

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

---

IN THE MATTER OF AN INACTIVE MEMBER  
OF THE STATE BAR OF ARIZONA,

**FELISA M. BERMUDEZ,  
Bar No. 022355**

Respondent.

**PDJ-2016-9033**

**FINAL JUDGMENT AND ORDER**

[State Bar File Nos. 14-1852 14-  
2195, 14-2516, 14-2824, 14-3118,  
and 15-1842]

**FILED AUGUST 23, 2016**

The Presiding Disciplinary Judge having reviewed the Agreement for Discipline by Consent filed on August 19, 2016, pursuant to Rule 57(a), Ariz. R. Sup. Ct., accepted the parties' proposed agreement.

Accordingly:

**IT IS ORDERED** Respondent, **Felisa M. Bermudez**, is suspended for two (2) years, retroactive to June 21, 2016, the date Respondent changed her membership status to inactive, for her conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

**IT IS FURTHER ORDERED** upon reinstatement, Ms. Bermudez shall be placed on probation for a period of two (2) years, the terms of which shall include participation in the State Bar's Law Office Management Assistance Program and Member Assistance Program.

**IT IS FURTHER ORDERED** Ms. Bermudez shall pay restitution of \$1,050.00 to Mr. Senae Albinovich (Count Two) within thirty (30) days of the date of this order.

**IT IS FURTHER ORDERED** that if the Complainants in Counts One and Five initiate Fee Arbitration proceedings, Ms. Bermudez shall participate in same during the period of suspension and shall be bound by any award entered against her in those proceedings. Ms. Bermudez shall timely pay any such award.

**IT IS FURTHER ORDERED** Ms. Bermudez 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** under Rule 72 Ariz. R. Sup. Ct., Ms. Bermudez shall immediately comply with the requirements relating to notification of clients and others.

**IT IS FURTHER ORDERED** Ms. Bermudez shall pay the costs and expenses of the State Bar of Arizona totaling \$1,200.00 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 with these disciplinary proceedings.

**DATED** this 23<sup>rd</sup> day of August 2016.

*William J. O'Neil*

---

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

Copies of the foregoing mailed/emailed  
this 23<sup>rd</sup> day of August 2016, to:

Stacy L. Shuman  
Staff Bar Counsel  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, AZ 85016-6266  
Email: [lro@staff.azbar.org](mailto:lro@staff.azbar.org)

Nancy A. Greenlee  
821 E. Fern Drive North  
Phoenix, AZ 85014-3248  
Email: [nancy@nancygreenlee.com](mailto:nancy@nancygreenlee.com)  
Respondent's Counsel

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

Fee Arbitration Coordinator  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, AZ 85016-6266

by: AMcQueen

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

---

IN THE MATTER OF AN INACTIVE MEMBER  
OF THE STATE BAR OF ARIZONA,

**FELISA M. BERMUDEZ**  
**Bar No. 022355**

Respondent.

**PDJ-2016-9033**

**DECISION AND ORDER  
ACCEPTING AGREEMENT**

[State Bar File Nos. 14-1852, 14-  
2195, 14-2516, 14-2824, 14-3118,  
and 15-1842]

**FILED AUGUST 23, 2016**

An Agreement for Discipline by Consent (Agreement) was filed on August 19, 2016 and submitted under Rule 57(a), Ariz. R. Sup. Ct. The Agreement was supplemented with an additional filing the same day of nearly forty pages of medical records offered in mitigation. A protective order was sought and received for the sealing of those documents. An Order of Probable Cause issued on November 19, 2015 and the formal complaint was filed on April 4, 2016. That complaint was amended on June 3, 2016. An amended answer was filed on June 6, 2016. Upon filing such Agreement, the Presiding Disciplinary Judge (PDJ), "shall accept, reject or recommend modification of the agreement as appropriate". Under Rule 53(b)(3), Ariz. R. Sup. Ct., notice of this agreement was provided to the complainant by letter on July 21, 2016. Complainants were notified of the opportunity to file a written objection within five days. No objections have been received.

The Agreement details a factual basis for the admissions to the charges in the Agreement. Respondent, Felisa M. Bermudez conditionally admits she violated under

Supreme Court Rule 42: ER 1.1 (Competence]; ER 1.2(a) (Scope of Representation and Allocation of Authority between Client and Lawyer); ER 1.3 (Diligence); ER 1.4(a)(3) and (4) (Communication); ER 1.5(a), and 1.5(d)(3) (Fees); 1.6(a) (Confidentiality of Information); 1.7(a) (Conflict of interest);. ER 1.16(d) (Terminating Representation); ER 3.2 (Expediting Litigation); ER 8.1(a) (Misconduct in Disciplinary Matters); 8.4(c) (Misrepresentation) and; 8.4(d) (Conduct Prejudicial to the Administration of Justice).

### Count One

Count One involved multiple charges arising from the appointment of Ms. Bermudez to represent various criminal defendants under a county contract. Among these charges was Ms. Bermudez was appointed to represent a defendant charged with First Degree Murder and other charges. Ms. Bermudez had no prior experience with First Degree Murder cases. After the defendant pled guilty to second degree murder, first degree burglary and armed robbery, a Rule 32 petition alleged Ms. Bermudez had provided her client with ineffective assistance. Ms. Bermudez stipulated in that criminal proceeding she did not provide her client with effective assistance of counsel.

In another case, the uncle of Respondent was the lead law enforcement officer in one case, which conflict was not disclosed until after her cross-examination of her uncle. In another case her uncle was called to testify at the preliminary hearing. Respondent did not disclose her relationship nor withdraw from the case. In another case, she failed to tell her client a warrant had been issued for his arrest.

Ms. Bermudez filed inaccurate billing statements. Her county contract stated she would be paid at \$50 per hour. She billed for \$150 per hour. After a client pled

guilty in a case, Ms. Bermudez performed no work on the case for the thirty days prior to the sentencing, yet claimed 15 hours of work during that time. She was required under her county contract to keep case logs and time sheets. Her records were found not to match up with the invoices she turned into the county to her advantage by over \$180,000. In addition, between October 2012 and July 2014, she failed to appear at numerous hearings, often without prior notice to the court or the prosecutor.

Count Two

Ms. Bermudez was retained to represent her client in a family law matter and was paid a flat fee of \$4,200 for preparing a petition for dissolution, a mental health evaluation of the client's wife, and to secure visitation with the children. Ms. Bermudez never provided client drafts of any petitions and one month later charged him an additional \$1,050 purportedly for the petition for dissolution, a petition to terminate parental rights, a "Psych Eval," and to contest an order of protection. After filing a notice of appearance and request for hearing and denial regarding the order of protection, she did nothing else. When she was terminated, the client paid to have another lawyer file the petition for dissolution and seek visitation and defend the order of protection. Ms. Bermudez failed to timely return the client's personal property, wrongfully billed, did not itemize her hourly work for her client, and gave erroneous advice regarding child support calculations.

Count Three

The parties conditionally agreed to dismiss Count Three as there was no harm to the client that arose from the delays of Respondent.

#### Count Four

In two retained criminal cases, Ms. Bermudez provided ineffective assistance to her clients. In one matter, Ms. Bermudez gave a factual basis for a guilty plea that did not establish a felony had been committed, did not seek to give her client sufficient credit for time served, and never informed the client to appear for a court hearing date. In the other case, Ms. Bermudez failed to adequately argue mitigating factors, failed to object to irrelevant and inflammatory arguments by the State, failed to properly request credit for presentence incarceration, and failed to disclose a potential conflict of interest.

#### Count Five

Ms. Bermudez was retained to represent Jose Cuevas regarding sexual crimes and was paid a flat fee of \$10,000 and \$500 for a psychological examination. She told her client the prosecutor was busy with other cases delaying the official offer to plea of guilty to trespass, be placed on probation and not serve time in prison. In fact, the prosecutor by email had given Ms. Bermudez the option of delaying receipt of an offer pending a psycho-sexual evaluation and presenting that evaluation as mitigation to the prosecutor. Ms. Bermudez told the court she was arranging for a psycho-sexual evaluation but only secured a psychiatric evaluation. When Ms. Bermudez turned over the file to new counsel, it contained no work product, interviews or motions. When new counsel asked the prosecutor about a probation agreement, the prosecutor stated there had been no prior discussion regarding a plea agreement as Ms. Bermudez always immediately left after a hearing.

Ms. Bermudez told the State Bar she had interviewed the State's "law enforcement witness" and had an investigator "follow up on investigative leads."

However, there is no evidence to corroborate this occurred. Ms. Bermudez failed to appear for a prehearing conference and when the court was informed Ms. Bermudez had not been in contact with his client for weeks, the court removed her as counsel.

The parties agree *Standards* 4.42(b) and 7.2 are applicable to Ms. Bermudez's misconduct and stipulate to a suspension of two (2) years retroactive to June 21, 2016, the effective date Ms. Bermudez changed her active membership status with the State Bar to inactive. Probation shall be imposed if Ms. Bermudez is reinstated with terms to include participation in the State Bar's Law Office Management Assistance Program ("LOMAP") and Member Assistance Program ("MAP"). Restitution and fee arbitration are also imposed. The Presiding Disciplinary Judge finds the proposed sanctions meet the objectives of attorney discipline. The Agreement is therefore, accepted. Accordingly:

**IT IS ORDERED** incorporating by this reference the Agreement and any supporting documents by this reference. The agreed upon sanctions are: a two (2) year suspension retroactive to June 21, 2016, two (2) years of probation upon reinstatement (LOMAP and MAP), restitution in Count Two, fee arbitration with Counts One and Five with Graham County and Jose Cuevas, and the payment of costs and expenses of the disciplinary proceeding totaling \$1,200.00, to be paid within thirty (30) days from this order. If reinstated, terms of probation shall be imposed that include LOMAP and MAP.

**IT IS FURTHER ORDERED** the Agreement is accepted. Costs as submitted are approved for \$1,200.00. Now therefore, a final judgment and order is signed this date. Felisa M. Bermudez is suspended effective retroactive to June 21, 2016. Restitution shall in paid in the amount of \$1,050 in Count One to Senae Albinovich,

and if initiated by the Complainants, Ms. Bermudez shall actively participate in fee arbitration in Counts One and Five and timely pay any arbitration award.

**DATED** this 23<sup>th</sup> day of August, 2016.

*William J. O'Neil*

---

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

Copies of the foregoing e-mailed/mailed  
this 23<sup>rd</sup> day of August, 2016, to:

Stacy L. Shuman  
Staff Bar Counsel  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, AZ 85016-6266  
Email: [lro@staff.azbar.org](mailto:lro@staff.azbar.org)

Nancy A. Greenlee  
821 E. Fern Drive North  
Phoenix, AZ 85014-3248  
Email: [nancy@nancygreenlee.com](mailto:nancy@nancygreenlee.com)  
Respondent's Counsel

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

Fee Arbitration Coordinator  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, AZ 85016-6266

by: [AMcQueen](#)

Stacy L. Shuman, Bar No. 018399  
Staff Bar Counsel  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
Telephone (602)340-7386  
Email: [LRO@staff.azbar.org](mailto:LRO@staff.azbar.org)

OFFICE OF THE  
PRESIDING DISCIPLINARY JUDGE  
SUPREME COURT OF ARIZONA

AUG 19 2016

FILED  
BY 

Nancy A. Greenlee, Bar No. 010892  
821 E. Fern Drive North  
Phoenix, AZ 85014-3248  
Telephone 602-264-8110  
Email: [nancy@nancygreenlee.com](mailto:nancy@nancygreenlee.com)  
Respondent's Counsel

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

IN THE MATTER OF AN INACTIVE MEMBER  
OF THE STATE BAR OF ARIZONA,

**FELISA M. BERMUDEZ,  
Bar No. 022355,**

Respondent.

**PDJ 2016-9033**

State Bar File Nos. **14-1852,  
14-2195, 14-2516, 14-2824,  
14-3118, 15-1842**

**AGREEMENT FOR DISCIPLINE BY  
CONSENT**

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Felisa M. Bermudez, who is represented in this matter by counsel, Nancy A. Greenlee, hereby submit their Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. A probable cause order was entered on November 19, 2015. 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 Complainants by letter on July 21, 2016. Complainants 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. As of the date of this Agreement, the State Bar has not received any objections from the Complainants.

Respondent conditionally admits that her conduct, as set forth below, violated Rule 42, ERs 1.1 [Competence]; 1.2(a) [Scope of Representation and Allocation of Authority between Client and Lawyer]; 1.3 [Diligence]; 1.4(a)(3) and (4) [Communication]; 1.5(a), (d)(3) [Fees]; 1.6(a) [Confidentiality of Information]; 1.7(a) [Conflict of Interest]; 1.16(d) [Terminating Representation]; 3.2 [Expediting Litigation]; 8.1(a) [Misconduct in Disciplinary Matters]; 8.4(c) [Misconduct—Dishonesty]; and 8.4(d) [Misconduct—Conduct Prejudicial to the Administration of Justice].

Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Two (2) year suspension, retroactive to June 21, 2016, the date Respondent changed her status with the State Bar to inactive, probation upon reinstatement (terms to include participation in the State Bar's Law Office Management Assistance Program and Member Assistance Program), restitution (Count Two in the amount of \$1,050) and Fee Arbitration (Count One and Count Five). A period of suspension of more than six months will require proof of rehabilitation and compliance with other requirements prior to being reinstated to the practice of law in Arizona.

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. 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 October 24, 2003.

#### **COUNT ONE (14-1852/Judicial Referral; 14-2516/Angle)**

##### **Defense of Jesus Mendez, Jr. (14-1852/14-2516)**

2. Respondent was appointed to represent Jesus Mendez (Mendez) in two criminal cases in the Graham County Superior Court: 1) Case No. 2010-00417 in which Mendez was charged with First Degree Murder, Burglary, Theft and various crimes in which the victim was stabbed more than 50 times (the Murder Case); and 2) Case No. 2011-333 in which Mendez was charged with Sexual Conduct with a Minor, and other serious crimes (the Sexual Conduct Case).

3. The trial court appointed Attorney Wendell Hughes as co-counsel for Respondent, who had no prior experience with First Degree Murder cases. Hughes worked on the case for approximately three and a half months.

4. After Hughes withdrew from the criminal cases, Attorney David Thorn was appointed as co-counsel for Respondent. Thorn remained on the case through sentencing.

---

<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. On February 22, 2013, Mendez pled guilty in the Murder Case to second degree murder, first degree burglary, and armed robbery. The Sexual Conduct Case was subsequently dismissed.

6. On April 2, 2013, Mendez was sentenced to a stipulated term of 20 calendar years on the second degree murder charge and a consecutive 10 year term on the first degree burglary charge, for a total of 30 years in prison.

7. In July 2013, Attorney Harriette P. Levitt (Levitt) was appointed to represent Mendez on a Petition for Post-Conviction Relief (PCR), which she filed on April 3, 2014, alleging that Respondent had provided Mendez with ineffective assistance of counsel.

8. On or about April 8, 2013, Respondent received a copy of the PCR. In response, she emailed Graham County Attorney Kenneth Angle and admitted that she was "comfortable acknowledging that the work [she] performed for sentencing was not effective."

9. In response to the PCR, the Graham County Attorney's Office stipulated that Respondent did not provide Mendez with effective assistance of counsel at sentencing.

#### **Representation of Sanchez and Mendez (14-2516)**

10. On July 20, 2011, Respondent was appointed to represent Henry Sanchez in a criminal case pending in the Graham County Superior Court.

11. Sanchez was charged with multiple sex crimes, custodial interference, and child abuse relating to an allegation that he had engaged in sexual intercourse with a 12-year-old girl (the Victim). The Victim told investigators that she had intercourse with Sanchez between July 14 and 15, 2011.

12. On November 3, 2011, Respondent was appointed to represent Mendez in the Sexual Conduct Case, which involved the same victim as the Sanchez case. The Victim claimed that she had sex with Mendez, who told her about a murder that he had committed. The Victim claimed that she had engaged in sexual conduct with Mendez between June 1, 2010, and September 8, 2010.

13. Respondent represented Mendez and Sanchez concurrently from November 2, 2011, through February 17, 2012, when she withdrew from the Sanchez case due to a conflict of interest.

14. Respondent then used information that she had gathered during the Sanchez representation in an effort to assist in the Mendez defense.

15. For example, on April 3, 2012, Respondent filed a *Pope* motion in the Mendez case and argued that the source of the loss of the Victim's virginity was Sanchez, not Mendez. Also, on April 20, 2012, Respondent filed a motion in the *Mendez* case seeking an order from the Court compelling disclosure in the *Sanchez* case and noted that although Sanchez and Mendez were not co-defendants, the charges "stem from conduct with the same victim and the state's criminal investigations for both cases initiated at the same time, within the same manner, and involved the same witnesses." She continued that the cases were "interwoven" and that the evidence "appears to link to or be shared with evidence from the other case."

#### **Representation of Jose Miranda Fuentes (14-2516)**

16. Respondent represented Jose Miranda Fuentes (Fuentes), who was arrested while transporting over 1,100 pounds of marijuana.

17. The lead officer in the case was DPS Officer Hector Benton. Officer Benton is Respondent's uncle.

18. On April 4, 2012, a preliminary hearing was held during which Respondent cross-examined Officer Benton.

19. On April 9, 2012, Fuentes was arraigned on various charges. On that date, Respondent advised Graham County Attorney Angle that Officer Benton was her uncle and filed a motion to withdraw to "avoid a potential conflict of interest."

#### **Representation of Mary Gutierrez (14-2516)**

20. On April 1, 2013, Respondent was appointed to represent Mary Gutierrez (Gutierrez).

21. Officer Benton, Respondent's uncle, was notified to appear and testify at the preliminary hearing.

22. The case was ultimately resolved through a plea and on November 3, 2013, Gutierrez was sentenced to four months in prison.

23. Respondent did not withdraw from the representation, nor did she disclose the familial relationship between herself and Officer Benton to the State.

#### **Representation of Paula Marie Goodwin (14-2516)**

24. On September 9, 2013, Paula Marie Goodwin (Goodwin) failed to appear in a pending criminal case in which she was charged with Aggravated DUI and the Court set the matter for a bond forfeiture hearing.

25. On September 23, 2013, the Court ordered that the \$1,000 bond be forfeited and the State charged Goodwin with failure to appear, a class 5 felony.

26. On June 18, 2014, Goodwin executed an affidavit stating that her husband had suffered a heart attack on September 8, 2013, and was scheduled for

open-heart surgery. According to Goodwin, she left a message for Respondent advising her of the situation. Goodwin further states that she called Respondent "multiple times" but never received a return call and that Respondent never informed her that a warrant had been issued for her arrest. If this matter were to proceed to hearing, Respondent would testify that she never received messages from Goodwin, but admits that she did not tell Goodwin that a warrant had been issued for her arrest.

**Inaccurate and Excessive Billing in Mendez (14-1852/14-2516)**

27. At all relevant times, Respondent was a contract defense attorney with Graham County.

28. Respondent's 2011 contract contemplated 65 felony assignments, a proportionate share of other matters, and \$45,000 in compensation.

29. Respondent's 2012-13 contract contemplated 90 felony cases a year and \$67,500 in compensation.

30. Respondent's contracts required that she keep case logs, final disposition records, and time sheets on all hourly cases. On felony cases assigned to her under the contract, Respondent was allowed to bill \$50 per hour for work performed in excess of 40 hours on any individual case.

31. In November 2011, Respondent was appointed to represent Jesus Mendez (Mendez) in two criminal cases in the Graham County Superior Court: 1) Case No. 2010-00417 in which Mendez was charged with First Degree Murder, Burglary, Theft and various crimes in which the victim was stabbed more than 50 times (the Murder Case); and 2) Case No. 2011-333 in which Mendez was charged

with Sexual Conduct with a Minor, and other serious crimes (the Sexual Conduct Case).

32. Between November 2011 and March 2013, Respondent billed Graham County \$201,807 for defending Mendez in the Murder Case, and the Sexual Conduct Case.

33. Respondent billed \$145,000 for work performed between November 2011, and November 2012, the majority of which was related to the Sexual Conduct Case, which was ultimately resolved without trial.

34. In November 2012, the trial court advised the parties that it intended to hear the Murder Case before it heard the Sexual Conduct Case. If this matter were to proceed to hearing, Respondent would testify that up until that time, the parties had been instructed to resolve the Sexual Conduct Case before the Murder Case. Respondent would further testify that her billing invoices between November 2011, and November 2012, heavily focused on the Sexual Conduct case and that reflects her position that the court's instruction to the parties was that the Sexual Conduct Case would proceed before the Murder Case.

35. Respondent billed \$150 an hour, despite her contracts with Graham County as set forth in Paragraph 28 and 29 above. If this matter were to proceed to hearing, Respondent would testify she believed that she had been authorized to bill at a higher hourly rate. In addition, she would testify that during the representation, she submitted invoices to Graham County which noted that the work was out of contract and clearly showed she was billing at \$150 an hour. Respondent would further testify that all of those invoices were paid during her representation of Mr. Mendez.

36. Both cases were resolved with a plea agreement and Mendez confessed to the homicide in the Murder Case.

37. On February 22, 2013, Mendez pled guilty in the Murder Case and was sentenced on April 2, 2013.

38. Respondent performed no work during the month preceding the sentencing, but she billed the County for an additional 15 hours of work after Mendez was sentenced. If this matter went to hearing, Respondent would testify that the billing dates were incorrectly listed due to a typographical error and that she did, in fact, perform the work before sentencing.

39. A year after the Mendez sentencing occurred, on April 9, 2014, Judge Holt ordered Attorney Harriette P. Levitt (Levitt) to review all of the attorneys' fees incurred by the County in the case. Levitt is not a professional auditor. The Court ordered the attorneys to provide Levitt with all of their billing records. Respondent was the last to comply with the Court's order, despite having received two extensions of time. She later provided a "slightly more detailed" billing in support of her claim for fees, including handwritten itemized time logs and some typed itemized time logs. Levitt determined that Respondent's time logs did not match up with all of the invoices that Respondent had submitted to the County for payment.

40. On August 20, 2014, Levitt completed the review and submitted it to Judge Holt. Levitt concluded that Respondent had overbilled the County by \$96,587.50 on the Sexual Conduct Case, \$29,932.50 on the Murder Case, and \$61,455 on undetermined case hours. She recommended that Respondent be ordered to disgorge at least \$187,975 in fees, as well as, a portion of the cost of preparing the review.

41. While Respondent does not agree with all of the conclusions and the amount that Levitt claimed was excessively billed to the County and that is the basis for the referral of the billing dispute to Fee Arbitration, Respondent does acknowledge that if this matter proceeded to hearing, the State Bar could prove that some of her charges for work done were not reasonable.

**Failure to Appear at Numerous Hearings (14-2516)**

42. Respondent failed to appear at numerous hearings between October 2012, and July 2014, and oftentimes, she did not provide notice to the court or the prosecutor before the hearing. On numerous occasions, Respondent's failure to appear caused witnesses, prosecutors, police officers, and clients to "waste their time in waiting only to find out after the scheduled hearing time that she would not be attending." On other occasions, Respondent would contact the Court at the last minute and ask for her hearings to be cancelled due to a family emergency or illness. If this matter were to proceed to hearing, Respondent would testify that some hearings missed in the 2012 to 2013 time period were due to family emergencies or her illnesses, and that whenever possible, she attempted to contact the court regarding her inability to attend hearings. In the summer of 2014, Respondent believed her contract criminal cases had been reassigned due to her relocation to Phoenix, however, she admits she did not file motions to withdraw; remained counsel of record; and did not adequately follow up to ensure the reassignments had been made prior to the actual hearing dates.

**COUNT TWO (File no. 14-2195/Albinovich)**

43. On May 22, 2014, Senae Albinovich retained Respondent. He understood that she was going to represent him in a family law matter and paid her

a flat-fee of \$4,200 to prepare and file: 1) a petition for dissolution of marriage; 2) a petition for a mental health evaluation of Elvira Albinovich (Wife); and 3) a petition to secure visitation with the children.

44. A few weeks later, Respondent emailed Albinovich an "Engagement of Representation Agreement Letter for Legal Services Provided by the Bermudez Law Office, PLLC" (Engagement Letter). If the matter were to proceed to hearing, Albinovich would testify that he did not sign the Engagement letter because it did not accord with his understanding of the terms of the representation. Respondent would testify that Albinovich did not communicate to her that he disputed the terms of the representation.

45. The Engagement Letter stated that Albinovich may terminate the representation with written notice, but Respondent "retain[s] earned fees already paid, and/or is owed unpaid earned fees due under the agreement." Albinovich may seek a refund of earned fees and Respondent shall provide him with an itemized billing at her hourly rate of \$350 an hour. Any dispute is to be resolved pursuant to "the arbitration process consistent with A.R.S. §12-1507 et. seq."

46. On June 4, 2014, Respondent texted Albinovich: "you paid your fee for what we need to do now . . . money isn't [an] issue at all." And, she confirmed a meeting with Albinovich that afternoon at her office, stating "Let's reunite you and those precious babies."

47. On June 24, 2014, Albinovich texted Respondent and asked if she had filed the various petitions. Respondent replied, "today I've been contacting people to first get this woman served. We can't do much until we can serve her I am

calling federal agent tomorrow." Respondent told Albinovich that she did not know how to serve Wife because Wife was staying in a women's shelter.

48. Respondent never provided Albinovich with drafts of any petitions to review or to sign before filing.

49. On June 25, 2014, Respondent charged Albinovich's credit card \$1,050 at 1:23 am, without his knowledge. The description for the charge was: "Domestic Petition to Dissolve; Petition to Terminate Parental Rights; Psych Eval; contest order of protection."

50. Albinovich texted Respondent later that day and asked: "Hey, Felisa, didn't we agreed [sic] on \$500 per month? You charged me \$1000 today." Respondent did not respond to the text.

51. On June 25, 2014, Respondent filed a Notice of Appearance and Request for Hearing and Denial in a protective order case pending in the Safford Justice Court that had been filed by Wife, DO-2014014 (Justice Court Case). Respondent took no further action regarding the Justice Court case during the representation. If this matter went to hearing, Respondent would testify that her services were terminated by Albinovich before a hearing in the case was set.

52. Albinovich sought out a second opinion and ultimately retained Attorney Channen Day as successor counsel.

53. On June 30, 2014, Albinovich texted Respondent to terminate the representation; asked for a final accounting of services rendered and where he could pick up his personal property and documents. Respondent replied that she would have the items ready for pick up that evening or else she would mail them.

54. On July 1, 2014, Attorney Day filed a Petition for Dissolution of Marriage with Children with the Graham County Superior Court in Case No. DO-201400194 (the Dissolution Case) on behalf of Albinovich, along with a Petition for Temporary Orders seeking, among other things, visitation with the children.

55. On July 17, 2014, Attorney Day filed his appearance on behalf of Albinovich in the Justice Court Case. The petition for a protective order was allowed to expire a few days later and all issues between the parties were resolved in the Dissolution Case.

56. Respondent's July 30, 2014 letter erroneously asserted that Albinovich had paid \$5,000 in fees. In that letter, she set forth the number of hours she worked and the different categories of work that she had performed. She erroneously totaled the hours at 11 hours, instead of 13 hours. Her letter stated that she had billed 11 hours in the case, which at the rate of \$350 an hour, would total \$4,550 in fees. Respondent actually billed 13 hours, which at \$350 an hour does total \$4,550.00. Respondent asserted that this figure did not include other miscellaneous work she claimed to have performed, however, Respondent's letter stated that she "did not intend on billing for any fees exceeding \$5,000."

57. Albinovich had actually paid Respondent \$5,250 as of the date of her July 30, 2014 letter.

58. On June 30, 2014, July 3, 2014, and July 9, 2014, Albinovich made repeated demands that Respondent provide him with an itemization of the work that she claimed to have performed during the representation and for the return of certain personal property. Despite repeated promises by Respondent that she would provide the itemization of work, Respondent did not do so until July 30, 2014, and

her letter provided only a summary of the categories of work done and the total hours worked for each category. If the matter were to proceed to a contested hearing, Respondent would testify that her legal assistant mailed Albinovich's personal property to him on or about July 9, 2014.

59. Respondent told Albinovich not to work overtime because otherwise he could have to pay an increased amount of child support. Albinovich followed Respondent's advice and did not work overtime for approximately three months for a loss of approximately \$2,000. Albinovich later learned that Respondent's advice was incorrect and that child support would be calculated on his base salary; any overtime pay would not be counted in the calculation.

#### **Count Four (14-2961 and 14-3118/Levitt)**

60. Respondent represented two criminal defendants 1) Trina Roybal, CR2013-00103, CR 2014-00063; and 2) Patricia Anderson, CR 13-00119; CR 13-00393; and CR 14-00045. After the defendants were sentenced on various criminal charges, Attorney Harriette P. Levitt was appointed to represent them on Rule 32 Petitions.

61. During the course of the investigation and preparation of the Rule 32 Petitions, Levitt interviewed the defendants.

62. On or about December 1, 2014, Levitt filed a Petition for Post-Conviction Relief (PCR) on half of Roybal and argued that she was denied effective assistance of counsel because, among other things, Respondent breached her client's confidentiality and provided a factual basis for a guilty plea on a failure to appear despite that: 1) the factual basis did not establish that a felony had been committed and 2) the factual basis did not establish that Ms. Roybal had ever been

advised that she needed to appear in Court for a June 17, 2013 hearing. The PCR further alleged that Ms. Roybal did not get sufficient credit for time served and that Respondent had failed to object at the time of sentencing.

63. On January 5, 2015, Complainant filed a PCR on behalf of Anderson. Levitt argued that Ms. Anderson was denied effective assistance of counsel because Respondent: 1) failed to adequately argue mitigating factors; 2) failed to request a mental health evaluation pursuant to Rule 26.5 prior to sentencing; 3) failed to object or properly respond to irrelevant and inflammatory arguments by the State; 4) failed to properly request credit for presentence incarceration; and 5) failed to disclose a potential conflict of interest.

64. The Court held a hearing on Roybal's PCR on February 18, 2015, at which time Levitt advised the Court that an agreement had been reached with the State. Roybal was resentenced after the Graham County Attorney's Office conceded that she was denied effective assistance of counsel. The State stipulated to a six-month reduction in sentence. The parties stipulated to the dismissal of a failure to appear charge, based on Respondent's failure to advise Roybal of a court date. With respect to the sentence on the DUI conviction, it was raised from 2.5 to 3.5 years, which effectively reduced the amount of time that Roybal would be incarcerated. Under the plea agreement negotiated by Respondent, Roybal was serving 2.5 years for the DUI and 1.5 years for the Failure to Appear.

65. On March 26, 2015, Anderson was resentenced. Special Prosecutor Matt Clifford stipulated that Anderson was entitled to resentencing based on Respondent's ineffective assistance of counsel. She was originally sentenced to concurrent sentences of 1.5 years and 2.5 years to be followed by 3 years' probation. The

Prosecutor agreed that the 2.5-year sentence would be vacated and changed to intensive probation to run concurrently with the 3-year probation term on the other case. As a result, Anderson would be eligible for release in approximately 2 months and her sentence was reduced by a full year.

**COUNT FIVE (15-1842/Cuevas)**

66. In October 2013, Respondent was retained to represent Jose Cuevas (the Client) in Graham County Superior Court, Case No. CR2013-00444. The Client had been charged with several felonies including alleged sexual misconduct with a minor. The Client's family paid Respondent a \$10,000 flat fee for the representation, plus \$500 to secure a psychological evaluation of the Client.

67. During the representation, the Client claimed that Respondent failed to keep him advised of upcoming hearings. The Client regularly called Respondent to remind her of his upcoming hearing dates. If this matter went to hearing, Respondent would testify that she regularly communicated with the Client and that she did not need to be reminded of upcoming hearing dates.

68. During the representation, Respondent appeared at all but one of the Client's hearings.

69. When the Client and his family complained to Respondent about the delay in resolving the criminal case, the Client and his family claim that Respondent told the Client's family that she was waiting for two unrelated sex cases against other defendants to be resolved so that the prosecutor, Scott Bennett, could "officially" make a plea offer by which the Client would plead guilty to trespass, be placed on probation and avoid serving any time in prison.

70. By email dated May 21, 2014, Bennett offered to extend a plea offer, but he gave Respondent the option of delaying receipt of the offer pending a psycho-sexual evaluation and then presenting those findings to Bennett as mitigation in formulating a plea. Thereafter, Respondent advised the Court during a pre-trial conference that she was going to arrange for the Client to undergo a psycho-sexual examination, but she secured only a psychiatric evaluation. If the matter were to proceed to a hearing, Respondent would testify that the Client could not afford the cost of a psycho-sexual examination and that is why she secured a psychiatric evaluation.

71. On or about July 23, 2014, the Client was brought to Court for another pre-trial conference, but Respondent failed to appear. The Client advised the Court that he had not heard from Respondent for several weeks and did not know where she was. The Court removed Respondent from the case and the matter was re-set for September 8, 2014. Respondent admits that she missed that hearing due to mis-scheduling the hearing date.

72. Attorney Barry Standifird took over the Client's defense after Respondent was terminated. Respondent provided Standifird with the Client's file, which contained no work-product, interviews or motions. Standifird contacted Bennett after the Client's family told him that Respondent had told them that a probation plea would be forthcoming from the State. Bennett told Standifird that he had not engaged in discussions with Respondent regarding plea offers and that Respondent would appear in court, request a continuance and then leave.

73. During the State Bar's disciplinary investigation, Respondent told the State Bar that during the representation, she interviewed the State's "law enforcement witness," and had an investigator "follow up on investigative leads."

74. Respondent did not conduct any defense interviews in this case. Bennett does not have any evidence that the State participated in witness interviews. Bennett's assistant has no record of ever scheduling defense interviews in the Client's case. And, the case agent in the Client's criminal case does not recall participating in any defense interviews or being interviewed by Respondent.

75. During the State Bar's disciplinary investigation, Respondent told the State Bar that Bennett agreed to deviate from his Office's policy and offer the Client a plea that would be "greatly beneficial to the young man" and that he conditioned a favorable plea offer on the outcome of unrelated sex cases involving two (2) young men and a young victim. Respondent also told the State Bar that the Client "would benefit by waiting for the other matter to resolve" and that otherwise, the State was unwilling to offer the Client "any resolution not including a prison term and felony conviction."

76. Bennett did not tell Respondent that the Client would receive probation or a straight misdemeanor plea agreement if the Client delayed his criminal case. Any such offer would have violated Bennett's office policy and would have been inconsistent with how Bennett routinely handle cases such as the Client's. Bennett discussed with Respondent a plea agreement that would be more favorable than the typical pleas that were given in cases similar to the Client's, but he did not suggest that if the Client waited for the unrelated cases to be resolved that Bennett would make a misdemeanor plea offer.

## 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 her conduct violated Rule 42, Ariz. R. Sup. Ct., specifically:

### Count One:

1. ER 1.1 [Competence] A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation necessary for the representation.

2. ER 1.3 [Diligence] A lawyer shall act with reasonable diligence and promptness in representing a client.

3. ER 1.4(a)(3) [Communication] A lawyer shall keep the client reasonably informed about the status of the matter.

4. ER 1.5(a) [Fees] A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses.

5. ER 1.6(a) [Confidentiality of Information] A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted or otherwise required under the rule.

6. ER 1.7(a) [Conflict of Interest: Current Clients] Except as otherwise provided under the rule, a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if: (1) the representation of one client will be directly adverse to another client; or (2)

there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

7. ER 3.2 [Expediting Litigation] A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

8. ER 8.4(c) [Misconduct] It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

9. ER 8.4(d) [Misconduct] It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

**Count Two:**

1. ER 1.1 [Competence]. A lawyer shall provide competent representation to a client.

2. ER 1.2(a) [Scope of Representation]. Subject to certain limitations, a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued.

3. ER 1.3 [Diligence]. A lawyer shall act with reasonable diligence and promptness in representing a client.

4. ER 1.4(a)(3) and (4) [Communication]. A lawyer shall keep the client reasonably informed about the status of the matter and promptly comply with reasonable requests for information.

5. ER 1.5(a) [Fees]. A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses.

6. ER 1.5(d)(3) [Fees]. A lawyer shall not enter into an arrangement for, charge, or collect a fee denominated as "earned upon receipt," "nonrefundable" or in similar terms unless the client is simultaneously advised in writing that the client may nevertheless discharge the lawyer at any time and in that event may be entitled to a refund or all or part of the fee based upon the value of the representation pursuant to ER 1.5(a).

7. ER 1.16(d) [Terminating Representation]. Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as . . . surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned. Upon the client's request, the lawyer shall provide the client with all of the client's documents, and all documents reflecting work performed for the client.

**Count Four:**

1. ER 1.1 [Competence] A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

2. ER 1.3 [Diligence] A lawyer shall act with reasonable diligence and promptness in representing a client.

3. ER 8.4(d) [Misconduct] It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

**Count Five:**

1. ER 1.3 [Diligence] A lawyer shall act with reasonable diligence and promptness in representing a client.

2. ER 1.4(a)(3) [Communication] A lawyer shall keep the client reasonably informed about the status of the matter.

3. ER 1.5(a) [Fees] A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses.

4. ER 8.1(a) [Disciplinary Matters] A lawyer in connection with a disciplinary matter, shall not knowingly make a false statement of material fact.

5. ER 8.4(c) [Misconduct] It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation. ER 8.4(d) [Misconduct] It is professional misconduct for a lawyer to engage in conduct prejudicial to the administration of justice.

6. ER 8.4(d) [Misconduct] It is professional misconduct for a lawyer to engage in conduct prejudicial to the administration of justice.

### **CONDITIONAL DISMISSALS**

The State Bar has conditionally agreed to dismiss Count Three as part of this agreement because of the client files were turned over to PCR counsel; it does not appear that the clients were harmed by the delay; and the conduct is otherwise addressed in other Counts and the agreed upon Sanction.

The State Bar has also conditionally agreed to dismiss the following alleged ER violations because of evidentiary concerns identified during settlement discussions and the State Bar believes that the conduct will be addressed in other Counts and the agreed-upon sanction:

#### **Count Two:**

1. ER 1.15(a) [Safekeeping Property] A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a

representation separate from the lawyer's own property. Funds shall be kept in a separate account maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.

**Count Four:**

1. ER 1.6(a) [Confidentiality of Information] A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted or otherwise required under the rule.

2. ER 1.16(d) [Terminating Representation] Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as . . . surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned. Upon the client's request, the lawyer shall provide the client with all of the client's documents, and all documents reflecting work performed for the client.

**RESTITUTION**

Respondent shall pay restitution in Count Two in the amount of \$1,050 to Mr. Albinovich.

**FEE ARBITRATION**

Respondent shall participate in the State Bar's Fee Arbitration Program with respect to claims for restitution by the following Complainants, if they initiate Fee Arbitration proceedings. Respondent shall participate in the Fee Arbitration

proceedings during the period of suspension. Respondent shall timely pay any judgment that may be issued against her through the fee arbitration process.

1. Graham County
2. Cuevas

### **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: Two (2) year suspension, retroactive to June 21, 2016, the date that Respondent changed her membership status with the State Bar to inactive; probation upon reinstatement (terms to include participation in the State Bar's Law Office Management Assistance Program and Member's Assistance Program), restitution (Count Two in the amount of \$1,050) and Fee Arbitration if the Complainants initiate those proceedings (Count One and Count Five).

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 *Standards 4.42(b) and 7.2* are the most applicable and appropriate Standards when considering the majority of the facts and circumstances of this matter. *Standard 4.42(b)* provides that Suspension is generally appropriate when a lawyer engages in a pattern of neglect and causes injury or potential injury to a client. There are numerous client matters in this case in which Respondent failed in her duties to her clients, either by providing ineffective assistance of counsel; failing to diligently attend hearings or timely notify the court of her inability to appear; failing to diligently perform services for the client; and failing to adequately communicate with clients. *Standard 7.2* provides that Suspension is generally appropriate when a lawyer knowingly engaged 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. In this regard, Respondent failed to provide a timely accounting of fees earned; and knowingly made false statements to the clients, and to the State Bar in response to the screening letter, in Count Five.

### **The duty violated**

As described above, Respondent's conduct violated his duty to her clients, the profession, the legal system, and the public.

### **The lawyer's mental state**

For purposes of this agreement, the parties agree that Respondent's violations of ERs 1.1, 1.2(a), 1.3, 1.4(a)(3) and (4), 1.5(a) and (d)(3), and 3.2 were negligent and the violations of ERs 1.6(a), 1.7(a), 1.16(d), 8.1(a), 8.4(c) and 8.4(d) were knowing.

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

For purposes of this agreement, the parties agree that there was actual harm to the client, profession, legal system and 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)* pattern of misconduct

*Standard 9.22(d)* multiple offenses

#### **In mitigation:**

*Standard 9.32(a)* absence of a prior disciplinary record

*Standard 9.32(c)* personal or emotional problems. Contemporaneously herewith, the parties are filing a Stipulated Supplement to this Agreement, which includes medical records evidencing Respondent's various medical conditions. Those conditions interfered with Respondent's ability to attend hearings while employed by Graham County.

*Standard 9.32(l)* remorse. After the initiation of the formal proceedings, Respondent recognized that because of her own medical conditions and that of her

family, she has been unable to devote the time and attention to her clients that is required and thus, she changed her membership status to inactive, which she believes demonstrates that she is remorseful for the failures evidenced by this matter.

### **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: During the pendency of the formal proceedings, Respondent gained a greater appreciation of how her personal and family situation was interfering with her ability to comply with her professional obligations to clients and to the legal system. A long-term period of suspension that requires her to prove rehabilitation will ensure that Respondent has sufficient time to determine whether, given her family obligations, she will be able to provide the level of commitment required to carry out her professional duties and obligations and avoid a recurrence of the conduct that gave rise to the ethical violations identified in the Agreement.

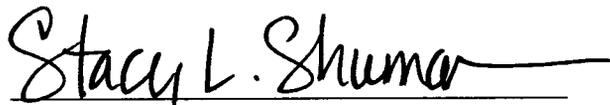
Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

## 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 Long-Term Suspension, Probation, Restitution and Fee Arbitration. A period of suspension of more than six months will require proof of rehabilitation and compliance with other requirements prior to being reinstated to the practice of law in Arizona and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit B.

**DATED** this 19<sup>th</sup> day of August 2016

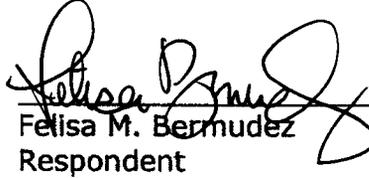
**STATE BAR OF ARIZONA**



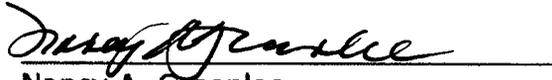
Stacy L. Shuman  
Staff Bar Counsel

**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 19<sup>th</sup> day of August, 2016.

  
Felisa M. Bermudez  
Respondent

**DATED** this 19<sup>th</sup> day of August, 2016.

  
Nancy A. Greenlee  
Counsel for Respondent

Approved as to form and content

  
Maret Vessella  
Chief 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 \_\_\_\_\_ day of August, 2016.

---

Felisa M. Bermudez  
Respondent

**DATED** this \_\_\_\_\_ day of August, 2016.

---

Nancy A. Greenlee  
Counsel for 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 19<sup>th</sup> day of August, 2016.

Copy of the foregoing emailed  
this 19<sup>th</sup> day of August, 2016, 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 19<sup>th</sup> day of August, 2016, to:

Nancy A. Greenlee  
821 E. Fern Drive North  
Phoenix, AZ 85014-3248  
Email: [nancy@nancygreenlee.com](mailto:nancy@nancygreenlee.com)  
Respondent's Counsel

Copy of the foregoing hand-delivered  
this 19<sup>th</sup> day of August, 2016, to:

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

by:   
SLS/kec

# **EXHIBIT A**

## **Statement of Costs and Expenses**

In the Matter of a Member of the State Bar of Arizona,  
FELISA M. BERMUDEZ Bar No. 022355, Respondent

File No(s). 14-1852, 14-2195, 14-2516, 14-2824,  
14-3118, and 15-1842

### **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**

The formal proceedings encompassed 6 State Bar Files, which were plead in 5 Counts. The parties have entered into a Consent Agreement whereby one of those Counts was Conditionally Dismissed.

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**

12/03/14	Professional Psychology Associates, evaluation \$1,200, which will not be charged to Respondent	n/a
----------	--	-----

**TOTAL COSTS AND EXPENSES INCURRED** **\$ 1,200.00**

# **EXHIBIT B**

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

---

IN THE MATTER OF AN  
INACTIVE MEMBER OF  
THE STATE BAR OF ARIZONA,

**FELISA M. BERMUDEZ,**  
**Bar No. 022355,**  
  
Respondent.

**PDJ 2016-9033**

**FINAL JUDGMENT AND ORDER**

State Bar File Nos. **14-1852,**  
**14-2195, 14-2516, 14-2824,**  
**14-3118, 15-1842**

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

**IT IS HEREBY ORDERED** that Respondent, **Felisa M. Bermudez**, is suspended for two (2) years, retroactive to June 21, 2016, the date Respondent changed her membership status to inactive, for her conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

**IT IS FURTHER ORDERED** that, upon reinstatement, Respondent shall be placed on probation for a period of two years, the terms of which shall include participation in the State Bar's Law Office Management Assistance Program and Member's Assistance Program.

**IT IS FURTHER ORDERED** that Respondent shall pay restitution of \$1,050.00 to Mr. Albinovich (Count Two) within 30 days of the date of this Order.

**IT IS FURTHER ORDERED** that if the Complainants in Counts One and Five initiate Fee Arbitration proceedings, Respondent shall participate in same during the period of suspension and shall be bound by any award entered against her in those proceedings. Respondent shall timely pay any such award.

**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 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 August, 2016

\_\_\_\_\_  
**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 August, 2016.

Copies of the foregoing mailed/emailed this \_\_\_\_\_ day of August, 2016, to:

Nancy A. Greenlee  
821 E. Fern Drive North  
Phoenix, AZ 85014-3248  
Email: [nancy@nancygreenlee.com](mailto:nancy@nancygreenlee.com)  
Respondent's Counsel

Copy of the foregoing emailed/hand-delivered this \_\_\_\_\_ day of August, 2016, to:

Stacy L. Shuman  
Staff Bar Counsel  
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 August, 2016 to:

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

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