

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

KRISTI MICHELLE MORLEY,

Bar No. 024488

Respondent.

PDJ 2017-9024

**FINAL JUDGMENT AND
ORDER OF DISBARMENT**

[State Bar Nos. 16-2013, 16-2764,
16-2987, and 16-3297]

FILED JUNE 21, 2017

This matter was heard by the Hearing Panel, which rendered its Decision and Order on May 9, 2017. No appeal having been filed and the time for appeal having passed,

Accordingly:

IT IS ORDERED Respondent **Kristi Michelle Morley, Bar No. 024488** is disbarred from the State Bar of Arizona and the name of Respondent is stricken from the roll of lawyers effective May 30, 2017. Kristi Michelle Morley is no longer entitled to the rights and privileges of a lawyer but remains subject to the jurisdiction of the Court.

IT IS FURTHER ORDERED Kristi Michelle Morley shall immediately comply with the requirements relating to notification of clients and others, and provide and/or file all notices and affidavits required by Rule 72, Ariz. R. Sup. Ct.

IT IS FURTHER ORDERED Kristi Michelle Morley shall pay restitution, with interest at the legal rate, to the following individuals in the following amounts:

Count One - \$10,000.00 to Jill Cruz;

Count Two - \$5,000.00 to Blake Rodolico;

Count Three - \$5,000.00 to Greg Stipek; and

Count Four - \$7,500.00 to Marcus Ellison.

IT IS FURTHER ORDERED Kristi Michelle Morley shall pay the costs and expenses of the State Bar of Arizona. There are no costs or expenses incurred by the disciplinary clerk or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings.

DATED this 21st day of June, 2017.

William J. O'Neil

Presiding Disciplinary Judge

COPY of the foregoing e-mailed & mailed
this 21st day of June 2017, to:

David L. Sandweiss
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, AZ 85016-6266
Email: lro@staff.azbar.org

Kristi Michelle Morley
The Morley Law Firm PLC
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Kristi Michelle Morley
841 N. 2nd Ave.
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Email: kmmorley@gmail.com
Respondent

by: AMcQueen

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**KRISTI MICHELLE MORLEY,
Bar No. 024488**

Respondent.

PDJ 2017-9024

**DECISION AND ORDER
IMPOSING SANCTION**

[State Bar Nos. 16-2013, 16-2764,
16-2987, and 16-3297]

FILED MAY 30, 2017

On May 9, 2017, the Hearing Panel, comprised of James M. Marovich, Attorney Member, Ellen Kirschbaum, Public Member, and the Presiding Disciplinary Judge, (“PDJ”), William J. O’Neil, held an aggravation/mitigation hearing. David L. Sandweiss appeared on behalf of the State Bar of Arizona. Ms. Morley did not appear. Exhibits 1-55 were admitted. At the conclusion, the State Bar requested disbarment and restitution.

I. SANCTION IMPOSED

DISBARMENT, RESTITUTION, AND COSTS

II. PROCEDURAL HISTORY

The State Bar of Arizona filed its complaint on February 23, 2017. On February 28, 2017, the complaint was served on Ms. Morley by certified, delivery restricted mail, and by regular first class mail, pursuant to Rules 47(c) and 58(a) (2),

Ariz. R. Sup. Ct. The Presiding Disciplinary Judge (“PDJ”) was assigned to the matter. A notice of default was properly issued on March 28, 2017. The default was effective on April 18, 2017, at which time a notice of aggravation and mitigation hearing was sent to the parties setting the aggravation mitigating hearing for May 9, 2017 at 9:00 a.m., at the State Courts Building, 1501 West Washington Street, Phoenix, Arizona. On May 9, 2017, the Hearing Panel heard the matter and considered the evidence and testimony of Michelle Perkins, Esq. and Blake Rodolico.

III. FINDINGS OF FACT

The facts stated below are those set forth in the State Bar’s complaint and were deemed admitted by Ms. Morley’s default. Those allegations are substantially undergirded by the 55 admitted exhibits and the testimony.

A respondent against whom a default has been entered no longer has the right to litigate the merits of the factual allegations, but retains the right to appear and participate in the hearing that will determine the sanctions. Included with that right to appear is the right to testify and the right to cross-examine witnesses, in each instance only to establish facts related to aggravation and mitigation. Ms. Morley did not appear.

1. Ms. Morley was a lawyer licensed to practice law in Arizona having been first admitted to practice in Arizona on July 13, 2006. [Complaint.]

2. On March 28, 2017, Ms. Morley was suspended on an interim basis. [Exhibits 54 & 55.]

COUNT ONE (16-2013/Michelle J. Perkins)

3. Ms. Morley represented Jill Cruz in a divorce case. [Exhibit 2, Bates 25-26.]

4. On June 3, 2016, Ms. Cruz retained the firm of Owens & Perkins (“OP”) to take over the representation. From that date forward, various lawyers and paralegals at OP tried to obtain from Ms. Morley her case file and billing information, without success. [Exhibit 1 and Perkins Testimony.]

5. On June 3, 2016, OP asked Ms. Morley by email for the file. [Exhibit 2, Bates 021-023.]

6. Ms. Morley claimed her computer crashed, she had no complete file, and she had no backup of the file. OP asked Ms. Morley to identify what was missing, or at least to identify the likely date range for missing documents so they could reconstruct the file by other means. Ms. Cruz paid Ms. Morley \$10,000 at the outset of the representation and Ms. Morley furnished no invoices thereafter. OP asked Ms. Morley to furnish an invoice and send any money remaining in Ms. Morley’s trust account to OP. [Id.]

7. On June 7, 2016, Ms. Morley emailed to OP that she should have the file ready by the end of the week (June 10). [Exhibit 2, Bates 21.]

8. OP offered to send a courier to pick it up. [Exhibit 2, Bates 10.]
9. On June 13, 2016, Ms. Morley told OP, “I was unexpectedly tied up. I’ll stay late if I have to to make sure this file is ready for an a.m. pick up.” [Exhibit 2, Bates 23.]
10. OP called and emailed Ms. Morley to confirm that it would send a courier to pick up the file the following afternoon. Ms. Morley did not have the file ready for an a.m. or p.m. pickup.[Exhibit 2, Bates 09 and Perkins Testimony.]
11. On June 14, 2016, OP phoned and emailed Ms. Morley, and attached to its email to Ms. Morley a Sharefile link on which to upload the entire electronic file. [Exhibit 2, Bates 012 and Perkins Testimony.]
12. OP reminded Ms. Morley that it would send a courier in the afternoon to pick up the physical parts of the file, but later canceled the courier and told Ms. Morley just to mail the documents. [Exhibit 2, Bates 013 and Perkins Testimony.]
13. On June 16, 2016, OP reminded Ms. Morley of their requests (client file, fee agreement, invoices, and remainder of funds in trust). OP asked Ms. Morley to provide the information by 4:00 p.m. the following day. Ms. Morley did not comply. [Exhibit 2, Bates 08, Perkins Testimony.]
14. On June 17, 2016, OP emailed Ms. Morley to say she reported Ms. Morley to the State Bar and was told that a staff attorney would call within 1-3 business days. [Exhibit 2, Bates 05.]

15. OP continued, “It would be nice if we had the file . . . so that I could tell that person the matter is resolved.” [Id.]

16. OP also apologized to Ms. Cruz: “I find this very embarrassing for our profession. . . . On behalf of all lawyers, I apologize. We aren’t all like this.” [Id.]

17. On the morning of June 20, 2016, Ms. Morley emailed OP that the latter “created obstacles to receiving the file.” She claimed that she made the file available “earlier last week,” offered to send the file electronically but the link OP sent did not work, offered an alternative share file format that OP declined, and obtained a thumb drive on which to copy the file when OP refused to provide one. [Exhibit 2, Bates 15.]

18. OP replied immediately, by phone and confirming email, that it would send a runner to Ms. Morley’s office that afternoon to obtain the file, either on a thumb drive or on hard copies. Later that morning, however, Ms. Morley sent OP and Ms. Cruz a 298.9 MB *.zip file. [Id.]

19. On June 23, 2016, OP emailed Ms. Morley that they could not open or access documents contained in the following of Ms. Morley’s electronic file folders: Engagement letter, fee agreement, eight different court case filings, and the husband’s disclosure statement. The .zip folder did not include invoices, and Ms. Morley did not issue to OP or Ms. Cruz a check for the balance of the unearned advance fees. OP asked Ms. Morley to furnish all of the foregoing items by noon on

June 24, 2016. Ms. Morley did not respond. [Exhibit 2, Bates 017, and Perkins Testimony.]

20. Ms. Morley, a sole practitioner, used to work for OP but OP had to dismiss her due to her lack of organizational skills, even when she had a structured firm, seasoned paralegals, and an administrative team to help her. [Exhibit 2, Bates 03.]

21. Ms. Morley failed to respond to the State Bar's screening investigation letters dated June 27 and July 22, 2016, sent by U.S. mail and email. [Exhibits 4-5.]

22. Ms. Morley replied by email on August 3, 2016, to bar counsel's assistant: "I am running behind on getting response back to you. I should have one by the end of the day. I apologize for the delay. I am in the midst of handling a family emergency, involving a life-threatening issue with my elderly mother who lives out of state, and I have just returned from out-of-town." [Exhibit 6, Bates 32-33.]

23. Bar counsel's assistant assured Ms. Morley that she could email her response by August 5, 2016, and mail or deliver the original. [Id.]

24. On August 3, 2016, Ms. Morley answered: "Thanks Jackie! Again, sorry for the delay." Ms. Morley, however, has not responded to the bar's request for information. [Id.]

25. The court file shows that Ms. Morley furnished some services for Ms. Cruz but not nearly enough to justify a \$10,000 fee. [Perkins Testimony.]

26. The bar's investigator found Ms. Morley at her home on October 19, 2016. She told the investigator she knew about the charges, knows she needs to respond, health issues arose in August at about the time she received this charge (although the State Bar transmitted the charge in June), she thinks she has lupus and takes some kind of medication for it, and she may have some type of connective tissue disease but cannot obtain an unambiguous diagnosis due to insurance coverage issues and her doctor's retirement.

27. Ms. Morley's active Facebook profile that she updated in July and August, 2016, shows her looking healthy and riding a motorcycle. [Exhibit 52.]

28. Ms. Morley violated Rule 42, Ariz. R. Sup. Ct., ERs 1.5(b), 1.15(d), 1.16(d), 8.1(b), and 8.4(d); and Rule 54(d), Ariz. R. Sup. Ct.

COUNT TWO (File no. 16-2764/Blake Rodolico)

29. Ms. Morley represented Complainant Blake Rodolico in his divorce that concluded in March 2015. [Exhibit 14, Bates 47.]

30. Complainant and his ex-wife had joint decision making for their daughter. They disagreed on where she should attend kindergarten, which started in August 2016. [Id.]

31. In about January 2016, Complainant hired Ms. Morley to file a petition to modify child custody so his daughter could attend kindergarten at his choice of schools. [Id.]

32. Complainant asked Ms. Morley to expedite matters but she reassured him they had plenty of time before school started in August. [Id.]

33. Mediation in March 2016 did not resolve the issue so Ms. Morley filed a petition to modify custody in April. [Exhibit 21.]

34. Ms. Morley attached no verification to the petition, as required by statute and rules of procedure. Counsel for mother moved to dismiss the petition due to the missing verification. Ms. Morley did not respond to the motion to dismiss. The court dismissed Complainant's petition in June 2016. [Id.]

35. Ms. Morley filed another petition to modify in late June 2016. The court set an August 25, 2016 hearing date, which was beyond the start of school. In July 2016, Ms. Morley moved for temporary orders and a motion to expedite the hearing. Mother's counsel asked for expedited determination, too. She also moved to dismiss Ms. Morley's petition on the ground that the petition did not contain "substantial or continuing changes in circumstances" warranting a modification of legal decision making. On July 27, 2016, the court denied Ms. Morley's motions for temporary orders and to expedite. [Id.]

36. Complainant told Ms. Morley to withdraw the petition to modify since the August 25, 2016 hearing date was too late to do any good. The hearing proceeded, however, and the parties recited an agreement on the record that the child

would attend mother's choice of school, Complainant would withdraw his petition, and the parties would re-evaluate the school issue next year. [Id.]

37. Throughout the representation, Ms. Morley failed to respond to Complainant's emails and phone calls. Ms. Morley did not respond to opposing counsel's communications, either. Complainant also asked Ms. Morley for copies of court filings but Ms. Morley did not furnish them, either during the representation or after Complainant fired her. Complainant tolerated Ms. Morley's lack of attention when the latter worked at law firms but observed a dramatic decline in services, even for her, when Ms. Morley opened her own firm. Due to her neglect, Ms. Morley accomplished nothing for Complainant in the post-decree matters; whatever fees she charged were unreasonable. [Id.]

38. Ms. Morley failed to respond to the State Bar's screening investigation letters dated August 25 and September 19, 2016, sent by U.S. mail and email. [Exhibits 15, Bates 49 & 55.]

39. The bar's investigator found Ms. Morley at her home on October 19, 2016. She told the investigator she knows about the charges, knows she needs to respond, health issues arose in August at about the time she received this charge, she thinks she has lupus and takes some kind of medication for it, and she may have some type of connective tissue disease but cannot obtain an unambiguous diagnosis due to insurance coverage issues and her doctor's retirement. [Exhibit 21, Bates 64.]

40. Ms. Morley's active Facebook profile that she updated in July and August, 2016, shows her looking healthy and riding a motorcycle. [Exhibit 52.]

41. Ms. Morley violated Rule 42, Ariz. R. Sup. Ct., ERs 1.1, 1.2, 1.3, 1.4(a) and (b), 1.16(d), 3.2, 8.1(b), and 8.4(d); and Rule 54(d), Ariz. R. Sup. Ct.

COUNT THREE (File no. 16-25987/Greg Stipek)

42. Complainant Greg Stipek already was divorced when, in November 2015, his ex-wife filed and served a petition to modify legal decision making, parenting time, and child support, and to affirm school choice. [Exhibit 25.]

43. Complainant's former counsel had retired so he hired Ms. Morley for \$5,000. After paying Ms. Morley, and despite his requests for an accounting, Complainant received no statements accounting for his payment. [Id.]

44. After their initial meeting in November 2015, Ms. Morley's communication with Complainant was horrible. When he tried to reach her by phone, text, or email, she did not respond for days. [Id.]

45. On court days, Complainant rescheduled his patients (Complainant is an optometrist) and blocked off half of a day for court and travel only to be told the morning of the court date that telephonic appearances were sufficient. Ms. Morley did not prepare Complainant for any court hearings, other than to call him ten minutes in advance to ask how he wanted to proceed. When Complainant could reach Ms. Morley, she used meetings or other commitments as an excuse not to talk

to him, and promised a detailed response the following day, which she never provided. When Complainant expressed frustration with her lack of communications, Ms. Morley blamed her IT company for mismanaging her emails. [Id.]

46. A hearing was scheduled for July 28, 2016. Complainant sent Ms. Morley an email in May complaining about lack of preparation but received no response. [Id.]

47. In June 2016 Complainant hired a new attorney, Patrick Sampair. The Sampair group asked Ms. Morley to sign a substitution of counsel and to send it the case file. It took two weeks, several follow-up requests, and a threat to report Ms. Morley to the State Bar before Ms. Morley complied on June 27, 2016. There was a June 28, 2016 disclosure deadline and Complainant and his new attorney had to scramble to meet that deadline. While preparing for the July hearing, Complainant and Sampair discovered that Ms. Morley filed no response or counter-petition to his former spouse's petition. [Id.]

48. Sampair advised Complainant he was at a severe disadvantage and recommended that Complainant try to settle out of court. He did so, with a minimum of his requested changes in the final modification. [Id.]

49. Ms. Morley failed to respond to the State Bar's screening investigation letters dated September 19 and October 14, 2016, sent by U.S. mail and email. [Exhibits 26 & 28.]

50. The bar's investigator found Ms. Morley at her home on October 19, 2016. She told the investigator she knows about the charges, knows she needs to respond, health issues arose in August, she thinks she has lupus and takes some kind of medication for it, and she may have some type of connective tissue disease but cannot obtain an unambiguous diagnosis due to insurance coverage issues and her doctor's retirement. [Exhibit 32.]

51. Ms. Morley's active Facebook profile that she updated in July and August, 2016, shows her looking healthy and riding a motorcycle. [Exhibit 52.]

52. Ms. Morley violated Rule 42, Ariz. R. Sup. Ct., ERs 1.1, 1.2, 1.3, 1.4(a) and (b), 1.15(d), 1.16(d), 3.2, 8.1(b), and 8.4(d); and Rule 54(d), Ariz. R. Sup. Ct.

COUNT FOUR (File no. 16-3297/Marcus Ellison)

53. Complainant Marcus Ellison, already divorced, started a Simplified Child Support modification *in pro per*. His ex-wife Megan litigated aggressively so he retained counsel. Complainant hired Ms. Morley in 2014 when Ms. Morley worked at Owens & Perkins. [Exhibit 39.]

54. Complainant learned Megan's new husband committed domestic violence. Complainant grew concerned for his children and asked Ms. Morley for

advice on steps to ensure the kids were okay. Ms. Morley advised Complainant to move for emergency temporary decision making and parenting time. [Id.]

55. Ms. Morley filed a petition for emergency temporary decision making and parenting time on Complainant's behalf and the court denied the petition. Ms. Morley then advised Complainant to file for permanent parenting time and decision making. Complainant questioned this strategy since his busy work and travel schedule did not enable him to exercise full custody. Ms. Morley assured Complainant that this is just the process of how the system works and that he would not really be filing for full custody. Ms. Morley persuaded Complainant to sign the petition for permanent parenting time and decision making which led to a costly court battle. Ms. Morley left Owens & Perkins, and another attorney at that firm helped Complainant drop the petition case. [Id.]

56. Several months later Complainant no longer could afford Owens & Perkins' rates. Ms. Morley approached him to say she started her own firm. Complainant re-hired Ms. Morley to represent him in ongoing child support issues. [Id.]

57. With no office staff, Ms. Morley was the firm. Over the ensuing year Ms. Morley did not return Complainant's emails, calls, or text messages within a reasonable time. Ms. Morley waited until the last minute to take Complainant's calls, right before motions or responses were due. Often Ms. Morley blamed

computer problems for her communication deficiencies, and claimed to be missing documents and emails. At one point Ms. Morley pled with the judge that she had technical issues with her computer. [Id.]

58. In July 2016 Complainant was ordered to pay case expenses (e.g., for the court-appointed children's mental health examiner) and Megan's attorney fees, over his objection. [Exhibit 46, Bates 130.]

59. Complainant asked Ms. Morley to tell him how much to pay, when, and to whom, but she never replied with that information. This caused Ms. Morley to become delinquent in the payments leading to garnishment of his wages for over \$10,000. [Id.]

60. Complainant does not have the financial means to hire a new attorney so he suffered through Ms. Morley's negligence. In September 2016 Ms. Morley called Complainant at 10:00 p.m. one night to say, "I think you have a hearing tomorrow but I am not sure. I wrote it down from the call with the judge but there is nothing in the court calendar." Ms. Morley called Complainant the next day to say, "The hearing is today and you need to be here in an hour." Complainant was with clients at the time of Ms. Morley's call and told Ms. Morley he could not possibly appear in court on such short notice. [Id.]

61. The court denied Ms. Morley's emergency request for temporary orders without notice to Megan on the ground that Ms. Morley did not even try to show she

attempted to notify Megan, in violation of relevant statutes and rules (A.R.S. §25-315(D); Rules 48(A)(1) and (2), Ariz. R. Fam. L. P.). Complainant emailed and texted Ms. Morley to withdraw. She has still not replied. [Id.]

62. The court ruled on Megan's petition for attorney's fees on September 26, 2016. The court reviewed the history of the litigation, which exposed Ms. Morley's ineptitude. The judge awarded Megan \$93,083.63 in attorney's fees, plus interest at 4.5%, payable at the rate of \$7,000/mo. [Exhibit 53.]

63. Ms. Morley failed to respond to the State Bar's screening investigation letters dated October 13 and November 3, 2016, sent by U.S. mail and email. [Exhibits 40 & 44.]

64. The bar's investigator found Ms. Morley at her home on October 19, 2016. She told the investigator she knows about the charges, knows she needs to respond, health issues arose in August, she thinks she has lupus and takes some kind of medication for it, and she may have some type of connective tissue disease but cannot obtain an unambiguous diagnosis due to insurance coverage issues and her doctor's retirement. [Exhibit 46, Bates 129.]

65. Ms. Morley's active Facebook profile that she updated in July and August, 2016, shows her looking healthy and riding a motorcycle. [Exhibit 52.]

66. Ms. Morley violated Rule 42, Ariz. R. Sup. Ct., ERs 1.1, 1.2, 1.3, 1.4(a) and (b), 1.5(a), 1.15(d), 1.16(d), 3.1, 3.2, 3.3(a), 4.1(a), 4.4(a), 8.1(b), and 8.4(c) and (d); and Rule 54(d), Ariz. R. Sup. Ct.

IV. CONCLUSIONS OF LAW

Based upon the facts deemed admitted and undergirded by the exhibits and testimony, the Hearing Panel finds by clear and convincing evidence that Ms. Morley violated Rule 42, Ariz. R. Sup. Ct., ERs 1.1, 1.2, 1.3, 1.4(a) and (b), 1.5(a) and (b), 1.15(d), 1.16(d), 3.1, 3.2, 3.3(a), 4.1(a), 4.4(a), 8.1(b), 8.4(c) and (d); and Rule 54(d), Ariz. R. Sup. Ct.

V. ABA STANDARDS ANALYSIS

The sanctions to be imposed in lawyer discipline cases are determined in accordance with the American Bar Association's *Standards for Imposing Lawyer Sanctions* ("Standards"). Rule 58(d), and (k), Ariz. R. Sup. Ct. In imposing a sanction, the court should consider: (1) the duty violated; (2) the lawyer's mental state; (3) the actual or potential injury caused by the lawyer's misconduct; and (4) the existence of aggravating or mitigating factors. *Standard 3.0*.

Duties violated: Ms. Morley violated her duties to her clients (ERs 1.1, 1.2, 1.3, 1.4, 1.5, 1.15, and 1.16), the legal system (ERs 3.1, 3.2, 3.3, 4.1, 4.4, and 8.4(d)), the public (ERs 8.1 and 8.4(c), and Rule 54(d), and as a professional (ER 8.1 and Rule 54(d)).

Mental State: Ms. Morley acted intentionally. The comment to ER 3.1, states “The advocate has a duty to use legal procedure for the fullest benefit of the client’s cause, but also a duty not to abuse legal procedure.” Ms. Morley did the opposite of what was required. She also knew that her clients and their former counsel were trying to reach her and did not respond to them. She was consistently passively aggressive in ignoring them. She abandoned her clients.

ER 1.16(d) provides that upon termination of representation a lawyer must take reasonable steps to protect the client’s interest, such as giving reasonable notice, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled, and refunding any advance payments of unearned fees or unincurred expenses. See, *e.g.*, *In re Mitchell*, 727 A.2d 308 (D.C. 1999). She did none of these and more than ignored her duties. She was actively avoided her duties.

In similar manner she knew that the State Bar was screening her for possible ethics and professionalism violations in these four cases, that she was required to respond, and did not respond. She knew that she was unresponsive, unprepared, misled the court and failed to serve her clients resulting in her essentially abandoning and injuring them financially.

Actual or Potential Injury or Serious Injury: Ms. Morley’s misconduct seriously undermined all of her clients’ cases. She cost her clients’ attorney’s fees

without furnishing services of value. She caused a client serious injury by causing his wages to be garnished, and she subjected a client to a judgment of over \$93,000 in attorney's fees awarded to the opposing party. She burdened the courts with her incompetence.

The following *Standards* are implicated:

ER 1.1 (three counts)

Standard 4.53 Reprimand is generally appropriate when a lawyer: (a) demonstrates failure to understand relevant legal doctrines or procedures and causes injury or potential injury to a client

ERs 1.2 (three counts), 1.3 (three counts) and 1.4 (three counts)

Standard 4.41 Disbarment is generally appropriate when:

- (a) a lawyer abandons the practice and causes serious or potentially serious injury to a client; or
- (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or
- (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

ER 1.5(a) (four counts)

Standard 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system.

ER 1.5(b)

Standard 4.64 Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence in failing to provide a client with accurate or complete information, and causes little or no actual or potential injury to the client.

ER 1.15(d) (three counts)

Standard 4.12 Suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client.

ER 1.16(d) (three counts)

Standard 7.1 -- see above.

ER 3.1

Standard 6.21 Disbarment is generally appropriate when a lawyer knowingly violates a court order or rule with the intent to obtain a benefit for the lawyer or another, and causes serious injury or potentially serious injury to a party or causes serious or potentially serious interference with a legal proceeding.

ER 3.2 (three counts)

Standard 6.21 -- see above.

ERs 3.3(a) and 4.1

Standard 6.11 Disbarment is generally appropriate when a lawyer, with the intent to deceive the court, makes a false statement, submits a false document, or improperly withholds material information, and causes serious or potentially serious injury to a party, or causes a significant or potentially significant adverse effect on the legal proceeding.

ER 4.4(a)

Standard 6.21 -- see above.

ER 8.1(b) and Rule 54(d) (four counts)

Standard 7.1 -- see above.

ER 8.4(c)

Standard 4.61 Disbarment is generally appropriate when a lawyer knowingly deceives a client with the intent to benefit the lawyer or another, and causes serious injury or potential serious injury to a client.

ER 8.4(d) (two counts)

Standard 6.21 -- see above.

AGGRAVATING AND MITIGATING FACTORS

The Hearing Panel finds the following aggravating factors are present in this matter:

Standard 9.22(a) prior disciplinary offenses (Interim Suspension, PDJ-2017-9022; Administrative Suspension for CLE violations, January 27, 2017);

Standard 9.22(b) dishonest or selfish motive;

Standard 9.22(c) a pattern of misconduct;

Standard (d) multiple offenses;

Standard 9.22(e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency;

Standard 9.22(g) refusal to acknowledge wrongful nature of conduct;

Standard 9.22 (i) substantial experience in the practice of law; and

Standard 9.22(j) indifference to making restitution;

The Hearing Panel determined there are no mitigating factors present in the record.

VI. CONCLUSION

The Supreme Court “has long held that ‘the objective of disciplinary proceedings is to protect the public, the profession and the administration of justice and not to punish the offender.’” *In re Alcorn*, 202 Ariz. 62, 74, 41 P.3d 600,612 (2002) (quoting *In re Kastensmith*, 101 Ariz. 291,294, 419 P.2d 75, 78 (1966)). Other purposes and goals of lawyer discipline and regulation are to deter future misconduct, *In re Fioramonti*, 176 Ariz. 182, 859 P.2d 1315 (1993), and to protect

and instill public confidence in the integrity of individual members of the SBA, *Matter of Horwitz*, 180 Ariz. 20, 881 P.2d 352 (1994). An additional purpose and objective of lawyer discipline and regulation significant to this case is to foster confidence in the self-regulatory process. *In re Hoover*, 161 Ariz. 529, 779 P.2d 1268 (1989).

Ms. Morley deserted her clients and abdicated her duties to the court and the State Bar. She harmed the public, the profession and the administration of justice. Disbarment is the appropriate sanction and meets the objective of attorney discipline, which is to deter other attorneys from engaging in similar misconduct and to instill public confidence in the integrity of those lawyers who conduct themselves appropriately, ethically, and responsibly.

The Hearing Panel orders:

1. Ms. Morley shall be disbarred from the practice of law effective immediately.
2. Ms. Morley shall pay all costs and expenses incurred by the State Bar. There are no costs incurred by the Office of the Presiding Disciplinary Judge in this proceeding.
3. Ms. Morley shall pay the following in restitution:

Count One - \$10,000.00 to Jill Cruz;
Count Two - \$5,000.00 to Blake Rodolico;
Count Three - \$5,000.00 to Greg Stipek [Exhibit 25, Bates 72.]; and
Count Four - \$7,500.00 to Marcus Ellison.

A final judgment and order will follow.

DATED this 30th day of May 2017.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Ellen Kirschbaum

Ellen Kirschbaum, Volunteer Public Member

James M. Marovich

**James M. Marovich, Volunteer Attorney
Member**

Copy of the foregoing emailed/mailed
this 30th day of May, 2017, to:

David L. Sandweiss
State Bar of Arizona
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OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

FEB 23 2017

FILED
BY 

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**KRISTI MICHELLE MORLEY,
Bar No. 024488,**

Respondent.

PDJ 2017-9024

COMPLAINT

State Bar Nos. 16-2013, 16-2764,
16-2987, and 16-3297

For its complaint against Respondent the State Bar of Arizona alleges:

GENERAL ALLEGATIONS

1. At all times relevant, Respondent was a lawyer licensed to practice law in the state of Arizona having been first admitted to practice in Arizona on July 13, 2006.

COUNT ONE (File No. 16-2013/Michelle Perkins)

2. Respondent represented Jill Cruz in a divorce case.

3. On June 3, 2016, Ms. Cruz retained the firm of Owens & Perkins (“OP”) to take over the representation. From that date forward, various lawyers and paralegals at OP tried to obtain from Respondent her case file and billing information, without success.

4. On June 3, 2016, OP asked Respondent by email for the file.

5. Respondent claimed her computer crashed, she did not have a complete file, and she did not have a backup of the file.

6. OP asked Respondent to identify what was missing, or at least to identify the likely date range for missing documents so they could reconstruct the file by other means.

7. Ms. Cruz paid Respondent \$10,000 at the outset of the representation and Respondent did not furnish any invoices thereafter.

8. OP asked Respondent to furnish an invoice and send any money remaining in Respondent’s trust account to OP.

9. On June 7, 2016, Respondent emailed to OP that she should have the file ready by the end of the week (June 10).

10. OP offered to send a courier to pick it up.

11. On June 13, 2016, Respondent told OP, "I was unexpectedly tied up. I'll stay late if I have to to make sure this file is ready for an a.m. pick up."

12. OP called and emailed Respondent to confirm that it would send a courier to pick up the file the following afternoon.

13. Respondent did not have the file ready for an a.m. or p.m. pickup.

14. On June 14, 2016, OP phoned and emailed Respondent, and attached to its email to Respondent a Sharefile link on which to upload the entire electronic file.

15. OP reminded Respondent that it would send a courier in the afternoon to pick up the physical parts of the file, but later canceled the courier and told Respondent just to mail the documents.

16. On June 16, 2016, OP reminded Respondent of their requests (client file, fee agreement, invoices, and remainder of funds in trust). OP asked Respondent to provide the information by 4:00 p.m. the following day.

17. Respondent did not comply.

18. On June 17, 2016, OP emailed Respondent to say that she reported Respondent to the State Bar and was told that a staff attorney would call within 1-3 business days.

19. OP continued, "It would be nice if we had the file . . . so that I could tell that person the matter is resolved."

20. OP also apologized to Ms. Cruz: "I find this very embarrassing for our profession. . . . On behalf of all lawyers, I apologize. We aren't all like this."

21. On the morning of June 20, 2016, Respondent emailed OP that the latter "created obstacles to receiving the file." She claimed that she made the file available "earlier last week," offered to send the file electronically but the link OP sent did not work, offered an alternative share file format that OP declined, and obtained a thumb drive on which to copy the file when OP refused to provide one.

22. OP replied immediately, by phone and confirming email, that it would send a runner to Respondent's office that afternoon to obtain the file, either on a thumb drive or on hard copies. Later that morning, however, Respondent sent OP and Ms. Cruz a 298.9 MB *.zip file.

23. On June 23, 2016, OP emailed to Respondent that they were unable to open or access documents contained in the following of Respondent's electronic file folders: Engagement letter, fee agreement, eight different court case filings, and the husband's disclosure statement. The .zip folder did not include invoices, and Respondent did not

issue to OP or Ms. Cruz a check for the balance of the unearned advance fees. OP asked Respondent to furnish all of the foregoing items by noon on June 24, 2016.

24. Respondent did not respond.

25. Respondent, a sole practitioner, used to work for OP but OP had to dismiss her due to her lack of organizational skills, even when she had a structured firm, seasoned paralegals, and an administrative team to help her.

26. Respondent failed to respond to the State Bar's screening investigation letters dated June 27 and July 22, 2016, sent by U.S. mail and email.

27. Respondent replied by email on August 3, 2016, to bar counsel's assistant: "I am running behind on getting response back to you. I should have one by the end of the day. I apologize for the delay. I am in the midst of handling a family emergency, involving a life-threatening issue with my elderly mother who lives out of state, and I have just returned from out-of-town."

28. Bar counsel's assistant assured Respondent that she could email her response by August 5, 2016, and mail or deliver the original.

29. On August 3, 2016, Respondent answered: "Thanks Jackie! Again, sorry for the delay." Respondent, however, has not responded to the bar's request for information.

30. The court file shows that Respondent furnished some services for Ms. Cruz but not nearly enough to justify a \$10,000 fee.

31. The bar's investigator found Respondent at her home on October 19, 2016. She told the investigator she knows about the charge in this case, knows she needs to respond, health issues arose in August at about the time she received this charge (although the State Bar transmitted the charge in June), she thinks she has lupus and takes some kind of medication for it, and she may have some type of connective tissue disease but cannot obtain an unambiguous diagnosis due to insurance coverage issues and her doctor's retirement.

32. Respondent's active Facebook profile that she updated in July and August, 2016, shows her, among other things, looking healthy and riding a motorcycle.

33. Respondent violated Rule 42, Ariz. R. Sup. Ct., ERs 1.5(a) and (b), 1.15(d), 1.16(d), 8.1(b), and 8.4(d); and Rule 54(d), Ariz. R. Sup. Ct.

COUNT TWO (File No. 16-2764/Blake Rodolico)

34. Respondent represented Complainant Blake Rodolico in his divorce that concluded in March 2015.

35. Complainant and his ex-wife had joint decision making for their daughter. They disagreed on where she should attend kindergarten, which started in August 2016.

36. In about January 2016, Complainant hired Respondent to file a petition to modify child custody so his daughter could attend kindergarten at his choice of schools.

37. Complainant asked Respondent to expedite matters but she reassured him that they had plenty of time before school started in August.

38. Mediation in March 2016 did not resolve the issue so Respondent filed a petition to modify custody in April.

39. Respondent did not attach a verification to the petition, as required by statute and rules of procedure.

40. Counsel for mother filed a motion to dismiss the petition due to the missing verification.

41. Respondent did not respond to the motion to dismiss.

42. The court dismissed Complainant's petition in June 2016.

43. Respondent filed another petition to modify in late June 2016.

44. The court set an August 25, 2016 hearing date, which was beyond the start of school.

45. In July 2016, Respondent filed a motion for temporary orders and a motion to expedite the hearing.

46. Mother's counsel asked for expedited determination, too. She also filed a motion to dismiss Respondent's petition on the ground that the petition did not contain "substantial or continuing changes in circumstances" warranting a modification of legal decision making.

47. On July 27, 2016, the court denied Respondent's motions for temporary orders and to expedite.

48. Complainant told Respondent to withdraw the petition to modify since the August 25, 2016 hearing date was too late to do any good.

49. The hearing proceeded, however, and the parties recited an agreement on the record that the child would attend mother's choice of school, Complainant would withdraw his petition, and the parties would re-evaluate the school issue next year.

50. Throughout the representation, Respondent failed to respond to Complainant's emails and phone calls.

51. Respondent did not respond to opposing counsel's communications, either.

52. Complainant asked Respondent for copies of court filings but Respondent did not furnish them, either during the representation or after Complainant fired her.

53. Complainant tolerated Respondent's lack of attention when the latter worked at law firms but observed a dramatic decline in services, even for her, when Respondent opened her own firm.

54. Due to her neglect, Respondent accomplished nothing for Complainant in the post-decree matters; whatever fees she charged were unreasonable.

55. Respondent failed to respond to the State Bar's screening investigation letters dated August 25 and September 19, 2016, sent by U.S. mail and email.

56. The bar's investigator found Respondent at her home on October 19, 2016. She told the investigator she knows about the charge in this case, knows she needs to respond, health issues arose in August at about the time she received this charge, she thinks she has lupus and takes some kind of medication for it, and she may have some type of connective tissue disease but cannot obtain an unambiguous diagnosis due to insurance coverage issues and her doctor's retirement.

57. Respondent's active Facebook profile that she updated in July and August, 2016, shows her, among other things, looking healthy and riding a motorcycle.

58. Respondent violated Rule 42, Ariz. R. Sup. Ct., ERs 1.1, 1.2, 1.3, 1.4(a) and (b), 1.5(a), 1.16(d), 3.2, 8.1(b), and 8.4(d); and Rule 54(d), Ariz. R. Sup. Ct.

COUNT THREE (File No. 16-2987/Greg Stipek)

59. Complainant Greg Stipek already was divorced when, in November 2015, his ex-wife filed and served a petition to modify legal decision making, parenting time, and child support, and to affirm school choice.

60. Complainant's former counsel had retired so he hired Respondent for \$5,000.

61. After paying Respondent, and despite his requests for an accounting, Complainant never received any statements accounting for his payment.

62. After their initial meeting in November 2015, Respondent's communication with Complainant was horrible. When he tried to reach her by phone, text, or email, she did not respond for days.

63. On court days, Complainant rescheduled his patients (Complainant is an optometrist) and blocked off half of a day for court and travel only to be told the morning of the court date that telephonic appearances were sufficient.

64. Respondent did not prepare Complainant for any court hearings, other than to call him ten minutes in advance to ask how he wanted to proceed.

65. When Complainant was able to reach Respondent, she used meetings or other commitments as an excuse not to talk to him, and promised a detailed response the following day, which she never provided.

66. When Complainant expressed frustration with her lack of communications, Respondent blamed her IT company for mismanaging her emails.

67. A hearing was scheduled for July 28, 2016. Complainant sent Respondent an email in May expressing his concern over lack of preparation but received no response.

68. In June 2016 Complainant hired a new attorney, Patrick Sampair. The Sampair group asked Respondent to sign a substitution of counsel and to send it the case file.

69. It took two weeks, several follow-up requests, and a threat to report Respondent to the State Bar before Respondent complied on June 27, 2016.

70. There was a June 28, 2016 disclosure deadline and Complainant and his new attorney had to scramble to meet that deadline.

71. While preparing for the July hearing, Complainant and Sampair discovered that Respondent did not file a response or counter-petition to his former spouse's petition.

72. Sampair advised Complainant that he was at a severe disadvantage and recommended that Complainant try to settle out of court. He did so, with a minimum of his requested changes included in the final modification.

73. Respondent failed to respond to the State Bar's screening investigation letters dated September 19 and October 14, 2016, sent by U.S. mail and email.

74. The bar's investigator found Respondent at her home on October 19, 2016. She told the investigator she knows about the charge in this case, knows she needs to respond, health issues arose in August, she thinks she has lupus and takes some kind of medication for it, and she may have some type of connective tissue disease but cannot obtain an unambiguous diagnosis due to insurance coverage issues and her doctor's retirement.

75. Respondent's active Facebook profile that she updated in July and August, 2016, shows her, among other things, looking healthy and riding a motorcycle.

76. Respondent violated Rule 42, Ariz. R. Sup. Ct., ERs 1.1, 1.2, 1.3, 1.4(a) and (b), 1.5(a), 1.15(d), 1.16(d), 3.2, 8.1(b), and 8.4(d); and Rule 54(d), Ariz. R. Sup. Ct.

COUNT FOUR (File No. 16-3297/Marcus Ellison)

77. Complainant Marcus Ellison, already divorced, started a Simplified Child Support modification *in pro per*. His ex-wife Megan litigated aggressively so he decided to retain counsel. Complainant hired Respondent in 2014 when Respondent worked at Owens & Perkins.

78. Complainant became aware that Megan's new husband committed domestic violence. Complainant grew concerned for his children and asked Respondent for advice on steps to ensure the kids were okay. Respondent advised Complainant to file a motion for emergency temporary decision making and parenting time.

79. Respondent filed a petition for emergency temporary decision making and parenting time on Complainant's behalf and the court denied the petition.

80. Respondent then advised Complainant to file for permanent parenting time and decision making.

81. Complainant questioned this strategy since his busy work and travel schedule did not enable him to exercise full custody.

82. Respondent assured Complainant that this is just the process of how the system works and that he would not really be filing for full custody.

83. Respondent persuaded Complainant to sign the petition for permanent parenting time and decision making which led to a costly court battle.

84. Respondent left Owens & Perkins, and another attorney at that firm helped Complainant drop the petition case.

85. Several months later Complainant no longer could afford Owens & Perkins' rates. Respondent approached him to say she started her own firm. Complainant re-hired Respondent to represent him in ongoing child support issues.

86. Complainant regrets his decision to rehire Respondent.

87. With no office staff, Respondent basically was the firm. Over the ensuing year Respondent did not return Complainant's emails, calls, or text messages within a reasonable time.

88. Respondent waited until the last minute to take Complainant's calls, right before motions or responses were due.

89. Often Respondent blamed computer problems for her communication deficiencies, and claimed to be missing documents and emails.

90. At one point Respondent pled with the judge that she had technical issues with her computer.

91. In July 2016 Complainant was ordered to pay some case expenses (*e.g.*, for the court-appointed children's mental health examiner) and Megan's attorney fees, over his objection.

92. Complainant asked Respondent to tell him how much to pay, when, and to whom, but she never replied with that information. This caused Respondent to become delinquent in the payments leading to garnishment of his wages for over \$10,000.

93. Complainant does not have the financial means to hire a new attorney so he suffered through Respondent's negligence.

94. In September 2016 Respondent called Complainant at 10:00 p.m. one night to say, "I think you have a hearing tomorrow but I am not sure. I wrote it down from the call with the judge but there is nothing in the court calendar."

95. Respondent called Complainant the next day to say, "The hearing is today and you need to be here in an hour."

96. Complainant was with clients at the time of Respondent's call and told Respondent he could not possibly appear in court on such short notice.

97. Respondent persuaded the judge to accept a brief response to whatever was before the court at the time, and forego a hearing.

98. Even if Complainant could have made it to court for a hearing Respondent would not have been prepared.

99. Every filing was done at the last minute, with Respondent interviewing Complainant right up to the deadline.

100. The court denied Respondent's emergency request for temporary orders without notice to Megan on the ground that Respondent did not even try to show she attempted to notify Megan, in violation of relevant statutes and rules (A.R.S. §25-315(D); Rules 48(A)(1) and (2), Ariz. R. Fam. L. P.).

101. Complainant emailed and texted Respondent to withdraw. She has still not replied.

102. The court ruled on Megan's petition for attorney's fees on September 26, 2016. In so doing, the court reviewed the history of the litigation, which exposed Respondent's ineptitude.

103. The judge awarded Megan \$93,083.63 in attorney's fees, plus interest at 4.5%, payable at the rate of \$7,000/mo.

104. Respondent failed to respond to the State Bar's screening investigation letters dated October 13 and November 3, 2016, sent by U.S. mail and email.

105. The bar's investigator found Respondent at her home on October 19, 2016. She told the investigator she knows about the charge in this case, knows she needs to respond, health issues arose in August, she thinks she has lupus and takes some kind of medication for it, and she may have some type of connective tissue disease but cannot

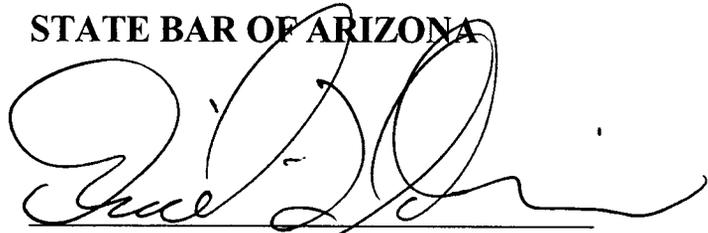
obtain an unambiguous diagnosis due to insurance coverage issues and her doctor's retirement.

106. Respondent's active Facebook profile that she updated in July and August, 2016, shows her, among other things, looking healthy and riding a motorcycle.

107. Respondent violated Rule 42, Ariz. R. Sup. Ct., ERs 1.1, 1.2, 1.3, 1.4(a) and (b), 1.5(a), 1.15(d), 1.16(d), 3.1, 3.2, 3.3(a), 4.1(a), 4.4(a), 8.1(b), and 8.4(c) and (d); and Rule 54(d), Ariz. R. Sup. Ct.

DATED this 23rd day of February, 2017.

STATE BAR OF ARIZONA



David L. Sandweiss
Senior Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 23rd day of February, 2017.

by: Jane Balan
DLS:jlb