

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

BETH H. ZUCKERBERG,
Bar No. 018908

Respondent.

PDJ 2019-9005

JUDGMENT OF DISBARMENT

[State Bar Nos. 18-0248, 18-2358, and
18-2905]

FILED FEBRUARY 15, 2019

Pursuant to Rule 57, Ariz. R. Sup. Ct., the parties filed with the disciplinary clerk a Consent to Disbarment (Consent). The Consent being in compliance with Rule 57(a)(5) and the Presiding Disciplinary Judge having considered it,

IT IS ORDERED accepting the Consent and disbaring Respondent, **BETH H. ZUCKERBERG, Bar No. 018908**, from the State Bar of Arizona effective immediately. Her name is stricken from the roll of lawyers and she 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 Ms. Zuckerberg shall immediately comply with the requirements of Rule 72, Ariz. R. Sup. Ct., which include but are not limited to notification of clients and others, and filing all notices and affidavits required.

IT IS FURTHER ORDERED under Rule 57(a)(5)(C), Ariz. R. Sup. Ct., no further disciplinary action shall be taken regarding the matters that are the subject of the charges upon which the Consent and this judgment of disbarment are based.

IT IS FURTHER ORDERED Respondent shall pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200.00. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in these disciplinary proceedings.

DATED this 15th day of February 2019.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/emailed
this 15th day of February 2019, to:

Beth H. Zuckerberg
4028 E. Hide Trail
Phoenix, AZ 85050-8969
Email: bethzuckerberg1@gmail.com
Respondent

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

by: [AMcQueen](#)

OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

FEB 13 2019

FILED

BY

David L. Sandweiss, Bar No. 005501
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Telephone (602)340-7250
Email: LRO@staff.azbar.org

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**BETH H. ZUCKERBERG,
Bar No. 018908,**

Respondent.

PDJ 2019-9005

CONSENT TO DISBARMENT

State Bar Nos. 18-0248, 18-2358, and
18-2905

I, Beth H. Zuckerberg, residing at 4028 E. Hide Trail, Phoenix, Arizona 85050-8969, voluntarily consent to disbarment as a member of the State Bar of Arizona and consent to the removal of my name from the roster of those permitted to practice before this court, and from the roster of the State Bar of Arizona.

I acknowledge that charges have been made against me. I have read the charges, and the charges there made against me. I further acknowledge that I do not desire to contest or defend the charges, but wish to consent to disbarment. I have been advised of and have had an opportunity to exercise my right to be

represented in this matter by a lawyer. I consent to disbarment freely and voluntarily and not under coercion or intimidation. I am aware of the rules of the Supreme Court with respect to discipline, disability, resignation and reinstatement, and I understand that any future application by me for admission or reinstatement as a member of the State Bar of Arizona will be treated as an application by a member who has been disbarred for professional misconduct, as set forth in the charges made against me. The misconduct of which I am accused is described in the charges bearing the numbers referenced above, a copy of which is attached hereto as Exhibit "A."

The State Bar's Statement of Costs and Expenses, which I agree to pay within thirty (30) days from the date of the Judgment of Disbarment, is attached hereto as Exhibit "B."

A proposed form of Judgment of Disbarment is attached hereto as Exhibit "C."

DONE AT Phoenix, Arizona, on February 5,
2019.


Beth H. Zuckerberg
Respondent

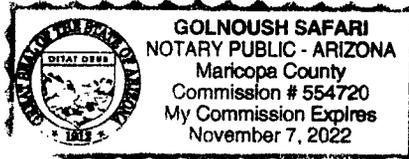
SUBSCRIBED AND SWORN TO before me this 5 day of Feb 2019,

2019, by Beth H. Zuckerberg, who satisfactorily proved her identity to me.

Safari S.
Notary Public

My Commission expires:

November 7, 2022



Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 13th day of ~~January~~, 2019.

February

Copy of the foregoing emailed
this 13th day of ~~January~~, 2019, to:

February

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 13th day of ~~January~~, 2019, to:
February

Beth H. Zuckerberg
4028 E. Hide Trail
Phoenix, AZ 85050-8969
Email: bethzuckerberg1@gmail.com
Respondent

Copy of the foregoing hand-delivered
this 13th day of ~~January~~, 2019, to:
February

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

by: _____



EXHIBIT "A"

**IN RE CONSENT TO DISBARMENT OF
RESPONDENT BETH H. ZUCKERBERG**

STATEMENT OF CHARGES

State Bar File Nos. 18-0248, 18-2358, and 18-2905

1. State Bar File No. 18-0248

In April 2014, Respondent's client Garibay was injured at Simon Medical Imaging where she went for a hand x-ray. She fell and hurt her arm, back, and head. In December 2014, she retained Respondent to represent her on a bodily injury claim. The fee agreement is fairly standard (contingent fee plus costs) but defines the following percentages to be charged:

If there is a recovery, the fee will be 33 1/3% of any amount received by settlement. If settlement is made during trial, or in the event of settlement or satisfaction of a judgment after a verdict is rendered, the fee will be 40%, provided no notice of appeal has been filed [and 45% on appeal].

Respondent and her office staff processed the case and compiled necessary medical documentation. As expiration of the statutory limitations period approached, Respondent filed but did not serve a lawsuit, and also made a settlement demand on Simon Med's insurer. The insurer rejected the claim so Respondent served Simon Med in July 2016. The parties exchanged routine paper discovery and disclosures, participated with the court in composing a scheduling order, stipulated to continue the case on the inactive calendar to avoid dismissal and, in April 2017, settled the case for \$25,000. In her file log, Respondent wrote:

Brett Sharrify called from the Gen Liability carrier. He offered \$18,500. After conversation, go offer up to \$25K. Client accepted, so I will call him tomorrow and accept! We get 40%

Respondent's fee calculation is wrong. None of the events that justified a fee increase from 33 1/3% to 40% occurred.

Respondent's assistant worked on obtaining medical bill lien reductions and, in August 2017, Respondent gave Complainant a partial distribution of \$4,000. Respondent's assistant falsely explained to Complainant that the fee was 40% because the case was in litigation. Respondent ratified the assistant's explanation. The assistant told Complainant that after she concluded lien reductions Complainant

would probably get another \$1,400. Complainant was profoundly disappointed over this news.

Respondent was suspended effective November 25, 2017. She did not notify Complainant of her suspension. Respondent claims she was not obligated to comply with the Rule 72 notice requirements because she settled Complainant's case and dismissed the suit (in August 2017) before she was suspended, even though she continued to provide legal services for Complainant.

Respondent and her office staff continued to negotiate liens and told Complainant in December 2017 that her final check -- for \$1,904.11 -- was ready. Complainant declined to pick up the check because neither Respondent nor any member of her office staff adequately explained how they calculated Complainant's net recovery.

Respondent furnished to bar counsel a copy of her file minus medical records. Respondent charged Complainant a 40% fee and costs of \$1,247.70. On her client ledger, she listed "Z-law costs" of \$790.87, "Z law setup" of \$200 (not authorized by the fee agreement), and "costs final-Z law" of \$256.83. The only documented expenses in the file are for hospital records-\$25.73, medical records and office expenses-\$277.72, court filing fee-\$319.00, court runner to file suit and issue the summons-\$20.00, and process server-\$55.00, for a total of \$697.45. Documented medical liens are \$7,848.19.

Respondent's distribution to Complainant was/should have been:

	<u>Was</u>		<u>Should have been</u>
Gross	\$25,000.00	Gross	\$25,000.00
Less: fees (40%)	10,000.00	Less: fees (1/3)	8,333.33
Less: costs advanced	1,247.70	Less: costs advanced	697.45
<u>Less: medical liens</u>	<u>7,848.19</u>	<u>Less: medical liens</u>	<u>7,848.19</u>
Net to Client	5,904.11	Net to Client	8,121.03

Respondent owes Complainant \$4,121.03.

During the screening investigation, bar counsel asked Respondent to provide copies of Complainant's trust account ledger, checks, deposits, and deposit slips for Complainant's case. Respondent furnished only the client ledger and it does not comply with Rule 43. It does not identify all payors and payees for all transactions, contain the check number for all transactions, bear the date of all transactions, or

state the unexpended balance after each transaction. It does contain extraneous information (e.g., payments of "0.00" to certain medical providers).

Per Rule 43(d)3., Ariz.R.S.Ct., "If a lawyer . . . fails to provide trust account records to the state bar upon request . . ., there is a rebuttable presumption that the lawyer failed to properly safeguard client . . . funds or property, as required by this rule and ER 1.15."

2. State Bar File No. 18-2358

In January 2016 client Vitti retained Respondent to represent her in a bodily injury, tort/motor vehicle case. In August 2016 Respondent sent a demand letter to the liability insurer for the liable party on the client's behalf. After being unable to communicate with Respondent, the client contacted the insurer directly. The claim representative told Respondent's client that the case settled for \$15,000 in October 2016, the insurer issued a settlement check, and the check was cashed. The client knew nothing of the transaction and received no funds from it. Respondent claims that she mistakenly stored the client's file when she closed her practice and that the client's funds remain on deposit in her trust account. Respondent failed to furnish requested trust account records to corroborate her claim.

3. State Bar File No. 18-2905

In May 2015, client Avalos retained Respondent to represent her in a bodily injury product liability claim against Church's Chicken. Respondent failed to diligently process the client's case, and filed suit in March 2017. Respondent failed to diligently prosecute the client's suit and, when Respondent was suspended in November 2017, had to refer the client to new counsel. Eventually the court dismissed the client's case due to failure to prosecute, in part owing to Respondent's failure to expedite the litigation consistent with the client's interests while Respondent still was counsel of record.

Respondent is charged with violating Rule 41(g), Ariz.R.S.Ct.; Rule 42, Ariz.R.S.Ct., ERs 1.2, 1.3, 1.4, 1.5, 1.15, 1.16(d), 3.2, 3.4(c), 4.1, 8.4(c), and 8.4(d); Rule 43, Ariz.R.S.Ct.; Rule 54(c), Ariz.R.S.Ct.; and Rule 72, Ariz.R.S.Ct.

EXHIBIT "B"

Statement of Costs and Expenses

In the Matter of a Suspended Member of the State Bar of Arizona,
Beth H. Zuckerberg, Bar No. 018908, Respondent

File Nos. 18-0248, 18-2358, 18-2905

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

Total for staff investigator charges \$ 0.00

TOTAL COSTS AND EXPENSES INCURRED \$ 1,200.00

EXHIBIT "C"

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**BETH H. ZUCKERBERG,
Bar No. 018908,**

Respondent.

PDJ

JUDGMENT OF DISBARMENT

State Bar Nos. 18-0248, 18-2358, and
18-2905

Pursuant to Rule 57, Ariz.R.S.Ct., Respondent filed with the disciplinary clerk a Consent to Disbarment (Consent). The Consent being in compliance with Rule 57(a)(5) and the Presiding Disciplinary Judge having considered it,

IT IS ORDERED accepting the Consent and disbaring Respondent, Beth H. Zuckerberg, Bar No. 018908, from the State Bar of Arizona effective _____. Her name is stricken from the roll of lawyers and she 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 Respondent shall immediately comply with the requirements of Rule 72, Ariz.R.S.Ct., which include but are not limited to notification of clients and others, and filing all notices and affidavits required.

IT IS FURTHER ORDERED under Rule 57(a)(5)(C), Ariz.R.S.Ct., no further disciplinary action shall be taken regarding the matters that are the subject of the charges upon which the Consent and this judgment of disbarment are based.

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

DATED this _____ day of _____, 2019.

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/mailed
this _____ day of January, 2019, to:

Beth H. Zuckerberg, Bar No. 018908
4028 E. Hide Trail
Phoenix, AZ 85050-8969
Telephone: 602-799-2667
Email: bethzuckerberg1@gmail.com
Respondent

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

by: _____