201(F)(l), ACJA § 7-208(F)(2), (.J)(5)(a). (J)(5)(b) and (J)(5)(c) by engaging in the unauthorized practice of law and exceeded the authority of a certified legal document preparer by contacting opposing party Lussier on behalf of Burton, seeking to convince Lussier to sign documents that would transfer property to Burton; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3). In answer to Complaint Seven, I deny and allege

a. I deny that I am Fuguay and I do not know who FUGUAY is. As written, this does not apply to AZ CLDP certificate holder Susan Fuquay.

47. Complaint Eight, paragraph 28: Fuguay violated Rule 31(a)(2)(B), ACJA § 7-201(F)(l). ACJA § 7-208(F)(2), (J)(5)(a), (J)(5)(b) and (J)(5)(c) by exceeding the authority of a certified legal document preparer by contacting Yuma County Chief Deputy Treasurer Ann Hernandez on behalf of Burton, seeking to have a check reissued in Burton's name only; constituting grounds for disciplinary action pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3).In answer to Complaint Eight: I deny and allege

a. I deny that I am Fuguay and I do not know who FUGUAY is. As written, this does not apply to AZ CLDP certificate holder Susan Fuquay I denyMs Fuquay violated Rule 31(a)(2)(B), ACJA § 7-201(F)(l). ACJA § 7-208(F)(2), (J)(5)(a), (J)(5)(b) and (J)(5)(c)

b. The claim made in the allegation is not true. Compare the date the consumer received his duplicate check, **JUNE 12, 2012** and the date of the call to Yuma County Deputy Treasurer Anna Hernandez, **AUGUST 13, 2012.** There was only one check "reissued" and it was erroneously issued in only Mr. Burton's name, the check was reissued more than a month before Ms. Fuquay made the call to the Treasurer's office to find out what was wrong with the check re-issuing system, that the first time it issued that check it was in both consumers'' names but to the wrong address and the reissued check went to the right address but in only one of the consumer's names.

"August 13, 2012, Anna Hernandez, Yuma County Chief Deputy Treasurer (928) 539-7791, was contacted by the AZ CLDP, regarding the re-issuance of the check in Mr. Burton's name only and

Ms. Hernandez, said when Mr. Burton's Affidavit for the check to be re-issued was entered into the Treasurer's Office's new computer program, the program removed Denise's name from the Certificate of Purchase. That was not done at the request of Mr. Burton. She would note the computer glitch needed to be addressed."

48. I contacted Ms. Anna Hernandez more than a month after the second check had been issued and it was to find out why the check was issued in only Mr. Burton find

**49.** Ms. Fuquay's conversation with Yuma County Deputy Treasurer Anna Hernandez on **AUGUST 13, 2012**, (taken from Mr. Burton's *Reply* filed on October 9, 2012, page 3 lines 15-18) clearly show that the conversation was not "seeking to have a check reissued in Mr. Burton's name only" as stated in the allegation in paragraph 28 of the "Notice" but rather the purpose of the call was to inform the Treasurer that something was wrong with the "system of re-issuing checks" because duplicate check had already been issued and it was mistakenly issued in Mr. Burton's name only, was conversation took place a MONTH after Mr. Burton received the duplicate check on July 12, 2012. (taken from Mr. Burton's *Petition to Modify a Court Order* filed on August 17, 2012) and that not only did Richard Sczerbicki not look at the relevance of the dates but he only quoted half of the Paragraph received the duplicate check included the fact that the AZ CLDP was NOT "seeking to have a check reissued in Mr. Burton's name only" as Richard Sczerbicki stated in allegation #5, but rather when the paragraph was read in its entirety the paragraph clearly showed that the check having been issued in Mr. Burton's name only was a computer glitch." And that the Petition filed by Mr. Burton on August 17, 2012, clearly showed that Mr. Burton had filed for the duplicate check in June.

50. Complaint Nine, paragraph 29: Fuquay violated ACJA § 7-201(H)(3)(c) by failing to submit a written response within 30 days of receiving notice of the complaint: constituting grounds for disciplinary action pursuant to ACJA § 7-201 (H)(6)(a). In answer to Complaint Nine, I deny and allege.

   a. I deny that Ms. Fuquay 's Response was filed late.
   b. I allege that ACJA § 7-201 (D)(6) Computation of Time. [*see footnote 2*] is the method for computing time as it relates to ACJA § 7-208
   **c.** I allege September 27, 2012 is when Ms. Fuquay received a copy of the Complaint so according to ACJA § 7-201, subsection (D)(6.) *Computation of Time*, day one of the 30 count begins on



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September 28, 2012

September 2012

| DAY OF THE WEEK | S | M | T | W | T | F | S |
|---|---|---|---|---|---|---|---|
| CALENDER DAY | | | | | | | 1 |
| CALENDER DAY | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| CALENDER DAY | 9 | 10 | 11 | 12 | 13 | 14 | 15 |
| CALENDER DAY | 16 | 17 | 18 | 19 | 20 | 21 | 22 |
| CALENDER DAY | 23 | 24 | 25 | 26 | 27 | 28 | 29 |
| *COUNTING DAY* | | | | | DOES NOT COUNT | *DAY 1* | *DAY 2* |
| CALENDER DAY | 30 | | | | | | |
| *COUNTING DAY* | *DAY 3* | | | | | | |

October 2012

| DAY OF THE WEEK | S | M | T | W | T | F | S |
|---|---|---|---|---|---|---|---|
| CALENDER DAY | | 1 | 2 | 3 | 4 | 5 | 6 |
| *COUNTING DAY* | | *DAY* 4 | *DAY* 5 | *DAY* 6 | *DAY* 7 | *DAY 8* | *DAY* 9 |
| CALENDER DAY | 7 | 8 | 9 | 10 | 11 | 12 | 13 |
| *COUNTING DAY* | *DAY* 10 | *DAY* 11 | *DAY* 12 | *DAY* 13 | *DAY* 14 | *DAY* 15 | *DAY* 16 |
| CALENDER DAY | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| *COUNTING DAY* | *DAY* 17 | *DAY* 18 | *DAY* 19 | *DAY* 20 | *DAY* 21 | *DAY* 22 | *DAY* 23 |
| CALENDER DAY | 21 | 22 | 23 | 24 | 25 | 26 | 27 |
| *COUNTING DAY* | *DAY* 24 | *DAY* 25 | *DAY* 26 | *DAY* 27 | *DAY* 28 | *DAY* 29 | DOES NOT |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | | | | | COUNT |
| CALENDER DAY | 28 | 29 | 30 | 31 | | | |
| *COUNTING DAY* | DOES NOT COUNT | *DAY 30* | | | | | |

51. **PROPOSED DISCIPLINARY SANCTIONS**

52. In answer to Page 14 and 15, paragraph entitled " **PROPOSED DISCIPLINARY SANCTIONS",** Page 14 lines 16 – 25 and Page 15 lines 1 – 5, I admit in part and I deny in part and I allege:
    a. I admit these are the Proposed Disciplinary Sanctions I
    b. I deny that these would be appropriated sanctions even if the allegations had been true
    c. I allege that these Proposed Disciplinary Sanctions are extreme measures considering that this is the first complaint filed against Ms. Fuquay,
    d. I allege that these Proposed Disciplinary Sanctions are extreme measures considering the fact that in regards to the complaints regarding Ms. Lussier having engaged counsel are overwritten by the fact that Ms. Lussier is self-representing in the legal matter of the Judicial Foreclosure of the Right to Redeem a Tax Lien.
    e. I allege that these Proposed Disciplinary Sanctions are extreme measures considering that Investigator Richard Sczerbicki in the *Investigation Summary,* did no investigation after receiving Ms. Fuquay's Response.
    f. I allege that these Proposed Disciplinary Sanctions are extreme measures considering that Heather C. Vinci lied to the Staff and others in her original complaint, deliberately withheld pertinent information, lied to the Court in Arizona Superior Court, Yuma Case No. S1400DO2010 00892, lied to the State Bar Investigator, lied to Ms. Fuquay in an Email, and lied within the last week Attorney Vinci lied to the deputy clerk of the court Dee Dee Cantwell, telling her that Ms. Fuquay's Certification had already been revoked and Ms. Fuquay was no longer Certified to prepare documents in the State of Arizona.
    g. Proposed Disciplinary Sanctions are extreme measures considering that ambiguous misconceptions relating to the calculation of time, and there is no definition for "what is an self-representation in any legal matter.

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h. I allege that these Proposed Disciplinary Sanctions are extreme measures considering that I allege the original complaint was changed from four allegations to six allegations to nine allegations.

## AFFIRMATIVE DEFENSES

Ms. Fuquay's denies all accusations not specifically admitted in this Answer.
and also Claims the affirmative Defenses o
Mistake
Ambiguity
Overreaching
Failing to state a claim upon which relief can be granted.

1 Where does the Division Director have the authority to make an analysis of what he believes are the mitigating ACJA §7-201 (H)(22)(b)(1) or the aggravating factors pursuant to ACJA § 7-201,.(H)(22)(b)(2). When ACJA §7-201, states that authority is delegated to the Hearing officer (H)(22)(b) and/or the Board (H)(25) and I believe that by delineating what if any of the mitigating or aggravating factors apply to a specific case the Division Director has inadvertently prejudice the Hearing Office or the Board is prejudicing the judgment of the Hearing Officer or the Board. Biasing

RE: ACJA § 7-201 (H)(22). Recommendation Report of Hearing Officer:
Hearing officer ACJA § 7-201 (H)(22)(b) The hearing officer shall take testimony and receive evidence regarding alleged acts of misconduct or violations and possible sanctions. If the hearing officer recommends the board enter a finding the certificate holder committed one or more acts of misconduct or violations, the hearing officer shall include in the recommendation report, in a separately stated section, an analysis of mitigating and aggravating factors and recommended imposition of permissible sanctions pursuant to subsection (H)(24). The hearing officer shall base the recommendations exclusively on the matters officially noticed and the evidence presented.
RE: ACJA § 7-201 (H)(25) **Decisions and Orders**. The board shall make final decisions or

orders in writing and shall include findings of fact and conclusions of law, separately stated. The board shall make findings of fact by a preponderance of the evidence, based exclusively on the evidence and on matters officially noticed and consider mitigating or aggravating factors pursuant to subsections (H)(22)(b)(1) and (2).

W herefore, Ms. Fuquay prays as follows;

1 that all complaints and allegation against Ms. Fuquay be dismissed with prejudice and For such other and further relief as the Hearing Officer or Board may deem just and proper in the premises.

Dated this 19th day of February 2013,

Respectfully submitted

Susan Fuquay

Prepared by: SUSAN FUQUAY, an Arizona Certified Legal Document Preparer, AZCLDP #81035,
Address: 9474 E. Ranch Dr., Yuma, AZ 85365, Landline: 928-271-5675, Website: www.legaldocsbysue.com.

# BOARD OF LEGAL DOCUMENT PREPARERS

**Agenda Summary – May 20, 2013**

**2) REVIEW OF PENDING COMPLAINTS**

2-C: *Review, discussion and possible action regarding the pending formal disciplinary action involving Brenda Smith, CB Document Preparation and complaint number 09-L086.*

At the March meeting, the Board moved for a consent agreement to be offered to Ms. Smith and CB Document Preparation, LLC regarding complaint number 09-L086 in advance of filing of Notice of Formal Statement of Charges. Ms. Smith signed the attached proposed consent agreement and remitted the proposed assessed costs. It is recommended the Board enter the agreement and authorize the Chair to sign the agreement on behalf of the full Board.

## ARIZONA SUPREME COURT
## BOARD OF LEGAL DOCUMENT PREPARERS

| | |
|---|---|
| IN THE MATTER OF CERTIFIED LEGAL DOCUMENT PREPARERS:<br><br>BRENDA SMITH,<br>Certificate Number 80949,<br><br>And<br><br>CB DOCUMENT PREPARATION, LLC,<br>Certificate Number 80961. | No. 09-L086<br><br>CONSENT AGREEMENT |

### JURISDICTION

Pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201and ACJA § 7-208, the Board of Legal Document Preparers ("Board") has jurisdiction over this matter as Brenda Smith ("Smith") and CB Document Preparation, LLC ("CBDP") are certified legal document preparers. On December 3, 2009, the Certification and Licensing Division ("Division") received complaint number 09-L086 involving CBDP. The submitted complaint contained one allegation. Allegation 1 alleged CBDP billed a consumer $1,500.00 for loan modification services which were not provided. Two additional allegations were derived during the course of the investigation. Allegation 2 alleged CBDP designated principal Brenda Smith failed to supervise staff, trainees and agents acting on behalf of the business entity CBDP as required by ACJA § 7 -208(F)(6). Allegation 3 alleged CBDP engaged in the unauthorized practice of law by offering and contracting to act in a representative capacity on behalf of a consumer to negotiate the refinancing of the consumer's mortgage.

On July 30, 2010, Probable Cause Evaluator Mike Baumstark entered a finding probable cause does not exist as to Allegation 1 but does exist as to Allegations 2 and 3.

On March 25, 2013, the Board accepted the finding of the Probable Cause Evaluator and dismissed Allegation 1. Regarding Allegations 2 and 3, the Board entered a finding grounds for formal disciplinary action exists pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3) for acts of misconduct involving Arizona Supreme Court Rule 31(a)(2)(B), ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (F)(5)(b), (F)(6)(c), (J)(5)(a), and (J)(5)(b). The Board further ordered a Consent Agreement resolution of the formal disciplinary action be offered to Smith and CBDP in advance of the filing of a Notice of Formal Statement of Charges. By entering this Consent Agreement, Smith and CBDP understand they waive their right to a hearing regarding complaint number 09-L086 and agree to the following provisions pursuant to ACJA § 7-201(H)(24)(a)(6):

1. The Board finds misconduct and Smith and CBDP acknowledge and accept responsibility for the misconduct detailed in the Investigation Summary, Allegation Analysis and Probable Cause Determination Report and Board Order issued in complaint number 09-L086.

2. The Board issues and Smith and CBDP accept Censure, pursuant to ACJA § 7-201(H)(24)(a)(6)(b).

3. The Board mandates and Smith agrees to complete no less than 5 hours of additional continuing education in the curriculum areas of ethics, professional responsibility, and/or the unauthorized practice of law, in addition to the hours of continuing education required for renewal of certification, within 60 days of the Board's entry into the Consent Agreement, pursuant to ACJA § 7-201(H)(24)(a)(6)(f).

4. The Board assesses and Smith agrees to pay the costs associated with the investigation and any related disciplinary proceedings involving complaint number 09-L086, in the amount of $390.27, pursuant to ACJA § 7-201(H)(24)(a)(6)(j). Smith and CBDP shall remit the assessed costs to the Certification and Licensing Division, 1501 West Washington, Suite 104, Phoenix, Arizona 85007, made payable to the "Arizona Supreme Court", within 60 days of the Board's entry into this Consent Agreement.

5. Smith and CBDP understand failure to comply with the terms of this Consent Agreement may result in the Board taking further disciplinary action or denying renewal of certification.

Entered into on this date by:

Brenda C. Smith 4-9-13

Brenda Smith Date
Certificate Number 80949
Designated Principal for
CB Document Preparation, LLC
Certificate Number 80961

Entered into on this date by:

______________________________

Mary Carlton, Chair Date
Board of Legal Document Preparers

An original copy of the foregoing hand delivered and/or mailed this ____ day of __________, 2013, to:

Brenda Smith
CB Document Preparation, LLC
2525 West Medina Avenue
Mesa, Arizona 85202

Rex Nowlan
Administrative Law Section
Arizona Attorney General's Office
15 South 15th Avenue
Phoenix, Arizona 85007

David Withey, Assistant Counsel
Administrative Office of the Court
1501 West Washington
Phoenix, Arizona 85007

Certification and Licensing Division
Arizona Supreme Court
1501 West Washington, Suite 104
Phoenix, Arizona 85007

By: ________________________________
Linda Grau, Manager
Certification and Licensing Division

*Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP CB DOCUMENT PREPARATION, LLC 09-L086\CONSENT AGREEMENT CB DOCUMENT PREP 09-L086.DOCX*

# BOARD OF LEGAL DOCUMENT PREPARERS

**Agenda Summary – May 20, 2013**

**2) REVIEW OF PENDING COMPLAINTS**

*2-D: Review, discussion and possible action regarding non-certificate holder complaints:*

*Complaint Number NC09-L056 – RCS Preliminary Lien Services*
*Complaint Number NC12-L055 – CivilTree.com*
*Complaint Number NC12-L046 – Manny Montana/Oasis Wealth Management*
*Complaint Number NC12-L034 – Karina Hale*
*Complaint Number NC12-L039 – Karina Hale*
*Complaint Number NC12-L030 – Glen Hadley*
*Complaint Number NC12-L050 – Thanhtam Van Phan*

Complaint Number NC09-L056 – RCS Preliminary Lien Services:
RCS has previously been sent two separate Cease and Desist Letters under this complaint number. No response has been received from RCS and the business entity has not applied for certification. No new complaints having been received since the issuance of the Cease and Desist Letters, it is recommended the Board close this complaint with no further action.

Complaint Number NC12-L055 – CivilTree.com:
The Division contacted the business entity by mail and fax, informing the business of the certification requirement and requesting a response. No response has been received and the business entity has not applied for certification. It is recommended the Board issue a Cease and Desist Letter and close the complaint.

Complaint Number NC12-L046 – Manny Montana/Oasis Wealth Management:
In response to the letter from the Division regarding the certification requirement and the complaint presented by the consumers, Oasis Wealth Management Managing Partner Jeff Wiedrich responded reporting the business entity does not offer or provide document preparation services and that Mr. Montana's doing so was contrary to his employment contract with Oasis and he had been terminated from employment. It is recommended the Board close the complaint and take no further action.

Complaint Number NC12-L034 and NC12-L039 – Karina Hale:
At the September 2012 meeting, the Board moved to petition the Superior Court for a Cease and Desist Order against Ms. Hale. The petition was drafted and forwarded to the Attorney General's Office. In preparing for service of the Petition, it was determined Ms. Hale had closed the store front location out of which she had been providing services. Her whereabouts is unknown. Therefore, it is recommended the Board vacate the earlier motion to petition the court

and closed the complaints until such time as staff can return to the Board with a verified location for Ms. Hale.

Complaint Number NC12-L030 - Glen Hadley:
This compliant was received on June 18, 2012, offering printouts of the "home" and "services" pages of the www.HadLegal.biz webpage. The "home" page offers "Aggressive and Effective Representation." The "services" page appears to reflect the business entity provides document preparation services in several service areas. Mr. Hadley responded to the notice letter and indicated the business has never "...performed any document preparation services of any kind on behalf of any other person or entity." As of May 6, 2013, the website contains the same content. It is recommended the Board refer this matter to the State Bar of Arizona Unauthorized Practice of Law Office and close the complaint.

Complaint Number NC12-L050 – Thanhtam Phan:
Subsequent to being contacted by the Division regarding the certification requirement, Mr. Phan took and passed the LDP exam and submitted an application for individual certification. Therefore, it is recommended the Board close this complaint with no further action.

# BOARD OF LEGAL DOCUMENT PREPARERS

## Agenda Summary – May 20, 2013

### 2) REVIEW OF PENDING COMPLAINTS

*2-E: Quarterly report regarding complaints processed by diversion pursuant to Administrative Order 2012-83.*

During the first quarter of 2013, two complaints were processed to closure through the AO 2012-83 diversion program.

# BOARD OF LEGAL DOCUMENT PREPARERS

## Agenda Summary - Monday, May 20, 2013

### 4) INITIAL CERTIFICATION APPLICATIONS

*4-A:* *Review, discussion and possible action regarding the following pending applications for the 2011-2013 standard certification period.*

*The following applications were received and processed for Board review:*

1. Credit Management Association (Kimberly Lamberty) – See enclosed regarding the description of the business organization. Applicant disclosed having various civil lawsuits due to the Collections and Adjustment side of the business. Applicant stated there were two claims that arose out of the Construction Services side of the business, which is the part of the business that will be dealing with the document preparation. Applicant will provide additional information regarding the civil actions. Staff will make a verbal recommendation at the meeting.

2. Jeffrey Biro – Applicant has requested to withdraw his application, as he does not qualify for certification at this time due to the fact he cannot be a trainee under an individual. **It is recommended the Board accept the withdrawal.**

# BOARD OF LEGAL DOCUMENT PREPARERS

**Agenda Summary – Monday, May 20, 2013**

**4) INITIAL CERTIFICATION APPLICATIONS**

*4-B: Review of Business Entity Exemption Requests for the 2013-2015 certification period:*

*Staff recommends the following Business Entity Exemption be granted:*

1. Center for Divorce Mediation and ADR, Inc. (Mary Marcus) – The business has been certified since September 19, 2005. The two legal document preparers in this business were Mary Marcus and Walter Marcus. Walter Marcus requested and the Board approved his request for inactive status at the March 25, 2013 meeting. Mary Marcus is now the only legal document preparer for the business.

# BOARD OF LEGAL DOCUMENT PREPARERS

**Agenda Summary - Monday, May 20, 2013**

## 5) CERTIFICATION AND ELIGIBILITY

5-A: *Review, discussion and possible action regarding the proposed Consent Agreement for resolution of non-compliance with Continuing Education Requiements.*

Erlinda Yount requested an extension to complete her continuing education hours prior to June 30, 2013. She has provided documentation of completion for the following:

1. January 21, 2011 – State Bar of Arizona – Family Law Institute - 6.0 credit hours (2.0 hours of ethics)
2. January 20, 2011 – State Bar of Arizona – Family Law Institute – 5.75 credit hours (1.0 hour of ethics)
3. April 13, 2013 – State Bar of Arizona – 2013 Foundation of Family Law – 1.75 credit hours
4. April 19, 2013 – State Bar of Arizona – Farewell to Custody: How the new law will affect your practice after January 1, 2013 – 4.75 credit hours

The credits Ms. Yount received in January 2011 are outside the required time frame for the 2013-2015 continuing education and therefore, those credits cannot be transferred to this certification period.

Staff spoke with Ms. Yount about her interest in entering into a Consent Agreement with the Board, and if the Board agrees, it would be recommended the Board enter the consent agreement and authorize the Chair to sign the Consent Agreement on behalf of the full Board.

**SUPREME COURT OF ARIZONA**
**BOARD OF LEGAL DOCUMENT PREPARERS**

| | | |
|---|---|---|
| IN THE MATTER OF:<br><br>**Erlinda Yount**, Certificate Holder. | )<br>)<br>)<br>)<br>)<br>)<br>)<br>) | **CONSENT AGREEMENT** |

## BACKGROUND

1. Arizona Supreme Court Rule 31 ("Rule 31") provides for the regulation and discipline of persons engaged in the practice of law, and provides exceptions where nonlawyers who have not been admitted to the State Bar of Arizona, may perform specified legal services.
2. Certified legal document preparers are nonlawyer individuals and business entities who prepare or provide legal document preparation services, without the supervision of an attorney in good standing with the State Bar of Arizona, for an entity or a member of the public who is engaging in self-representation in any legal matter.
3. Arizona Code of Judicial Administration ("ACJA") § 7-201 and § 7-208 provide for certification and discipline of individual and business entity legal document preparers, consistent with Rule 31.
4. ACJA § 7-208(L)(2) states all legal document preparers who hold individual certification shall attend ten hours of approved continuing education each year between the period of May 1st and April 30th of the following year, for a total of no less than

twenty hours of continuing education ("CE") completed on or before April 30th of every odd numbered year. Each certified legal document preparer shall complete a minimum of one hour of the total continuing education requirement **each year** in an ethics based curriculum.

5. On May 1, 2013, Erlinda Yount ("Yount") submitted a request for an extension of the CE hours she failed to complete by the required deadlines.

6. Yount reported she completed 11.75 credit hours in January 2011 and completed 6.5 credit hours in April 2013.

7. The credit hours Yount received in January 2011 are outside the required time frame for the 2013-2015 certification period and therefore, those credits cannot be transferred to this renewal period.

## TERMS OF AGREEMENT

1. Yount shall be assessed and agrees to pay a CE late fee in the amount of $50.00, payable to the Arizona Supreme Court. The penalty shall be remitted no later than ninety (90) calendar days from the Board's acceptance of and entry into this Consent Agreement.

2. Yount agrees to complete the remaining 13.5 credit hours of CE credits needed for the 2013-2015 certification period and provide verification of completion no later than ninety (90) calendar days from the Board's acceptance of and entry into this Consent Agreement.

3. Yount understands that of the 13.5 credit hours, only 3.5 credit hours can be in self study, and Yount must complete two (2) hours in ethics based curriculum, and all the credit hours must be relevant to the legal document preparation profession.

4. Yount understands the CE credits submitted to the Division to meet the requirement for the 2013-2015 certification period cannot be used for the 2015-2017 certification period.

5. Yount understands she will need to file a renewal application by the required deadline, and understands the Board will not take any action on the renewal application until Yount complies with this Consent Agreement.

6. Yount agrees to comply with all terms of this agreement and all court rules, applicable ACJA sections, and orders governing the practice of law and legal document preparers in the state of Arizona. Yount understands if she fails to comply with any terms of this Consent Agreement, Certification and Licensing Division and the Board may move forward with denial of renewal certification, or restrict her certification, or take disciplinary action pursuant to ACJA § 7-201.

7. Yount and the Board understand this Agreement is entered into as a method to effect and support the purpose of the legal document preparer certification as stated in ACJA § 7-201 and § 7-208(C). This Consent Agreement is not binding until it has been reviewed and approved by the full Board and signed by the Board's designee.

DATED this _____ day of _________________, 2013.

___________________________________

Erlinda Yount, Certification Holder

DATED this _____ day of _________________, 2013.

__________________________________

Mary Carlton, Chair
Board of Legal Document Preparers

Original filed with the Disciplinary Presiding Judge's Office this_____ day of __________, 2013.
by: Kimberly Siddall

Copy of the foregoing hand delivered or mailed this _____ day of ________________, 2013, to:

Erlinda Yount
[redacted]

Nina Preston
Assistant Counsel, AOC
Arizona Supreme Court
1501 West Washington, Suite 411
Phoenix, Arizona 85007

Board of Legal Document Preparers
Certification and Licensing Division
1501 West Washington Street, Suite #104
Phoenix, Arizona 85007

By: ______________________________
Kimberly Siddall, Certification Specialist
Certification and Licensing Division

# BOARD OF LEGAL DOCUMENT PREPARERS

## Agenda Summary – Monday, May 20, 2013

### 5) CERTIFICATION AND ELIGIBILITY

*5-B: Review, discussion, and possible action regarding request for placement on Inactive Status received from certified legal document preparer Gregory B. Carlson, certification number 81327.*

Mr. Carlson was granted certification on September 26, 2011. On April 24, 2013, Mr. Carlson submitted a request for his certification to be placed on Inactive Status.

ACJA § 7-201 (E)(8)(a) reads:

> *A certificate holder may transfer to inactive status, upon written request to the board. Upon recommendation of division staff the board may accept the transfer of the certificate holder to inactive status and division staff shall note in the certification database the certificate holder in on inactive status, in good standing. The inactive certificate holder shall not engage in the practice of the profession or occupation of certification pro bono or for a fee or other compensation while on inactive status and shall not present themselves as a certificate holder.*

Staff has confirmed Mr. Carlson has no pending complaints.

**It is recommended the Board accept Mr. Carlson's request to be placed on inactive status.**

# BOARD OF LEGAL DOCUMENT PREPARERS

## Agenda Summary - Monday, May 20, 2013

### 5) CERTIFICATION AND ELIGIBILITY

*5-C: Review, discussion, and possible action regarding Voluntary Surrender requests received from Diane J. Terribile, certification number 81318 and Document Lab, LLC, certification number 81319.*

On September 26, 2011, the Legal Document Preparer Board granted initial certification to Diane Terribile and her business Document Lab, LLC. On April 25, 2013, Ms. Terribile, as the designed principal, submitted a request for consideration by the Board to accept the voluntary surrender of her individual certification and the business certification.

ACJA § 7-201(E)(7) reads:

> *Voluntary Surrender. A certificate holder in good standing may surrender their certificate to the board. However, the surrender of the certificate is not valid until accepted by the board. The board or division staff may require additional information reasonably necessary to determine if the certificate holder has violated any provision of the statutes, court rules and this section or the applicable section of the ACJA. The surrender does not prevent the commencement of subsequent discipline proceedings for any conduct of the surrendered certificate holder occurring prior to the surrender.*

Division records confirm there are no pending complaints against Ms. Terribile or Document Lab, LLC, and **therefore, staff recommends the Board accept the voluntary surrenders.**

# BOARD OF LEGAL DOCUMENT PREPARERS

## Agenda Summary - Monday, May 20, 2013

**5) CERTIFICATION AND ELIGIBILITY**

*5-D: Review, discussion and possible action regarding Hearing Officer Judge William O'Neil's Finding of Fact, Conclusions of Law, and Recommendation Report involving the denial of initial certification application submitted by Julie A. Haigh.*

At the March 25, 2013 Board meeting the Board considered the Hearing Officer's report and recommendation regarding Julie Haigh's 2012 denial for certification. The Board deferred consideration to allow time for the Board members to listen to the recording of the hearing.

**Staff recommends the Board accept the Hearing Officer's recommendation to grant certification.**

# BOARD OF LEGAL DOCUMENT PREPARERS

**Agenda Summary – May 20, 2013**

**6) REQUESTS FOR BOARD REVIEW**

*6-A:* *Review, discussion and possible action regarding certificate holder Elaine Anghel's request for reconsideration of sanctions imposed in the Consent Agreement resolution of complaint numbers 09-L088 and 10-L030 entered on November 22, 2010.*

The written request from Elaine Anghel, Consent Agreement for complaint numbers 09-L088 and 10-L030 and Administrative Order 2013-39 are attached for the Board's review and consideration.

April 22, 2013

Linda Grau
Programs and Investigations Unit Manager
Certification and Licensing Division

Re: Anghel/Tri City: Complaint Nos. 09-L088 and 10-L030

Dear Linda:

As a result of the recently signed Administrative Order 2013-39, I would like to respectfully ask for the board to consider the following, as it relates to the above noted complaints:

1. Consideration in removing the sanctions imposed that resulted in the signing of the consent decree by me and our firm, dated 11-7-10.
2. Consideration for reimbursement of the fines paid, in the amount of $2,934.67.

If you have any questions regarding this matter, please feel free to contact me at extension 125 or at eanghel@tcpm.net.

Best regards,

Elaine Anghel, CAAM, PCAM, AMS, CMCA
Vice President of Management Services

**760 S Stapley Dr • Mesa, AZ 85204 • TEL: 480.844.2224 • FAX: 480.844.2061**

FILED

NOV 22 2010

DISCIPLINARY CLERK OF THE SUPREME COURT OF ARIZONA
BY

**ARIZONA SUPREME COURT**
**BOARD OF LEGAL DOCUMENT PREPARERS**

IN THE MATTER OF CERTIFIED LEGAL DOCUMENT PREPARERS:

ELAINE ANGHEL,
Certificate Number 80745

And

TRI-CITY PROPERTY MANAGEMENT SERVICES, INC.,
Certificate Number 80769

No. ~~09-L088~~
10-L030

CONSENT AGREEMENT

**JURISDICTION**

Pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201and ACJA § 7-208, the Board of Legal Document Preparers ("Board") has jurisdiction over this matter as Elaine Anghel ("Anghel") and Tri-City Property Management Services, Inc. ("Tri-City") are certified legal document preparers. On December 9, 2009, the Certification and Licensing Division ("Division") received written complaint number 09-L088 alleging Anghel and Tri-City prepared a Notice of Lien document for the Colonia Del Sur I Homeowners' Association ("HOA") that contained numerous errors. The submitted complaint also alleged Anghel, on behalf of Tri-City and Tri-City HOA customer Colonia Del Sur I, prepared, signed and recorded a Notice of Lien dated January 29, 2009 which incorrectly identified Anghel as the attorney representing the HOA. Additional allegations derived during the investigation asserted Anghel engaged in the unauthorized practice of law by acting in a representative capacity when she signed the January 29, 2009 Notice of Lien on behalf of the HOA and that Anghel and Tri-City acted in a representative capacity by listing Tri-City's business name and address in the caption of the recorded Notice of Lien in lieu of the HOA's name and address. On August 24, 2010, Probable Cause Evaluator Mike Baumstark entered a finding probable cause exists as to Allegations 1, 2, 3 and 4 in complaint number 09-L088.

On September 27, 2010, the Board accepted the finding of the Probable Cause Evaluator regarding complaint number 09-L088 and entered a finding grounds for formal disciplinary action exists pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3) for acts of misconduct involving ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(4)(b), (J)(5)(b) and (J)(5)(c).

On May 24, 2010, Administrative Office of the Courts Director David K. Byers initiated complaint number 10-L030 pursuant to ACJA § 7-201(H)(1)(b). The initiated complaint presented nine allegations for investigation by the Division. Allegation 1 alleged Anghel and Tri-City exceeded the authority of a certified legal document preparer and engaged in the unauthorized practice of law by acting in a representative capacity in a Notice of Lien on behalf of Tri-City customer Chateau De Vie III. Allegation 2 alleged Anghel exceeded the authority of a certified legal document preparer and engaged in the unauthorized practice of law by signing a Notice of Lien she prepared for Tri-City customer Chateau De Vie III. Allegation 3 alleged Anghel engaged in the unauthorized practice of law by identifying herself as an attorney in a Notice of Lien she prepared for Tri-City customer Chateau De Vie III. Allegation 4 alleged Anghel and Tri-City exceeded the authority of a certified legal document preparer and engaged in the unauthorized practice of law by acting in a representative capacity in a Notice of Lien on behalf of Tri-City customer Grandview Estates HOA. Allegation 5 alleged Anghel exceeded the authority of a certified legal document preparer and engaged in the unauthorized practice of law by signing a Notice of Lien prepared on behalf of Tri-City customer Grandview Estates HOA. Allegation 6 alleged Anghel engaged in the unauthorized practice of law by representing herself as an "attorney at law" in a Notice of Lien she prepared for Tri-City customer Grandview Estates HOA. Allegation 7 alleged Anghel and Tri-City exceeded the authority of a certified legal document preparer and engaged in the unauthorized practice of law by acting in a representative capacity in a Notice of Lien on behalf of Tri-City customer Lago Estancia Community. Allegation 8 alleged Anghel exceeded the authority of a certified legal document preparer and engaged in the unauthorized practice of law by signing a Notice of Lien she prepared for Tri-City customer Lago Estancia Community. Allegation 9 alleged Anghel engaged in the unauthorized practice of law by representing herself as an "attorney at law" in a Notice of Lien she prepared for Tri-City customer Lago Estancia Community. The allegations were investigated and on August 24, 2010, Probable Cause Evaluator Mike Baumstark entered a finding probable cause exists as to Allegations 1, 2, 3, 4, 5, 6, 7, 8 and 9 in complaint number 10-L030.

On September 27, 2010, the Board accepted the finding of the Probable Cause Evaluator regarding complaint number 09-L079 and entered a finding grounds for formal disciplinary action exists pursuant to ACJA § 7-201(H)(6)(a) for an act of misconduct involving ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2), (J)(1)(a), (J)(2)(b), (J)(2)(c) and (J)(5)(c).

On September 27, 2010, the Board consolidated the formal disciplinary actions ordered in complaint numbers 09-L088 and 10-L030. The Board further ordered this Consent Agreement resolution of the formal disciplinary action be offered to Anghel and Tri-City in advance of the filing of a Notice of Formal Statement of Charges. By entering this Consent Agreement, Anghel and Tri-City understand they waive their right to a hearing regarding complaint numbers 09-L088 and 10-L030 and agree to the following Consent Agreement provisions pursuant to ACJA § 7-201(H)(24)(a)(6)(c):

1. The Board finds misconduct and Anghel and Tri-City acknowledge and accept responsibility for the misconduct detailed in the Investigation Summaries, Allegation Analysis and Probable Cause Determination Reports and Board Orders issued in complaint numbers 09-L088 and 10-L030.

2. The Board will issue a Censure to Anghel and Tri-City pursuant to ACJA § 7-201(H)(24)(a)(6)(b).

3. The Board orders and Anghel agrees to participate in no less than five (5) hours of continuing education in the curriculum areas of professional responsibility, ethics, and the unauthorized practice of law, in addition to any hours otherwise required for renewal, pursuant to ACJA § 7-201(H)(24)(a)(6)(f).

4. The Board assesses and Anghel and Tri-City agree to pay the costs associated with the investigation and any related administrative proceedings involving complaint number 09-L088 in the amount of $297.47, pursuant to ACJA § 7-201(H)(24)(a)(6)(j). Anghel and Tri-City shall remit the assessed costs to the Certification and Licensing Division, 1501 West Washington, Suite 104, Phoenix, Arizona 85007, made payable to the "Arizona Supreme Court" within 60 days of the Board's entry into this Consent Agreement.

5. The Board assesses and Anghel and Tri-City agree to pay the costs associated with the investigation and any related administrative proceedings involving complaint number 10-L030 in the amount of $387.20, pursuant to ACJA § 7-201(H)(24)(a)(6)(j). Anghel and Tri-City shall remit the assessed costs to the Certification and Licensing Division, 1501 West Washington, Suite 104, Phoenix, Arizona 85007, made payable to the "Arizona Supreme Court" within 60 days of the Board's entry into this Consent Agreement.

6. The Board imposes and Anghel and Tri-City agrees to pay a civil penalty in the amount of $250.00 per found violation totaling $2,250.00, pursuant to ACJA § 7-201(H)(24)(a)(6)(k). Anghel and Tri-City shall remit the imposed civil penalty to the Certification and Licensing Division, 1501 West Washington, Suite 104, Phoenix, Arizona 85007, made payable to the "Arizona Supreme Court" within 60 days of the Board's entry into this Consent Agreement.

7. Anghel and Tri-City understand failure to comply with the terms of this Consent Agreement may result in the Board taking further disciplinary action or denying renewal of certification.

8. By entering this Consent Agreement, Anghel and Tri-City acknowledge there are other formally filed and recorded legal documents dating back to July 1, 2005 for which Anghel and Tri-City are responsible, that contain like errors, misrepresentations, and violations. Such matters involve Anghel or other Tri-City agents engaging in the conduct which is the subject of this disciplinary proceeding, including:

(1) signing documents on behalf of Tri-City customers;
(2) Anghel identifying herself as an attorney; or
(3) Tri-City's address being substituted for that of a customer's on a legal document.

Should the Certification and Licensing Division receive a future complaint regarding similar acts or instances of misconduct pertaining to documents prepared, filed or recorded during the period of July 1, 2005 through the date Anghel and Tri-City signed this Consent Agreement, this Consent Agreement shall be a significant mitigating factor pursuant to ACJA § 7-201(H)(22)(b)(1).

Entered into on this date by:

Patricia A. Premeau, attorney

Elaine Anghel Date 11-7-2010
Certificate Number 80745
Designated Principal for Tri-City Property Management Services, Inc.
Certificate Number 80769

Entered into on this date by:

Les Krambeal 11.22.10

Les Krambeal, Chair Date
Board of Legal Document Preparers

An original copy of the foregoing hand delivered and/or mailed this 22rd day of November, 2010, to:

Elaine Anghel
Tri-City Property Management Services, Inc.
760 South Stapley Drive
Mesa, Arizona 85204

Patricia Premeau
LaVoy & Chernoff, PC
201 North Central Avenue, Suite 3300
Phoenix, Arizona 85004

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Administrative Office of the Court
1501 West Washington
Phoenix, Arizona 85007

Certification and Licensing Division
Arizona Supreme Court
1501 West Washington, Suite 104
Phoenix, Arizona 85007

By: Debbie MacDougall
Debbie MacDougall, Programs Specialist
Certification and Licensing Division

*Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP ANGHEL, ELAINE-TRI CITY PROPERTY 09-L088\CONSENT AGREEMENT ANGHEL TRI-CITY 09-L088 10-L030.DOCX*

IN THE SUPREME COURT OF THE STATE OF ARIZONA

| | | |
|---|---|---|
| In the Matter of: | ) | |
| | ) | Administrative Order |
| ARIZONA CODE OF JUDICIAL | ) | No. 2013 - 39 |
| ADMINISTRATION § 7-208: | ) | (Affecting Administrative |
| LEGAL DOCUMENT PREPARER | ) | Order No. 2012-94) |
| | ) | |
| | ) | |

In an effort to resolve issues related to a certified legal document preparer's authority to execute certain lien documents, on November 21, 2012, Administrative Order No. 2012-85 was entered on an emergency basis adopting several changes to Arizona Code of Judicial Administration (ACJA) § 7-208(F)(1). On December 6, 2012, Administrative Order No. 2012-94, was entered retroactively rescinding Administrative Order No. 2012-85 and directing the Administrative Office of the Courts Certification and Licensing Division ("CLD") to solicit public comment regarding the authority of certified legal document preparers to execute certain notices and liens.

The Court considered public comments and decided to grant certified legal document preparers additional authority to execute particular documents. The Court directed the CLD to prepare draft amendments to ACJA § 7-208 consistent with this policy decision for submission to the Arizona Judicial Council (AJC) for consideration at its March 28, 2013 meeting and to post the draft amendments for comment prior to the meeting. The AJC considered comments received before and at its March 28 meeting and recommended the attached amendments for adoption,

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that Arizona Code of Judicial Administration § 7-208 is amended as indicated on the attached document. All other provisions of § 7-208, as originally adopted remain unchanged and in effect.

Dated this 10th day of April, 2013.

REBECCA WHITE BERCH
Chief Justice

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**
**Part 7: Administrative Office of the Courts**
**Chapter 2: Certification and Licensing Programs**
**Section 7-208: Legal Document Preparer**

**Sections A through E – No changes.**

**F. Role and Responsibilities of Certificate Holders. In addition to the requirements of ACJA § 7-201(F) the following requirements apply:**

1. Authorized Services. A certified legal document preparer is authorized to:

   a. Prepare or provide legal documents, without the supervision of an attorney, for ~~an~~ person or entity ~~or a member of the public~~ in any legal matter when that person or entity ~~or person~~ is not represented by an attorney;

   b. Provide general legal information, but may not provide any kind of specific advice, opinion, or recommendation to a ~~consumer~~ person or entity about possible legal rights, remedies, defenses, options, or strategies;

   c. Provide general factual information pertaining to legal rights, procedures, or options available to a person or entity in a legal matter when that person or entity is not represented by an attorney;

   d. Make legal forms and documents available to a person or entity who is not represented by an attorney; and

   e. File, record, and arrange for service of legal forms and documents for a person or entity in a legal matter when that person or entity is not represented by an attorney. A certified legal document preparer may not sign any document he or she prepares for or provides to a person or entity, but this provision does not prohibit the signing of (i) 20-Day Notices prepared pursuant to A.R.S. § 33-992.01, (ii) notices related to condominium or planned community association liens that are created pursuant to A.R.S. § 33-1256 (condominiums) and § 33-1807 (planned communities); (iii) health care provider liens that are created pursuant to A.R.S. § 33-932, or (iv) mechanic's liens created pursuant to A.R.S. § 33-993.

**Section F (2-8) – No changes.**

**Sections G through L – No changes.**