

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

**MICHAEL J. VINGELLI,
Bar No. 002899**

Respondent.

PDJ 2016-9065

FINAL JUDGMENT AND ORDER

[State Bar File No. 15-1472]

FILED JULY 12, 2016

The Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on June 29, 2016, accepted the parties' proposed agreement under Rule 57(a), Ariz. R. Sup. Ct

Accordingly:

IT IS ORDERED Respondent, **Michael J Vingelli**, is suspended for six (6) months and one (1) day for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective August 15, 2016.

IT IS FURTHER ORDERED upon reinstatement Mr. Vingelli shall be subject to any additional terms imposed because of the reinstatement hearing held.

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

IT IS FURTHER ORDERED Mr. Vingelli shall pay the costs and expenses of the State Bar of Arizona in the amount of \$ 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 in connection with these disciplinary proceedings.

DATED this 12th day of July, 2016.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/emailed
this 12th day of July, 2016, to:

Nancy A Greenlee
821 E. Fern Dr. North
Phoenix, AZ 85014-3248
Email: nancy@nancygreenlee.com
Respondent's Counsel

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

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

by: MSmith

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

MICHAEL J. VINGELLI,
Bar No. 002899

Respondent.

No. PDJ-2016-9065

**DECISION AND ORDER
ACCEPTING DISCIPLINE BY
CONSENT**

[State Bar File No. 15-1472]

FILED JULY 12, 2016

An Agreement for Discipline by Consent (Agreement) was filed on June 29, 2016, and submitted under Rule 57(a)(3), of the Rules of the Arizona Supreme Court. The Agreement was reached before the authorization to file a formal complaint. An Order of Probable Cause issued on April 26, 2016. Upon filing such Agreement, the presiding disciplinary judge, "shall accept, reject or recommend modification of the agreement as appropriate".

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.

Under Rule 53(b)(3), notice of this Agreement was provided to the complainant on May 24, 2016. No objection was received regarding the agreed upon sanction of suspension, however, the client requests restitution. The State Bar does not believe

restitution is appropriate and the client should seek redress through a malpractice action or other venues. The PDJ agrees.

The Agreement details a factual basis for the admissions to the charge in the Agreement. Mr. Vingelli represented a client in two personal injury matters from 2011 to 2014. While negotiating medical liens on behalf of his client, Mr. Vingelli admits he removed the client's settlement funds from his trust account and converted those funds. The client's account was sent to collections for non-payment. Mr. Vingelli failed to adequately communicate with his client and diligently represent her. Mr. Vingelli did not keep his client informed of the status of her matters or provide a settlement statement. Mr. Vingelli also failed to manage his trust account in accordance with the minimum standards set forth in the trust account rules and guidelines. These failures resulted in many dispersing errors and the comingling of client funds with Mr. Vingelli's own funds.

Mr. Vingelli conditionally admits he violated Supreme Court Rule 42, ERs 1.2 (scope of representation), 1.3 (diligence), 1.4 (communication), 1.5 (fees), 1.15(a) (safeguarding properties) and Rule 43 (trust account). The parties stipulate to a sanction of a six (6) month and one (1) day suspension effective August 15, 2016 and the payment of costs and expenses of the disciplinary proceeding for \$1,200.00 within thirty (30) days from the final judgment and order.

The parties agree that *Standard 4.12, Failure to Preserve the Client's Property*, of the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* is applicable to Mr. Vingelli's violation of ER 1.15 and provides:

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

Mr. Vingelli conditionally admits he knowingly violated his duty to his client by improperly handling client funds and his misconduct caused potential harm to the client.

The parties agree aggravating factors 9.22 (a) (prior disciplinary offenses), 9.22(b) (selfish or dishonest motive), 9.22 (c) (pattern of misconduct) and 9.22(i) (substantial experience in the practice of law) are supported by the record. The parties further agree mitigating factor 9.32(e) full and free disclosure to disciplinary Board or cooperative attitude towards proceedings is present.

The Presiding Disciplinary Judge finds the proposed sanction of a suspension requiring formal reinstatement proceedings and the payment of costs meets the objectives of attorney discipline. The Agreement is therefore accepted.

IT IS ORDERED incorporating by this reference the Agreement and any supporting documents by this reference. The agreed upon sanctions are: six (6) month and one (1) day suspension and the payment of costs and expenses of the disciplinary proceeding for \$1,200.00 to be paid within thirty (30) days from this order.

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. Mr. Vingelli is suspended effective August 15, 2016 and costs are imposed.

DATED this 12th day of July, 2016.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/mailed
this 12th day of July, 2016 to:

Shauna R. Miller
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, AZ 85016-6266
Email: lro@staff.azbar.org

Nancy A. Greenlee
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Phoenix, AZ 85014-3248
Email: nancy@nancygreenlee.com
Respondent

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, AZ 85016-6266
Email: lro@staff.azbar.org

by: MSmith

OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

JUN 29 2016

FILED

BY _____

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Respondent's Counsel

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

MICHAEL J. VINGELLI,
Bar No. 002899,

Respondent.

PDJ 2016- 9065
[State Bar File No. 15-1472]

**AGREEMENT FOR DISCIPLINE BY
CONSENT**

The State Bar of Arizona, through undersigned senior bar counsel, and Respondent, Michael J. Vingelli, 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 April 26, 2016, but no formal complaint has been filed. 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.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ERs 1.2, 1.3, 1.4, 1.5, 1.15(a), and Rule 43, Ariz. R. Sup. Ct. Upon

acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: six-month and one-day suspension. 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 September, 25, 1971.

COUNT ONE (File no. 15-1472/ Myers

2. Janice Myers (Ms. Myers) hired Respondent to represent her in two car accidents that happened within six months of each other. Respondent represented her from November 2011, until November 2014.

3. The first accident occurred on October 19, 2011. Ms. Myers met with Respondent on October 24, 2011.

4. On December 14, 2011, Ms. Myers received a collection notice from the hospital. She faxed it to Respondent's office the same day and she was told that Respondent would take care of it. The hospital then sent the outstanding bill to a collection agency.

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.

5. On March 5, 2012, Ms. Myers had to email and call the collection agencies to give them Respondent's information and explain why her bills were not being paid at that time.

6. On March 23, 2012, Ms. Myers was in another accident. On March 26, 2012, she notified Respondent and Respondent agreed to represent her for the second accident. Respondent failed to ensure that Ms. Myers signed a contingency fee agreement for representation in the second accident.

7. Respondent failed to keep Ms. Myers informed about her cases. On one occasion she discovered that an arbitration had been scheduled and she had to call Respondent to obtain information. If this matter were to proceed to hearing, Respondent would testify that he met with Ms. Myers and prepared for the arbitration in the first case. She may not have received written notice of the date but the office told her by telephone and had her appear for pre-arbitration preparation.

8. In October 2012, an arbitration hearing took place. Respondent called Ms. Myers once he received the decision to let her know what the arbitrator awarded her, and he also told her that based upon his conversation with defense counsel, he believed the award would be appealed. Although Ms. Myers claimed she had to go to the courthouse to obtain a copy of the arbitration award, if this matter were to proceed to hearing, Respondent would testify that he does not have any record of her requesting a copy from his office.

9. On December 13, 2012, the defendants appealed the arbitration award. A settlement conference was held on April 25, 2013, and although the case did not settle at the time, the parties continued to discuss settlement. Ultimately, a

settlement was reached for \$27,500.00 and the court was notified of the settlement on May 3, 2013.

10. On May 13, 2013, Ms. Myers went to Respondent's office to sign the settlement check and the settlement paperwork. Respondent was still working to settle the medical bills and medical liens.

11. On August 16, 2013, Respondent gave Ms. Myers a partial settlement disbursement check for \$6,637.46. Respondent told Ms. Myers that he had not yet settled the medical liens that totaled \$11,292.00, but he needed to remove the funds from his trust account.

12. To remove the funds from the account, Respondent had the bank issue him an \$11,292.00 cashier's check. Respondent told Ms. Myers this money was to settle the claims of University Medical Center (UMC), and Dr. Scott Forrer. If this matter were to proceed to hearing, Respondent would testify that he told her at the time that he would continue working on reducing the medical liens represented by the \$11,292.00, in the hope that he could give some or all of those funds to her in the future.

13. With regard to the second accident from March 23, 2012, Ms. Myers obtained all of the medical records, bills, and the police report. She has claimed she also paid her medical bills as they were accrued; however, if this matter were to proceed to a hearing, Respondent's settlement sheet would show medical bills at the time of settlement were listed at \$7,675.00, and Ms. Myers did not provide to Respondent proof of payment. She was given a check for \$9,965.44 from the second accident and told that she had to pay any outstanding medical bills herself. She signed

a lien with her chiropractor, Dr. Guyton, and also gave Dr. Guyton an assignment of her medical payment benefits from her car insurance.

14. From September 2013, to February 2014, Ms. Myers would testify that she tried to contact Respondent numerous times by phone and email to get a settlement distribution and accounting for the settlement of the first accident, and to find out the status of the second accident. If this matter were to proceed to a hearing, Respondent would testify that he provided emails showing that he was responsive to Ms. Myers' requests for status about the second accident. Respondent admits that he did not provide a status regarding the settlement distribution or accounting for the first accident.

15. On February 20, 2014, Respondent emailed Ms. Myers and told her he had not settled any of her medical bills from the first accident because he was trying to settle her second accident case. Respondent told her he needed to settle the second case before the statute of limitations ran on March 23, 2014.

16. On March 20, 2014, the second accident settled for the policy limits of \$15,000. If this matter were to proceed to hearing, Ms. Myers would testify that Respondent was supposed to file an UIM claim with Ms. Myers insurance company for the second accident, but he failed to do so and the statute of limitations ran. Respondent would testify that he never agreed to pursue a UIM claim – he told her given the overlap in treatment between the first and second accident, and because she had a third accident in December 2013, she would not succeed on a UIM claim. Respondent advised Ms. Myers that she could pursue a UIM claim on her own; however, Respondent admits that he did not follow up his conversation with a letter confirming their conversation.

17. From May 2014, to October 2014, Ms. Myers was still trying to get a settlement statement from the first accident showing how the funds had been distributed. On November 10, 2014, she again asked for a settlement statement because she needed to give it to her bankruptcy attorney. She then found out that Respondent had failed to pay the medical liens against her from the first accident.

18. Ms. Myers told Respondent she wanted the \$11,292.00 he had taken out of his trust account to pay her medical bills.

19. When Ms. Myers told Respondent she was filing bankruptcy, he did not give the money to her because he concluded that he needed to send the money to the bankruptcy trustee. Respondent's notification that he had sent the \$11,292.00 to the bankruptcy trustee crossed in the mail with correspondence from Ms. Myers' bankruptcy attorney asking that the check be sent to her.

20. Ms. Myers was also due money for the repair of her vehicle from the first accident. In April 2015, she found out from the Progressive Insurance representative, Kelly, (Kelly) that the check had been previously sent to Respondent in November 2011.

21. On May 27, 2015, Ms. Myers followed up on the call with Kelly, but Kelly had not been able to make contact with Respondent. If this matter were to proceed to hearing, Respondent would testify that he spoke with a claims adjuster in May 2015, and informed the adjuster that neither the original nor a copy of the check was in the file. In September 2015, he learned that the check has been sent to his former office address and never forwarded to his new office address, or cashed. In September 2015, Respondent sent Ms. Myers a form provided to him by Progressive Insurance Company that allowed Ms. Myers to have the check reissued to her.

22. Respondent netted \$9,083.33 from the first accident, while Ms. Myers initially received a check for approximately \$6,600. In addition, \$11,292.00 was paid to Ms. Myers' bankruptcy trustee and those funds were used to reduce her tax liabilities. Further, as a result of the bankruptcy filing, UMC released its medical lien. Respondent netted \$5,000 from the second accident. If this matter were to proceed to hearing, Respondent's distribution settlement sheet for the second accident would show that Ms. Myers received a check for \$9,965.00 for the second accident and that she was responsible for any unpaid medical bills.

23. Respondent was asked to provide the trust account records for the period of July 2013, to June 2015 ("period of review"). The trust account examiner completed the review of the records provided, which revealed deficiencies resulting in the mismanagement of the trust account.

24. Respondent made many disbursements "in error," as well as disbursing funds when the corresponding client's ledger did not have sufficient funds available. Respondent's office did correct the disbursements made in error.

25. Eighty-two transfers were made from the client trust account to Respondent's operating account during the period of review. Respondent had negative operating account balances on thirty-seven of those occasions. Included in the transfers were the ones that Respondent transferred from client trust funds into the operating account "in error."

26. On at least two occasions, Respondent deposited funds into the client trust account that were identified as earned on receipt, which resulted in the commingling of his funds with his client's funds, in violation of Rule 43.

27. Some of Respondent's client ledgers failed to record the actual name of the payor of funds deposited in the client trust account, in violation of Rule 43.

28. Some of the duplicate deposits receipts provided failed to record the name of the client and the corresponding amount on whose behalf funds were deposited, in violation of Rule 43. In addition, several date inconsistencies were identified between the deposit summary and the corresponding deposit receipt.

29. In one instance, the trust account bank statements showed three transactions on October 21, 2014: a transfer from Respondent's operating account in the amount of \$5,000 and two transfers to Respondent's operating account each in the amount of \$5,000. The general ledger and individual client ledgers show that one of the disbursements from the trust account was made to client L.G, but the additional transactions are not recorded on any of the ledgers provided and it is unclear to whom the funds belonged.

30. Because individual clients' ledgers, administrative funds ledgers and general ledgers were not maintained according to the minimum standards, the three-way reconciliations performed by Respondent's office were not accurate.

CONDITIONAL ADMISSIONS

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

Respondent conditionally admits that his conduct violated Rule 42, Ariz. R. Sup. Ct., specifically ERs 1.2, 1.3, 1.4, 1.5, 1.15, and Rule 43, Ariz. R. Sup. Ct.

RESTITUTION

On May 24, 2016, Ms. Myers was notified that the State Bar and Respondent were entering into a consent agreement. In a June 3, 2016 letter, Ms. Myers asked bar counsel if restitution will be made by Respondent for his failure to "fulfill his obligations/responsibilities in her cases, as he kept his fees for incomplete work." The State Bar has asked Ms. Myers to provide a statement to the PDJ with her request for restitution along with any documentation she believes supports her request. Ms. Myers letter and documentation is attached as Exhibit C.

Respondent does not believe that restitution is appropriate because the claims made by Ms. Myers' complaints and statements in her letter dated June 13, 2016, are in the nature of malpractice, not restitution. As indicated above, a check for \$11,292.00 was provided to the bankruptcy trustee and applied to other debts (tax liabilities) for Ms. Myers. While Ms. Myers' Chapter 13 bankruptcy was ultimately dismissed due to her failure to make plan payments, UMC released its medical lien due to the initial bankruptcy filing which benefited Ms. Myers. Respondent also believes that Ms. Myers received the form to obtain the property damage money from the insurance company.

The State Bar agrees that any harm suffered by Ms. Myers is more appropriately handled through a malpractice claim, not restitution.

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: six-month and one-day suspension.

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 State Bar has alleged violation of the following ethical rules: ERs 1.2, 1.3, 1.4, 1.5, 1.15(a), (d), and (e), and Rule 43(a), (b), and (f). The most egregious violations are the failure to hold the \$11,292.00 in Respondent's trust account while negotiating the medical liens, and the other trust account violations, so Standard 4.1 applies:

Standard 4.11

Disbarment is generally appropriate when a lawyer knowingly converts client property and causes injury or potential injury to a client.

Standard 4.12

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

The duty violated

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

The lawyer's mental state

For purposes of this agreement the parties agree that Respondent knowingly dealt improperly with client funds.

The extent of the actual or potential injury

For purposes of this agreement, the parties agree that there was potential harm to the client.

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.

Standard 9.22 – Aggravating factors:

- (a) prior disciplinary offenses ;
 - i. 1987: Informal Reprimand (Admonition) January 14, 1987, File No. 86-0587, for violation of ER 1.3.
 - ii. 1997: Informal Reprimand (Admonition) March 4, 1997, File No. 96-0744, for violation of ER 8.4(c).
 - iii. 2004: Censure (Reprimand) January 13, 2004, File No. 01-0098. While representing a client in a personal injury matter, Respondent agreed to dispute a claim by an insurer for reimbursement. Respondent took over

three years to resolve the claim and failed to keep the total disputed amount in his trust account. ER 1.15 and Rules 43 and 44, Ariz. R. Sup. Ct. (2003). Respondent was censured, placed on two years of probation, and monitored by LOMAP.

- (b) dishonest or selfish motive;
- (c) a pattern of misconduct;
- (i) substantial experience in the practice of law;

Standard 9.32 – Mitigating factors include:

- (e) full and free disclosure to a disciplinary board or cooperative attitude toward proceedings;

The aggravating factors outweigh the mitigating factors, and that is the reason for a length of suspension that requires reinstatement proceedings.

Discussion

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

Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that a suspension of six-months and one-day is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

CONCLUSION

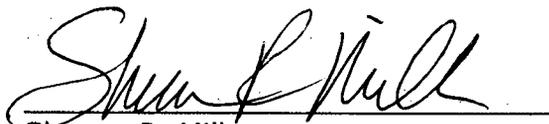
The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession, and the administration of justice. *Peasley, supra* at ¶ 64, 90 P.3d at 778. Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent believe

that the objectives of discipline will be met by the imposition of the proposed sanction of a suspension of six-months and one-day and the imposition of costs and expenses.

A proposed form order is attached hereto as Exhibit B.

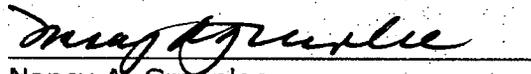
DATED this 29th day of June 2016

STATE BAR OF ARIZONA



Shauna R. Miller
Senior Bar Counsel

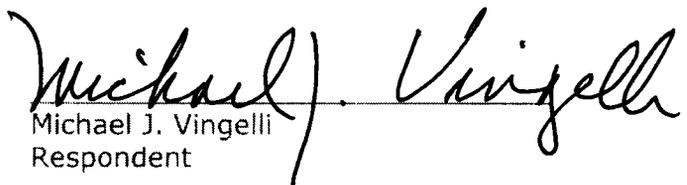
DATED this 24th day of June, 2016.



Nancy A. Greenlee
Counsel for Respondent

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 24th day of June, 2016.


Michael J. Vingelli
Respondent

Approved as to form and content

Maret Vessella

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 27th day of June, 2016.

Copy of the foregoing emailed
this 27th day of June, 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

Copy of the foregoing mailed/emailed
this 27th day of June, 2016, to:

Nancy A Greenlee
821 E Fern Dr. North
Phoenix, AZ 85014-3248
Email: nancy@nancygreenlee.com
Respondent's Counsel

Copy of the foregoing hand-delivered
this 29th day of June, 2016, to:

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

by:

Aurelia Brey
SRM: aib

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,
MICHAEL J. VINGELLI Bar No. 002899, Respondent

File No. 15-1472

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 B

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

MICHAEL J. VINGELLI,
Bar No. 002899,

Respondent.

PDJ 2016-_____

FINAL JUDGMENT AND ORDER

[State Bar File No. 15-1472]

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, **Michael J Vingelli**, is hereby suspended for six-months and one-day for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective August 15, 2016.

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

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 \$ 1,200.00, 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 June, 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 June, 2016.

Copies of the foregoing mailed/emailed
this _____ day of June, 2016, to:

Nancy A Greenlee
821 E. Fern Dr. North
Phoenix, AZ 85014-3248
Email: nancy@nancygreenlee.com
Respondent's Counsel

Copy of the foregoing emailed/hand-delivered
this _____ day of June, 2016, to:

Shauna R. Miller
Senior Bar Counsel - Litigation
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Copy of the foregoing hand-delivered
this _____ day of June, 2016 to:

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

by: _____

EXHIBIT C

JANICE MYERS

Facsimile transmittal

To: **SHAUNA MILLER**

Fax: **602-416-7446**

From: **JANICE MYERS**

Date: **6/13/2016**

Re: **FILE #15-1472**

Pages: **7 INCLUDING COVER SHEET**

Cc: **[Name]**

Urgent

For review

Please comment

Please reply

Please recycle

LETTER IN REGARDS TO RESTITUTION.

I had to sign for Jamie as she had surgery on her right shoulder and cannot write.

Clare Ostleff, mother

Confidential

June 13, 2016

Shauna R. Miller
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street
Suite 100
Phoenix, AZ 85016-6266

Re: File No. 15-1472
Complainant: Janice Myers
Respondent: Michael J. Vingelli

Ms. Miller:

I am requesting restitution from Mr. Vingelli as he did not perform the majority of services in the 2 lawsuit actions for which he was hired.

I was not in bankruptcy at the time Mr. Vingelli was hired and I don't feel that even if I had been in bankruptcy it should have had any bearing on restitution. Please reference letter from Thompson Law Group, Lisa Thompson dated September 19, 2015.

Attached is a copy of the e-mail I received from Mr. Vingelli in reference to the 2011 accident. Mr. Vingelli had settled this case on May 20, 2013 and had all my medical bills at that time yet per his correspondence Mr. Vingelli still had not paid them as of February 20, 2014 and still in November 2014 the bills had not been paid.

Per Mr. Vingelli's settlement distribution (attached), Mr. Vingelli had collected fees amounting to \$9083.33, never responded to my request for a break-down of the costs and the bottom line of \$17,929.46 was not the amount received as Mr. Vingelli held back \$11,292. After I found out Mr. Vingelli had never paid any bills, I contacted him to refund the balance of the money. At this time I was in bankruptcy and these monies were due the Trustee in Bankruptcy.

In reference to the 2012 lawsuit Mr. Vingelli waited until almost a month before the Statute of Limitations was up before he even started any type of work on the case. Mr. Vingelli was also supposed to contact my insurance company in regard to my "underinsured" coverage and never did. All the medical bills listed on the settlement distribution (attached), I had paid out of pocket so Mr. Vingelli was not even responsible for paying them. In this case Mr. Vingelli collected \$5,000 in fees for what I have no idea as again he did not perform the services for which he was hired.

On February 25, 2016 Mr. Vingelli's office tried to contact me by telephone. I did not answer the call. Obviously it had to do with the letter from the State Bar of Arizona dated February 25, 2016.

I contacted the State Bar to let them know of Mr. Vingelli's contact attempt (phone log attached) and inquired if there was something I should know about. Their response was "if there was any information it would be in written form. I then received a letter from the State Bar on Saturday, February 27, 2016.

As Mr. Vingelli collected a total of \$14,083.33 in attorney fees, I will leave it up to the Presiding Disciplinary Judge to make a decision that is fair and reasonable.

Sincerely,

A handwritten signature in cursive script that reads "Janice Myers per @". The signature is written in black ink and is positioned above the typed name.

Janice Myers

Janice Myers

From: Michael J. Vingelli [mvingelliesq@aol.com]
Sent: Thursday, February 20, 2014 11:58 AM
To: jan@myflowerbee.com
Subject: Re: Accidents
Attachments: image001.gif

Janice,

I have not worked out the payments to the 2011 accident cause I am trying to settle the 2012 accident which has to be filed if not settled by mid March. I know it's difficult but if you can tell me in your own words what problems you having from the 2012 accident that were even aggravated or new injuries, I am hopeful of resolving that accident case. Please let me know if I have the medicals from the 2012 accident and if not I will get them and if you are still treating I will need an explanation of the treatment. I suggest we talk about it by phone. A lady by the name of Terry Whatley may be calling you to discuss the 2012 accident.

Michael J. Vingelli
Attorney at Law

Margarita Y. Gomez
Legal Assistant/Office Manager

Law Office of Vingelli & Errico
33 N. Stone Avenue, Suite 1800
Tucson, Arizona 85701
(520) 791-0900

-----Original Message-----

From: Janice Myers <jan@myflowerbee.com>
To: 'Michael J. Vingelli' <mvingelliesq@aol.com>
Sent: Thu, Feb 20, 2014 10:40 am
Subject: Accidents

Michael,

I would like to know what the status is on the payoffs of the medicals from the Oct 2011 accident and where we are at with the March 2012 accident.

Can you please give me an update.

SETTLEMENT DISTRIBUTION

Date

Janice Myers
DOL: October 19, 2011

Gross Settlement Amount: \$27,250.00

Attorney's Fees \$9,083.33

Costs

Copies	119.85
Postage	23.19
Medical Records	40.25
Filing Fees	236.00
Service Fees	55.00
Deposition Fee	158.40

Payment made by client:

\$395.48 - \checkmark \$ 632.69 -
PIFF 237.21 - NVR RECEIVED BRACKEN
OF COSTS
\$17,929.46

SUBTOTAL

Medical Bills/Liens:

\$*****

GRAND TOTAL TO CLIENT

\$17,929.46

I, **Janice Myers**, understand that there may arise other recorded liens in the Pima County Recorder's Office. I also understand that if any other liens and /or medical bills against this settlement arise, they will be dealt with on a case by case basis and I will be responsible for payment from my net proceeds.

Janice Myers

Date

SETTLEMENT DISTRIBUTION

April 15, 2014

Janice Myers
DOL: March 23, 2012

Gross Settlement Amount: \$15,000.00

Attorney's Fees \$5,000.00

Costs

Copies	24.75	
Postage	9.81	
		\$ 34.56

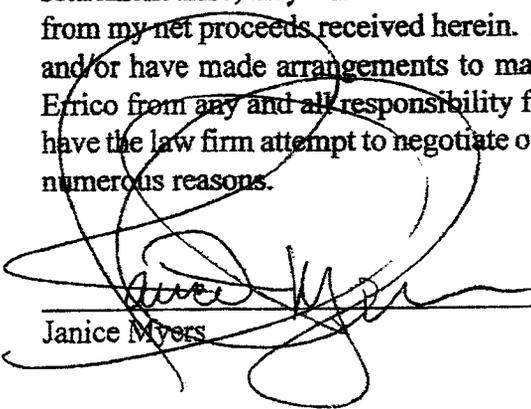
SUBTOTAL \$9,965.44

Medical Bills:

Cristina Popovici, M.D.	241.00	
Momentum Chiropractice	1,920.00	
Guyton Chiropractic	1,670.00	
American Radiological	149.00	
Simon Med	1,206.00	
Desert Palms PT	1,544.00	
Transformative Touch Massage	945.00	
		\$7,675.00

GRAND TOTAL TO CLIENT \$9,965.44

I, **Janice Myers**, understand that there may arise other recorded liens in the Pima County Recorder's Office but to date this office has searched the Pima County Recorder's Office and no liens have been recorded for this accident. I also understand that if any liens and /or medical bills against this settlement arise, they will be dealt with on a case by case basis and I will be responsible for payment from my net proceeds received herein. I have paid some of the medical expenses referred to herein and/or have made arrangements to make payments in the future and agree to release Vingelli & Errico from any and all responsibility for paying these medical providers and I have chosen not to have the law firm attempt to negotiate or reduce the amount I may owe because they are disputed for numerous reasons.


Janice Myers

16 APRIL 2014
Date

Print | [Close Window](#)

Subject:

From: +15202454428@tmomail.net

Date: Fri, Jun 10, 2016 3:51 pm

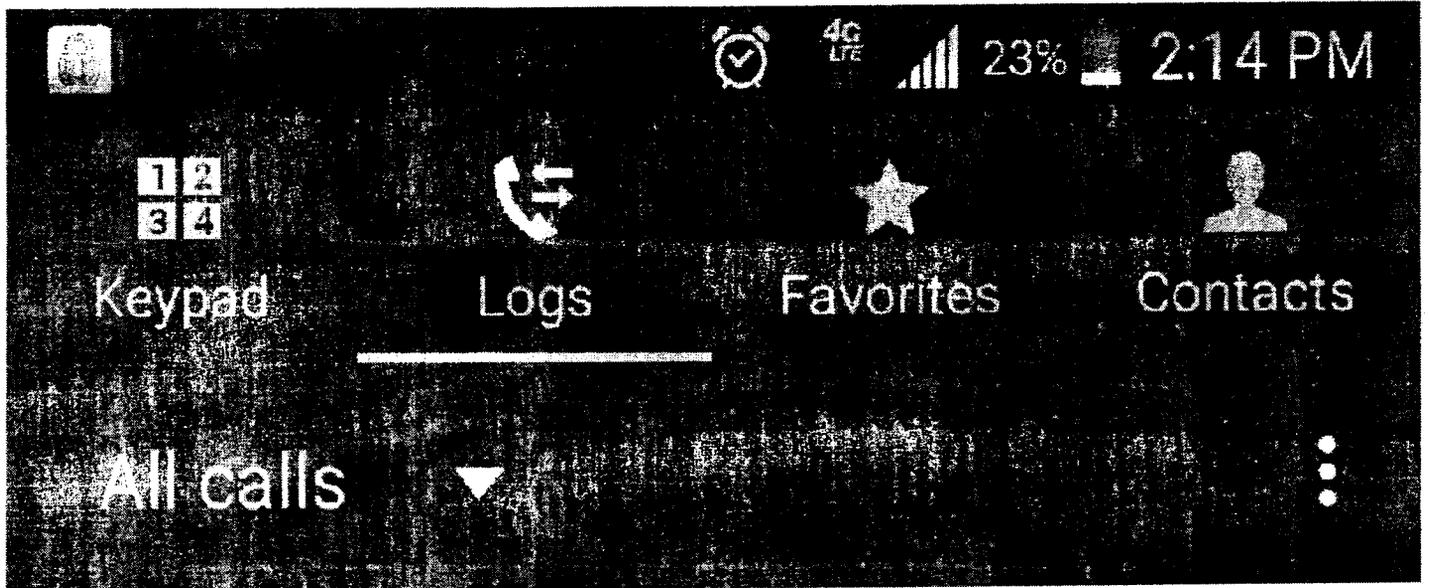
To: jan@myflowerbee.com

Attach: Screenshot_2016-02-28-14-14-14.jpeg

tmobilespace.gif

dottedline600.gif

footer.gif



1 602-340-7278



Phoenix, AZ

10:26 AM



Brad



+1 520-622-7233

10:13 AM



Vingelli & Errico



+1 520-791-0900

10:07 AM

2/25/16



Brad