

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

EDWARD MALDONADO,
Bar No. 022229

Respondent.

PDJ 2018-9056

**FINAL JUDGMENT AND
ORDER**

[State Bar No. 18-0239]

FILED OCTOBER 25, 2018

The Presiding Disciplinary Judge, having reviewed the Agreement for Discipline by Consent filed on October 10, 2018, pursuant to Rule 57(a), Ariz. R. Sup. Ct., accepts the parties' proposed agreement. Accordingly:

IT IS ORDERED Respondent, **Edward Maldonado, Bar No. 022229** is suspended for eighteen (18) months for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective forty-five (45) days from the date of this order.

IT IS FURTHER ORDERED upon reinstatement, Respondent shall be placed on probation for a period of two (2) years.

IT IS FURTHER ORDERED Edward Maldonado shall participate in the following programs:

1. LRO MAP: Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within ten (10) days from the date of reinstatement, to schedule an assessment. The Compliance Monitor shall develop terms and conditions of participation if the results of the assessment so indicate and the terms, including reporting requirements, shall be incorporated herein. Respondent shall be responsible for any costs associated with participation with compliance.

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

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

IT IS FURTHER ORDERED that Respondent shall pay the costs and expenses of the State Bar of Arizona in the amount of \$ 1,218.24, 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 these disciplinary proceedings.

DATED this 25th day of October, 2018

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/mailed
this 25th day of October, 2018, to:

Edward Maldonado
Law Office of Edward Maldonado
PO Box 33335
Phoenix, Arizona 85067-3335
Email: criminallaw33@gmail.com
Respondent

Hunter F Perlmeter
Senior Bar Counsel
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

by: AMcQueen

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

EDWARD MALDONADO,
Bar No. 022229

Respondent.

PDJ 2018-9056

**DECISION ACCEPTING
DISCIPLINE BY CONSENT**

[State Bar No. 18-0239]

FILED OCTOBER 25, 2018

Under Rule 57(a), Ariz. R. S. Ct.,¹ an Agreement for Discipline by Consent (“Agreement”), was filed May 2, 2018. A Probable Cause Order issued on June 25, 2018. The complaint was filed on June 29, 2018 alleging violations of ER 8.4(b) (criminal conduct) and Rule 41(g) (unprofessional conduct). Maldonado represents himself and timely filed an answer. The State Bar of Arizona is represented by Senior Bar Counsel Hunter F. Perlmeter.

Rule 57 requires admissions be tendered solely “...in exchange for the stated form of discipline...” Under that rule, the right to an adjudicatory hearing is waived only if the “...conditional admission and proposed form of discipline is approved...” If the agreement is not accepted, those conditional admissions are automatically withdrawn and shall not be used against the parties in any subsequent proceeding.

¹ Unless otherwise stated all Rule references are to the Ariz. R. Sup. Ct.

Maldonado has voluntarily waived the right to an adjudicatory hearing, and waived all motions, defenses, objections or requests that could be asserted upon approval of the proposed form of discipline. There are three victims stated in the complaint. However, Rule 53(b)(3) requires only notice and an opportunity to object be sent to the complainant, which was done by letter on September 10, 2018. Complainant has no objections to the agreement.

The complaint alleges a consistent and egregious pattern of sexual misconduct which admits harassment against one woman and is far less straight forward regarding his conduct towards a second. If those allegations are true, he likely committed a sexual assault. The agreement dismisses counts against two other women for his tepid admissions of the other two.

Los Abogados is an affiliate member of the Hispanic National Bar Association. Mr. Maldonado was a board member of that organization and is married. Person A was also a board member and is married. During a Los Abogados retreat near Tucson, Mr. Maldonado began to make unwelcomed statements and actions of a sexual nature to her. These culminated in his attempt to follow her into the women's bathroom. She confronted his misconduct and ultimately demanded an apology. Despite this he would later call her a "whore" while she was dancing with another individual.

Person B was a Hispanic second year law student who attended a Los Abogado event open to lawyers and law students. She left the event and went to a bar where she

the parties submit she became intoxicated. Mr. Maldonado states he believed “she was in need of assistance.” His assisted her by apparently getting her into his car, driving her to his office where he removed all her clothing. She woke up naked in the office of Mr. Maldonado with no recollection of how or why her clothes had been removed. Meanwhile, Mr. Maldonado in an alleged further attempt to assist her sent a text message to another law student to pick her up from his office and bring clothing for her. That student arrived around 4:00 a.m. Maldonado argues she vomited on herself which of necessity required his assistance in removing all of her clothing while she was passed out. The student who arrived to get her out of there smelled no vomit in the office or on her clothing.

While the parties agreed to dismiss a third count to achieve settlement, a pattern is clear from his conduct. Mr. Maldonado acted knowingly. His actions are demonstrative of characteristics that are inexcusable under any social norm and incompatible with every professional norm. His methodological pattern requires a long-term suspension shifting the burden for reinstatement to him. If reinstatement is ever sought, it will likely require significant professional testimony to return to the profession because his misconduct is so great. “[O]n the issue of general fitness apart from moral character, the more serious the misconduct, the heavier will be the applicant's burden to dispel the concern that his or her admission to practice law ... will be detrimental to the integrity and standing of the Bar.” *In re Dortch*, 860 A.2d

346, 357; *In re Robbins*, 172 Ariz. 255 (1992); 20 Law. Man. Prof. Conduct 540 (D.C. 2004).

This is the unsolicited targeting of the opposite sex. It is inexcusable and is not condoned. Agreements inherently resolve matters without a formal evidentiary hearing. The reasons for those vary but are often to protect the victims. It is accepted for that reason. The Agreement details a factual basis to support the conditional admission of a violation of Rule 41(g). Maldonado agrees to accept the imposition of the sanction of an eighteen (18) month suspension from the practice of law and the full payment of costs of these proceedings within thirty (30) days.

Legal Ground in Support of Sanction

Rule 58(k) requires that “Sanctions imposed shall be determined in accordance with the American Bar Association *Standards for Imposing Lawyer Sanctions*. Rule 57(a)(2)(E) requires the consent agreement include a discussion of those *Standards*. The parties agree that *Standard 7.2, Violation of Other Duties Owed as a Professional* applies and provides that suspension is generally appropriate when:

a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional, and causes injury or potential injury to a client, the public, or the legal system.

Maldonado knowingly engaged in unprofessional conduct in violation of the Rules of Professional Conduct and his misconduct caused actual harm to the public.

The parties stipulate that the presumptive sanction is suspension. The parties further stipulate in aggravation are factors 9.22(c), a pattern of misconduct and 9.22(h) vulnerability of the victims. Factor 9.32(a), argued in mitigation is his absence of prior disciplinary record.

IT IS ORDERED accepting the Agreement and incorporating it and any supporting documents by this reference. Costs are stipulated to be \$1,218.24. A final judgment and order is signed this date.

DATED this 25th day of October 2018.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

COPY of the foregoing e-mailed/mailed
on this 25th day of October 2018, to:

Hunter F. Perlmeter
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Edward Maldonado
PO box 33335
Phoenix, AZ. 85067-3335
Email: criminallaw33@gmail.com
Respondent

by: AMcQueen

Hunter F. Perlmeter, Bar No. 024755
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Telephone (602)340-7278
Email: LRO@staff.azbar.org

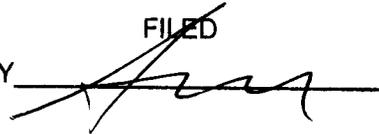
Edward Maldonado, Bar No. 022229
Law Office of Edward Maldonado
PO Box 33335
Phoenix, Arizona 85067-3335
Telephone 602-888-3758
Email: criminallaw33@gmail.com
Respondent

OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

OCT 10 2018

FILED

BY



BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**EDWARD MALDONADO
Bar No. 022229**

Respondent.

PDJ 2018-9056

State Bar File Nos. **18-0239**

**AGREEMENT FOR DISCIPLINE
BY CONSENT**

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Edward Maldonado, 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 10, 2018. Complainant has indicated that she does not have an objection to the settlement terms contained herein.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 41(g), Ariz. R. Sup. Ct. Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Suspension of 18 months and, upon reinstatement, two years' probation to include participation in the State Bar Member Assistance Program (MAP). 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.¹ 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 June, 30, 2004.

COUNT ONE (File no. 18-0239/ Mendez)

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

Person A

1. Person A, is a partner at a Phoenix law firm.
2. In 2012, Person A and Respondent, both of whom were Los Abogados board members, attended a Los Abogados retreat near Tucson. Both were drinking at the event. When Person A arrived, Respondent stated to her: "I'm glad your husband isn't here, I was hoping he wouldn't come." Person A was particularly bothered by the conduct because Respondent was and is married.
3. Respondent stayed close to Person A throughout the night and then tried to follow her into the restroom late in the evening, at which time he made physical contact with her. The behavior caused Person A to tell Respondent that he was out of line.
4. The next day, Person A again confronted Respondent, and told him he was never to behave that way and owed her an apology. She told him that as an employment attorney, she was well aware of what constituted sexual harassment and she wouldn't tolerate it." Respondent apologized.
5. Later that evening, however, Respondent called Person A, a "whore" while she was dancing with another attorney.
6. Person A asked a male attendee to escort her back to her room that evening because of her concerns regarding Respondent's behavior.

Person B

7. In the spring of 2013, Person B was a second year law student at Phoenix School of Law.

8. Respondent and Person B attended a Los Abogados event open to lawyers and law students at Hanny's restaurant in downtown Phoenix.

9. Thereafter, Respondent and Person B left Hanny's and entered Skybar on Jefferson Street. Respondent believes other law students and lawyers entered the bar with them.

10. Person B became intoxicated at Skybar and Respondent led Person B to his vehicle believing she was in need of assistance.

11. Upon leaving Skybar, Respondent drove Person B to his office and carried her into the office because she was too intoxicated to walk.

12. Respondent's position is that Person B had become sick on herself and he removed all of her clothing, including her bra and underwear in an effort to clean her. Respondent was married at the time and Respondent and Person B had never been romantically involved.

13. Person B woke up naked in Respondent's office, but covered by a blanket, with no recollection of how or why her clothes had been removed.

14. Respondent sent a text message to another law student to pick up Person B from his law office and asked that he bring clothing for Person B. The law

student arrived around 4 a.m. and found Person B naked and in the bathroom, but with a blanket.

15. The law student who arrived did not smell or see vomit upon his arrival.

16. Person B saw no vomit on her black dress or underwear upon receiving it back from Respondent in a plastic bag. Respondent's position is that is because he washed her clothing in the sink.

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 41(g), Ariz. R. Sup. Ct.

CONDITIONAL DISMISSALS

The State Bar has conditionally agreed to dismiss allegations made in paragraphs 3-17 and 24-36 of the complaint as part of this negotiated resolution.

RESTITUTION

Restitution is not an issue in this matter.

SANCTION

Respondent and the State Bar of Arizona agree that based on the facts and circumstances of this matter, as set forth above, the following sanctions are appropriate: Suspension of 18 months and two years' probation to MAP upon

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

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* 7.2 is the appropriate *Standard* given the facts and circumstances of this matter. *Standard* 7.2 provides that suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty

owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

The duty violated

As described above, Respondent's conduct violated his duty to the public.

The lawyer's mental state

For purposes of this agreement, the parties agree that Respondent knowingly engaged in unprofessional behavior towards a female attorney and a female law student 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 the public.

Aggravating and mitigating circumstances

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

In aggravation:

Standard 9.22(c): a pattern of misconduct

Standard 9.22(h): vulnerability of the victim

In mitigation:

Standard 9.32(a): absence of a prior disciplinary record.

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. 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 a suspension of 18 months, probation of two years to the member assistance program upon reinstatement, and the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit B.

DATED this 10th day of October 2018

STATE BAR OF ARIZONA



Hunter F. Perlmeter
Senior Bar Counsel

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

DATED this 9th day of October, 2018.



Edward Maldonado
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 10th day of October, 2018.

Copy of the foregoing emailed

this 10th day of October, 2018, 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

Copy of the foregoing mailed/mailed
this 10th day of October, 2018, to:

Edward Maldonado
Law Office of Edward Maldonado
PO Box 33335
Phoenix, Arizona 85067-3335
Email: criminallaw33@gmail.com
Respondent

Copy of the foregoing hand-delivered
this 10th day of October, 2018, to:

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

by: Marquita Goodle
HFP/mg

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,
Edward Maldonado, Bar No. 022229, Respondent

File No. 18-0239

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

02/01/18	Investigator mileage to request records	\$	5.89
02/16/18	Investigator mileage to pick-up records; Phoenix Police Department Records	\$	12.35
Total for staff investigator charges		\$	18.24

TOTAL COSTS AND EXPENSES INCURRED \$ 1,218.24

EXHIBIT B

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**EDWARD MALDONADO
Bar No. 022229**

Respondent.

PDJ 2018-9056

**FINAL JUDGMENT AND
ORDER**

[State Bar No. 18-0239]

The Presiding Disciplinary Judge, having reviewed the Agreement for Discipline by Consent filed on _____, pursuant to Rule 57(a), Ariz. R. Sup. Ct., accepts the parties' proposed agreement. Accordingly:

IT IS ORDERED Respondent, **Edward Maldonado**, is suspended for 18 months for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective 45 days from the date of this order.

IT IS FURTHER ORDERED upon reinstatement, Respondent shall be placed on probation for a period of two (2) years.

IT IS FURTHER ORDERED Edward Maldonado shall participate in the following programs:

1. LRO MAP: Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from the date of service of this Order, to schedule an assessment. The Compliance Monitor shall develop terms and

conditions of participation if the results of the assessment so indicate and the terms, including reporting requirements, shall be incorporated herein. Respondent will be responsible for any costs associated with participation with compliance.

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

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

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$ _____, within thirty (30) days from the date 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, 2018

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, 2018.

Copies of the foregoing mailed/mailed this _____ day of October, 2018, to:

Edward Maldonado
Law Office of Edward Maldonado
PO Box 33335
Phoenix, Arizona 85067-3335
Email: criminallaw33@gmail.com
Respondent