

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**JOHN H. SERRANO,**  
**Bar No. 005076**

Respondent.

**PDJ 2017-9075**

**FINAL JUDGMENT AND  
ORDER**

[State Bar No. 16-2660]

**FILED OCTOBER 27, 2017**

The Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on October 23, 2017, pursuant to Rule 57(a), Ariz. R. Sup. Ct., accepts the parties' proposed agreement which is incorporated herein. Accordingly:

**IT IS ORDERED** Respondent, **JOHN H. SERRANO**, is admonished for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

**IT IS FURTHER ORDERED** Mr. Serrano shall be placed on probation for a period of one (1) year. The period of probation shall commence upon entry of this final judgment and order and will conclude one (1) year from that date.

**IT IS FURTHER ORDERED** Mr. Serrano shall contact the State Bar Compliance Monitor at (602) 340-7258, within ten (10) days from the date of entry of this final judgment and order. Mr. Serrano shall submit to a one-time LOMAP consultation. Mr. Serrano shall complete any follow up deemed necessary by LOMAP. Mr. Serrano shall be responsible for any costs associated with LOMAP.

**IT IS FURTHER ORDERED** as a term of probation, Mr. Serrano shall participate in the State Bar's Fee Arbitration Program with Fernando Aguirre. Mr. Serrano shall contact the Fee Arbitration Coordinator at (602) 340-7379 within ten (10) days from the date of entry of this final judgment and order to obtain the forms necessary to participate in Fee Arbitration. Mr. Serrano shall file the necessary forms no later than thirty (30) days from the date of receipt of the forms. Mr. Serrano shall have thirty (30) days from the date of the letter of the Fee Arbitration Coordinator to comply with the award entered in the Fee Arbitration proceeding.

**IT IS FURTHER ORDERED** in addition to the annual MCLE requirement, Mr. Serrano shall complete the CLE program "How to Get Paid Ethically" within ninety (90) days from the date of entry of this final judgment and order. Mr. Serrano shall provide the State Bar Compliance Monitor with evidence of completion of the program by providing a copy of handwritten notes. Mr. Serrano shall contact the

Compliance Monitor at (602) 340-7258 to make arrangements to submit this evidence.

Respondent will be responsible for the costs of the CLE.

### **NON-COMPLIANCE LANGUAGE**

In the event that Mr. Serrano fails to comply with any of the foregoing probation terms, and information thereof, is received by the State Bar of Arizona, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether a term of probation has been breached and, if so, to recommend an appropriate sanction. If there is an allegation that Respondent failed to comply with any of the foregoing terms, the burden of proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

**IT IS FURTHER ORDERED** Mr. Serrano shall pay the costs and expenses of the State Bar of Arizona in the amount of \$1,849.43, within thirty (30) days from the date of this order. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these

disciplinary proceedings.

**DATED** this 27<sup>th</sup> day of October, 2017.

*William J. O'Neil*

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**William J. O'Neil,  
Presiding Disciplinary Judge**

Copies of the foregoing mailed/mailed  
this 27<sup>th</sup> day of October, 2017, to:

John H. Serrano  
209 W. 2nd St.  
Yuma, AZ 85364-2209  
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Respondent

Nicole S. Kaseta  
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State Bar of Arizona  
4201 N 24<sup>th</sup> Street, Suite 100  
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by: MSmith

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OFFICE OF THE  
PRESIDING DISCIPLINARY JUDGE  
SUPREME COURT OF ARIZONA

OCT 23 2017

FILED  
BY 

John H. Serrano, Bar No. 005076  
209 W 2nd St  
Yuma, AZ 85364-2209  
Telephone 928-271-5032  
Email: [serranolaw@gmail.com](mailto:serranolaw@gmail.com)  
Respondent

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

**IN THE MATTER OF A MEMBER  
OF THE STATE BAR OF ARIZONA,  
JOHN H. SERRANO  
Bar No. 005076**

Respondent.

**PDJ 2017-9075**

State Bar File Nos. **16-2660**

**AGREEMENT FOR DISCIPLINE  
BY CONSENT**

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, John H. Serrano, who has chosen not to seek the assistance of counsel, hereby submit their Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. Respondent voluntarily waives the right to an adjudicatory hearing, unless otherwise ordered, and waives all motions, defenses,

objections or requests which have been made or raised, or could be asserted thereafter, if the conditional admission and proposed form of discipline is approved.

Pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct., notice of this agreement was provided to the complainant by letter on September 21, 2017. Complainant has have been notified of the opportunity to file a written objection to the agreement with the State Bar within five (5) business days of bar counsel's notice. Copies of Complainant's objections, if any, have been or will be provided to the presiding disciplinary judge.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ERs 1.5(a), 1.5(b), 1.5(d)(3), 1.5(e), 1.15(a), and 1.16(d). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Admonition with one year of probation to include fee arbitration, the CLE "How to Get Paid Ethically", and a one-time LOMAP consult. Respondent also agrees to pay the costs and expenses of the disciplinary proceeding, within 30 days from the date of this order, and if costs are not paid

within the 30 days, interest will begin to accrue at the legal rate.<sup>1</sup> The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

## FACTS

### GENERAL ALLEGATIONS

1. Respondent was licensed to practice law in Arizona on October 8, 1977.
2. Respondent is also licensed to practice law in the state of California having been first admitted to practice in California on May 31, 1979.

### COUNT ONE (File no. 16-2660/Aguirre)

2. Fernando Aguirre (Aguirre) retained Respondent on June 15, 2016 for a criminal matter pending in California (California case).
3. Aguirre paid Respondent \$23,500.
4. Respondent provided Aguirre a fee agreement defining the scope of the representation as representation of Aguirre in a case pending in California involving an attempted murder charge.

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<sup>1</sup> Respondent understands that the costs and expenses of the disciplinary proceeding include the costs and expenses of the State Bar of Arizona, the Disciplinary Clerk, the Probable Cause Committee, the Presiding Disciplinary Judge and the Supreme Court of Arizona.

5. Although the fee agreement refers to an attempted murder charge, to date, Aguirre has not been charged with any crime in the California case.

6. The fee agreement provides for a fee of \$25,000 without a trial and \$35,000 if the case is set for trial.

7. The fee agreement provides that the fee is a flat fee/earned-upon-receipt fee.

8. The fee agreement provides that Respondent would share the fee with an attorney named Jose Saldivar (Saldivar) who would assist Respondent with his representation of Aguirre.

9. The fee agreement does not advise Aguirre that Aguirre may terminate Respondent at any time and, in that event, may be entitled to a refund of all or part of the fee based on the value of the representation.

10. Aguirre did not agree to a fee split between Respondent and attorney Saldivar in a writing signed by Aguirre that identified the division of the fees and responsibilities between Respondent and Saldivar.

11. When he met with Respondent on June 15, 2016, Aguirre mentioned to Respondent an ongoing case in Somerton Justice Court (Arizona case) in which Aguirre states that he was offered deferred prosecution.

12. Aguirre contends that Respondent informed him that he would work on the Arizona case for free because Aguirre retained him on the California case.

13. In contrast, Respondent states that he sent Aguirre a letter stating that he would assist Aguirre on the Arizona case on the same terms and conditions as his representation in the California case. Aguirre denies receiving this letter.

14. On or about June 29, 2016, Respondent sent Saldivar \$2,500 of the amount that Aguirre paid Respondent.

15. Respondent did not pay Saldivar any further monies other than this \$2,500.

16. Saldivar subsequently returned the \$2,500 to Aguirre.

17. On July 14, 2016, Aguirre terminated Respondent as his attorney in the California case and asked Respondent to provide him an accounting.

18. Respondent, however, continued to represent Aguirre in the Arizona case.

19. Respondent represented Aguirre in the Arizona case until it was completed in August of 2016, when the parties executed the deferred prosecution agreement.

20. Respondent refused to refund Aguirre any of the \$23,500 that Aguirre paid Respondent.

21. On August 8, 2016, Respondent sent Aguirre a letter enclosing an accounting.

22. Respondent advised Aguirre that he passed on “other heavy litigation work” so that he could assist Aguirre.

23. The accounting that Respondent provided Aguirre (accounting) contains block billing.

24. The accounting provides for an hourly rate of \$300 per hour with total fees incurred in the amount of \$25,510.

25. The accounting contains questionable entries.

26. For example, in the accounting, Respondent charged Aguirre .1 when a courier delivered to Respondent a deferred prosecution agreement.

27. Additionally, Respondent charged Aguirre six hours to allegedly advise Aguirre regarding certain law.

28. Respondent also charged Aguirre 6.7 hours for emailing him, researching experts, and determining the cost of the expert despite the fact that no charges had been filed against Aguirre in California at that time.

29. Respondent also charged Aguirre four hours on August 5, 2016 for preparing the accounting and correspondence despite the fact that Aguirre terminated him on July 14, 2016.

30. Respondent similarly charged Aguirre four hours on August 6, 2016 for preparing the accounting.

31. Respondent also charged Aguirre for reviewing Aguirre's email terminating him, for executing a substitution of counsel, and for communicating with Aguirre regarding a refund.

32. The accounting also contains entries regarding the Arizona case despite the fact that Respondent did not provide Aguirre a writing complying with ER 1.5(b) relating to the Arizona case.

33. Aguirre never agreed in writing that the funds that he paid Respondent for the California case could be applied to the Arizona case.

34. During the screening investigation, bar counsel asked Respondent to identify the alleged "other heavy litigation work" that he passed on so that he could represent Aguirre.

35. On December 19, 2016, Respondent identified the following persons that he allegedly did not represent because of his representation of Aguirre:

Gerardo Flores, Javier Arellano, Christine Visser, Laura Muldrew, Benito Rodriguez, Edgar Guterrez, and Icela Gonzalez.

36. Despite stating that “passed” on representing Javier Arellano because of his representation of Aguirre, Respondent actually filed a complaint for Mr. Arellano in the United States District Court in Arizona on October 6, 2016.

37. On January 31, 2017, a staff investigator emailed Respondent and requested that he provide contact information for the individuals that he allegedly declined to represent because of his representation of Aguirre.

38. Respondent responded on February 10, 2017.

39. Respondent informed the staff investigator that he was “now representing Javier Arellano.”

40. Respondent could not provide contact information for four of the persons that he allegedly declined to represent because of his representation of Aguirre.

41. On May 3, 2017, the Attorney Discipline Probable Cause Committee (ADPCC) entered an Order of Admonition, Probation (Fee Arbitration, CLE and LOMAP (one time consult)) and Costs (Admonition). (Exhibit B).

42. The Admonition provides for one year of probation to include fee arbitration with Aguirre, a one-time LOMAP consult, and the CLE “How to Get Paid Ethically” in addition to the annual MCLE requirement.

43. On May 22, 2017, Respondent submitted a Notice of Appeal and Demand to Institute Formal Proceedings and to Set Aside Order of Admonition, necessitating the instant proceedings.

### **CONDITIONAL ADMISSIONS**

Respondent’s admissions are being tendered in exchange for the form of discipline stated below and are submitted freely and voluntarily and not as a result of coercion or intimidation.

Respondent conditionally admits that his conduct violated Rule 42, Ariz. R. Sup. Ct., specifically ERs 1.5(a), 1.5(b), 1.5(d)(3), 1.5(e), 1.15(a), and 1.16(d).

### **RESTITUTION**

Restitution is not an issue in this matter; however, Respondent agrees to participate in fee arbitration with Aguirre.

### **SANCTION**

Respondent and the State Bar of Arizona agree that based on the facts and circumstances of this matter, as set forth above, the following sanctions are

appropriate: Admonition with one year of probation to include fee arbitration with Aguirre, a one-time LOMAP consult, and the CLE “How to Get Paid Ethically” in addition to the annual MCLE requirement.

If Respondent violates any of the terms of this agreement, further discipline proceedings may be brought.

### **FEE ARBITRATION**

Respondent shall participate in the State Bar’s Fee Arbitration Program with Aguirre. Respondent shall contact the Fee Arbitration Coordinator at (602) 340-7379 within ten (10) days from the date of entry of the final judgment and order to obtain the forms necessary to participate in Fee Arbitration. Respondent shall file the necessary forms no later than thirty (30) days from the date of receipt of the forms. Respondent shall have thirty (30) days from the date of the letter of the Fee Arbitration Coordinator to comply with the award entered in the Fee Arbitration proceeding.

### **LOMAP (One Time Consult)**

Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from the date of entry of the final judgment and order. Respondent shall submit to a LOMAP one time consultation. Respondent shall

complete any follow up deemed necessary by LOMAP. Respondent will be responsible for any costs associated with LOMAP.

### **CLE**

In addition to the annual MCLE requirement, Respondent shall complete the CLE program “How to Get Paid Ethically” within ninety (90) days from the date of entry of the final judgment and order. Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the program by providing a copy of handwritten notes. Respondent shall contact the Compliance Monitor at (602) 340-7258 to make arrangements to submit this evidence. Respondent will be responsible for the costs of the CLE.

### **NON-COMPLIANCE LANGUAGE**

In the event that Respondent fails to comply with any of the foregoing probation terms, and information thereof, is received by the State Bar of Arizona, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within thirty (30) days to determine whether a term of probation has been breached and, if so, to recommend an appropriate sanction. If there is an allegation that Respondent failed to comply with any of the foregoing

terms, the burden of proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

### **LEGAL GROUNDS IN SUPPORT OF SANCTION**

In determining an appropriate sanction, the parties consulted the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* pursuant to Rule 57(a)(2)(E). The *Standards* are designed to promote consistency in the imposition of sanctions by identifying relevant factors that courts should consider and then applying those factors to situations where lawyers have engaged in various types of misconduct. *Standards* 1.3, Commentary. The *Standards* provide guidance with respect to an appropriate sanction in this matter. *In re Peasley*, 208 Ariz. 27, 33, 35, 90 P.3d 764, 770 (2004); *In re Rivkind*, 162 Ariz. 154, 157, 791 P.2d 1037, 1040 (1990).

In determining an appropriate sanction, consideration is given to the duty violated, the lawyer's mental state, the actual or potential injury caused by the misconduct and the existence of aggravating and mitigating factors. *Peasley*, 208 Ariz. at 35, 90 P.3d at 772; *Standard* 3.0.

The parties agree that *Standard* 7.4 is the appropriate *Standard* given the facts and circumstances of this matter. *Standard* 7.4 provides: "Admonition is

generally appropriate when a lawyer engages in an isolated instance of negligence that is a violation of a duty owed as a professional, and causes little or no actual or potential injury to a client, the public, or the legal system.” Respondent engaged in negligence relating to his fee agreement and his failure to refund fees.

### **The duty violated**

As described above, Respondent’s conduct violated his duty to his client and as a professional.

### **The lawyer’s mental state**

For purposes of this agreement, the parties agree that Respondent negligently applied funds from the California case to the Arizona case without obtaining Aguirre’s consent to do so in writing, negligently failed to identify the rate of his fees for the Arizona case in writing, negligently failed to include in his fee agreement language that Aguirre may discharge him at any time and, in that event, may be entitled to a refund of all or part of the fee based on the value of the representation, negligently failed to have Aguirre sign a writing setting forth the division of fees between Respondent and Saldivar, and negligently failed to refund unearned fees, and that his conduct was in violation of the Rules of Professional Conduct.

### **The extent of the actual or potential injury**

For purposes of this agreement, the parties agree that there was actual harm to Aguirre but this harm will be rectified with the fee arbitration that is part of this Agreement for Discipline by Consent.

### **Aggravating and mitigating circumstances**

The presumptive sanction in this matter is admonition. The parties conditionally agree that the following aggravating and mitigating factors should be considered.

#### **In aggravation:**

*Standard 9.22(a)*, prior disciplinary offenses. In file no. 02-1420, Respondent was informally reprimanded for trust account violations.

*Standard 9.22(b)*, dishonest or selfish motive. Respondent refused to return any fees to Aguirre that Aguirre paid Respondent.

*Standard 9.22(i)*, substantial experience in the practice of law. Respondent has been licensed to practice law in Arizona since October 8, 1977.

#### **In mitigation:**

*Standard 9.32(m)*, remoteness of prior offenses. Respondent's informal reprimand in file no. 02-1420 is remote in time.

## **Discussion**

The parties have conditionally agreed that, upon application of the aggravating and mitigating factors to the facts of this case, the presumptive sanction is appropriate.

The parties have conditionally agreed that a greater or lesser sanction would not be appropriate under the facts and circumstances of this matter. This agreement was based on the following: The proposed sanction of an admonition with probation is the same sanction that the ADPCC ordered on May 3, 2017. Moreover, the proposed sanction of an admonition with probation will remediate any harm Respondent's misconduct caused Aguirre and will ensure the protection of the public. Specifically, the fee arbitration will remediate any harm that Respondent's misconduct caused Mr. Aguirre. The CLE and LOMAP consult will assist Respondent in drafting a fee agreement that complies with the ethical rules and in ethically billing clients in the future.

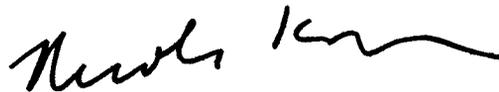
Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

## CONCLUSION

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. *Peasley, supra* at ¶ 64, 90 P.3d at 778. Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of an admonition with one year of probation to include fee arbitration with Aguirre, a one-time LOMAP consult, the CLE “How to Get Paid Ethically” in addition to the annual MCLE requirement, and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit C.

DATED this 23<sup>rd</sup> day of October, 2017

STATE BAR OF ARIZONA

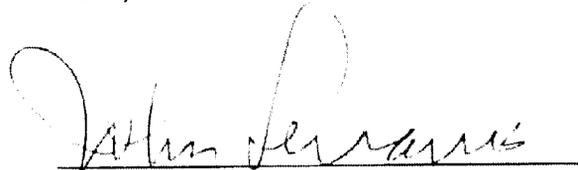


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Nicole S. Kasetta  
Staff Bar Counsel

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

DATED this 20<sup>th</sup> day of October, 2017.

  
\_\_\_\_\_  
John H. Serrano  
Respondent

Approved as to form and content

  
\_\_\_\_\_  
Maret Vessella  
Chief Bar Counsel

Original filed with the Disciplinary Clerk of  
the Office of the Presiding Disciplinary Judge  
of the Supreme Court of Arizona  
this 23<sup>rd</sup> day of October, 2017.

Copy of the foregoing emailed  
this 23<sup>rd</sup> day of October, 2017, to:

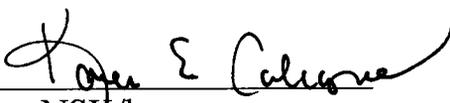
The Honorable William J. O'Neil  
Presiding Disciplinary Judge  
Supreme Court of Arizona  
1501 West Washington Street, Suite 102  
Phoenix, Arizona 85007  
E-mail: [officepdj@courts.az.gov](mailto:officepdj@courts.az.gov)

Copy of the foregoing mailed/emailed  
this 23<sup>rd</sup> day of October, 2017, to:

John H Serrano  
209 W 2nd St  
Yuma, AZ 85364-2209  
Email: [serranolaw@gmail.com](mailto:serranolaw@gmail.com)  
Respondent

Copy of the foregoing hand-delivered  
this 23<sup>rd</sup> day of October, 2017, to:

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

by:   
NSK/kec

**EXHIBIT A**

## Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,  
John H. Serrano, Bar No. 005076, Respondent

File No. 16-2660

### Administrative Expenses

The Supreme Court of Arizona has adopted a schedule of administrative expenses to be assessed in lawyer discipline. If the number of charges/complainants exceeds five, the assessment for the general administrative expenses shall increase by 20% for each additional charge/complainant where a violation is admitted or proven.

Factors considered in the administrative expense are time expended by staff bar counsel, paralegal, secretaries, typists, file clerks and messenger; and normal postage charges, telephone costs, office supplies and all similar factors generally attributed to office overhead. As a matter of course, administrative costs will increase based on the length of time it takes a matter to proceed through the adjudication process.

*General Administrative Expenses*  
*for above-numbered proceedings* **\$ 1,200.00**

Additional costs incurred by the State Bar of Arizona in the processing of this disciplinary matter, and not included in administrative expenses, are itemized below.

### Staff Investigator/Miscellaneous Charges

09/11/17	Alliance Invoice: Deposition of John Serrano	\$ 628.85
05/10/17	PACER Invoice	\$ 3.90
01/31/17	LexisNexis Invoice	\$ 16.68
Total for staff investigator charges		\$ 649.43
<b><u>TOTAL COSTS AND EXPENSES INCURRED</u></b>		<b><u>\$ 1,849.43</u></b>

**EXHIBIT B**

BEFORE THE ATTORNEY DISCIPLINE  
PROBABLE CAUSE COMMITTEE  
OF THE SUPREME COURT OF ARIZONA

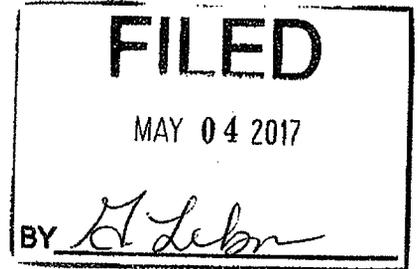
IN THE MATTER OF A MEMBER OF  
THE STATE BAR OF ARIZONA,

JOHN H. SERRANO  
Bar No. 005076

Respondent.

No. 16-2660

ORDER OF ADMONITION,  
PROBATION, (FEE ARBITRATION,  
CLE and LOMAP (one time  
consult)) AND COSTS



The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on April 7, 2017, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation and Respondent's Response.

By a vote of 8-0-1<sup>1</sup>, the Committee finds probable cause exists that Respondent violated the following Rules of the Supreme Court of Arizona, Rule 42, ER 1.5(a), Rule 42, ER 1.5(b), Rule 42, ER 1.5(d)(3), Rule 42, ER 1.15(a), Rule 42, ER 1.5(e)(2) and Rule 42, ER 1.16(d). Respondent is hereby admonished for violating the following rules: 1. ER 1.5(a) by collecting an unreasonable fee; 2. ER 1.5(b) because Respondent applied funds from one representation to another representation without obtaining the client's written consent and failed to identify the rate of the fee for the Yuma, Arizona case; 3. ER 1.5(d)(3) because Respondent's fee agreement failed to inform client that the client may discharge Respondent at any time and may be entitled to a refund of all or part of the fee; 4. ER 1.15(a) because Respondent applied fees from one representation to another representation without obtaining the client's written consent; 5. ER 1.5(e)(2)

<sup>1</sup> Committee member Ella G. Johnson did not participate in this matter.

because the division of fees between Respondent and Mr. Saldivar was not in a writing signed by his client; ER 1.16(d) because Respondent failed to return unearned fees to his client.

**IT IS THEREFORE ORDERED** issuing an Order of Admonition for Respondent's conduct pursuant to Rules 55(c)(1)(D) and 60(a)(4), Ariz. R. Sup. Ct.

**IT IS FURTHER ORDERED** that pursuant to Rules 55(c)(1)(D) and 60(a)(5), Ariz. R. Sup. Ct., Respondent is placed on Probation under the following terms and conditions:

(1) The probation period will begin at the time this Order is served upon Respondent, and will conclude 1 year from that date.

(2) Respondent shall participate in and successfully complete the following programs:

a) FEE ARBITRATION: Respondent shall participate in the State Bar's Fee Arbitration Program. Respondent shall contact the Fee Arbitration Coordinator at 602-340-7379 within 10 days from the date of service of this Order to obtain the forms necessary to participate in Fee Arbitration. Respondent shall file the necessary forms no later than 30 days from the date of receipt of the forms. Respondent shall have 30 days of the date of letter from the Fee Arbitration Coordinator to comply with the award entered in the Fee Arbitration proceeding.

b) CLE: In addition to annual MCLE requirements, Respondent shall complete the following Continuing Legal Education ("CLE") program: "How to Get Paid Ethically", within 90 days from the date of service of this Order. Respondent shall provide the State Bar Compliance Monitor with evidence

of completion of the program by providing a copy of handwritten notes. Respondent should contact the Compliance Monitor at 602-340-7258 to make arrangements to submit this evidence. Respondent will be responsible for the cost of the CLE.

c) LOMAP (one time consult): Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from the date of service of this Order. Respondent shall submit to a LOMAP one time consultation. Respondent shall complete any follow up deemed necessary by LOMAP. Respondent will be responsible for any costs associated with LOMAP.

- (3) Respondent shall commit no further violations of the Rules of Professional Conduct.
- (4) Respondent shall report, in writing, compliance with the terms of probation to the State Bar's Phoenix Office.
- (5) If Respondent fails to comply with any of the foregoing conditions and the State Bar receives information about non-compliance, bar counsel shall report material violations to the Presiding Disciplinary Judge, who may hold a hearing to determine if the terms of probation have been violated and to determine if an additional sanction should be imposed. In a probation violation hearing, the State Bar must prove a violation by preponderance of the evidence.

**IT IS FURTHER ORDERED**, pursuant to Rule 60(b), Ariz. R. Sup. Ct., that Respondent shall pay the costs and expenses of these proceedings, as set forth in the

attached Statement of Costs and Expenses, within thirty (30) days from the date of service of this Order.

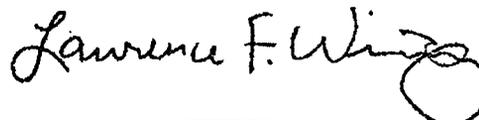
**PURSUANT** to Rules 60(a)(4) and 70(a)(2), Ariz. R. Sup. Ct., this order will be entered in the Respondent's permanent record at the State Bar and is not confidential. Pursuant to Rule 48(k)(3), Ariz. R. Sup. Ct., it may be considered by the Attorney Discipline Probable Cause Committee, the Presiding Disciplinary Judge, a Hearing Panel, or the Supreme Court in recommending or imposing discipline in a subsequent disciplinary proceeding against Respondent.

#### **NOTICE OF RIGHT**

Parties may not file motions for reconsideration of this Order.

**PURSUANT** to Rule 55(c)(4)(B), Ariz. R. Sup. Ct., within ten (10) days of service of this Order, Respondent has the right to demand that a formal proceeding be instituted and issuance of an Order to Vacate this Order whereupon this order will be vacated and the matter disposed of in the same manner instituted before the Presiding Disciplinary Judge. This demand shall be filed with the Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona, 1501 W. Washington, Suite 104, Phoenix, AZ 85007-3231 with a copy to the State Bar of Arizona. The demand must comply with Rule 8(c), Ariz. R. App. Proc.

**DATED** this 3<sup>rd</sup> day of May, 2017



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Judge Lawrence F. Winthrop, Chair  
Attorney Discipline Probable Cause Committee  
of the Supreme Court of Arizona

Original filed this 4<sup>th</sup> day  
of May, 2017, with:

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

Copy mailed this 5<sup>th</sup> day  
of May, 2017, to:

John H. Serrano  
209 W. 2nd Street  
Yuma, Arizona 85364-2209  
Respondent

Fernando Aguirre  
2277 S. 46th Way  
Yuma, Arizona 85364  
Complainant

Copy emailed this 5<sup>th</sup> day  
of May, 2017, to:

Attorney Discipline Probable Cause Committee  
of the Supreme Court of Arizona  
1501 West Washington Street, Suite 104  
Phoenix, Arizona 85007  
E-mail: [ProbableCauseComm@courts.az.gov](mailto:ProbableCauseComm@courts.az.gov)

Lawyer Regulation Records Manager  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
E-mail: [LRO@staff.azbar.org](mailto:LRO@staff.azbar.org)

Compliance Monitor  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016

Fee Arbitration Coordinator  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016

by: Karen E. Calcano

## Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,  
John H. Serrano, Bar No. 005076, Respondent

File No. 16-2660

### Administrative Expenses

The Supreme Court of Arizona has adopted a schedule of administrative expenses to be assessed in lawyer discipline. If the number of charges/complainants exceeds five, the assessment for the general administrative expenses shall increase by 20% for each additional charge/complainant where a violation is admitted or proven.

Factors considered in the administrative expense are time expended by staff bar counsel, paralegal, secretaries, typists, file clerks and messenger; and normal postage charges, telephone costs, office supplies and all similar factors generally attributed to office overhead. As a matter of course, administrative costs will increase based on the length of time it takes a matter to proceed through the adjudication process.

*General Administrative Expenses*  
*for above-numbered proceedings* \$ 600.00

Additional costs incurred by the State Bar of Arizona in the processing of this disciplinary matter, and not included in administrative expenses, are itemized below.

### Staff Investigator/Miscellaneous Charges

01/31/17 Computer investigation reports, Accurint \$ 16.68

Total for staff investigator charges \$ 16.68

TOTAL COSTS AND EXPENSES INCURRED \$ 616.68

**EXHIBIT C**

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**JOHN H SERRANO,**  
**Bar No. 005076,**

Respondent.

**PDJ 2017-9075**

**FINAL JUDGMENT AND  
ORDER**

[State Bar No. 16-2660]

The undersigned Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on October \_\_, 2017, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

**IT IS HEREBY ORDERED** that Respondent, John H. Serrano, is hereby admonished for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

**IT IS FURTHER ORDERED** that Respondent shall be placed on probation for a period of one (1) year. The period of probation shall commence upon entry of this final judgment and order and will conclude one (1) year from that date.

**IT IS FURTHER ORDERED** that Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from the date of entry of this final judgment and order. Respondent shall submit to a one-time LOMAP consultation. Respondent shall complete any follow up deemed necessary by LOMAP. Respondent will be responsible for any costs associated with LOMAP.

**IT IS FURTHER ORDERED** that, as a term of probation, Respondent shall participate in the State Bar's Fee Arbitration Program with Fernando Aguirre. Respondent shall contact the Fee Arbitration Coordinator at (602) 340-7379 within ten (10) days from the date of entry of this final judgment and order to obtain the forms necessary to participate in Fee Arbitration. Respondent shall file the necessary forms no later than thirty (30) days from the date of receipt of the forms. Respondent shall have thirty (30) days from the date of the letter of the Fee Arbitration Coordinator to comply with the award entered in the Fee Arbitration proceeding.

**IT IS FURTHER ORDERED** that, in addition to the annual MCLE requirement, Respondent shall complete the CLE program "How to Get Paid Ethically" within ninety (90) days from the date of entry of this final judgment and order. Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the program by providing a copy of handwritten notes. Respondent

shall contact the Compliance Monitor at (602) 340-7258 to make arrangements to submit this evidence. Respondent will be responsible for the costs of the CLE.

### **NON-COMPLIANCE LANGUAGE**

In the event that Respondent fails to comply with any of the foregoing probation terms, and information thereof, is received by the State Bar of Arizona, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether a term of probation has been breached and, if so, to recommend an appropriate sanction. If there is an allegation that Respondent failed to comply with any of the foregoing terms, the burden of proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

**IT IS FURTHER ORDERED** that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$1,849.43, within 30 days from the date of service of this Order.

**IT IS FURTHER ORDERED** that Respondent shall pay the costs and expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's

Office in connection with these disciplinary proceedings in the amount of \_\_\_\_\_, within 30 days from the date of service of this Order.

**DATED** this \_\_\_\_\_ day of October, 2017

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**William J. O'Neil, Presiding Disciplinary  
Judge**

Original filed with the Disciplinary Clerk of  
the Office of the Presiding Disciplinary Judge  
of the Supreme Court of Arizona  
this \_\_\_\_\_ day of October, 2017.

Copies of the foregoing mailed/mailed  
this \_\_\_\_\_ day of October, 2017, to:

John H. Serrano  
209 W. 2nd St.  
Yuma, AZ 85364-2209  
Email: [serranolaw@gmail.com](mailto:serranolaw@gmail.com)  
Respondent

Copy of the foregoing emailed/hand-delivered  
this \_\_\_\_\_ day of October, 2017, to:

Nicole S. Kaseta  
Bar Counsel - Litigation  
State Bar of Arizona  
4201 N 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
Email: [LRO@staff.azbar.org](mailto:LRO@staff.azbar.org)

Copy of the foregoing hand-delivered  
this \_\_\_\_ day of October, 2017 to:

Lawyer Regulation Records Manager  
State Bar of Arizona  
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Phoenix, Arizona 85016-6266

by: \_\_\_\_\_