



FILED
Sep 15 2025

BEFORE THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY
THE SUPREME COURT OF TEXAS

IN THE MATTER OF
JOSEPH KENNETH LACOME,
STATE BAR CARD NO. 24083347

§
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§

CAUSE NO. 71741

PETITION FOR RECIPROCAL DISCIPLINE

TO THE BOARD OF DISCIPLINARY APPEALS:

The Commission for Lawyer Discipline, (hereinafter referred to as the “Commission”), brings this action against Respondent, Joseph Kenneth LaCome, and would show the following:

1. This action is commenced by the Commission pursuant to Part IX of the Texas Rules of Disciplinary Procedure (the “TRDPs”). The Commission is also providing Respondent with a copy of Section 7 of this Board’s Internal Procedural Rules, relating to Reciprocal Discipline Matters.

2. Respondent is a member of the State Bar of Texas and is licensed and authorized to practice law in Texas. Respondent may be served with a true and correct copy of this Petition for Reciprocal Discipline at Joseph Kenneth LaCome, 1452 Hughes Road, Ste. 200, Grapevine, Texas 76051-9221.

3. On or about March 28, 2025, an Agreement for Discipline by Consent (Exhibit 1) was entered in a matter styled: Before the Presiding Disciplinary Judge, *In the Matter of a Member of the State Bar of Arizona, JOSEPH LACOME, Bar No. 032676, Respondent.*, PDJ 2023-9099, [State Bar File Nos. 22-2090, 22-0355, 23-0217, 23-1443, 23-3115, 24-0602], which states in pertinent part:

The State Bar of Arizona and Respondent Joseph LaCome who is represented in this matter by counsel, Donald Wilson, Jr., and Danielle Chronister, 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 6, 2023, in File Nos. 22-2090, 23-0217 and 23-1443, and on July 17, 2024 in File Nos. 23-3115 and 24-0602. A Third Amended Complaint was filed on August 30, 2024. 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 email on February 18, 2025. Complainants were notified of the opportunity to file a written objection to the agreement with the State Bar within five business days of bar counsel's notice. A copy of the only objection received is attached hereto as Exhibit A.

Respondent conditionally admits that his conduct, as set forth below, violated 8 CPR §§ 1003.102(k), 1003.102(n), 1003.102(o), 1003.102(p), 1003.102(q), 1003.102(r), 1003.102(u) and 1003.102(v); and, Arizona ERs 1.1, 1.2(a), 1.3, 1.4(a), ER 1.4(b), ER 1.5(d)(3), 3.1, 3.3(a), 3.4(c), and 8.4(d). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: **Six-month suspension from the practice of law,¹ resignation from the State Bar of Arizona immediately upon reinstatement, and payment of the costs and expenses of the disciplinary proceeding.²** The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit B.

FACTS

GENERAL ALLEGATIONS

1. Respondent was admitted to practice law in Arizona on December 15, 2015.

2. Between 2020 and 2023, Respondent represented California residents regarding various immigration matters. During that time, Respondent was not a member of the State Bar of California.

1 The period of suspension to become effective 45 days after entry of a judgment and order accepting this Agreement for Discipline by Consent.

2 Respondent must pay the costs and expenses of this disciplinary proceeding within 30 days of entry of a judgment and order accepting this Agreement for Discipline by Consent. If costs are not paid within 30 days, interest will begin to accrue at the legal rate.

3. Upon information and belief, Respondent was admitted to practice law in the District of Columbia in 2010, Missouri in 2011, and Texas in 2012.

COUNT ONE (File no. 22-2090/Velasquez)

4. On September 20, 2021, the Department of Homeland Security ("DHS") initiated removal proceedings against Julia Chaj-Velasquez ("Chaj-Velasquez") and her two daughters (Yohana Julieta de Leon-Chaj and Tatiana Silverly Chaj-Velasquez) by filing Notices to Appear ("NTAs") with the Immigration Court in San Francisco, California.

5. Chaj-Velasquez hired Respondent on November 29, 2021, to represent her and her two daughters in proceedings before the Immigration Court in San Francisco, California.

a. Respondent's engagement agreement stated in Spanish that (a) Respondent would represent Chaj-Velasquez and her two daughters regarding their defensive asylum cases; (b) the total amount due for representation was \$8,000; (c) the firm required a deposit of \$2,500 before services would begin; (d) the deposit was non-refundable; and (e) the contract did not include representation in an appeal from an Immigration Judge's ruling.

b. Respondent's engagement agreement failed to advise Chaj-Velasquez that she could discharge Respondent and his firm at any time, in which case she may be entitled to a refund of all or part of the fee she had paid based upon the value of the representation.

6. Chaj-Velasquez paid Respondent \$8,000 for the representation and provided him with information about her and her daughters' lives in Guatemala.

7. On January 3, 2022, Chaj-Velasquez and her two daughters admitted the factual allegations in the NTAs, and conceded the charge of removability under the Immigration and Nationality Act.

8. The Immigration Court sustained the factual allegations and charge of removability.

9. Respondent filed a Form I-589, "Application for Asylum and for Withholding of Removal" (*Application for Asylum*) on Chaj-Velasquez and her children's behalf, seeking relief in the forms of asylum, the withholding of removal, and protection under the Convention Against Torture Act.

10. Respondent also filed the following with the Immigration Court on Chaj-Velasquez and her daughters' behalf: a declaration authored by Chaj-Velasquez, a prehearing brief, a "Particular Social Group" (PSG) statement, human rights reports (aka "Country Condition Reports"³) for Guatemala for 2020 and 2021, a Guatemalan police or prosecutor's report regarding Chaj-Velasquez's issues in that country, a translation of the birth certificates for Chaj-Velasquez's children, Chaj-Velasquez's identification document, and Chaj-Velasquez's biometrics report.

11. The prehearing brief filed by Respondent discussed a PSG inapplicable to Chaj-Velasquez (fear of gang recruitment).

12. The PSG statement filed by Respondent failed to include sufficient facts to support Respondent's assertion of its applicability (the PSG statement was essentially a one-sentence notice of the three social groups into which Chaj-Velasquez and her daughters allegedly fit).

13. On April 14, 2022, Chaj-Velasquez met with Attorney Niloufar Mazhari at a hearing at the Immigration Court. Chaj-Velasquez had not previously met Attorney Mazhari, who appeared on Respondent's behalf. Attorney Mazhari did not speak Spanish or bring an interpreter with her to the hearing.

14. During the April 14, 2022 Immigration Court hearing, Attorney Mazhari asked Chaj-Velasquez about her interactions with three family-member neighbors. She did not ask Chaj-Velasquez how she suffered as a child or how she had been discriminated against and abused because of her indigenous heritage.

15. On May 18, 2022, Immigration Judge Susan Phan denied Chaj-Velasquez and her daughters' *Applications for Asylum*, the withholding of removal, and protection under the Convention Against Torture Act and ordered them to be removed from the United States to Guatemala.

16. Chaj-Velasquez and her daughters did not timely appeal the May 18, 2022 Immigration Judge's decision.

17. When Chaj-Velasquez subsequently communicated with Respondent, he told her that he could not file an appeal on her behalf because the filing deadline had passed.

³ Country Condition Reports reflect how certain crimes are prosecuted and punished in other countries and the efficacy of the government's efforts.

18. Chaj-Velasquez last spoke with Respondent in or about July 2022.

19. Chaj-Velasquez and her daughters subsequently obtained the services of immigration attorney Katarina Rost.

20. Based on *Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988),⁴ Chaj-Velasquez and Attorney Rost submitted separate charges of misconduct with the State Bar of Arizona regarding Respondent's representation of Chaj-Velasquez and her daughters.

21. Attorney Rost subsequently filed with the Immigration Court a motion on Chaj-Velasquez and her daughters' behalf captioned "Respondent's Motion to Reopen Based on Ineffective Assistance of Prior Counsel [or] In the Alternative[,] Motion to Reopen Sua Sponte." That motion to reopen Chaj-Velasquez and her daughters' immigration cases alleged a number of deficiencies in Respondent's representation of Chaj-Velasquez and her daughters.

22. Attorney Rost's motion to reopen was denied on November 2, 2022, finding that Chaj-Velasquez "ha[d] failed to establish that 'the proceeding was so fundamentally unfair' that [she] was prevented from reasonably presenting [her] case." (Second and third sets of brackets in original).

23. Respondent's representation of Chaj-Velasquez and her daughters was deficient in various ways. For example:

a. Documents filed by Respondent on Chaj-Velasquez and her daughters' behalf were deficient. For example:

i. Respondent submitted an inadequate or "skeletal" prehearing brief on Chaj-Velasquez and her daughters' behalf, which included a discussion of an inapplicable PSG (related to fear of gang recruitment).

b. Respondent presented "circular" PSG arguments, which were not supported by statutes/regulations or precedent.

24. Respondent failed to competently, diligently and properly represent Chaj-Velasquez and her daughters, and failed to adequately communicate with them regarding their matters.

⁴ *Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988), noted that a motion to reopen an immigration matter based on ineffective assistance of counsel should reflect whether a charge of misconduct has been filed with appropriate attorney disciplinary agencies regarding the representation and, if not, why not.

25. By engaging in the conduct set forth above, Respondent violated 8 CFR §§ 1003.102(n), 1003.102(o), 1003.102(p), 1003.102(q), 1003.102(r) and 1003.102(u); and, Arizona ERs 1.1, 1.2(a), 1.3, 1.4(a), 1.4(b), 1.5(d)(3) and 1.8.4(d).

COUNT TWO (File No. 23-0217/Gomez Gonzalez)

26. An order of removal was obtained by the U.S. government against Nery Osbeli Gomez Gonzalez for entering the United States illegally.

27. After being removed from the United States, Gomez Gonzalez reentered the United States despite the prior order of removal.

28. At or about the time that Gomez Gonzalez reentered the United States, his two children (Brithney Selina Gomez Perez and Henry Osbeli Gomez Perez) were in removal proceedings.

29. Gomez Gonzalez hired Respondent on December 17, 2021, to assist him, his two children and his 18-year-old cousin (Cesar Ovidio Jacobo Agustin) with immigration matters and to defend them in removal proceedings.

a. The first engagement agreement between Respondent and Gomez Gonzalez set forth a fee of \$21,000 to represent Gomez Gonzalez, his two children and his cousin and noted that a new contract would be executed if and when Gomez Gonzalez was approved through the USCIS asylum vetting center.

30. Gomez Gonzalez subsequently entered into another engagement agreement with Respondent regarding representation of him, his two children and his cousin.

a. Respondent's second engagement agreement stated in Spanish that (a) Respondent would represent Gomez Gonzalez and his two children regarding their asylum applications and his cousin regarding the filing of a petition for Special Immigrant Juvenile (SIJ) classification status; (b) the total fee for those services was a flat fee of \$28,000; (c) the firm required a deposit of \$500 before services would begin; (d) the deposit and other payments made by Gomez Gonzalez were non-refundable; and (e) the contract did not include representation in an appeal from an Immigration Judge's ruling.

31. Respondent's second engagement agreement failed to advise Gomez Gonzalez that he could discharge Respondent and his firm at any time, in which case he may be entitled to a refund of all or part of the fee he had paid based upon the value of the representation. Gomez Gonzalez paid a total of \$8,250 to Respondent.

32. Respondent prepared and filed three I-589 "Application[s] for Asylum and for Withholding of Removal" (*Applications for Asylum*) on Gomez Gonzalez and his two children's behalf.

a. The *Applications for Asylum* prepared by Respondent were insufficient. For example, they failed to include briefing on complex issues of law, including the following:

i. Asylum has a one-year filing bar - one year after arrival in the United States - that can be overcome by only two exceptions: changed circumstances and extraordinary circumstances. On Gomez Gonzalez's *Application for Asylum*, Part C, Question 5, where an explanation can be given for why the filing was so far after the one-year deadline (more than 10 years in Gomez Gonzalez's case), Respondent included the following for Gomez Gonzalez's explanation: "i [sic] was not aware of the deadline[.]" Respondent failed to submit any evidence, any briefing or anything else.

33. Respondent failed to retain signed copies of the *Applications for Asylum* before sending them to USCIS.

34. On December 14, 2022, Respondent sent an email message to a government attorney requesting dismissal of the removal proceedings against Gomez Gonzalez's children.

35. A master calendar hearing for Gomez Gonzalez's children was scheduled for December 15, 2022.

36. When Gomez Gonzalez called Respondent's office to request representation at his children's master calendar hearing (which Respondent asserts was not within the scope of his representation at that time), Respondent informed him that Attorney Elizabeth Grant would appear at the hearing as a courtesy because Respondent was unavailable to appear on short notice. Respondent further advised Gomez Gonzalez that the hearing would likely be vacated once he signed into the case.

37. Attorney Grant was initially scheduled to appear at the December 15, 2022 master calendar hearing on Respondent's behalf. Respondent anticipated that she would ask for dismissal at the hearing.

38. On December 15, 2022, the Immigration Judge vacated the master calendar hearing shortly before it was scheduled to begin.

39. Respondent or his office staff attempted to notify Gomez Gonzalez that the hearing had been vacated, but he did not answer his cell phone.

40. On December 16, 2022, Respondent notified Gomez Gonzalez via text message that he was no longer representing him, his children and his cousin.

41. On December 19, 2022, Respondent emailed to Gomez Gonzalez some of the documents comprising the file he maintained on Gomez Gonzalez and his children's behalf.

42. USCIS received the three *Applications for Asylum* on December 23, 2021.

43. Respondent performed no work on Gomez Gonzalez's cousin's case between February 2022 and December 2022.

44. Respondent never prepared or filed in state court a petition for SIJ classification status for Gomez Gonzalez's cousin, a necessary predicate to filing his Form I-360 petition for SIJ classification.

45. When Respondent discontinued representation of Gomez Gonzalez, his children and his cousin, he did not provide Gomez Gonzalez with a refund of any of the fees he had paid to Respondent.

46. Respondent's file, which was eventually provided to Gomez Gonzalez or his subsequent counsel, included eight documents: (a) three *Applications for Asylum* that had been filed for Gomez Gonzalez and his two children; (b) three receipts for the *Applications for Asylum* that had been filed; and (c) two biometrics documents for Gomez Gonzalez's two children.

47. After Respondent discontinued representation of Gomez Gonzalez, his children and his cousin, they were represented by the Immigration Law Clinic at the University of California Davis School of Law ("UC Davis Law School Clinic"), which is overseen by Attorney/Professor Holly Cooper.

48. During the first week of February 2023, Respondent communicated with the UC Davis Law School Clinic and was informed that the Clinic had "a retainer to investigate potential forms of relief for the family."

49. On February 8, 2023, two days after the Clinic informed Respondent that it had a "retainer to investigate potential forms of relief" for Gomez Gonzalez, his children and his cousin, he filed motions to dismiss the removal proceedings against Gomez Gonzalez's children and cousin.

a. Respondent failed to act diligently and failed to expedite litigation in the best interests of Gomez Gonzalez's children and cousin by waiting over a year to file the motions to dismiss the removal proceedings against them.

50. The Immigration Court dismissed the removal proceedings against Gomez Gonzalez's children and cousin based on the motions filed by Respondent in February 2023.

51. By engaging in the conduct set forth above, Respondent violated 8 CFR §§ 1003.102(n), 1003.102(o), 1003.102(p), 1003.102(q), 1003.102(r) and 1003.102(u); and, Arizona ERs 1.1, 1.2(a), 1.3, 1.4(a), 1.4(b), 1.5(d)(3), 3.2, and 8.4(d).

COUNT THREE (File No. 23-1443/Pennington)

52. Luisa Pablo Perez ("Perez"), a citizen of Guatemala, applied for asylum for herself and her two children (Sergio Martin Pablo and Wuilliam (sic) Martin Pablo) based on (a) the persecution she suffered from - and fear of - her former partner; and (b) the persecution and fear she suffered from being an Indigenous Mayan Mam woman.

53. Perez was not represented by counsel at her merits hearing in the Immigration Court in Detroit, Michigan.

54. The assigned Immigration Judge denied Perez's *Application for Asylum*.

55. On March 5, 2020, Perez hired Respondent to file an appeal brief with the Board of Immigration Appeals (BIA) for her and her two children.

a. Respondent's engagement agreement stated that (a) Respondent would represent Perez in her appeal of the Immigration Judge's denial of her *Application for Asylum*; (b) the total amount due for representation was \$5,000; (c) the firm required a deposit of

\$1,500 before services would begin; and (d) the deposit was non-refundable.

b. Respondent's engagement agreement failed to advise Perez that she could discharge Respondent and his firm at any time, in which case she may be entitled to a refund of all or part of the fee she had paid based upon the value of the representation provided.

56. On December 13 and 28, 2021, Respondent filed appellate briefs on Perez and her children's behalf with the BIA. Both briefs failed to thoroughly address all relevant matters and waived critical issues.

a. The briefs lacked analysis critical to Perez and her children's asylum claims.

b. The briefs consisted primarily of "boilerplate" language that waived highly meritorious challenges to dispositive issues that were addressed in the Immigration Judge's decision denying Perez and her children's applications for asylum.

c. Respondent's briefs waived any argument challenging the Immigration Judge's erroneous finding that Perez did not establish that Guatemalan authorities are unwilling or unable to protect her in Guatemala.

i. The Immigration Judge erroneously found that Perez did not establish that Guatemalan authorities were unable or unwilling to protect her in Guatemala, despite her attempt to report to the police a particularly vicious attack by her abuser.

ii. The Immigration Judge's finding was clearly erroneous because Guatemalan authorities failed to investigate, prosecute or punish Perez's abuser, did not offer her any protection from him, and literally were unable to take a report of the incident due to a language barrier, which reflected their inability and unwillingness to protect her.

iv. The Immigration Judge further erroneously found that Country Condition Reports demonstrated that the Guatemalan government has devoted "significant resources" to combating gender-based violence.

vi. The Country Condition Reports in Perez's case demonstrated the inadequacy and inefficacy of the government's response to the epidemic of gender-based

violence in Guatemala. Furthermore, (a) the Country Condition Reports indicated there was a lack of investigation of and accountability for gender-based violence; (b) gender-based violence remained a widespread and serious problem in Guatemala; (c) the Guatemalan police had received minimal training and had minimal capacity to investigate sexual crimes or assist survivors; (d) the government did not enforce the law effectively; and (e) the police had been unresponsive to domestic violence complaints.

d. Respondent's briefs consisted of "boilerplate" language and was nearly devoid of specific references to Perez and her children's situations. Of the ten pages of argument in Respondent's December 13, 2021 brief, only three paragraphs explicitly referenced the facts regarding Perez's situation in Guatemala.

e. Respondent's brief referred to Perez in places using male pronouns and inaccurately recited the facts regarding Perez and her children's situation in Guatemala.

f. Respondent argued that Perez's membership in a PSG was based on the domestic violence she suffered, a claim that had been foreclosed by precedent at that time (but has since been reversed).

57. Respondent failed to act with reasonable diligence and promptness in representing Perez and her children.

58. Following Respondent's representation of Perez and her children, immigration attorney Alison Pennington, began representing them.

59. Upon information and belief, Attorney Pennington, pursuant to *Matter of Lozado*, 19 I. & N. Dec 637 (BIA 1988), filed a motion with the BIA to remand Perez and her children's cases based on Respondent's ineffective assistance of counsel.

60. In an order dated January 31, 2024, the BIA remanded Perez's matter based on the change in law identified in the appeal brief. The BIA expressly noted that it found it "unnecessary to decide" whether Mr. LaCome provided ineffective assistance of counsel because "whatever deficiencies might have occurred previously, if any, can be remedied by new counsel on remand, where the parties may update the record with relevant evidence and arguments."

By engaging in the conduct set forth above, Respondent violated 8 CFR §§ 1003.102(n), 1003.102(o), 1003.102(q) and 1003.102(u); and, Arizona ERs 1.1, 1.3 and 8.4(d).

COUNT FOUR (File No. 23-3115/State Bar of Arizona)
Matter Involving E-Y-V-V-⁵

61. In or about 2021, Respondent agreed to represent E-Y-V-V- in his/her immigration proceedings.

62. On March 10, 2021, E-Y-V-V- signed a declaration in which he/she stated he/she had been raped in 2015 by a co-worker.

63. On July 20, 2021, Respondent entered his appearance as E-Y-V-V-'s attorney in his/her immigration proceedings.

64. On August 30, 2021, E-Y-V-V-, through Respondent, submitted a declaration that stated that he/she had been raped by a former co-worker in the United States (it did *not* assert that he/she had been raped by gang members in El Salvador).

65. On December 8, 2022, Judge Arwen Swink of the San Francisco Immigration Court issued a notice setting E-Y-V-V-'s master calendar hearing via Webex on February 7, 2023.

The accompanying scheduling order contained boilerplate language directing Respondent and DHS to "**confer** regarding this case to explore the possibility of prosecutorial discretion and whether [the parties] intend to proceed to trial before the Court" and further encouraged the parties "to explore whether dismissal, administrative closure, or another course of action would accomplish similar goals." (Bold typeface and underline in original).

66. On January 23, 2023, Respondent submitted a motion to vacate the master calendar hearing scheduled for February 7, 2023 in which he informed Judge Swink that he had filed a Form I-589 Application for Asylum and for Withholding of Removal and other documents on E-Y-V-V-'s behalf.

On February 6, 2023, Judge Swink issued an order granting Respondent's motion to vacate the master calendar hearing which stated, "Respondent has

⁵ Respondent's former clients, when referenced in Counts Four through Nine, are referred to by their initials because the allegations were submitted by EOIR, which informed bar counsel that the clients' names should remain confidential; the former clients are also referred to as "he/she" and "him/her" for the same reason. The use of clients' initials is also consistent with EOIR citation guidelines.

declined the opportunity to narrow issues, confirm biometrics results, and otherwise confer at the special Master hearing" and confirmed that E-Y-V-V-'s individual merits hearing remained set for March 2, 2023.

67. On February 7, 2023, Respondent filed a prehearing brief on E-Y-V-V-'s behalf.

a. The brief provided an overview of E-Y-V-V-'s claim that he/she feared returning to El Salvador because he/she had received threats from gang members after his/her spouse engaged in an extramarital affair with a person who had familial gang ties.

b. In the narrative section of the brief, Respondent stated that after E-Y-V-V- entered the United States, he/she was raped by a co-worker in 2015, and that his/her rapist used his/her immigration status as a threat to silence him/her; that argument differed from the argument section of the brief, wherein Respondent stated that E-Y-V-V- should be granted relief because he/she "suffered past persecution at the hands of gang members who beat [him/]her, and forcibly raped [him/]her."

68. Also on February 7, 2023, Respondent filed a document titled "Particular Social Group Statement" ("PSG Statement"), which stated that E-Y-V-V- is a member of five Particular Social Groups ("PSGs").

a. Each proposed PSG was defined by the harm, which is not legally permissible.

b. Respondent's PSG Statement made arguments that were legally foreclosed.

c. After each PSG, Respondent cited to one or more decisions from the U.S. Attorney General, the Board of Immigration Appeals ("BIA"), or a Circuit Court of Appeals implying that the proposed PSG was supported by published case law.

d. At least some of the case law referenced by Respondent regarding the PSGs did not support the proposition for which he had cited the case law.

69. On March 2, 2023, E-Y-V-V- appeared with Attorney Niloufar Mazhari at his/her individual hearing before Judge Swink.

a. Judge Swink asked Attorney Mazhari whether the claim Respondent made in his prehearing brief that E-Y-V-V- had been raped by gang members in El Salvador was accurate and

Attorney Mazhari responded that the statement was incorrect because E-Y-V-V- alleged he/she had been raped by a co-worker in the United States.

i. Respondent admits that the brief inadvertently erroneously stated that E-Y-V-V- was raped by gang members in El Salvador and that the brief should have stated that E-Y-V-V- "suffered past persecution at the hands of gang members who beat [him/]her, and a co[-]worker who forcibly raped [him/]her."

ii. Respondent claimed the prehearing narrative came directly from E-Y-V-V-'s I-5 89 declaration, and that the error resulted from an inaccurate translation of the declaration (he said E-Y-V-V-'s declaration "at times when translated does not translate word for word[,] making it difficult to discern what [E-Y-V-V-] is attempting to convey").

b. Judge Swink also raised concerns about Respondent's PSG Statement because each proposed PSG was defined by the harm, which is not legally permissible.

c. Judge Swink also found that Respondent's PSG Statement made arguments that were legally foreclosed, but that Respondent nonetheless cited case law to make it appear as if his propositions had legal support when in fact they did not.

d. During the hearing, Attorney Mazhari asked to continue E-Y-VV-'s case so that Respondent could file a request for prosecutorial discretion.

e. DHS counsel indicated that the government may favorably exercise prosecutorial discretion if E-Y-V-V- could provide additional documentary evidence in conjunction with the new request.

f. Although Judge Swink found that Respondent previously declined the opportunity to discuss prosecutorial discretion at the master calendar hearing he moved to vacate, Judge Swink nevertheless granted Attorney Mazhari's continuance request because it appeared that E-Y-V-V- was eligible for prosecutorial discretion.

70. By engaging in the conduct set forth above, Respondent violated 8 C.F.R. §§ 1003.102(n), 1003.102(o), 1003.102(q); and, Arizona ERs 1.1, 1.3, 3.1 and 8.4(d).

COUNT FIVE (File No. 23-3115/State Bar of Arizona)

Matter Involving E-E-P-R

71. In or about November 2022, Respondent agreed to represent E-E-P-R in his/her immigration proceedings.

72. On November 16, 2022, Respondent entered his appearance as the primary attorney for all immigration proceedings in E-E-P-R's case.

73. On Friday, December 9, 2022, Attorney Mary Grant appeared via Webex on Respondent's behalf at E-E-P-R's scheduled hearing before Immigration Judge Kenya Wells at the Houston Greenspoint Park Immigration Court in Houston, Texas.

a. At the conclusion of the hearing, Judge Wells instructed Attorney Grant to file E-E-P-R's application for asylum before the end of the following business day.

b. Judge Wells also scheduled E-E-P-R's individual merits hearing on June 13, 2023, and ordered that all evidence be filed no later than April 13, 2023.

74. On Tuesday, December 13, 2022, Respondent filed a Form I-589 Application for Asylum and for Withholding of Removal on E-E-P-R's behalf.

a. E-E-P-R- alleged that the "signature" on the Application for Asylum was not placed on the Application by E-E-P-R-, and he/she had not authorized anyone to sign it on his/her behalf.

b. Respondent filed the Application for Asylum knowing that the signature on the document was not placed by E-E-P-R-, and signed the application adjacent to text stating that the client signed in his presence.

75. On June 5, 2023 (53 days later than ordered by Judge Wells), Respondent attempted to file multiple documents, including a Human Rights Watch report, a prehearing brief, numerous identity documents, proof of biometrics, and a witness list.

76. Later on June 5, 2023, the Immigration Court issued a "REJECTED FILING NOTICE TO ATTORNEY OR

REPRESENTATIVE," stating that Respondent's filings had been rejected and noted that "[n]o motion to accept late filings [had been] attached"; the rejection notice directed Respondent to refile those documents with the proper motion attached.

77. On June 6, 2023, Respondent filed multiple motions titled "MOTION TO ACCEPT LATE FILING."

a. Those motions were identical and stated: "Due to the holiday weekend, the filing of these documents was one day late of the filing deadline and was rejected in part due to clerical error. The documents are vital to [E-E-P-R-] for corroboration purposes."

78. On June 7, 2023, Judge Wells issued a written order denying Respondent's motions.

a. That written order stated: "[The Court] set a deadline for evidence to be filed by April 13, 2023. Contrary to Respondent's claim, the late-filed documents were not one day late. Respondent has not established good cause for why the items were filed beyond the filing deadline."

79. Despite Judge Wells' December 9, 2022 order, on June 12, 2023, one day before E-E-P-R-'s individual hearing, Respondent again filed multiple motions titled "MOTION TO ACCEPT LATE FILING."

a. Those motions were identical to those he had previously filed on June 6, 2023.

80. Judge Wells did not rule on those motions prior to E-E-P-R-'s individual merits hearing.

81. On June 13, 2023, E-E-P-R- and Attorney Mariana Ehrenberg appeared at E-E-P-R-'s scheduled individual merits hearing before Judge Wells.

a. Counsel for DHS informed Judge Wells that E-E-P-R- had filed a request for prosecutorial discretion on June 6, 2023 and requested additional time to review the request.

b. Judge Wells stated that he had ordered that all evidence and joint motions be filed on or before April 13, 2023, and saw "no reason why [the prosecutorial discretion request] was not done at an earlier time."

c. Judge Wells deemed Respondent's request for prosecutorial discretion untimely.

d. Attorney Ehrenberg interjected, stating that she was under the impression that all filings in E-E-P-R's case were timely filed.

e. Judge Wells indicated to Attorney Ehrenberg that she was mistaken and pointed out that Respondent had previously filed multiple motions requesting that the Court accept late-filed evidence and that the earliest of those motions, dated June 6, 2023, incorrectly claimed that the evidence was submitted "one day late."

f. Judge Wells indicated to Attorney Ehrenberg that he had previously issued an order denying Respondent's untimely motions because he had ordered Respondent, at a master calendar hearing on December 9, 2022, to file all evidence on or before April 13, 2023.

g. In response, Attorney Ehrenberg stated that the file that Respondent had provided to her did not include various documents and indicated that she was not certain she would have agreed to appear on Respondent's behalf if she had known about the Court's December 9, 2022 order, Respondent's failure to timely file evidence, and/or Judge Wells' denial of Respondent's motions for the Court accept late-filed evidence.

i. Respondent failed, prior to E-E-P-R's individual merits hearing, to provide Attorney Ehrenberg with copies of all documents related to E-E-P-R's matter.

h. Attorney Ehrenberg informed Judge Wells that Respondent informed her the night before the hearing that everything had been filed.

i. Upon questioning by Judge Wells, Attorney Ehrenberg clarified that she did have a copy of the Form I-589, but that the copy in her file was not signed by E-E-P-R.

j. Judge Wells stated that the copy of the Form I-589 in the Court's file was signed by E-E-P-R.

k. Attorney Ehrenberg stated that she needed time to sort out the mess and indicated that was necessary because it appeared she was not properly informed about the status of the case.

l. Judge Wells denied Attorney Ehrenberg's oral motion to continue E-E-P-R-'s individual merits hearing.

m. Judge Wells asked Attorney Ehrenberg if she wanted to contact Respondent but she stated she believed that Respondent was out of town and that is why he had asked her to appear on his behalf.

n. Judge Wells proceeded with E-E-P-R-'s hearing.

o. Judge Wells orally denied Respondent's June 12, 2023 motions to accept late filings, finding that the motions were filed well after the deadline and that Respondent had not provided a reason to excuse his untimeliness.

p. Judge Wells asked E-E-P-R- questions about his/her Application for Asylum and allowed E-E-P-R- to review the Court's copy of the Form I-589 Application for Asylum that Respondent had filed.

q. Upon examining the Court's copy of the Form I-589, E-E-P-R- told Judge Wells that the signature on the application that Respondent had filed was not his/hers.

r. In support of his/her claim, E-E-P-R- showed Judge Wells a copy of Respondent's representation agreement, which E-E-P-R- claimed he/she had previously signed and informed Judge Wells that the signatures did not match.

s. Judge Wells compared E-E-P-R-'s signature on Respondent's representation agreement, which included an affirmation under oath that it was his true signature, with E-E-P-R-'s alleged signature on the Form I-589 Application for Asylum and noted his belief that the signatures did not match.

t. When Judge Wells asked E-E-P-R- whether he had granted anyone permission to sign the Form I-589 Application for Asylum on his behalf, E-E-P-R- responded, "No."

u. At the conclusion of the hearing, Judge Wells granted Attorney Ehrenberg's request for a dismissal without prejudice based on prosecutorial discretion, which E-E-P-R informed Judge Wells was the outcome he wanted.

82. By engaging in the conduct set forth above, Respondent violated 8 C.F.R. §§ 1003.102(n), 1003.102(o) 1003.102(q) and Arizona ERs 1.1. 1.2(a), 1.3, 3.3(a), and 8.4(d).

COUNT SIX (File No. 23-3115/State Bar of Arizona)
Matter Involving R-M-M-C

83. In or about June 2023, Respondent agreed to represent R-M-M-C- in his/her immigration proceedings.

84. On June 24, 2023, Respondent entered his appearance as the primary practitioner of record for R-M-M-C- in all of his/her immigration proceedings.

85. The Immigration Judge ordered the parties to file all evidence on or before July 18, 2023.

86. On several dates in August 2023 and on September 1, 2023, Respondent filed various documents on R-M-M-C-'s behalf, including country condition reports, an I-589 Application for Asylum, passports and other identification documents, a supporting declaration, a prehearing statement, and an updated PSG statement.

87. On September 4, 2023 (Labor Day), the day before R-M-M-C-'s scheduled 8:30 a.m. individual merits hearing, Respondent submitted six additional evidentiary exhibits including judicial orders, a police report, medical documents and a notification from a prosecutor's office. Respondent electronically served copies of the exhibits on DHS 's Office of Chief Counsel through the EOIR Courts & Appeals System (ECAS⁶).

88. Also on September 4, 2023, Attorney Niloufar Mazhari entered her appearance as a "Non-Primary Attorney/Representative."

89. On September S, 2023, the day of R-M-M-C-'s individual hearing, Respondent filed two motions to accept late filings, which were filed less than 20 minutes apart.

a. The first motion to accept late filings stated: "[R-M-M-C-] requests that the court accepts [sic] the following late filed documents. These documents are vital to [R-M-M-C-]'s case for corroboration purposes."

b. The second motion stated:

[R-M-M-C-] requests that the court accepts [sic] the following late[-]filed documents. These documents are vital to [R-M-M-C-]'s case for corroboration purposes. [R-M-M-C-] did not provide several pieces

⁶ ECAS is the acronym for the EOIR Courts & Appeals System, which retains all records and case-related documents in electronic format.

of evidence to counsel until yesterday[,] on September 4, 2023, which were then uploaded to [the] EOIR case portal that same day. [. . .] Counsel has also received one other piece of evidence, a police report, this morning[,] on September 5, 2023, which counsel is now submitting to [the] EOIR case portal.

90. A few minutes after filing the second motion to accept late filings, Respondent uploaded a police report to the Immigration Court and DHS counsel.

91. Also on September 5, 2023, Attorney Mazhari appeared on Respondent's behalf to represent R-M-M-C- at his/her individual merits hearing.

a. During direct examination of R-M-M-C- by Attorney Mazhari, Attorney Mazhari identified a document that was not in the evidentiary record.

b. Immigration Judge Seminerio realized that the document that Attorney Mazhari had referenced had been submitted the day before, which was a holiday, and had not yet been added to the Court's electronic file.

c. Judge Seminerio asked Attorney Mazhari why that document had not been timely filed.

d. Attorney Mazhari stated she did not file them and did not know why the documents were filed late.

e. Upon further inquiry by Judge Seminerio, Attorney Mazhari blamed her paralegal, who had recently resigned, for the late filings.

f. Judge Seminerio then took a brief recess so the attorney representing OHS could review the documents.

g. Judge Seminerio explained to R-M-M-C- that the Court had not yet reviewed some of his/her evidence because Respondent submitted it the day before the hearing.

h. The attorney representing OHS then requested an additional 25-minute recess to review the documents, which the court granted.

i. After returning from the recess, Attorney Mazhari notified Judge Seminerio that there was another late-filed exhibit that had not yet been added to the record, which included two photographs of a police report that were taken with a cell phone.

j. The timestamp on the submission indicated that Respondent's office submitted the exhibit while the hearing was underway.

k. The attorney representing DHS objected on timeliness grounds to the admission of the documents filed on September 4 and 5, 2023.

l. Judge Seminerio agreed that the documents were not timely filed, but admitted the documents for the Court's consideration.

92. By engaging in the conduct set forth above, Respondent violated 8 C.F.R. §§ 1003.102(n), 1003.102(q); and, Arizona ERs 1.3 and 8.4(d).

COUNT SEVEN (File No. 23-3115/State Bar of Arizona)

Matter Involving G-A-T

93. G-A-T- was involved in immigration proceedings.

94. On March 26, 2021, the Immigration Court issued a "NOTICE OF HEARING IN REMOVAL PROCEEDINGS," which scheduled G-A-T-'s individual merits hearing for May 2, 2023.

95. In or about September 2021, Respondent agreed to represent G-A-T- in his/her immigration proceedings.

96. On or about September 20, 2021, Respondent entered his appearance as the primary practitioner of record in G-A-T-'s case.

97. On May 2, 2023, Attorney Reshma Karnath appeared via Webex for Respondent on G-A-T-'s behalf at his/her individual merits hearing. However, Attorney Karnath had failed to file a Notice of Appearance as G-A-T -'s non-primary attorney.

b. Attorney Karnath requested a continuance of G-A-T-'s individual hearing.

c. Immigration Judge Amber George explained to Attorney Karnath that she needed to enter her appearance before she could represent GA-T.

d. Judge George disconnected Attorney Karnath from the Webex proceeding and called Respondent on the record.

e. Respondent answered the telephone, at which time Judge George explained that she had dismissed Attorney Karnath because she had failed to file the requisite notice of appearance.

f. Judge George also informed Respondent that he should have filed a motion to continue prior to the hearing, rather than sending substitute counsel to request a continuance.

g. Judge George also noted that she had previously informed Respondent that he or another attorney appearing on his behalf had to appear in person at hearings and that she expected him to appear in person for future hearings.

h. Respondent then requested a continuance, citing the need to obtain important records related to G-A-T's criminal history, which could impact his/her eligibility for relief.

i. Judge George granted Respondent's continuance request and rescheduled G-A-T's hearing for September 5, 2023.

j. Judge George also ordered Respondent to file a brief on or before July 31, 2023, detailing G-A-T's criminal history and its effect on his/her eligibility for relief.

98. Respondent did not file a detailed brief on or before July 31, 2023.

a. Respondent elected not to file a detailed brief analyzing crime factors, as ordered by Judge George, because he perceived that issue would become moot (*i.e.*, he believed a state court would grant a request to vacate G-A-T's criminal convictions, which had been filed by G-A-T's criminal defense attorney, prior to the next Immigration Court hearing, thereby making "moot" whether G-A-T's crimes qualified as "particularly serious").

99. On August 15, 2023, in an effort to keep Judge George updated regarding the status of G-A-T's criminal issue, Respondent filed a copy of a Notice of Motion and Motion to Vacate Conviction, which G-A-T's criminal defense attorney had filed on July 31, 2023, the deadline for Respondent to submit briefing on the criminal conviction issue.

100. Although Judge George had directed Respondent to appear in person for the next hearing, Respondent filed a motion on August 18, 2023, requesting permission to appear virtually, which Judge George denied.

101. Respondent untimely filed several documents with the Immigration Court on G-A-T-'s behalf, none of which complied with Judge George's order to submit a brief explaining the effects that G-A-T-'s criminal history could have on his/her eligibility for relief.

102. On August 18, 2023, Respondent filed a criminal history chart for GA-T.

103. On or about August 30, 2023, Respondent filed an update regarding the motion to vacate G-A-T-'s conviction, informing the Immigration Court that the motion was unopposed and had been granted.

104. On August 31, 2023, Respondent filed a motion seeking to withdraw G-A-T-'s admission that he/she is removable and to terminate proceedings based on an allegedly defective notice to appear issued in February 2013; Respondent cited recent changes in the law regarding the sufficiency of notices to appear.

105. On September 1, 2023, Respondent filed an updated criminal history chart for G-A-T.

106. Respondent failed to appear for G-A-T-'s hearing on September 5, 2023.

a. Respondent's office contacted the Immigration Court to inform the judge and her staff that Respondent was still in a hearing in a different courtroom and would be late.

i. Judge George indicated she would likely be unable to begin the hearing until at least 11:30 a.m.

ii. At 12:05 p.m., Judge George inquired what happened to Respondent or his office.

iii. Judge George called Respondent on the record but was unable to reach him.

iv. Judge George again rescheduled G-A-T-'s hearing and issued a corresponding hearing notice.

(a) The hearing notice, dated September 5, 2023, stated that Respondent twice failed to appear for hearings; that notice rescheduled G-A-T- for a new master calendar hearing on April 1, 2024.

(b) The hearing notice reiterated Judge George's prior order that Respondent could no longer appear for hearings via Webex.

v. Attorney Mazhari, who was going to appear on Respondent's behalf due to his other commitments, proceeded to Judge George's courtroom at the conclusion of a hearing she had been attending, but was informed that a complaint had already been submitted to EOIR.

107. On September 7, 2023, Judge George issued an order denying Respondent's motion to terminate proceedings, citing his failure to appear for two hearings on the merits; Judge George's order advised G-A-T- to "seek other counsel due to ineffective assistance of counsel."

108. By engaging in the conduct set forth above, Respondent violated 8 C.F.R. §§ 1003.102(k), 1003.102(n), 1003.102(o), 1003.102(q); and, Arizona ERs 1.1, 1.3, 3.4(c) and 8.4(d).

COUNT EIGHT (File No. 23-3115/State Bar of Arizona)
Matter Involving M-E-A-M

109. In or about December 2021, Respondent agreed to represent M-E-AM- in his/her immigration proceedings.

110. On December 17, 2021, Respondent entered his appearance as the "Primary Attorney/Representative" of record for M-E-A-M- for all proceedings in his/her removal/asylum/Convention Against Torture proceeding.

111. On July 1, 2022, Attorney Niloufar Mazhari entered her appearance as M-E-A-M-'s "non-Primary Attorney/Representative."

112. Attorney Mazhari appeared on M-E-A-M-'s behalf at his/her hearing on July 1, 2022.

a. At that hearing, Immigration Judge Andrew Caborn issued an oral decision denying M-E-A-M-'s application for relief and ordered him/her removed from the United States.

b. Judge Caborn made several key findings in his decision to support the denial of relief: he found that M-E-A-M- did not suffer past persecution, that he/she could safely relocate within his/her native country, and that the three Particular Social Groups that Respondent argued on his/her behalf were not cognizable under immigration law.

113. On July 6, 2022, Respondent entered his appearance before the Board of Immigration Appeals (BIA).

114. Also on July 6, 2022, Respondent filed a Notice of Appeal from a Decision of an Immigration Judge based on Judge Caborn's July 1, 2022 decision.

115. On August 1, 2022, Judge Caborn issued a written decision based on his earlier oral decision.

116. On August 15, 2023, the BIA issued a briefing schedule that directed Respondent to file his appeal brief on or before September 5, 2023.

117. On August 28, 2023, Respondent filed a 27-page opening brief on M-E-A-M-'s behalf.

a. A large portion of the brief simply recounted Judge Caborn's decision, much of which was copied from the decision verbatim, and much of the remainder of the brief consisted of long recitations of black letter law, followed by short legal conclusions that were unsupported by any factual and legal analysis relevant to M-E-A-M-'s situation.

b. The brief failed to meaningfully address key findings included in Judge Caborn 's decision.

i. For example, Judge Caborn found that M-E-A-M- did not suffer past persecution and that he/she could safely relocate within his/her native country of Honduras to avoid the people he/she had alleged wished to do him/her harm.

ii. In support of that finding, Judge Caborn specified that no one ever actually harmed M-E-A-M-, that he/she had not seen or heard from anyone who wished to do him/her harm, that the issue appeared to be local in nature, and that he/she was able to live with a friend in Honduras without incident.

iii. Respondent failed to meaningfully address Judge Caborn's factual and legal findings or analysis, and simply made conclusory statements such as "[M-E-A-M-'s] ordeal is the epitome of persecution" and "the police have been unwilling or unable to help in preventing or reducing this persecution.

iv. Respondent's brief also failed to meaningfully address Judge Caborn's finding that the three Particular Social Groups (PSGs) he had argued were not cognizable.

(a) The brief contained long recitations of black letter law, but did not explain how that law applied to the three PSGs that were included in M-E-A-M-'s Application for Asylum and failed to show that Judge Caborn's analysis was erroneous.

(b) The brief also included a section that argued that the government in M-E-A-M-'s native country of Honduras was unwilling or unable to control those who allegedly wished to persecute M-E-A-M-; Judge Caborn's decision had not addressed that issue.

118. On November 3, 2023, the BIA affirmed Judge Caborn's decision without opinion (pursuant to 8 C.F.R. § 1003.1(e)(4)).

119. By engaging in the conduct set forth above, Respondent violated 8 C.F.R. §§ 1003.102(n), 1003.102(o) and 1003.102(q); and, Arizona ERs 1.1, 1.3, 3.1 and 8.4(d).

COUNT NINE (File No. 23-3115/State Bar of Arizona)
Matter Involving I-O-M-B

120. On or about July 29, 2021, I-O-M-B- and R-E-V-M-, his/her minor daughter, both Honduran citizens, entered the United States without proper documentation or an immigration officer's permission.

121. On-November 16, 2021, the Department of Homeland Security (DHS) initiated removal proceedings against I-O-M-B- and his/her daughter by filing Notices to Appear with the San Francisco Immigration Court.

122. On January 12, 2022, the Immigration Court informed I-O-M-B- that his/her master calendar hearing was scheduled for April 20, 2022.

123. In or about January 2022, Respondent agreed to represent I-O-M-B and his/her daughter.

124. On or about January 29, 2022, Respondent-entered his appearance as a "Primary Attorney/Representative" of record for I-O-M-B- and his/her daughter.

125. Also on January 29, 2022, Respondent filed a Form I-589 Application for Asylum and for Withholding of Removal on I-O-M-B- and his/her daughter's behalf.

126. On April 20, 2022, Respondent filed a 2021 Human Rights Report for Honduras.

Also on April 20, 2022, Attorney Mary Grant filed a notice of appearance and appeared at I-O-M-B-'s hearing in the removal proceeding.

a. During that hearing, Attorney Grant admitted all allegations against I-O-M-B-, conceded the charges of removability, declined to designate a country of removal, and stated she did not know whether I-O-M-B- had received instructions regarding the required submission of his/her biometrics.

127. On April 20, 2022, Immigration Judge Susan Phan issued a hearing notice scheduling I-O-M-B- and his/her daughter's individual merits hearings for June 9, 2022.

128. On May 3, 2022, the Immigration Court again notified Respondent that I-O-M-B- and his/her daughter's individual merits hearings were scheduled for June 9, 2022 (that notice corrected I-O-M-B-'s daughter's name).

129. On May 12, 2022, Respondent filed I-O-M-B-'s asylum declaration and Notice of Completed Biometrics with the Immigration Court.

130. On May 24, 2022, Respondent filed a pre-hearing brief on I-O-M-B-'s behalf and a Particular Social Group (PSG) Statement that identified three PSGs in support of I-O-M-B-'s application for asylum.

131. On June 9, 2022, Attorney Niloufar Mazhari entered her appearance as a "Non-Primary Attorney/Representative" for I-O-M-B.

132. Also on June 9, 2022, Attorney Mazhari appeared at I-O-M-B- and his/her daughter's individual merits hearing.

133. On June 15, 2022, Judge Phan issued a written decision denying I-O-M-B and his/her daughter's applications for relief and protection under the Convention Against Torture, and ordered them removed from the United States to Honduras.

i. Judge Phan found, among other things, that I-O-M-B- had not suffered past persecution at the hands of gang members, that the five PSGs that he/she had alleged were not cognizable under immigration law, that any harm he/she suffered was not based on a protected ground, and that his/her opposition to gangs did not constitute a political opinion.

ii. Judge Phan also found that Respondent's reliance on the State Department's Human Rights Report, the only country conditions evidence he submitted, did not sufficiently establish each of the proposed social groups as socially distinct within Honduran society or establish that I-O-M-B- and his/her daughter had "credible, direct, and specific" threats of harm if they were to be returned to Honduras.

134. On July 2, 2022, Respondent filed a Form EOIR-27 Notice of Appeal on I-O-M-B-'s behalf.

135. On July 11, 2022, Respondent filed two notices of appearance before the Board of Immigration Appeals (BIA).

136. Also on July 11, 2022, Respondent filed a Form EOIR-26 Notice of Appeal from a Decision of an Immigration Judge.

a. Section 6 of the Notice of Appeal requested detailed reasons for the appeal; Respondent simply wrote: "The IJ erred in denying [I-O-M-B-]'s APPLICATION FOR ASYLUM. [I-O-M-B-] requests a scheduling order."

137. On August 27 or 28, 2023, Respondent timely filed a 27-page opening brief with the BIA.

a. The brief failed to meaningfully address key findings in Judge Phan's decision; a large portion of the brief was copied verbatim from Judge Phan's decision, but Respondent failed to note that was the case by failing to use quotation marks.

b. The brief also contained sections that were erroneously copied from another client's case, which resulted in inaccurate information being submitted to the BIA.

i. for example, the brief stated that I-O-M-B- feared for his/her safety and returning to Honduras because he/she had injured a gang member when the gang or a gang member attempted to extort his/her boss (that false and erroneous claim was copied from an appeal brief that Respondent filed for M-E-A-M).

ii. Large sections of the brief consisted of long recitations of black letter law followed by short legal conclusions that were unsupported by any factual or legal analysis relevant to I-O-M-B-'s situation, and Respondent failed to identify how Judge Phan's factual and legal findings were in error.

iii. In his/her Application for Asylum and during his/her testimony, I-O-M-B- claimed that gang members had killed his/her former partner and members of his/her former partner's family; he/she further alleged that he/she paid extortion money to the gang so that he/she could run a transportation business.

138. On November 8, 2023, the BIA issued a decision dismissing I-O-M-B' s appeal.

a. The BIA's decision stated that the Notice of Appeal contained only "a broad allegation of error" and did not "provide any meaningful or persuasive arguments that establish error."

b. The BIA also noted that the brief copied verbatim (and without quotation marks) large sections of Judge Phan's decision with respect to her findings of fact and analysis and contained "alleged facts [that] bear no reasonable resemblance to the claim set forth in [I-O-M-B-'s] case," which the BIA attributed to "scrivener's error."

c. The BIA further found that Respondent waived numerous arguments because the brief failed to "provide any meaningful or persuasive arguments that establish error in the Immigration Judge's decision" and "d[id] not meaningfully challenge the Immigration Judge's findings or any legal conclusions with respect to [I-O-M-B-'s] proposed particular social groups,[]

anti-gang political opinion, nexus, past persecution, well-founded fear[,] and clear probability of future persecution."

d. The BIA additionally found that Respondent failed to "meaningfully challenge the denial of [I-O-M-B-'s] request for protection under the [United Nation's Convention Against Torture]."

139. By engaging in the conduct set forth above, Respondent violated 8 C.F.R. §§ 1003.102(n), 1003.102(o) and 1003.102(q); and Arizona ERs 1.1, 1.3, 3.1 and 8.4(d).

COUNT TEN (File No. 24-0602/Orozco Guzman)

140. On or about August 19, 2021, Wilfido Manfredo Orozco Guzman, his wife (Heilin Marisol Godoy Sarmiento) and his son (Liam Emiriel Orozco Godoy) entered the United States without inspection (*i.e.*, without presenting themselves in person to an immigration officer at a U.S. port of entry).

141. In March 2022, Orozco Guzman hired Respondent to represent him, his wife and his son regarding asylum claims they wished to assert, which was to include the filing of a Form I-589 Application for Asylum and for Withholding of Removal with the Immigration Court.⁷

142. Orozco Guzman agreed to pay~ total fee of \$8,000; he made an initial payment of \$1,000, and then made monthly payments of \$500 in April, May and June 2022 (for a total of \$2,500).

143. Orozco Guzman sought asylum and withholding of removal from the United States based on race, nationality, political opinion, membership in a particular social group ("PSG") and the United Nations' Convention Against Torture.

144. Respondent filed "[Orozco Guzman]'s Asylum Declaration," on September 6, 2022.

145. On March 18, 2022, Respondent filed with the Immigration Court an I-589 Application for Asylum and a Supplement B thereto on Orozco Guzman's behalf.

146. Respondent submitted a single "Human Rights Report" for Guatemala for 2021 in support of Orozco Guzman's I-589 Application for Asylum.

⁷ Allegations regarding acts specifically undertaken on Orozco Guzman's behalf also pertain, where appropriate, to acts undertaken on his wife and son's behalf.

147. Orozco Guzman participated in a telephone conversation with a nonlawyer employed by Respondent to prepare a declaration to be submitted with Orozco Guzman's I-589 Application for Asylum.

a. The declaration based on that conversation was written in English, but because Orozco Guzman did not speak English, he trusted Respondent's office to accurately state in English what his staff stated to him in Spanish would be placed on the I-589 Application for Asylum.

148. Orozco Guzman learned after the I-589 Application for Asylum and declaration were filed that they contained errors and were incomplete (*e.g.*, the Application for Asylum failed to include important information about his eligibility for asylum and failed to note that his grandmother was of the Mopan ethnic group).

149. A few days prior to a hearing, Respondent's staff informed Orozco Guzman that if he did not pay the balance of the fee he owed pursuant to the terms of his engagement agreement, Respondent would withdraw as his attorney.

a. A day prior to a hearing, Orozco Guzman received a telephone call from Attorney Mary Grant, an attorney that periodically appeared on Respondent's behalf at his clients' immigration hearings.

b. Attorney Grant informed Orozco Guzman that she worked with Respondent's law firm and would appear on his behalf at his hearing the next day.

150. On May 19, 2022, Attorney Grant appeared at Orozco Guzman's master calendar hearing.

151. Following that master calendar hearing, Attorney Grant sent a message to Respondent informing him that she "entered the standard pleadings."

b. Attorney Grant also informed Respondent that Orozco Guzman's case was set for an individual merits hearing on September 14, 2022.

c. Attorney Grant asked Respondent to provide Orozco Guzman with instructions about providing his biometrics and to warn him of the consequences of failing to comply with those instructions.

d. Attorney Grant's message then stated:

Please also warn the clients of the consequences of failing to appear for the next hearing. The minor's presence is waived. The Judge will issue a prehearing order. Please look for it on ECAS.^[8]

152. In or about July 2022, Orozco Guzman stopped making periodic fee payments to Respondent because he was unhappy with his representation.

153. On August 23, 2022, Respondent filed a six-page prehearing brief on Orozco Guzman's behalf.

154. On August 31, 2022, Respondent sent Orozco Guzman a letter thanking him for choosing his firm to represent him, but noting that he could not represent him at his individual hearing, where the merits of his claim were to be addressed, unless he paid the outstanding balance of his fee (at that time, Orozco Guzman still owed \$5,500 of the fee he had agreed to pay); Respondent invited Orozco Guzman to contact his firm by telephone or email if he had any questions or to discuss his case.

155. Approximately 20 days prior to the individual merits hearings for Orozco Guzman, his wife and his son, Respondent's office contacted Orozco Guzman and told him that he needed to collect evidence for the hearing.

156. On September 14, 2022, Respondent appeared for Orozco Guzman, his wife and his son's individual hearings:

a. Respondent orally moved to withdraw as counsel based on Orozco Guzman's failure to pay his fee, as set forth in his engagement agreement.

b. The Immigration Judge granted Respondent's motion to withdraw, noting that "[Orozco Guzman] wishes to terminate the attorney-client relationship as well."

157. Respondent did not provide Orozco Guzman with a refund of any of the fee he had paid.

158. After the Immigration Judge permitted Respondent to withdraw as counsel for Orozco Guzman, his wife and his son, they obtained another immigration attorney to represent them.

⁸ ECAS is the acronym for the EOIR Courts & Appeals System, which retains all records and case-related documents in electronic format.

159. Orozco Guzman, his wife and his son's subsequent counsel corrected documents prepared by Respondent or his staff and resubmitted them to the Immigration Court due to errors and/or omissions made by Respondent or his staff.

160. By engaging in the conduct set forth above, Respondent violated 8 CPR §§ 1003.102(n), 1003.102(p), 1003.102(q), 1003.102(r); and, Arizona ERs 1.2(a), 1.3, 1.4(a) and (b), and 8.4(d).

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 he violated 8 CFR §§ 1003.102(k), 1003.102(n), 1003.102(o), 1003.102(p), 1003.102(q), 1003.102(r), 1003.102(u) and 1003.102(v); and, Arizona ERs 1.1, 1.2(a), 1.3, 1.4(a), ER 1.4(b), ER 1.5(d)(3), 3.1, 3.3(a), 3.4(c), and 8.4(d).

CONDITIONAL DISMISSALS

The State Bar has conditionally agreed to dismiss the following file numbers for which no probable cause order has been entered: Nos. 24-2193, 24-2264 and 24-2989. The State Bar has also conditionally agreed to dismiss the allegations that Respondent violated 8 CPR §§ 1003.102(a)(1), (c), (j), and (l), Arizona Ethical Rules 1.5(a), 1.16(d), 4.1(a), 5.1, 5.3, 8.1(a), 8.4(c), and Rule 54(c), Ariz. R. Sup. Ct.

RESTITUTION

Restitution is not an issue in this matter.

SANCTION

Respondent and the State Bar of Arizona agree that based on the facts and circumstances of this matter, as set forth above, the following sanctions are appropriate: **Six-month suspension from the practice of law,⁹ resignation from the State Bar of Arizona immediately upon reinstatement, and payment of the costs and expenses of the disciplinary proceeding.**

If Respondent violates any of the terms of this agreement, the State Bar may bring further discipline proceedings.

...

⁹ The period of suspension to become effective 45 days after entry of a judgment and order accepting this Agreement for Discipline by Consent.

CONCLUSION

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. In re *Peasley*, 208 Ariz. 27 (2004). 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 six-month suspension from the practice of law, Respondent's resignation from the State Bar of Arizona immediately upon his reinstatement, and the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit C.

4. On or about April 16, 2025, an Order Accepting Agreement for Discipline by Consent (Exhibit 2) was entered in a matter styled: Before the Presiding Disciplinary Judge, *In the Matter of a Member of the State Bar of Arizona, JOSEPH LACOME, Bar No. 032676, Respondent.*, PDJ 2023-9099, [State Bar File Nos. 22-2090, 23-0217, 23-1443, 23-3115, and 24-0602], which states in pertinent part:

On March 28, 2025, the parties filed an Agreement for Discipline by Consent ("Agreement") pursuant to Rule 57(a), Ariz. R. Sup. Ct. The State Bar of Arizona is represented by Senior Bar Counsel James D. Lee. Respondent Joseph LaCome is represented in this matter by counsel Donald Wilson, Jr. and Danielle Chronister. The Agreement seeks to address the State Bar's Formal Third Amended Complaint filed August 30, 2024 ("Complaint") referencing State Bar Nos. 22-2090, 23-0217, 23-1443, 23-3115, and 24-0602¹.

Contingent upon approval of the proposed form of discipline, Respondent voluntarily waives his right to an adjudicatory hearing, as well as all motions, defenses, objections, or requests that could be asserted. Pursuant to Rule 53(c)(3), Ariz. R. Sup. Ct., the State Bar provided notice of the Agreement and an opportunity to file a written objection to the Complainant by email on February 18, 2025.

Complainant in Count 2 of the Complaint/File No. 23-0217, Nery Osbeli Gomez Gonzalez and her Counsel, Holly Cooper who is the Co-Director of the Immigration Law Clinic at the UC Davis School of Law, submitted an objection to the Agreement², which will be addressed at the conclusion of this order.

¹ The Attorney Discipline Probable Cause Committee("ADPCC") entered an order of probable cause on November 6, 2023 in File Nos. 22-2090, 23-0217, and 23-1443, and on July 17, 2024 in File Nos. 23-3115 and 24-0602.

² See Exhibit A to the Agreement.

The Agreement details a factual basis in support of Respondent's conditional admissions and is incorporated by reference.³ Respondent Joseph LaCome conditionally admits his conduct violated Title 8 of The Code of Federal Regulations, specifically CFR 1003.102(k), CFR 1003.102(n), CFR 1003.102(o), CFR 1003.102(p), CFR 1003.102(q), CFR 1003.102(r), CFR 1003.102(u), and CFR 1003.102(v); and Rule 42, Ariz. R. Sup. Ct., specifically ER 1.1, ER 1.2(a), ER 1.3, ER 1.4(a), ER 1.4(b), ER 1.5(d)(3), ER 3.1, ER 3.3(a), ER 3.4(c), and ER 8.4(d). As a sanction, the parties agree to a six (6) month suspension, effective 45 days from the date of this order, resignation from the State Bar of Arizona immediately upon reinstatement, and payment of-the costs and expenses of the disciplinary proceeding. The State Bar and LaCome stipulate, "Restitution is not an issue in this matter." The parties further agree to dismiss the following file numbers without probable cause orders having been entered: State Bar File Nos. 24-2193, 24-2264 and 24-2989; and the allegations that Respondent violated 8 CFR 1003.102(a)(1), (c), (j), and (l); Rule 42, Ariz. R. Sup. Ct., ER 1.5(a), ER 1.16(d), ER 4.1(a), ER 5.1, ER 5.3, ER 8.1(a), ER 8.4(c); and Rule 54(c), Ariz. R. Sup. Ct.

Generally speaking, the ethical issues arose in the context of Respondent LaCome's representation of multiple clients in immigration matters. Between 2020 and 2023, Respondent represented California residents regarding various immigration matters. During that time, Respondent engaged in an overall pattern of neglect of clients, including: the submission of inadequate or "skeletal" documents with little attention to the specific factual or legal issues for specific clients; filed an application for asylum knowing that the signature on the document was not placed by his client; lacked adequate communication with clients or diligent representation of them; waited over a year to file the motions to dismiss removal proceedings in some cases; and further, Respondent's engagement agreements failed to advise clients that they could discharge representation at any time at which time they may be entitled to a refund of all or part of the fees paid.

Sanctions imposed against lawyers "shall be determined in accordance with the American Bar Association's *Standards for Imposing Lawyer Sanctions*" ("ABA Standards") Rule 58(k), Ariz. R. Sup. Ct. In reviewing this Agreement, the PDJ has considered the duties violated, the lawyer's mental state, the actual or potential injury caused by the misconduct, and the existence of aggravating and mitigating factors.

The parties agree that Respondent knowingly and negligently violated duties to his client, the profession, the legal system, and the public causing actual and potential harm as specified in the Agreement.

³ See Rule 57(a)(4), Ariz. R. Sup. Ct.

The Agreement relies on ABA Standards 4.42, 6.12, and 6.22 - all of which call for suspension as the presumptive sanction. The parties stipulate to four aggravating factors: (1) pattern of misconduct; (2) multiple offenses; (3) vulnerability of the victims; and (4) substantial experience in the practice of law.⁴ They agree that the following three mitigating factor applies: (1) absence of a prior disciplinary record; (2) full and free disclosure to bar counsel or cooperative attitude toward the proceedings; and (3) delay in disciplinary proceedings.

The Presiding Disciplinary Judge ("PDJ") turns to the objection reflected in Exhibit A to the Agreement (the "Objection"). The Objection raises concerns that these Arizona sanctions may not have an effect on the Respondent's license in other states such as Missouri and Texas or upon Respondent's federal immigration practice. In regard to other states, ABA's *Annotated Standards for Imposing Lawyer Sanctions* describes under, Standard 2.9, Purpose of Reciprocal Discipline:

A lawyer who has been disciplined in one U.S. jurisdiction is subject to reciprocal discipline in any other U.S. jurisdiction in which the lawyer is admitted. The purposes of reciprocal discipline are to prevent a lawyer admitted to practice in more than one jurisdiction from avoiding the effect of discipline by simply practicing in another jurisdiction, to prevent relitigation of misconduct that already has been established in another jurisdiction, and to protect the public [sic] from lawyers who commit such misconduct.

The PDJ certainly encourages other jurisdictions or licensures to consider all of the findings of facts in this matter in considering the appropriate reciprocal order to fashion to protect the public.

The Objection also discusses a concern regarding the costs of Respondent's representation and whether Mr. LaCome has retained money paid to him for services he did not provide. The PDJ relies on the State Bar's avowal provided on page 56 of the Agreement in finding that restitution is not an issue in this matter.

In considering the Agreement and the Objection, the PDJ finds that it is in the best interest of public protection to overrule the Objection.

After reviewing the matters presented, the PDJ concludes that under this specific set of circumstances the Agreement adequately achieves the recognized purposes of the lawyer discipline process.

⁴ Respondent was licensed to practice law in the State of Arizona on December 15, 2015; in Texas in 2012; in Missouri in 2011; and District of Columbia in 2010.

IT IS ORDERED accepting the Agreement for Discipline by Consent. A final judgment and order is separately filed this date.

5. On or about April 16, 2025, a Final Judgment and Order (Exhibit 3) was entered in a matter styled, Before the Presiding Disciplinary Judge, *In the Matter of a Member of the State Bar of Arizona, JOSEPH LACOME, Bar No. 032676, Respondent.*, PDJ 2023-9099, [State Bar Nos. 22-2090, 23-0217, 23-1443, 23-3115, 24-0602], that states in pertinent part:

The Presiding Disciplinary Judge having accepted the parties' Agreement for Discipline by Consent(" Agreement") submitted pursuant to Rule 57(a), Ariz. R. Sup. Ct.,

IT IS ORDERED that JOSEPH LACOME, Bar No. 032676, is suspended for six (6) months from the practice of law effective, effective forty-five (45) days from the date of this order, for his conduct in violation of the Arizona Rules of Professional Conduct and Rules of the Supreme Court of Arizona, as set forth in the Agreement documents

IT IS FURTHER ORDERED that Respondent comply with the requirements relating to notification of clients and others and provide and/or file all notices and affidavits required by Rule 72, Ariz. R. Sup. Ct.

IT IS FURTHER ORDERED that upon reinstatement, Respondent shall immediately resign from the State Bar of Arizona.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$2,650.00 within 30 days of this order. There are no costs or expenses incurred by the Office of the Presiding Disciplinary Judge in these proceedings.

6. Respondent agreed to the entry of a sanction that resulted in his suspension from the practice of law before the USPTO for a period of six (6) months effective forty-five (45) days from the date of the Final Judgment and Order, and resignation from the State Bar of Arizona immediately upon reinstatement. Further, the Final Judgment directs Respondent to immediately resign from the State Bar of Arizona upon reinstatement from suspension.

7. An official copy of the Agreement for Discipline by Consent, Order Accepting Agreement for Discipline by Consent, and Final Judgment and Order are attached hereto as the

Commission's Exhibits 1, 2, and 3, and made a part hereof for all intents and purposes as if the same were copied verbatim herein. The Commission expects to introduce certified copies of Exhibit 1, 2, and 3 at the time of hearing of this cause.

8. The Commission brings this disciplinary action in accordance with the Chief Disciplinary Counsel's mandatory administrative obligations, as set forth in TRDP 9.01.

9. Respondent was disciplined in another jurisdiction within the meaning of TRDP 9.01. Respondent was found to have violated the following Arizona Rules of Professional Conduct: (1) E.R. 1.1 (competence); (2) E.R. 1.2(a)(scope of representation and allocation of authority between client and lawyer); (3) E.R. 1.3 (diligence); (4) E.R. 1.4(a) (communication - promptly inform the client of any decision or circumstance with respect to which the client's informed consent); (5) E.R. 1.4 (b) (communication - a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation); (6) E.R. 1.5(d)(3) (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 of all or part of the fee based upon the value of the representation pursuant to paragraph (a)); (7) E.R. 3.1 (a lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a good faith basis in law and fact for doing so that is not frivolous, which may include a good faith and nonfrivolous argument for an extension, modification or reversal of existing law); (8) E.R. 3.3(a) (a lawyer shall not knowingly make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer); (9) E.R. 3.4(c) (a lawyer shall not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion

that no valid obligation exists); (10) E.R. 8.4(d) (it is misconduct for a lawyer to engage in “conduct that is prejudicial to the administration of justice).

10. One or more of Respondent’s stipulated violations of the Arizona Rules of Professional Conduct correspond to similar violations of the Texas Disciplinary Rules of Professional Conduct (the “TDRPC’s); including, but not limited to, TDRPC 1.01(a), 1.01(b), 1.02(a), 1.03(a), 1.03(b), 3.01, 3.03(a), 3.04(d), and 8.04(a)(4).

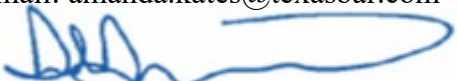
11. The Commission prays, pursuant to Rule 9.02 of the TRDPs, that this Board issue notice to Respondent, containing a copy of this Petition with exhibits, and an order directing Respondent to show cause within thirty (30) days from the date of the mailing of the notice, why the imposition of reciprocal discipline in this state would be unwarranted. The Commission also prays that upon trial of this matter this Board enter a judgment imposing identical discipline, to the extent practicable, with that imposed by the Presiding Disciplinary Judge of the Supreme Court of Arizona, unless Respondent proves by clear and convincing evidence that a Rule 9.04 defense applies. Further, the Commission requests such other relief to which it may be entitled.

Respectfully submitted,

Seana Willing
Chief Disciplinary Counsel

Amanda M. Kates

Assistant Disciplinary Counsel
Office of the Chief Disciplinary Counsel
State Bar of Texas
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Amanda M. Kates

Bar Card No. 24075987

ATTORNEYS FOR THE COMMISSION

CERTIFICATE OF SERVICE

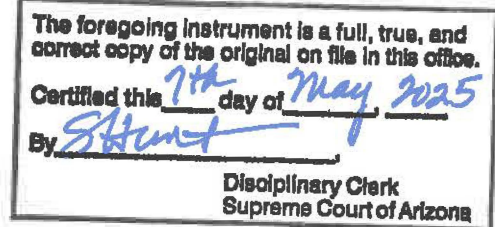
I certify that upon receipt of the Order to Show Cause from the Board of Disciplinary Appeals, I will serve a copy of this Petition for Reciprocal Discipline and the Order to Show Cause on Joseph Kenneth LaCome.

Joseph Kenneth LaCome
1452 Hughes Road, Ste. 200
Grapevine, Texas 76051-9221



Amanda M. Kates

FILED 3/28/25
SHunt



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Respondent's Counsel

BEFORE THE PRESIDING DISCIPLINARY JUDGE

In the Matter of a Member of
the State Bar of Arizona,

JOSEPH LACOME,
Bar No. 032676,

Respondent.

PDJ 2023-9099

**AGREEMENT FOR DISCIPLINE
BY CONSENT**

[State Bar File Nos. 22-2090, 23-0217,
23-1443, 23-3115, 24-0602]

The State Bar of Arizona and Respondent Joseph LaCome who is represented in this matter by counsel, Donald Wilson, Jr., and Danielle Chronister, 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 6, 2023, in File Nos. 22-2090, 23-

EXHIBIT

1

0217 and 23-1443, and on July 17, 2024 in File Nos. 23-3115 and 24-0602. A Third Amended Complaint was filed on August 30, 2024. 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 email on February 18, 2025. Complainants were notified of the opportunity to file a written objection to the agreement with the State Bar within five business days of bar counsel's notice. A copy of the only objection received is attached hereto as Exhibit A.

Respondent conditionally admits that his conduct, as set forth below, violated 8 CFR §§ 1003.102(k), 1003.102(n), 1003.102(o), 1003.102(p), 1003.102(q), 1003.102(r), 1003.102(u) and 1003.102(v); and, Arizona ERs 1.1, 1.2(a), 1.3, 1.4(a), ER 1.4(b), ER 1.5(d)(3), 3.1, 3.3(a), 3.4(c), and 8.4(d). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: **Six-month suspension from the practice of law,¹ resignation from the State Bar of**

¹ The period of suspension to become effective 45 days after entry of a judgment and order accepting this Agreement for Discipline by Consent.

Arizona immediately upon reinstatement, and payment of the costs and expenses of the disciplinary proceeding.² The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit B.

FACTS

GENERAL ALLEGATIONS

1. Respondent was licensed to practice law in Arizona on December 15, 2015.
2. Between 2020 and 2023, Respondent represented California residents regarding various immigration matters. During that time, Respondent was not a member of the State Bar of California.
3. Upon information and belief, Respondent was admitted to practice law in the District of Columbia in 2010, Missouri in 2011, and Texas in 2012.

COUNT ONE (File No. 22-2090/Velasquez)

4. On September 20, 2021, the Department of Homeland Security ("DHS") initiated removal proceedings against Julia Chaj-Velasquez ("Chaj-

² Respondent must pay the costs and expenses of this disciplinary proceeding within 30 days of entry of a judgment and order accepting this Agreement for Discipline by Consent. If costs are not paid within 30 days, interest will begin to accrue at the legal rate.

Velasquez”) and her two daughters (Yohana Julieta de Leon-Chaj and Tatiana Silverly Chaj-Velasquez) by filing Notices to Appear (“NTAs”) with the Immigration Court in San Francisco, California.

5. Chaj-Velasquez hired Respondent on November 29, 2021, to represent her and her two daughters in proceedings before the Immigration Court in San Francisco, California.

a. Respondent’s engagement agreement stated in Spanish that (a) Respondent would represent Chaj-Velasquez and her two daughters regarding their defensive asylum cases; (b) the total amount due for representation was \$8,000; (c) the firm required a deposit of \$2,500 before services would begin; (d) the deposit was non-refundable; and (e) the contract did not include representation in an appeal from an Immigration Judge’s ruling.

b. Respondent’s engagement agreement failed to advise Chaj-Velasquez that she could discharge Respondent and his firm at any time, in which case she may be entitled to a refund of all or part of the fee she had paid based upon the value of the representation.

6. Chaj-Velasquez paid Respondent \$8,000 for the representation and provided him with information about her and her daughters’ lives in Guatemala.

7. On January 3, 2022, Chaj-Velasquez and her two daughters admitted the factual allegations in the NTAs, and conceded the charge of removability under the Immigration and Nationality Act.

8. The Immigration Court sustained the factual allegations and charge of removability.

9. Respondent filed a Form I-589, “Application for Asylum and for Withholding of Removal” (*Application for Asylum*) on Chaj-Velasquez and her children’s behalf, seeking relief in the forms of asylum, the withholding of removal, and protection under the Convention Against Torture Act.

10. Respondent also filed the following with the Immigration Court on Chaj-Velasquez and her daughters’ behalf: a declaration authored by Chaj-Velasquez, a prehearing brief, a “Particular Social Group” (PSG) statement, human rights reports (aka “Country Condition Reports”³) for Guatemala for 2020 and 2021, a Guatemalan police or prosecutor’s report regarding Chaj-Velasquez’s issues in that country, a translation of the birth certificates for Chaj-Velasquez’s children, Chaj-Velasquez’s identification document, and Chaj-Velasquez’s biometrics report.

³ Country Condition Reports reflect how certain crimes are prosecuted and punished in other countries and the efficacy of the government’s efforts.

11. The prehearing brief filed by Respondent discussed a PSG inapplicable to Chaj-Velasquez (fear of gang recruitment).

12. The PSG statement filed by Respondent failed to include sufficient facts to support Respondent's assertion of its applicability (the PSG statement was essentially a one-sentence notice of the three social groups into which Chaj-Velasquez and her daughters allegedly fit).

13. On April 14, 2022, Chaj-Velasquez met with Attorney Niloufar Mazhari at a hearing at the Immigration Court. Chaj-Velasquez had not previously met Attorney Mazhari, who appeared on Respondent's behalf. Attorney Mazhari did not speak Spanish or bring an interpreter with her to the hearing.

14. During the April 14, 2022 Immigration Court hearing, Attorney Mazhari asked Chaj-Velasquez about her interactions with three family-member neighbors. She did not ask Chaj-Velasquez how she suffered as a child or how she had been discriminated against and abused because of her indigenous heritage.

15. On May 18, 2022, Immigration Judge Susan Phan denied Chaj-Velasquez and her daughters' *Applications for Asylum*, the withholding of removal, and protection under the Convention Against Torture Act and ordered them to be removed from the United States to Guatemala.

16. Chaj-Velasquez and her daughters did not timely appeal the May 18, 2022 Immigration Judge's decision.

17. When Chaj-Velasquez subsequently communicated with Respondent, he told her that he could not file an appeal on her behalf because the filing deadline had passed.

18. Chaj-Velasquez last spoke with Respondent in or about July 2022.

19. Chaj-Velasquez and her daughters subsequently obtained the services of immigration attorney Katarina Rost.

20. Based on *Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988),⁴ Chaj-Velasquez and Attorney Rost submitted separate charges of misconduct with the State Bar of Arizona regarding Respondent's representation of Chaj-Velasquez and her daughters.

21. Attorney Rost subsequently filed with the Immigration Court a motion on Chaj-Velasquez and her daughters' behalf captioned "Respondent's Motion to Reopen Based on Ineffective Assistance of Prior Counsel [or] In the Alternative[,] Motion to Reopen Sua Sponte." That motion to reopen Chaj-Velasquez and her

⁴ *Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988), noted that a motion to reopen an immigration matter based on ineffective assistance of counsel should reflect whether a charge of misconduct has been filed with appropriate attorney disciplinary agencies regarding the representation and, if not, why not.

daughters' immigration cases alleged a number of deficiencies in Respondent's representation of Chaj-Velasquez and her daughters.

22. Attorney Rost's motion to reopen was denied on November 2, 2022, finding that Chaj-Velasquez "ha[d] failed to establish that 'the proceeding was so fundamentally unfair' that [she] was prevented from reasonably presenting [her] case." (Second and third sets of brackets in original).

23. Respondent's representation of Chaj-Velasquez and her daughters was deficient in various ways. For example:

a. Documents filed by Respondent on Chaj-Velasquez and her daughters' behalf were deficient. For example:

i. Respondent submitted an inadequate or "skeletal" prehearing brief on Chaj-Velasquez and her daughters' behalf, which included a discussion of an inapplicable PSG (related to fear of gang recruitment).

b. Respondent presented "circular" PSG arguments, which were not supported by statutes/regulations or precedent.

24. Respondent failed to competently, diligently and properly represent Chaj-Velasquez and her daughters, and failed to adequately communicate with them regarding their matters.

25. By engaging in the conduct set forth above, Respondent violated 8 CFR §§ 1003.102(n), 1003.102(o), 1003.102(p), 1003.102(q), 1003.102(r) and 1003.102(u); and, Arizona ERs 1.1, 1.2(a), 1.3, 1.4(a), 1.4(b), 1.5(d)(3) and 8.4(d).

COUNT TWO (File No. 23-0217/Gomez Gonzalez)

26. An order of removal was obtained by the U.S. government against Nery Osbeli Gomez Gonzalez for entering the United States illegally.

27. After being removed from the United States, Gomez Gonzalez reentered the United States despite the prior order of removal.

28. At or about the time that Gomez Gonzalez reentered the United States, his two children (Brithney Selina Gomez Perez and Henry Osbeli Gomez Perez) were in removal proceedings.

29. Gomez Gonzalez hired Respondent on December 17, 2021, to assist him, his two children and his 18-year-old cousin (Cesar Ovidio Jacobo Agustin) with immigration matters and to defend them in removal proceedings.

a. The first engagement agreement between Respondent and Gomez Gonzalez set forth a fee of \$21,000 to represent Gomez Gonzalez, his two children and his cousin and noted that a new contract would be executed if and when Gomez Gonzalez was approved through the USCIS asylum vetting center.

30. Gomez Gonzalez subsequently entered into another engagement agreement with Respondent regarding representation of him, his two children and his cousin.

a. Respondent's second engagement agreement stated in Spanish that (a) Respondent would represent Gomez Gonzalez and his two children regarding their asylum applications and his cousin regarding the filing of a petition for Special Immigrant Juvenile (SIJ) classification status; (b) the total fee for those services was a flat fee of \$28,000; (c) the firm required a deposit of \$500 before services would begin; (d) the deposit and other payments made by Gomez Gonzalez were non-refundable; and (e) the contract did not include representation in an appeal from an Immigration Judge's ruling.

31. Respondent's second engagement agreement failed to advise Gomez Gonzalez that he could discharge Respondent and his firm at any time, in which case he may be entitled to a refund of all or part of the fee he had paid based upon the value of the representation. Gomez Gonzalez paid a total of \$8,250 to Respondent.

32. Respondent prepared and filed three I-589 "Application[s] for Asylum and for Withholding of Removal" (*Applications for Asylum*) on Gomez Gonzalez and his two children's behalf.

a. The *Applications for Asylum* prepared by Respondent were insufficient. For example, they failed to include briefing on complex issues of law, including the following:

i. Asylum has a one-year filing bar—one year after arrival in the United States—that can be overcome by only two exceptions: changed circumstances and extraordinary circumstances. On Gomez Gonzalez’s *Application for Asylum*, Part C, Question 5, where an explanation can be given for why the filing was so far after the one-year deadline (more than 10 years in Gomez Gonzalez’s case), Respondent included the following for Gomez Gonzalez’s explanation: “i [sic] was not aware of the deadline[.]” Respondent failed to submit any evidence, any briefing or anything else.

33. Respondent failed to retain signed copies of the *Applications for Asylum* before sending them to USCIS.

34. On December 14, 2022, Respondent sent an email message to a government attorney requesting dismissal of the removal proceedings against Gomez Gonzalez’s children.

35. A master calendar hearing for Gomez Gonzalez’s children was scheduled for December 15, 2022.

36. When Gomez Gonzalez called Respondent's office to request representation at his children's master calendar hearing (which Respondent asserts was not within the scope of his representation at that time), Respondent informed him that Attorney Elizabeth Grant would appear at the hearing as a courtesy because Respondent was unavailable to appear on short notice. Respondent further advised Gomez Gonzalez that the hearing would likely be vacated once he signed into the case.

37. Attorney Grant was initially scheduled to appear at the December 15, 2022 master calendar hearing on Respondent's behalf. Respondent anticipated that she would ask for dismissal at the hearing.

38. On December 15, 2022, the Immigration Judge vacated the master calendar hearing shortly before it was scheduled to begin.

39. Respondent or his office staff attempted to notify Gomez Gonzalez that the hearing had been vacated, but he did not answer his cell phone.

40. On December 16, 2022, Respondent notified Gomez Gonzalez via text message that he was no longer representing him, his children and his cousin.

41. On December 19, 2022, Respondent emailed to Gomez Gonzalez some of the documents comprising the file he maintained on Gomez Gonzalez and his children's behalf.

42. USCIS received the three *Applications for Asylum* on December 23, 2021.

43. Respondent performed no work on Gomez Gonzalez's cousin's case between February 2022 and December 2022.

44. Respondent never prepared or filed in state court a petition for SIJ classification status for Gomez Gonzalez's cousin, a necessary predicate to filing his Form I-360 petition for SIJ classification.

45. When Respondent discontinued representation of Gomez Gonzalez, his children and his cousin, he did not provide Gomez Gonzalez with a refund of any of the fees he had paid to Respondent.

46. Respondent's file, which was eventually provided to Gomez Gonzalez or his subsequent counsel, included eight documents: (a) three *Applications for Asylum* that had been filed for Gomez Gonzalez and his two children; (b) three receipts for the *Applications for Asylum* that had been filed; and (c) two biometrics documents for Gomez Gonzalez's two children.

47. After Respondent discontinued representation of Gomez Gonzalez, his children and his cousin, they were represented by the Immigration Law Clinic at the University of California Davis School of Law ("UC Davis Law School Clinic"), which is overseen by Attorney/Professor Holly Cooper.

48. During the first week of February 2023, Respondent communicated with the UC Davis Law School Clinic and was informed that the Clinic had “a retainer to investigate potential forms of relief for the family.”

49. On February 8, 2023, two days after the Clinic informed Respondent that it had a “retainer to investigate potential forms of relief” for Gomez Gonzalez, his children and his cousin, he filed motions to dismiss the removal proceedings against Gomez Gonzalez’s children and cousin.

a. Respondent failed to act diligently and failed to expedite litigation in the best interests of Gomez Gonzalez’s children and cousin by waiting over a year to file the motions to dismiss the removal proceedings against them.

50. The Immigration Court dismissed the removal proceedings against Gomez Gonzalez’s children and cousin based on the motions filed by Respondent in February 2023.

51. By engaging in the conduct set forth above, Respondent violated 8 CFR §§ 1003.102(n), 1003.102(o), 1003.102(p), 1003.102(q), 1003.102(r) and 1003.102(u); and, Arizona ERs 1.1, 1.2(a), 1.3, 1.4(a), 1.4(b), 1.5(d)(3), 3.2, and 8.4(d).

COUNT THREE (File No. 23-1443/Pennington)

52. Luisa Pablo Perez (“Perez”), a citizen of Guatemala, applied for asylum for herself and her two children (Sergio Martin Pablo and Wuilliam (sic) Martin Pablo) based on (a) the persecution she suffered from—and fear of—her former partner; and (b) the persecution and fear she suffered from being an Indigenous Mayan Mam woman.

53. Perez was not represented by counsel at her merits hearing in the Immigration Court in Detroit, Michigan.

54. The assigned Immigration Judge denied Perez’s *Application for Asylum*.

55. On March 5, 2020, Perez hired Respondent to file an appeal brief with the Board of Immigration Appeals (BIA) for her and her two children.

a. Respondent’s engagement agreement stated that (a) Respondent would represent Perez in her appeal of the Immigration Judge’s denial of her *Application for Asylum*; (b) the total amount due for representation was \$5,000; (c) the firm required a deposit of \$1,500 before services would begin; and (d) the deposit was non-refundable.

b. Respondent’s engagement agreement failed to advise Perez that she could discharge Respondent and his firm at any time, in which case she

may be entitled to a refund of all or part of the fee she had paid based upon the value of the representation provided.

56. On December 13 and 28, 2021, Respondent filed appellate briefs on Perez and her children's behalf with the BIA. Both briefs failed to thoroughly address all relevant matters and waived critical issues.

a. The briefs lacked analysis critical to Perez and her children's asylum claims.

b. The briefs consisted primarily of "boilerplate" language that waived highly meritorious challenges to dispositive issues that were addressed in the Immigration Judge's decision denying Perez and her children's applications for asylum.

c. Respondent's briefs waived any argument challenging the Immigration Judge's erroneous finding that Perez did not establish that Guatemalan authorities are unwilling or unable to protect her in Guatemala.

i. The Immigration Judge erroneously found that Perez did not establish that Guatemalan authorities were unable or unwilling to protect her in Guatemala, despite her attempt to report to the police a particularly vicious attack by her abuser.

ii. The Immigration Judge's finding was clearly erroneous because Guatemalan authorities failed to investigate, prosecute or punish Perez's abuser, did not offer her any protection from him, and literally were unable to take a report of the incident due to a language barrier, which reflected their inability and unwillingness to protect her.

iv. The Immigration Judge further erroneously found that Country Condition Reports demonstrated that the Guatemalan government has devoted "significant resources" to combating gender-based violence.

vi. The Country Condition Reports in Perez's case demonstrated the inadequacy and inefficacy of the government's response to the epidemic of gender-based violence in Guatemala. Furthermore, (a) the Country Condition Reports indicated there was a lack of investigation of and accountability for gender-based violence; (b) gender-based violence remained a widespread and serious problem in Guatemala; (c) the Guatemalan police had received minimal training and had minimal capacity to investigate sexual crimes or assist survivors; (d) the government did not enforce the law effectively; and (e) the police had been unresponsive to domestic violence complaints.

d. Respondent's briefs consisted of "boilerplate" language and was nearly devoid of specific references to Perez and her children's situations. Of the ten pages of argument in Respondent's December 13, 2021 brief, only three paragraphs explicitly referenced the facts regarding Perez's situation in Guatemala.

e. Respondent's brief referred to Perez in places using male pronouns and inaccurately recited the facts regarding Perez and her children's situation in Guatemala.

f. Respondent argued that Perez's membership in a PSG was based on the domestic violence she suffered, a claim that had been foreclosed by precedent at that time (but has since been reversed).

57. Respondent failed to act with reasonable diligence and promptness in representing Perez and her children.

58. Following Respondent's representation of Perez and her children, immigration attorney Alison Pennington, began representing them.

59. Upon information and belief, Attorney Pennington, pursuant to *Matter of Lozado*, 19 I. & N. Dec 637 (BIA 1988), filed a motion with the BIA to remand Perez and her children's cases based on Respondent's ineffective assistance of counsel.

60. In an order dated January 31, 2024, the BIA remanded Perez's matter based on the change in law identified in the appeal brief. The BIA expressly noted that it found it "unnecessary to decide" whether Mr. LaCome provided ineffective assistance of counsel because "whatever deficiencies might have occurred previously, if any, can be remedied by new counsel on remand, where the parties may update the record with relevant evidence and arguments."

By engaging in the conduct set forth above, Respondent violated 8 CFR §§ 1003.102(n), 1003.102(o), 1003.102(q) and 1003.102(u); and, Arizona ERs 1.1, 1.3 and 8.4(d).

COUNT FOUR (File No. 23-3115/State Bar of Arizona)
Matter Involving E-Y-V-V-⁵

61. In or about 2021, Respondent agreed to represent E-Y-V-V- in his/her immigration proceedings.

62. On March 10, 2021, E-Y-V-V- signed a declaration in which he/she stated he/she had been raped in 2015 by a co-worker.

⁵ Respondent's former clients, when referenced in Counts Four through Nine, are referred to by their initials because the allegations were submitted by EOIR, which informed bar counsel that the clients' names should remain confidential; the former clients are also referred to as "he/she" and "him/her" for the same reason. The use of clients' initials is also consistent with EOIR citation guidelines.

63. On July 20, 2021, Respondent entered his appearance as E-Y-V-V-'s attorney in his/her immigration proceedings.

64. On August 30, 2021, E-Y-V-V-, through Respondent, submitted a declaration that stated that he/she had been raped by a former co-worker in the United States (it did *not* assert that he/she had been raped by gang members in El Salvador).

65. On December 8, 2022, Judge Arwen Swink of the San Francisco Immigration Court issued a notice setting E-Y-V-V's master calendar hearing via Webex on February 7, 2023.

The accompanying scheduling order contained boilerplate language directing Respondent and DHS to "confer regarding this case to explore the possibility of prosecutorial discretion and whether [the parties] intend to proceed to trial before the Court" and further encouraged the parties "to explore whether dismissal, administrative closure, or another course of action would accomplish similar goals." (Bold typeface and underline in original).

66. On January 23, 2023, Respondent submitted a motion to vacate the master calendar hearing scheduled for February 7, 2023 in which he informed Judge Swink that he had filed a Form I-589 Application for Asylum and for Withholding of Removal and other documents on E-Y-V-V-'s behalf.

On February 6, 2023, Judge Swink issued an order granting Respondent's motion to vacate the master calendar hearing which stated, "Respondent has declined the opportunity to narrow issues, confirm biometrics results, and otherwise confer at the special Master hearing" and confirmed that E-Y-V-V-'s individual merits hearing remained set for March 2, 2023.

67. On February 7, 2023, Respondent filed a prehearing brief on E-Y-V-V-'s behalf.

a. The brief provided an overview of E-Y-V-V-'s claim that he/she feared returning to El Salvador because he/she had received threats from gang members after his/her spouse engaged in an extramarital affair with a person who had familial gang ties.

b. In the narrative section of the brief, Respondent stated that after E-Y-V-V- entered the United States, he/she was raped by a co-worker in 2015, and that his/her rapist used his/her immigration status as a threat to silence him/her; that argument differed from the argument section of the brief, wherein Respondent stated that E-Y-V-V- should be granted relief because he/she "suffered past persecution at the hands of gang members who beat [him/]her, and forcibly raped [him/]her."

68. Also on February 7, 2023, Respondent filed a document titled “Particular Social Group Statement” (“PSG Statement”), which stated that E-Y-V-V- is a member of five Particular Social Groups (“PSGs”).

a. Each proposed PSG was defined by the harm, which is not legally permissible.

b. Respondent’s PSG Statement made arguments that were legally foreclosed.

c. After each PSG, Respondent cited to one or more decisions from the U.S. Attorney General, the Board of Immigration Appeals (“BIA”), or a Circuit Court of Appeals implying that the proposed PSG was supported by published case law.

d. At least some of the case law referenced by Respondent regarding the PSGs did not support the proposition for which he had cited the case law.

69. On March 2, 2023, E-Y-V-V- appeared with Attorney Niloufar Mazhari at his/her individual hearing before Judge Swink.

a. Judge Swink asked Attorney Mazhari whether the claim Respondent made in his prehearing brief that E-Y-V-V- had been raped by gang members in El Salvador was accurate and Attorney Mazhari responded

that the statement was incorrect because E-Y-V-V- alleged he/she had been raped by a co-worker in the United States.

i. Respondent admits that the brief inadvertently erroneously stated that E-Y-V-V- was raped by gang members in El Salvador and that the brief should have stated that E-Y-V-V- “suffered past persecution at the hands of gang members who beat [him/]her, and a co[-]worker who forcibly raped [him/]her.”

ii. Respondent claimed the prehearing narrative came directly from E-Y-V-V-’s I-589 declaration, and that the error resulted from an inaccurate translation of the declaration (he said E-Y-V-V-’s declaration “at times when translated does not translate word for word[,] making it difficult to discern what [E-Y-V-V-] is attempting to convey”).

b. Judge Swink also raised concerns about Respondent’s PSG Statement because each proposed PSG was defined by the harm, which is not legally permissible.

c. Judge Swink also found that Respondent’s PSG Statement made arguments that were legally foreclosed, but that Respondent nonetheless cited

case law to make it appear as if his propositions had legal support when in fact they did not.

d. During the hearing, Attorney Mazhari asked to continue E-Y-V-V-'s case so that Respondent could file a request for prosecutorial discretion.

e. DHS counsel indicated that the government may favorably exercise prosecutorial discretion if E-Y-V-V- could provide additional documentary evidence in conjunction with the new request.

f. Although Judge Swink found that Respondent previously declined the opportunity to discuss prosecutorial discretion at the master calendar hearing he moved to vacate, Judge Swink nevertheless granted Attorney Mazhari's continuance request because it appeared that E-Y-V-V- was eligible for prosecutorial discretion.

70. By engaging in the conduct set forth above, Respondent violated 8 C.F.R. §§ 1003.102(n), 1003.102(o), 1003.102(q); and, Arizona ERs 1.1, 1.3, 3.1 and 8.4(d).

COUNT FIVE (File No. 23-3115/State Bar of Arizona)
Matter Involving E-E-P-R

71. In or about November 2022, Respondent agreed to represent E-E-P-R- in his/her immigration proceedings.

72. On November 16, 2022, Respondent entered his appearance as the primary attorney for all immigration proceedings in E-E-P-R-'s case.

73. On Friday, December 9, 2022, Attorney Mary Grant appeared via Webex on Respondent's behalf at E-E-P-R-'s scheduled hearing before Immigration Judge Kenya Wells at the Houston Greenspoint Park Immigration Court in Houston, Texas.

a. At the conclusion of the hearing, Judge Wells instructed Attorney Grant to file E-E-P-R-'s application for asylum before the end of the following business day.

b. Judge Wells also scheduled E-E-P-R-'s individual merits hearing on June 13, 2023, and ordered that all evidence be filed no later than April 13, 2023.

74. On Tuesday, December 13, 2022, Respondent filed a Form I-589 Application for Asylum and for Withholding of Removal on E-E-P-R-'s behalf.

a. E-E-P-R- alleged that the "signature" on the Application for Asylum was not placed on the Application by E-E-P-R-, and he/she had not authorized anyone to sign it on his/her behalf.

b. Respondent filed the Application for Asylum knowing that the signature on the document was not placed by E-E-P-R-, and signed the application adjacent to text stating that the client signed in his presence.

75. On June 5, 2023 (53 days later than ordered by Judge Wells), Respondent attempted to file multiple documents, including a Human Rights Watch report, a prehearing brief, numerous identity documents, proof of biometrics, and a witness list.

76. Later on June 5, 2023, the Immigration Court issued a “REJECTED FILING NOTICE TO ATTORNEY OR REPRESENTATIVE,” stating that Respondent’s filings had been rejected and noted that “[n]o motion to accept late filings [had been] attached”; the rejection notice directed Respondent to refile those documents with the proper motion attached.

77. On June 6, 2023, Respondent filed multiple motions titled “MOTION TO ACCEPT LATE FILING.”

a. Those motions were identical and stated: “Due to the holiday weekend, the filing of these documents was one day late of the filing deadline and was rejected in part due to clerical error. The documents are vital to [E-E-P-R-] for corroboration purposes.”

78. On June 7, 2023, Judge Wells issued a written order denying Respondent's motions.

a. That written order stated: "[The Court] set a deadline for evidence to be filed by April 13, 2023. Contrary to Respondent's claim, the late-filed documents were not one day late. Respondent has not established good cause for why the items were filed beyond the filing deadline."

79. Despite Judge Wells' December 9, 2022 order, on June 12, 2023, one day before E-E-P-R-'s individual hearing, Respondent again filed multiple motions titled "MOTION TO ACCEPT LATE FILING."

a. Those motions were identical to those he had previously filed on June 6, 2023.

80. Judge Wells did not rule on those motions prior to E-E-P-R-'s individual merits hearing.

81. On June 13, 2023, E-E-P-R- and Attorney Mariana Ehrenberg appeared at E-E-P-R-'s scheduled individual merits hearing before Judge Wells.

a. Counsel for DHS informed Judge Wells that E-E-P-R- had filed a request for prosecutorial discretion on June 6, 2023 and requested additional time to review the request.

b. Judge Wells stated that he had ordered that all evidence and joint motions be filed on or before April 13, 2023, and saw “no reason why [the prosecutorial discretion request] was not done at an earlier time.”

c. Judge Wells deemed Respondent’s request for prosecutorial discretion untimely.

d. Attorney Ehrenberg interjected, stating that she was under the impression that all filings in E-E-P-R-’s case were timely filed.

e. Judge Wells indicated to Attorney Ehrenberg that she was mistaken and pointed out that Respondent had previously filed multiple motions requesting that the Court accept late-filed evidence and that the earliest of those motions, dated June 6, 2023, incorrectly claimed that the evidence was submitted “one day late.”

f. Judge Wells indicated to Attorney Ehrenberg that he had previously issued an order denying Respondent’s untimely motions because he had ordered Respondent, at a master calendar hearing on December 9, 2022, to file all evidence on or before April 13, 2023.

g. In response, Attorney Ehrenberg stated that the file that Respondent had provided to her did not include various documents and indicated that she was not certain she would have agreed to appear on

Respondent's behalf if she had known about the Court's December 9, 2022 order, Respondent's failure to timely file evidence, and/or Judge Wells' denial of Respondent's motions for the Court accept late-filed evidence.

i. Respondent failed, prior to E-E-P-R-'s individual merits hearing, to provide Attorney Ehrenberg with copies of all documents related to E-E-P-R-'s matter.

h. Attorney Ehrenberg informed Judge Wells that Respondent informed her the night before the hearing that everything had been filed.

i. Upon questioning by Judge Wells, Attorney Ehrenberg clarified that she did have a copy of the Form I-589, but that the copy in her file was not signed by E-E-P-R.

j. Judge Wells stated that the copy of the Form I-589 in the Court's file was signed by E-E-P-R.

k. Attorney Ehrenberg stated that she needed time to sort out the mess and indicated that was necessary because it appeared she was not properly informed about the status of the case.

l. Judge Wells denied Attorney Ehrenberg's oral motion to continue E-E-P-R-'s individual merits hearing.

m. Judge Wells asked Attorney Ehrenberg if she wanted to contact Respondent but she stated she believed that Respondent was out of town and that is why he had asked her to appear on his behalf.

n. Judge Wells proceeded with E-E-P-R-'s hearing.

o. Judge Wells orally denied Respondent's June 12, 2023 motions to accept late filings, finding that the motions were filed well after the deadline and that Respondent had not provided a reason to excuse his untimeliness.

p. Judge Wells asked E-E-P-R- questions about his/her Application for Asylum and allowed E-E-P-R- to review the Court's copy of the Form I-589 Application for Asylum that Respondent had filed.

q. Upon examining the Court's copy of the Form I-589, E-E-P-R- told Judge Wells that the signature on the application that Respondent had filed was not his/hers.

r. In support of his/her claim, E-E-P-R- showed Judge Wells a copy of Respondent's representation agreement, which E-E-P-R- claimed he/she had previously signed and informed Judge Wells that the signatures did not match.

s. Judge Wells compared E-E-P-R-'s signature on Respondent's representation agreement, which included an affirmation under oath that it

was his true signature, with E-E-P-R-'s alleged signature on the Form I-589 Application for Asylum and noted his belief that the signatures did not match.

t. When Judge Wells asked E-E-P-R- whether he had granted anyone permission to sign the Form I-589 Application for Asylum on his behalf, E-E-P-R- responded, "No."

u. At the conclusion of the hearing, Judge Wells granted Attorney Ehrenberg's request for a dismissal without prejudice based on prosecutorial discretion, which E-E-P-R informed Judge Wells was the outcome he wanted.

82. By engaging in the conduct set forth above, Respondent violated 8 C.F.R. §§ 1003.102(n), 1003.102(o) 1003.102(q) and Arizona ERs 1.1. 1.2(a), 1.3, 3.3(a), and 8.4(d).

COUNT SIX (File No. 23-3115/State Bar of Arizona)
Matter Involving R-M-M-C

83. In or about June 2023, Respondent agreed to represent R-M-M-C- in his/her immigration proceedings.

84. On June 24, 2023, Respondent entered his appearance as the primary practitioner of record for R-M-M-C- in all of his/her immigration proceedings.

85. The Immigration Judge ordered the parties to file all evidence on or before July 18, 2023.

86. On several dates in August 2023 and on September 1, 2023, Respondent filed various documents on R-M-M-C-'s behalf, including country condition reports, an I-589 Application for Asylum, passports and other identification documents, a supporting declaration, a prehearing statement, and an updated PSG statement.

87. On September 4, 2023 (Labor Day), the day before R-M-M-C-'s scheduled 8:30 a.m. individual merits hearing, Respondent submitted six additional evidentiary exhibits including judicial orders, a police report, medical documents and a notification from a prosecutor's office. Respondent electronically served copies of the exhibits on DHS's Office of Chief Counsel through the EOIR Courts & Appeals System (ECAS⁶).

88. Also on September 4, 2023, Attorney Niloufar Mazhari entered her appearance as a "Non-Primary Attorney/Representative."

89. On September 5, 2023, the day of R-M-M-C-'s individual hearing, Respondent filed two motions to accept late filings, which were filed less than 20 minutes apart.

⁶ ECAS is the acronym for the EOIR Courts & Appeals System, which retains all records and case-related documents in electronic format.

a. The first motion to accept late filings stated: “[R-M-M-C-] requests that the court accepts [sic] the following late filed documents. These documents are vital to [R-M-M-C-]’s case for corroboration purposes.”

b. The second motion stated:

[R-M-M-C-] requests that the court accepts [sic] the following late[-]filed documents. These documents are vital to [R-M-M-C-]’s case for corroboration purposes. [R-M-M-C-] did not provide several pieces of evidence to counsel until yesterday[,] on September 4, 2023, which were then uploaded to [the] EOIR case portal that same day. [. . .] Counsel has also received one other piece of evidence, a police report, this morning[,] on September 5, 2023, which counsel is now submitting to [the] EOIR case portal.

90. A few minutes after filing the second motion to accept late filings, Respondent uploaded a police report to the Immigration Court and DHS counsel.

91. Also on September 5, 2023, Attorney Mazhari appeared on Respondent’s behalf to represent R-M-M-C- at his/her individual merits hearing.

a. During direct examination of R-M-M-C- by Attorney Mazhari, Attorney Mazhari identified a document that was not in the evidentiary record.

b. Immigration Judge Seminerio realized that the document that Attorney Mazhari had referenced had been submitted the day before, which was a holiday, and had not yet been added to the Court’s electronic file.

c. Judge Seminerio asked Attorney Mazhari why that document had not been timely filed.

d. Attorney Mazhari stated she did not file them and did not know why the documents were filed late.

e. Upon further inquiry by Judge Seminerio, Attorney Mazhari blamed her paralegal, who had recently resigned, for the late filings.

f. Judge Seminerio then took a brief recess so the attorney representing DHS could review the documents.

g. Judge Seminerio explained to R-M-M-C- that the Court had not yet reviewed some of his/her evidence because Respondent submitted it the day before the hearing.

h. The attorney representing DHS then requested an additional 25-minute recess to review the documents, which the court granted.

i. After returning from the recess, Attorney Mazhari notified Judge Seminerio that there was another late-filed exhibit that had not yet been added to the record, which included two photographs of a police report that were taken with a cell phone.

j. The timestamp on the submission indicated that Respondent's office submitted the exhibit while the hearing was underway.

k. The attorney representing DHS objected on timeliness grounds to the admission of the documents filed on September 4 and 5, 2023.

l. Judge Seminerio agreed that the documents were not timely filed, but admitted the documents for the Court's consideration.

92. By engaging in the conduct set forth above, Respondent violated 8 C.F.R. §§ 1003.102(n), 1003.102(q); and, Arizona ERs 1.3 and 8.4(d).

COUNT SEVEN (File No. 23-3115/State Bar of Arizona)

Matter Involving G-A-T

93. G-A-T- was involved in immigration proceedings.

94. On March 26, 2021, the Immigration Court issued a "NOTICE OF HEARING IN REMOVAL PROCEEDINGS," which scheduled G-A-T-'s individual merits hearing for May 2, 2023.

95. In or about September 2021, Respondent agreed to represent G-A-T- in his/her immigration proceedings.

96. On or about September 20, 2021, Respondent entered his appearance as the primary practitioner of record in G-A-T-'s case.

97. On May 2, 2023, Attorney Reshma Kamath appeared via Webex for Respondent on G-A-T-'s behalf at his/her individual merits hearing. However,

Attorney Kamath had failed to file a Notice of Appearance as G-A-T-'s non-primary attorney.

b. Attorney Kamath requested a continuance of G-A-T-'s individual hearing.

c. Immigration Judge Amber George explained to Attorney Kamath that she needed to enter her appearance before she could represent G-A-T.

d. Judge George disconnected Attorney Kamath from the Webex proceeding and called Respondent on the record.

e. Respondent answered the telephone, at which time Judge George explained that she had dismissed Attorney Kamath because she had failed to file the requisite notice of appearance.

f. Judge George also informed Respondent that he should have filed a motion to continue prior to the hearing, rather than sending substitute counsel to request a continuance.

g. Judge George also noted that she had previously informed Respondent that he or another attorney appearing on his behalf had to appear in person at hearings and that she expected him to appear in person for future hearings.

h. Respondent then requested a continuance, citing the need to obtain important records related to G-A-T-'s criminal history, which could impact his/her eligibility for relief.

i. Judge George granted Respondent's continuance request and rescheduled G-A-T-'s hearing for September 5, 2023.

j. Judge George also ordered Respondent to file a brief on or before July 31, 2023, detailing G-A-T-'s criminal history and its effect on his/her eligibility for relief.

98. Respondent did not file a detailed brief on or before July 31, 2023.

a. Respondent elected not to file a detailed brief analyzing crime factors, as ordered by Judge George, because he perceived that issue would become moot (*i.e.*, he believed a state court would grant a request to vacate G-A-T-'s criminal convictions, which had been filed by G-A-T-'s criminal defense attorney, prior to the next Immigration Court hearing, thereby making "moot" whether G-A-T-'s crimes qualified as "particularly serious").

99. On August 15, 2023, in an effort to keep Judge George updated regarding the status of G-A-T-'s criminal issue, Respondent filed a copy of a Notice of Motion and Motion to Vacate Conviction, which G-A-T-'s criminal defense

attorney had filed on July 31, 2023, the deadline for Respondent to submit briefing on the criminal conviction issue.

100. Although Judge George had directed Respondent to appear in person for the next hearing, Respondent filed a motion on August 18, 2023, requesting permission to appear virtually, which Judge George denied.

101. Respondent untimely filed several documents with the Immigration Court on G-A-T-'s behalf, none of which complied with Judge George's order to submit a brief explaining the effects that G-A-T-'s criminal history could have on his/her eligibility for relief.

102. On August 18, 2023, Respondent filed a criminal history chart for G-A-T.

103. On or about August 30, 2023, Respondent filed an update regarding the motion to vacate G-A-T-'s conviction, informing the Immigration Court that the motion was unopposed and had been granted.

104. On August 31, 2023, Respondent filed a motion seeking to withdraw G-A-T-'s admission that he/she is removable and to terminate proceedings based on an allegedly defective notice to appear issued in February 2013; Respondent cited recent changes in the law regarding the sufficiency of notices to appear.

105. On September 1, 2023, Respondent filed an updated criminal history chart for G-A-T.

106. Respondent failed to appear for G-A-T's hearing on September 5, 2023.

a. Respondent's office contacted the Immigration Court to inform the judge and her staff that Respondent was still in a hearing in a different courtroom and would be late.

i. Judge George indicated she would likely be unable to begin the hearing until at least 11:30 a.m.

ii. At 12:05 p.m., Judge George inquired what happened to Respondent or his office.

iii. Judge George called Respondent on the record but was unable to reach him.

iv. Judge George again rescheduled G-A-T's hearing and issued a corresponding hearing notice.

(a) The hearing notice, dated September 5, 2023, stated that Respondent twice failed to appear for hearings; that notice rescheduled G-A-T- for a new master calendar hearing on April 1, 2024.

(b) The hearing notice reiterated Judge George's prior order that Respondent could no longer appear for hearings via Webex.

v. Attorney Mazhari, who was going to appear on Respondent's behalf due to his other commitments, proceeded to Judge George's courtroom at the conclusion of a hearing she had been attending, but was informed that a complaint had already been submitted to EOIR.

107. On September 7, 2023, Judge George issued an order denying Respondent's motion to terminate proceedings, citing his failure to appear for two hearings on the merits; Judge George's order advised G-A-T- to "seek other counsel due to ineffective assistance of counsel."

108. By engaging in the conduct set forth above, Respondent violated 8 C.F.R. §§ 1003.102(k), 1003.102(n), 1003.102(o), 1003.102(q); and, Arizona ERs 1.1, 1.3, 3.4(c) and 8.4(d).

COUNT EIGHT (File No. 23-3115/State Bar of Arizona)
Matter Involving M-E-A-M

109. In or about December 2021, Respondent agreed to represent M-E-A-M- in his/her immigration proceedings.

110. On December 17, 2021, Respondent entered his appearance as the “Primary Attorney/Representative” of record for M-E-A-M- for all proceedings in his/her removal/asylum/Convention Against Torture proceeding.

111. On July 1, 2022, Attorney Niloufar Mazhari entered her appearance as M-E-A-M-’s “non-Primary Attorney/Representative.”

112. Attorney Mazhari appeared on M-E-A-M-’s behalf at his/her hearing on July 1, 2022.

a. At that hearing, Immigration Judge Andrew Caborn issued an oral decision denying M-E-A-M-’s application for relief and ordered him/her removed from the United States.

b. Judge Caborn made several key findings in his decision to support the denial of relief: he found that M-E-A-M- did not suffer past persecution, that he/she could safely relocate within his/her native country, and that the three Particular Social Groups that Respondent argued on his/her behalf were not cognizable under immigration law.

113. On July 6, 2022, Respondent entered his appearance before the Board of Immigration Appeals (BIA).

114. Also on July 6, 2022, Respondent filed a Notice of Appeal from a Decision of an Immigration Judge based on Judge Caborn’s July 1, 2022 decision.

115. On August 1, 2022, Judge Caborn issued a written decision based on his earlier oral decision.

116. On August 15, 2023, the BIA issued a briefing schedule that directed Respondent to file his appeal brief on or before September 5, 2023.

117. On August 28, 2023, Respondent filed a 27-page opening brief on M-E-A-M-'s behalf.

a. A large portion of the brief simply recounted Judge Caborn's decision, much of which was copied from the decision verbatim, and much of the remainder of the brief consisted of long recitations of black letter law, followed by short legal conclusions that were unsupported by any factual and legal analysis relevant to M-E-A-M-'s situation.

b. The brief failed to meaningfully address key findings included in Judge Caborn's decision.

i. For example, Judge Caborn found that M-E-A-M- did not suffer past persecution and that he/she could safely relocate within his/her native country of Honduras to avoid the people he/she had alleged wished to do him/her harm.

ii. In support of that finding, Judge Caborn specified that no one ever actually harmed M-E-A-M-, that he/she had not seen or heard from

anyone who wished to do him/her harm, that the issue appeared to be local in nature, and that he/she was able to live with a friend in Honduras without incident.

iii. Respondent failed to meaningfully address Judge Caborn's factual and legal findings or analysis, and simply made conclusory statements such as "[M-E-A-M-'s] ordeal is the epitome of persecution" and "the police have been unwilling or unable to help in preventing or reducing this persecution.

iv. Respondent's brief also failed to meaningfully address Judge Caborn's finding that the three Particular Social Groups (PSGs) he had argued were not cognizable.

(a) The brief contained long recitations of black letter law, but did not explain how that law applied to the three PSGs that were included in M-E-A-M-'s Application for Asylum and failed to show that Judge Caborn's analysis was erroneous.

(b) The brief also included a section that argued that the government in M-E-A-M-'s native country of Honduras was unwilling or unable to control those who allegedly wished to

persecute M-E-A-M-; Judge Caborn's decision had not addressed that issue.

118. On November 3, 2023, the BIA affirmed Judge Caborn's decision without opinion (pursuant to 8 C.F.R. § 1003.1(e)(4)).

119. By engaging in the conduct set forth above, Respondent violated 8 C.F.R. §§ 1003.102(n), 1003.102(o) and 1003.102(q); and, Arizona ERs 1.1, 1.3, 3.1 and 8.4(d).

COUNT NINE (File No. 23-3115/State Bar of Arizona)
Matter Involving I-O-M-B

120. On or about July 29, 2021, I-O-M-B- and R-E-V-M-, his/her minor daughter, both Honduran citizens, entered the United States without proper documentation or an immigration officer's permission.

121. On November 16, 2021, the Department of Homeland Security (DHS) initiated removal proceedings against I-O-M-B- and his/her daughter by filing Notices to Appear with the San Francisco Immigration Court.

122. On January 12, 2022, the Immigration Court informed I-O-M-B- that his/her master calendar hearing was scheduled for April 20, 2022.

123. In or about January 2022, Respondent agreed to represent I-O-M-B- and his/her daughter.

124. On or about January 29, 2022, Respondent entered his appearance as a “Primary Attorney/Representative” of record for I-O-M-B- and his/her daughter.

125. Also on January 29, 2022, Respondent filed a Form I-589 Application for Asylum and for Withholding of Removal on I-O-M-B- and his/her daughter’s behalf.

126. On April 20, 2022, Respondent filed a 2021 Human Rights Report for Honduras.

Also on April 20, 2022, Attorney Mary Grant filed a notice of appearance and appeared at I-O-M-B-’s hearing in the removal proceeding.

a. During that hearing, Attorney Grant admitted all allegations against I-O-M-B-, conceded the charges of removability, declined to designate a country of removal, and stated she did not know whether I-O-M-B- had received instructions regarding the required submission of his/her biometrics.

127. On April 20, 2022, Immigration Judge Susan Phan issued a hearing notice scheduling I-O-M-B- and his/her daughter’s individual merits hearings for June 9, 2022.

128. On May 3, 2022, the Immigration Court again notified Respondent that I-O-M-B- and his/her daughter’s individual merits hearings were scheduled for June 9, 2022 (that notice corrected I-O-M-B-s’ daughter’s name).

129. On May 12, 2022, Respondent filed I-O-M-B-'s asylum declaration and Notice of Completed Biometrics with the Immigration Court.

130. On May 24, 2022, Respondent filed a pre-hearing brief on I-O-M-B-'s behalf and a Particular Social Group (PSG) Statement that identified three PSGs in support of I-O-M-B-'s application for asylum.

131. On June 9, 2022, Attorney Niloufar Mazhari entered her appearance as a "Non-Primary Attorney/Representative" for I-O-M-B.

132. Also on June 9, 2022, Attorney Mazhari appeared at I-O-M-B- and his/her daughter's individual merits hearing.

133. On June 15, 2022, Judge Phan issued a written decision denying I-O-M-B and his/her daughter's applications for relief and protection under the Convention Against Torture, and ordered them removed from the United States to Honduras.

i. Judge Phan found, among other things, that I-O-M-B- had not suffered past persecution at the hands of gang members, that the five PSGs that he/she had alleged were not cognizable under immigration law, that any harm he/she suffered was not based on a protected ground, and that his/her opposition to gangs did not constitute a political opinion.

ii. Judge Phan also found that Respondent's reliance on the State Department's Human Rights Report, the only country conditions evidence he submitted, did not sufficiently establish each of the proposed social groups as socially distinct within Honduran society or establish that I-O-M-B- and his/her daughter had "credible, direct, and specific" threats of harm if they were to be returned to Honduras.

134. On July 2, 2022, Respondent filed a Form EOIR-27 Notice of Appeal on I-O-M-B-'s behalf.

135. On July 11, 2022, Respondent filed two notices of appearance before the Board of Immigration Appeals (BIA).

136. Also on July 11, 2022, Respondent filed a Form EOIR-26 Notice of Appeal from a Decision of an Immigration Judge.

a. Section 6 of the Notice of Appeal requested detailed reasons for the appeal; Respondent simply wrote: "The IJ erred in denying [I-O-M-B-]'s APPLICATION FOR ASYLUM. [I-O-M-B-] requests a scheduling order."

137. On August 27 or 28, 2023, Respondent timely filed a 27-page opening brief with the BIA.

a. The brief failed to meaningfully address key findings in Judge Phan's decision; a large portion of the brief was copied verbatim from Judge

Phan's decision, but Respondent failed to note that was the case by failing to use quotation marks.

b. The brief also contained sections that were erroneously copied from another client's case, which resulted in inaccurate information being submitted to the BIA.

i. For example, the brief stated that I-O-M-B- feared for his/her safety and returning to Honduras because he/she had injured a gang member when the gang or a gang member attempted to extort his/her boss (that false and erroneous claim was copied from an appeal brief that Respondent filed for M-E-A-M).

ii. Large sections of the brief consisted of long recitations of black letter law followed by short legal conclusions that were unsupported by any factual or legal analysis relevant to I-O-M-B-'s situation, and Respondent failed to identify how Judge Phan's factual and legal findings were in error.

iii. In his/her Application for Asylum and during his/her testimony, I-O-M-B- claimed that gang members had killed his/her former partner and members of his/her former partner's family; he/she

further alleged that he/she paid extortion money to the gang so that he/she could run a transportation business.

138. On November 8, 2023, the BIA issued a decision dismissing I-O-M-B-'s appeal.

a. The BIA's decision stated that the Notice of Appeal contained only "a broad allegation of error" and did not "provide any meaningful or persuasive arguments that establish error."

b. The BIA also noted that the brief copied verbatim (and without quotation marks) large sections of Judge Phan's decision with respect to her findings of fact and analysis and contained "alleged facts [that] bear no reasonable resemblance to the claim set forth in [I-O-M-B-'s] case," which the BIA attributed to "scrivener's error."

c. The BIA further found that Respondent waived numerous arguments because the brief failed to "provide any meaningful or persuasive arguments that establish error in the Immigration Judge's decision" and "d[id] not meaningfully challenge the Immigration Judge's findings or any legal conclusions with respect to [I-O-M-B-'s] proposed particular social groups,[] anti-gang political opinion, nexus, past persecution, well-founded fear[,] and clear probability of future persecution."

d. The BIA additionally found that Respondent failed to “meaningfully challenge the denial of [I-O-M-B-’s] request for protection under the [United Nation’s Convention Against Torture].”

139. By engaging in the conduct set forth above, Respondent violated 8 C.F.R. §§ 1003.102(n), 1003.102(o) and 1003.102(q); and, Arizona ERs 1.1, 1.3, 3.1 and 8.4(d).

COUNT TEN (File No. 24-0602/Orozco Guzman)

140. On or about August 19, 2021, Wilfido Manfredo Orozco Guzman, his wife (Heilin Marisol Godoy Sarmiento) and his son (Liam Emiriel Orozco Godoy) entered the United States without inspection (*i.e.*, without presenting themselves in person to an immigration officer at a U.S. port of entry).

141. In March 2022, Orozco Guzman hired Respondent to represent him, his wife and his son regarding asylum claims they wished to assert, which was to include the filing of a Form I-589 Application for Asylum and for Withholding of Removal with the Immigration Court.⁷

⁷ Allegations regarding acts specifically undertaken on Orozco Guzman’s behalf also pertain, where appropriate, to acts undertaken on his wife and son’s behalf.

142. Orozco Guzman agreed to pay a total fee of \$8,000; he made an initial payment of \$1,000, and then made monthly payments of \$500 in April, May and June 2022 (for a total of \$2,500).

143. Orozco Guzman sought asylum and withholding of removal from the United States based on race, nationality, political opinion, membership in a particular social group (“PSG”) and the United Nations’ Convention Against Torture.

144. Respondent filed “[Orozco Guzman]’s Asylum Declaration,” on September 6, 2022.

145. On March 18, 2022, Respondent filed with the Immigration Court an I-589 Application for Asylum and a Supplement B thereto on Orozco Guzman’s behalf.

146. Respondent submitted a single “Human Rights Report” for Guatemala for 2021 in support of Orozco Guzman’s I-589 Application for Asylum.

147. Orozco Guzman participated in a telephone conversation with a nonlawyer employed by Respondent to prepare a declaration to be submitted with Orozco Guzman’s I-589 Application for Asylum.

a. The declaration based on that conversation was written in English, but because Orozco Guzman did not speak English, he trusted

Respondent's office to accurately state in English what his staff stated to him in Spanish would be placed on the I-589 Application for Asylum.

148. Orozco Guzman learned after the I-589 Application for Asylum and declaration were filed that they contained errors and were incomplete (*e.g.*, the Application for Asylum failed to include important information about his eligibility for asylum and failed to note that his grandmother was of the Mopan ethnic group).

149. A few days prior to a hearing, Respondent's staff informed Orozco Guzman that if he did not pay the balance of the fee he owed pursuant to the terms of his engagement agreement, Respondent would withdraw as his attorney.

a. A day prior to a hearing, Orozco Guzman received a telephone call from Attorney Mary Grant, an attorney that periodically appeared on Respondent's behalf at his clients' immigration hearings.

b. Attorney Grant informed Orozco Guzman that she worked with Respondent's law firm and would appear on his behalf at his hearing the next day.

150. On May 19, 2022, Attorney Grant appeared at Orozco Guzman's master calendar hearing.

151. Following that master calendar hearing, Attorney Grant sent a message to Respondent informing him that she "entered the standard pleadings."

b. Attorney Grant also informed Respondent that Orozco Guzman's case was set for an individual merits hearing on September 14, 2022.

c. Attorney Grant asked Respondent to provide Orozco Guzman with instructions about providing his biometrics and to warn him of the consequences of failing to comply with those instructions.

d. Attorney Grant's message then stated:

Please also warn the clients of the consequences of failing to appear for the next hearing. The minor's presence is waived. The Judge will issue a prehearing order. Please look for it on ECAS.^[8]

152. In or about July 2022, Orozco Guzman stopped making periodic fee payments to Respondent because he was unhappy with his representation.

153. On August 23, 2022, Respondent filed a six-page prehearing brief on Orozco Guzman's behalf.

154. On August 31, 2022, Respondent sent Orozco Guzman a letter thanking him for choosing his firm to represent him, but noting that he could not represent him at his individual hearing, where the merits of his claim were to be addressed, unless he paid the outstanding balance of his fee (at that time, Orozco Guzman still owed \$5,500 of the fee he had agreed to pay); Respondent invited Orozco Guzman

⁸ ECAS is the acronym for the EOIR Courts & Appeals System, which retains all records and case-related documents in electronic format.

to contact his firm by telephone or email if he had any questions or to discuss his case.

155. Approximately 20 days prior to the individual merits hearings for Orozco Guzman, his wife and his son, Respondent's office contacted Orozco Guzman and told him that he needed to collect evidence for the hearing.

156. On September 14, 2022, Respondent appeared for Orozco Guzman, his wife and his son's individual hearings:

a. Respondent orally moved to withdraw as counsel based on Orozco Guzman's failure to pay his fee, as set forth in his engagement agreement.

b. The Immigration Judge granted Respondent's motion to withdraw, noting that "[Orozco Guzman] wishes to terminate the attorney-client relationship as well."

157. Respondent did not provide Orozco Guzman with a refund of any of the fee he had paid.

158. After the Immigration Judge permitted Respondent to withdraw as counsel for Orozco Guzman, his wife and his son, they obtained another immigration attorney to represent them.

159. Orozco Guzman, his wife and his son's subsequent counsel corrected documents prepared by Respondent or his staff and resubmitted them to the Immigration Court due to errors and/or omissions made by Respondent or his staff.

160. By engaging in the conduct set forth above, Respondent violated 8 CFR §§ 1003.102(n), 1003.102(p), 1003.102(q), 1003.102(r); and, Arizona ERs 1.2(a), 1.3, 1.4(a) and (b), and 8.4(d).

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 he violated 8 CFR §§ 1003.102(k), 1003.102(n), 1003.102(o), 1003.102(p), 1003.102(q), 1003.102(r), 1003.102(u) and 1003.102(v); and, Arizona ERs 1.1, 1.2(a), 1.3, 1.4(a), ER 1.4(b), ER 1.5(d)(3), 3.1, 3.3(a), 3.4(c), and 8.4(d).

CONDITIONAL DISMISSALS

The State Bar has conditionally agreed to dismiss the following file numbers for which no probable cause order has been entered: Nos. 24-2193, 24-2264 and 24-2989. The State Bar has also conditionally agreed to dismiss the allegations that Respondent violated 8 CFR §§ 1003.102(a)(1), (c), (j), and (l), Arizona Ethical Rules 1.5(a), 1.16(d), 4.1(a), 5.1, 5.3, 8.1(a), 8.4(c), and Rule 54(c), Ariz. R. Sup. Ct.

RESTITUTION

Restitution is not an issue in this matter.

SANCTION

Respondent and the State Bar of Arizona agree that based on the facts and circumstances of this matter, as set forth above, the following sanctions are appropriate: **Six-month suspension from the practice of law,⁹ resignation from the State Bar of Arizona immediately upon reinstatement, and payment of the costs and expenses of the disciplinary proceeding.**

If Respondent violates any of the terms of this agreement, the State Bar may bring further discipline proceedings.

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. *Standard 1.3, In re Pappas*, 159 Ariz. 516, 768 P.2d 1161

⁹ The period of suspension to become effective 45 days after entry of a judgment and order accepting this Agreement for Discipline by Consent.

(1988). The *Standards* provide guidance with respect to an appropriate sanction in this matter.

In determining an appropriate sanction, the Court considers 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. *Standard 3.0*.

The parties agree that the following *Standards* apply based on the facts and circumstances surrounding Respondent's conduct:

Standard 4.42 – Suspension is generally appropriate when: (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client; or (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

Standard 6.12 – Suspension is generally appropriate when a lawyer knows that false statements are being submitted to the court or that material information is improperly being withheld, and takes no remedial action, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding.

Standard 6.22 – Suspension is generally appropriate when a lawyer knowingly violates a court order or rule, and there is injury or potential injury to a client or a party, or interference or potential interference with a legal proceeding.

The duty violated

Respondent's conduct violated his duty to the client, the profession, the legal system and the public.

The lawyer's mental state

Respondent's knowing and negligent conduct violated the Rules of Professional Conduct.

The extent of the actual or potential injury

There was harm and potential harm to clients, the general public, the legal system and the legal profession.

Aggravating and mitigating circumstances

The presumptive sanction 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 (Respondent engaged in similar misconduct in a number of client matters);

Standard 9.22(d) – Multiple offenses;

Standard 9.22(h) – Vulnerability of the victims (most clients spoke little or no English, were unfamiliar with the legal system in the United States, and were completely reliant on Respondent to properly represent them in their immigration proceedings); and

Standard 9.22(i) – Substantial experience in the practice of law (Respondent was admitted to practice law in Arizona on December 15, 2015, in Washington, D.C. on June 7, 2010, in Missouri on April 20, 2011, and in Texas on November 2, 2012).

In mitigation:

Standard 9.32(a) – Absence of a prior disciplinary record;

Standard 9.32(e) – Full and free disclosure to bar counsel or cooperative attitude toward the proceedings; and

Standard 9.32(j) – Delay in disciplinary proceedings.

Discussion

The parties conditionally agree that upon application of the aggravating and mitigating factors, the presumptive sanction is appropriate.

The parties conditionally agree that a greater or lesser sanction is not appropriate. A greater disciplinary sanction is not appropriate because Respondent has no prior disciplinary history, there was some delay in the disciplinary proceeding, and Respondent willingly entered into this Agreement for Discipline by Consent. A lesser disciplinary sanction is not appropriate because Respondent engaged in misconduct related to his representation of ten immigration clients and there was client harm in some instances and potential harm in other instances.

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. In re *Peasley*, 208 Ariz. 27 (2004). 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 six-month suspension from the practice of law, Respondent's resignation from the State Bar of Arizona immediately upon his reinstatement, and the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit C.

DATED this 28th day of March, 2025.

STATE BAR OF ARIZONA

/s/James D. Lee

James D. Lee
Senior Bar Counsel

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

DATED this _____ day of March, 2025.

Joseph LaCome
Respondent

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 six-month suspension from the practice of law, Respondent's resignation from the State Bar of Arizona immediately upon his reinstatement, and the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit C.

DATED this _____ day of March, 2025.

STATE BAR OF ARIZONA

James D. Lee
Senior Bar Counsel

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

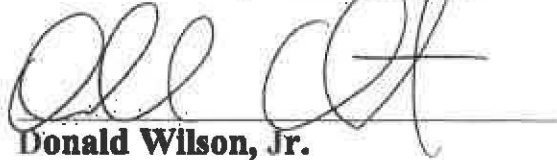
DATED this _____ day of March, 2025.



Joseph LaCome
Respondent

DATED this 28th day of March, 2025.

Broening Oberg Woods & Wilson PC

A handwritten signature in dark ink, appearing to read 'Donald Wilson, Jr.', written over a horizontal line.

Donald Wilson, Jr.

Danielle Nicole Chronister
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 ____ day of March, 2025.

Copy of the foregoing emailed
this ____ day of March, 2025, to:

The Honorable Margaret H. Downie
Presiding Disciplinary Judge
Supreme Court of Arizona
1501 West Washington Street, Suite 102
Phoenix, Arizona 85007
Email: officepdj@courts.az.gov

DATED this _____ day of March, 2025.

Broening Oberg Woods & Wilson PC

Donald Wilson, Jr.
Danielle Nicole Chronister
Counsel for Respondent

Approved as to form and content

/s/Maret Vessella
Maret Vessella
Chief Bar Counsel

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the Office of the Presiding Disciplinary Judge
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this 28th day of March, 2025.

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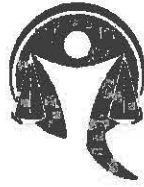
Donald Wilson, Jr.
Danielle Nicole Chronister
Broening Oberg Woods & Wilson, PC
2800 North Central Avenue, Suite. 1600
Phoenix, Arizona 85004-1047
Email: dnc@bowwlaw.com
Respondent's Counsel

Copy of the foregoing hand-delivered
this 28th day of March, 2025, to:

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

by: /s/Jackie Brokaw
JDL/jlb

EXHIBIT A



THE LAW OFFICE OF
DENISE M. QUINTERRI, PLLC

161 E. Inverness Dr. • Oro Valley, AZ 85737 • 480-239-9807 • dmg@azethicslaw.com

February 21, 2025

Presiding Disciplinary Judge
C/o James Lee, Senior Bar Counsel
State Bar of Arizona
4201 N. 24th St., Ste. 100
Phoenix, AZ 85016

Via email only to: Jim.Lee@staff.azbar.org; Jackie.Brokaw@staff.azbar.org

Re: Consent Agreement in State Bar File No. 23-0217 (Gomez Gonzalez)

Dear Presiding Disciplinary Judge:

I write on behalf of my client, Holly Cooper, Co-Director of the Immigration Law Clinic at the UC Davis School of Law. Ms. Cooper and the UC Davis Immigration Law Clinic represent the Complainant in the above-referenced file, Nery Osbeli Gomez Gonzalez, as well as his two children and his young cousin.

We received notice of a consent agreement to be filed and the opportunity to submit a written objection. This is that objection. Unfortunately, we did not receive a copy of the actual consent agreement, as apparently it is considered confidential until filed. Therefore, we cannot address the agreement with any specificity.

We were informed that the terms would include a six-month suspension. My client, and her client, are concerned that a six-month suspension is insufficient to protect the public. As the court is aware, the formal complaint against Respondent in this matter now has ten counts, which include extremely serious charges. Aside from general ineptitude (while charging excessive fees), there are multiple counts involving dishonesty, including dishonesty to the Immigration Court/s. There is clear evidence of forgery. Some of the counts, including the count relating to my client's clients, involve children. All of the victims are vulnerable, no doubt, but taking advantage of children for money is particularly egregious and shocking to the conscience.

We understand that there is some provision in the agreement that Respondent will resign from the State Bar of Arizona immediately upon his reinstatement. While this alleviates our concern somewhat, it does not remove it. It is not clear what the effect would be in Respondent's other states of licensure, or before the USCIS. If Respondent is able to have an active license in any state, he can continue to practice immigration law in every state. Including in Arizona, so this

provision will not necessarily protect Arizona residents. Obviously, Respondent wants the shorter suspension for some reason—that reason is likely that it will help him continue to be licensed somewhere. It is also not clear how that provision would be enforced. It is, to my understanding, rather unusual.

Respondent routinely takes money from vulnerable individuals across multiple states, fails to provide any meaningful services, and refuses to refund the money. There are millions of desperate people seeking immigration law assistance — especially now. Allowing Respondent to be licensed again without the safeguards of a required reinstatement hearing puts people at risk. Not to mention that a short-term suspension on these facts looks bad.

Speaking of money, we are also concerned that there is no restitution order included in the consent agreement. Respondent did no work of any value for Mr. Gomez Gonzalez, his children or his cousin. The UC Davis Law Clinic had to start the process again from scratch. Respondent should not be permitted to retain the money paid to him for services he did not provide.

In closing, my client and her client do appreciate that the State Bar took the case and put in considerable time to investigate and to understand the various immigration law matters at issue. It isn't easy. Immigration law is definitely different. This objection is not intended to downplay our appreciation for Bar Counsel. In fact, we believe that the Bar has done a great job and all the evidence is there to support a long-term suspension.

Sincerely,

A handwritten signature in black ink, appearing to read "Denise M. Quinterri". The signature is fluid and cursive, with a long horizontal stroke at the end.

Denise M. Quinterri

EXHIBIT B

Statement of Costs and Expenses

In the Matter of a Member of The State Bar of Arizona,
Joseph LaCome, Bar No. 032676, Respondent.

File Nos. 22-2090, 23-0217, 23-1443, 23-3115, 24-0602,
24-2989, 24-2264, and 24-2193

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.

Additional Costs

11/07/24 Deposition \$ 250.00

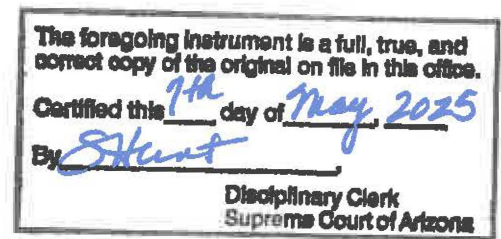
Total for additional costs \$ 250.00

Total Costs and Expenses for each matter over 5 cases where a violation is admitted or proven.

(5 x (20% x \$1,200)): \$1,200.00

TOTAL COSTS AND EXPENSES INCURRED \$2,650.00

EXHIBIT C



BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

JOSEPH LACOME
Bar No. 032676,

Respondent.

PDJ 2023-9099

ORDER ACCEPTING
AGREEMENT FOR DISCIPLINE
BY CONSENT

[State Bar Nos. 22-2090, 23-0217, 23-
1443, 23-3115, and 24-0602]

FILED APRIL 16, 2025

On March 28, 2025, the parties filed an Agreement for Discipline by Consent ("Agreement") pursuant to Rule 57(a), Ariz. R. Sup. Ct. The State Bar of Arizona is represented by Senior Bar Counsel James D. Lee. Respondent Joseph LaCome is represented in this matter by counsel, Donald Wilson, Jr. and Danielle Chronister. The Agreement seeks to address the State Bar's Formal Third Amended Complaint filed August 30, 2024 ("Complaint") referencing State Bar Nos. 22-2090, 23-0217, 23-1443, 23-3115, and 24-0602¹.

Contingent upon approval of the proposed form of discipline, Respondent voluntarily waives his right to an adjudicatory hearing, as well as all motions, defenses, objections, or requests that could be asserted. Pursuant to Rule 53(c)(3), Ariz. R. Sup. Ct., the State Bar provided notice of the Agreement and an opportunity to file a written objection to the Complainant by email on February 18, 2025.

¹ The Attorney Discipline Probable Cause Committee ("ADPCC") entered an order of probable cause on November 6, 2023 in File Nos. 22-2090, 23-0217, and 23-1443, and on July 17, 2024 in File Nos. 23-3115 and 24-0602.

Complainant in Count 2 of the Complaint/File No. 23-0217, Nery Osbeli Gomez Gonzalez and her Counsel, Holly Cooper who is the Co-Director of the Immigration Law Clinic at the UC Davis School of Law, submitted an objection to the Agreement², which will be addressed at the conclusion of this order.

The Agreement details a factual basis in support of Respondent's conditional admissions and is incorporated by reference.³ Respondent Joseph LaCome conditionally admits his conduct violated Title 8 of The Code of Federal Regulations, specifically CFR 1003.102(k), CFR 1003.102(n), CFR 1003.102(o), CFR 1003.102(p), CFR 1003.102(q), CFR 1003.102(r), CFR 1003.102(u), and CFR 1003.102(v); and Rule 42, Ariz. R. Sup. Ct., specifically ER 1.1, ER 1.2(a), ER 1.3, ER 1.4(a), ER 1.4(b), ER 1.5(d)(3), ER 3.1, ER 3.3(a), ER 3.4(c), and ER 8.4(d). As a sanction, the parties agree to a six (6) month suspension, effective 45 days from the date of this order, resignation from the State Bar of Arizona immediately upon reinstatement, and payment of the costs and expenses of the disciplinary proceeding. The State Bar and LaCome stipulate, "Restitution is not an issue in this matter." The parties further agree to dismiss the following file numbers without probable cause orders having been entered: State Bar File Nos. 24-2193, 24-2264 and 24-2989; and the allegations that Respondent violated 8 CFR 1003.102(a)(1), (c), (j), and (l); Rule 42, Ariz. R. Sup. Ct., ER 1.5(a), ER 1.16(d), ER 4.1(a), ER 5.1, ER 5.3, ER 8.1(a), ER 8.4(c); and Rule 54(c), Ariz. R. Sup. Ct.

² See Exhibit A to the Agreement.

³ See Rule 57(a)(4), Ariz. R. Sup. Ct.

Generally speaking, the ethical issues arose in the context of Respondent LaCome's representation of multiple clients in immigration matters. Between 2020 and 2023, Respondent represented California residents regarding various immigration matters. During that time, Respondent engaged in an overall pattern of neglect of clients, including: the submission of inadequate or "skeletal" documents with little attention to the specific factual or legal issues for specific clients; filed an application for asylum knowing that the signature on the document was not placed by his client; lacked adequate communication with clients or diligent representation of them; waited over a year to file the motions to dismiss removal proceedings in some cases; and further, Respondent's engagement agreements failed to advise clients that they could discharge representation at any time at which time they may be entitled to a refund of all or part of the fees paid.

Sanctions imposed against lawyers "shall be determined in accordance with the American Bar Association's *Standards for Imposing Lawyer Sanctions*" ("ABA Standards") Rule 58(k), Ariz. R. Sup. Ct. In reviewing this Agreement, the PDJ has consider the duties violated, the lawyer's mental state, the actual or potential injury caused by the misconduct, and the existence of aggravating and mitigating factors.

The parties agree that Respondent knowingly and negligently violated duties to his client, the profession, the legal system, and the public causing actual and potential harm as specified in the Agreement.

The Agreement relies on ABA Standards 4.42, 6.12, and 6.22 – all of which call for suspension as the presumptive sanction. The parties stipulate to four aggravating factors: (1) pattern of misconduct; (2) multiple offenses; (3) vulnerability of the victims; and (4) substantial experience in the practice of law.⁴ They agree that the following three mitigating factor applies: (1) absence of a prior disciplinary record; (2) full and free disclosure to bar counsel or cooperative attitude toward the proceedings; and (3) delay in disciplinary proceedings.

The Presiding Disciplinary Judge (“PDJ”) turns to the objection reflected in Exhibit A to the Agreement (the “Objection”). The Objection raises concerns that these Arizona sanctions may not have an effect on the Respondent’s license in other states such as Missouri and Texas or upon Respondent’s federal immigration practice. In regard to other states, ABA’s *Annotated Standards for Imposing Lawyer Sanctions* describes under, Standard 2.9, Purpose of Reciprocal Discipline:

A lawyer who has been disciplined in one U.S. jurisdiction is subject to reciprocal discipline in any other U.S. jurisdiction in which the lawyer is admitted. The purposes of reciprocal discipline are to prevent a lawyer admitted to practice in more than one jurisdiction from avoiding the effect of discipline by simply practicing in another jurisdiction, to prevent relitigation of misconduct that already has been established in another jurisdiction, and to protect the public from lawyers who commit such misconduct.

⁴ Respondent was licensed to practice law in the State of Arizona on December 15, 2015; in Texas in 2012; in Missouri in 2011; and District of Columbia in 2010.

The PDJ certainly encourages other jurisdictions or licensures to consider all of the findings of facts in this matter in considering the appropriate reciprocal order to fashion to protect the public.

The Objection also discusses a concern regarding the costs of Respondent's representation and whether Mr. LaCome has retained money paid to him for services he did not provide. The PDJ relies on the State Bar's avowal provided on page 56 of the Agreement in finding that restitution is not an issue in this matter.

In considering the Agreement and the Objection, the PDJ finds that it is in the best interest of public protection to overrule the Objection.

After reviewing the matters presented, the PDJ concludes that under this specific set of circumstances the Agreement adequately achieves the recognized purposes of the lawyer discipline process.

IT IS ORDERED accepting the Agreement for Discipline by Consent. A final judgment and order is separately filed this date.

DATED this 16th day of April, 2025.

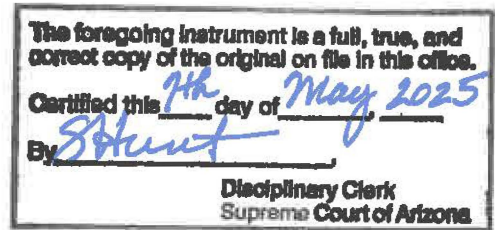
Lisa A. VandenBerg
Hon. Lisa A. VandenBerg
Presiding Disciplinary Judge

Copy of the foregoing e-mailed
this 16th day of April, 2025 to:

James D. Lee
LRO@staff.azbar.org

Donald Wilson, Jr.
dwj@bowwlaw.com
Danielle Chronister
dnc@bowwlaw.com

by: [SHunt](#)



BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**JOSEPH LACOME
Bar No. 032676,**

Respondent.

PDJ 2023-9099

FINAL JUDGMENT AND ORDER

[State Bar Nos. 22-2090, 23-0217, 23-1443,
23-3115, and 24-0602]

FILED APRIL 16, 2025

The Presiding Disciplinary Judge having accepted the parties' Agreement for Discipline by Consent ("Agreement") submitted pursuant to Rule 57(a), Ariz. R. Sup. Ct.,

IT IS ORDERED that JOSEPH LACOME, Bar No. 032676, is suspended for six (6) months from the practice of law effective, effective forty-five (45) days from the date of this order, for his conduct in violation of the Arizona Rules of Professional Conduct and Rules of the Supreme Court of Arizona, as set forth in the Agreement documents

IT IS FURTHER ORDERED that Respondent comply with the requirements relating to notification of clients and others and provide and/or file all notices and affidavits required by Rule 72, Ariz. R. Sup. Ct.

IT IS FURTHER ORDERED that upon reinstatement, Respondent shall immediately resign from the State Bar of Arizona.



IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$2,650.00 within 30 days of this order. There are no costs or expenses incurred by the Office of the Presiding Disciplinary Judge in these proceedings.

DATED this 16th day of April, 2025.

Lisa A. VandenBerg
Hon. Lisa A. VandenBerg
Presiding Disciplinary Judge

Copy of the foregoing emailed
this 16th day of April, 2025, to:

James D. Lee
LRO@staff.azbar.org

Donald Wilson, Jr.
dwj@bowwlaw.com

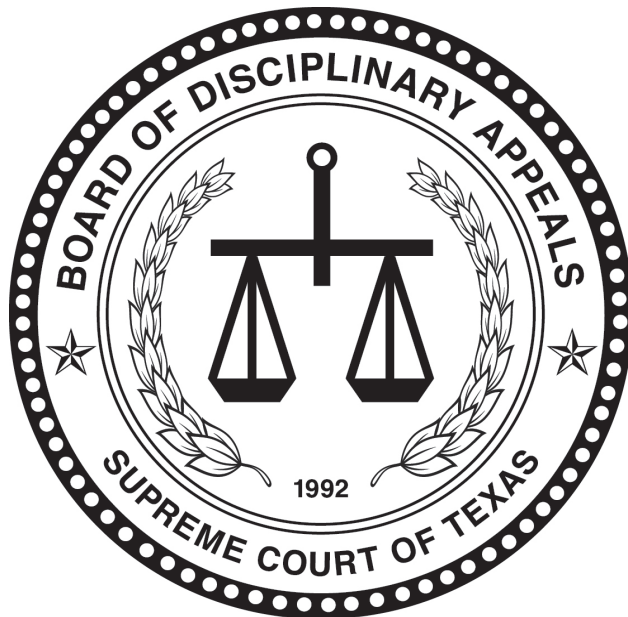
Danielle Chronister
dnc@bowwlaw.com

by: SHunt

THE BOARD *of* DISCIPLINARY APPEALS
APPOINTED BY THE SUPREME COURT *of* TEXAS



INTERNAL PROCEDURAL RULES
(EFFECTIVE SEPTEMBER 24, 2024)



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INTERNAL PROCEDURAL RULES

BOARD OF DISCIPLINARY APPEALS

Current through September 24, 2024

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INTERNAL PROCEDURAL RULES

Board of Disciplinary Appeals

Current through September 24, 2024

I. GENERAL PROVISIONS

Rule 1.01. Definitions

- (a) “BODA” is the Board of Disciplinary Appeals.
- (b) “Chair” is the member elected by BODA to serve as chair or, in the Chair’s absence, the member elected by BODA to serve as vice-chair.
- (c) “Classification” is the determination by the CDC under TRDP 2.10 or by BODA under TRDP 7.08(C) whether a grievance constitutes a “complaint” or an “inquiry.”
- (d) “BODA Clerk” is the executive director of BODA or other person appointed by BODA to assume all duties normally performed by the clerk of a court.
- (e) “CDC” is the Chief Disciplinary Counsel for the State Bar of Texas and his or her assistants.
- (f) “Commission” is the Commission for Lawyer Discipline, a permanent committee of the State Bar of Texas.
- (g) “Executive Director” is the executive director of BODA.
- (h) “Panel” is any three-member grouping of BODA under TRDP 7.05.
- (i) “Party” is a Complainant, a Respondent, or the Commission.
- (j) “TDRPC” is the Texas Disciplinary Rules of Professional Conduct.
- (k) “TRAP” is the Texas Rules of Appellate Procedure.
- (l) “TRCP” is the Texas Rules of Civil Procedure.
- (m) “TRDP” is the Texas Rules of Disciplinary Procedure.
- (n) “TRE” is the Texas Rules of Evidence.

Rule 1.02. General Powers

Under TRDP 7.08, BODA has and may exercise all the powers of either a trial court or an appellate court, as the case may be, in hearing and determining disciplinary proceedings. But TRDP 15.01 [17.01] applies to the enforcement of a judgment of BODA.

Rule 1.03. Additional Rules in Disciplinary Matters

Except as varied by these rules and to the extent applicable, the TRCP, TRAP, and TRE apply to all disciplinary matters before BODA, except for appeals from classification decisions, which are governed by TRDP 2.10 and by Section 3 of these rules.

Rule 1.04. Appointment of Panels

- (a) BODA may consider any matter or motion by panel,

except as specified in (b). The Chair may delegate to the Executive Director the duty to appoint a panel for any BODA action. Decisions are made by a majority vote of the panel; however, any panel member may refer a matter for consideration by BODA sitting en banc. Nothing in these rules gives a party the right to be heard by BODA sitting en banc.

- (b) Any disciplinary matter naming a BODA member as Respondent must be considered by BODA sitting en banc. A disciplinary matter naming a BODA staff member as Respondent need not be heard en banc.

- (c) BODA may, upon decision of the Chair, conduct any business or proceedings—including any hearing, pretrial conference, or consideration of any matter or motion—remotely.

Rule 1.05. Filing of Pleadings, Motions, and Other Papers

- (a) **Electronic Filing.** All documents must be filed electronically. Unrepresented persons or those without the means to file electronically may electronically file documents, but it is not required.

- (1) Email Address. The email address of an attorney or an unrepresented party who electronically files a document must be included on the document.

- (2) Timely Filing. Documents are filed electronically by emailing the document to the BODA Clerk at the email address designated by BODA for that purpose. A document filed by email will be considered filed the day that the email is sent. The date sent is the date shown for the message in the inbox of the email account designated for receiving filings. If a document is sent after 5:00 p.m. or on a weekend or holiday officially observed by the State of Texas, it is considered filed the next business day.

- (3) It is the responsibility of the party filing a document by email to obtain the correct email address for BODA and to confirm that the document was received by BODA in legible form. Any document that is illegible or that cannot be opened as part of an email attachment will not be considered filed. If a document is untimely due to a technical failure or a system outage, the filing party may seek appropriate relief from BODA.

- (4) Exceptions.

- (i) An appeal to BODA of a decision by the CDC to classify a grievance as an inquiry or a complaint is not required to be filed electronically.

- (ii) The following documents must not be filed electronically:

- a) documents that are filed under seal or subject to a pending motion to seal; and

- b) documents to which access is otherwise restricted by court order.

(iii) For good cause, BODA may permit a party to file other documents in paper form in a particular case.

(5) **Format.** An electronically filed document must:

(i) be in text-searchable portable document format (PDF);

(ii) be directly converted to PDF rather than scanned, if possible; and

(iii) not be locked.

(b) A paper will not be deemed filed if it is sent to an individual BODA member or to another address other than the address designated by BODA under Rule 1.05(a)(2).

(c) **Signing.** Each brief, motion, or other paper filed must be signed by at least one attorney for the party or by the party pro se and must give the State Bar of Texas card number, mailing address, telephone number, email address, and fax number, if any, of each attorney whose name is signed or of the party (if applicable). A document is considered signed if the document includes:

(1) an “/s/” and name typed in the space where the signature would otherwise appear, unless the document is notarized or sworn; or

(2) an electronic image or scanned image of the signature.

(d) **Paper Copies.** Unless required by BODA, a party need not file a paper copy of an electronically filed document.

(e) **Service.** Copies of all documents filed by any party other than the record filed by the evidentiary panel clerk or the court reporter must, at or before the time of filing, be served on all other parties as required and authorized by the TRAP.

Rule 1.06. Service of Petition

In any disciplinary proceeding before BODA initiated by service of a petition on the Respondent, the petition must be served by personal service; by certified mail with return receipt requested; or, if permitted by BODA, in any other manner that is authorized by the TRCP and reasonably calculated under all the circumstances to apprise the Respondent of the proceeding and to give him or her reasonable time to appear and answer. To establish service by certified mail, the return receipt must contain the Respondent’s signature.

Rule 1.07. Hearing Setting and Notice

(a) **Original Petitions.** In any kind of case initiated by the CDC’s filing a petition or motion with BODA, the CDC may contact the BODA Clerk for the next regularly available hearing date before filing the original petition. If a hearing is set before the petition is filed, the petition must state the date, time, and place of the hearing. Except in the case of a petition to revoke probation under TRDP 2.23 [2.22], the hearing date must be at least 30 days from the date that the petition is served on the Respondent.

(b) **Expedited Settings.** If a party desires a hearing on a matter on a date earlier than the next regularly available BODA hearing date, the party may request an expedited setting in a written motion setting out the reasons for the request. Unless the parties agree otherwise, and except in the case of a petition to revoke probation under TRDP 2.23 [2.22], the expedited hearing setting must be at least 30 days from the date of service of the petition, motion, or other pleading. BODA has the sole discretion to grant or deny a request for an expedited hearing date.

(c) **Setting Notices.** BODA must notify the parties of any hearing date that is not noticed in an original petition or motion.

(d) **Announcement Docket.** Attorneys and parties appearing before BODA must confirm their presence and present any questions regarding procedure to the BODA Clerk in the courtroom immediately prior to the time docket call is scheduled to begin. Each party with a matter on the docket must appear at the docket call to give an announcement of readiness, to give a time estimate for the hearing, and to present any preliminary motions or matters. Immediately following the docket call, the Chair will set and announce the order of cases to be heard.

Rule 1.08. Time to Answer

The Respondent may file an answer at any time, except where expressly provided otherwise by these rules or the TRDP, or when an answer date has been set by prior order of BODA. BODA may, but is not required to, consider an answer filed the day of the hearing.

Rule 1.09. Pretrial Procedure

(a) **Motions.**

(1) Generally. To request an order or other relief, a party must file a motion supported by sufficient cause with proof of service on all other parties. The motion must state with particularity the grounds on which it is based and set forth the relief sought. All supporting briefs, affidavits, or other documents must be served and filed with the motion. A party may file a response to a motion at any time before BODA rules on the motion or by any deadline set by BODA. Unless otherwise required by these rules or the TRDP, the form of a motion must comply with the TRCP or the TRAP.

(2) For Extension of Time. All motions for extension of time in any matter before BODA must be in writing, comply with (a)(1), and specify the following:

(i) if applicable, the date of notice of decision of the evidentiary panel, together with the number and style of the case;

(ii) if an appeal has been perfected, the date when the appeal was perfected;

(iii) the original deadline for filing the item in question;

(iv) the length of time requested for the extension;

(v) the number of extensions of time that have been granted previously regarding the item in question; and

(vi) the facts relied on to reasonably explain the need for an extension.

(b) **Pretrial Scheduling Conference.** Any party may request a pretrial scheduling conference, or BODA on its own motion may require a pretrial scheduling conference.

(c) **Trial Briefs.** In any disciplinary proceeding before BODA, except with leave, all trial briefs and memoranda must be filed with the BODA Clerk no later than ten days before the day of the hearing.

(d) **Hearing Exhibits, Witness Lists, and Exhibits Tendered for Argument.** A party may file a witness list, exhibit, or any other document to be used at a hearing or oral argument before the hearing or argument. A party must bring to the hearing an original and 12 copies of any document that was not filed at least one business day before the hearing. The original and copies must be:

(1) marked;

(2) indexed with the title or description of the item offered as an exhibit; and

(3) if voluminous, bound to lie flat when open and tabbed in accordance with the index.

All documents must be marked and provided to the opposing party before the hearing or argument begins.

Rule 1.10. Decisions

(a) **Notice of Decisions.** The BODA Clerk must give notice of all decisions and opinions to the parties or their attorneys of record.

(b) **Publication of Decisions.** BODA must report judgments or orders of public discipline:

(1) as required by the TRDP; and

(2) on its website for a period of at least ten years following the date of the disciplinary judgment or order.

(c) **Abstracts of Classification Appeals.** BODA may, in its discretion, prepare an abstract of a classification appeal for a public reporting service.

Rule 1.11. Board of Disciplinary Appeals Opinions

(a) BODA may render judgment in any disciplinary matter with or without written opinion. In accordance with TRDP 6.06, all written opinions of BODA are open to the public and must be made available to the public reporting services, print or electronic, for publishing. A majority of the members who participate in considering the disciplinary matter must determine if an opinion will be written. The names of the participating members must be noted on all written opinions of BODA.

(b) Only a BODA member who participated in the

decision of a disciplinary matter may file or join in a written opinion concurring in or dissenting from the judgment of BODA. For purposes of this rule, in hearings in which evidence is taken, no member may participate in the decision unless that member was present at the hearing. In all other proceedings, no member may participate unless that member has reviewed the record. Any member of BODA may file a written opinion in connection with the denial of a hearing or rehearing en banc.

(c) A BODA determination in an appeal from a grievance classification decision under TRDP 2.10 is not a judgment for purposes of this rule and may be issued without a written opinion.

Rule 1.12. BODA Work Product and Drafts

A document or record of any nature—regardless of its form, characteristics, or means of transmission—that is created or produced in connection with or related to BODA's adjudicative decision-making process is not subject to disclosure or discovery. This includes documents prepared by any BODA member, BODA staff, or any other person acting on behalf of or at the direction of BODA.

Rule 1.13. Record Retention

Records of appeals from classification decisions must be retained by the BODA Clerk for a period of at least three years from the date of disposition. Records of other disciplinary matters must be retained for a period of at least five years from the date of final judgment, or for at least one year after the date a suspension or disbarment ends, whichever is later. For purposes of this rule, a record is any document, paper, letter, map, book, tape, photograph, film, recording, or other material filed with BODA, regardless of its form, characteristics, or means of transmission.

Rule 1.14. Costs of Reproduction of Records

The BODA Clerk may charge a reasonable amount for the reproduction of nonconfidential records filed with BODA. The fee must be paid in advance to the BODA Clerk.

Rule 1.15. Publication of These Rules

These rules will be published as part of the TDRPC and TRDP.

II. ETHICAL CONSIDERATIONS

Rule 2.01. Representing or Counseling Parties in Disciplinary Matters and Legal Malpractice Cases

(a) A current member of BODA must not represent a party or testify voluntarily in a disciplinary action or proceeding. Any BODA member who is subpoenaed or otherwise compelled to appear at a disciplinary action or proceeding, including at a deposition, must promptly notify the BODA Chair.

(b) A current BODA member must not serve as an expert witness on the TDRPC.

(c) A BODA member may represent a party in a legal

malpractice case, provided that he or she is later recused in accordance with these rules from any proceeding before BODA arising out of the same facts.

Rule 2.02. Confidentiality

(a) BODA deliberations are confidential, must not be disclosed by BODA members or staff, and are not subject to disclosure or discovery.

(b) Classification appeals, appeals from evidentiary judgments of private reprimand, appeals from an evidentiary judgment dismissing a case, interlocutory appeals or any interim proceedings from an ongoing evidentiary case, and disability cases are confidential under the TRDP. BODA must maintain all records associated with these cases as confidential, subject to disclosure only as provided in the TRDP and these rules.

(c) If a member of BODA is subpoenaed or otherwise compelled by law to testify in any proceeding, the member must not disclose a matter that was discussed in conference in connection with a disciplinary case unless the member is required to do so by a court of competent jurisdiction

Rule 2.03. Disqualification and Recusal of BODA Members

(a) BODA members are subject to disqualification and recusal as provided in TRCP 18b.

(b) BODA members may, in addition to recusals under (a), voluntarily recuse themselves from any discussion and voting for any reason. The reasons that a BODA member is recused from a case are not subject to discovery.

(c) These rules do not disqualify a lawyer who is a member of, or associated with, the law firm of a BODA member from serving on a grievance committee or representing a party in a disciplinary proceeding or legal malpractice case. But a BODA member must recuse him or herself from any matter in which a lawyer who is a member of, or associated with, the BODA member's firm is a party or represents a party.

III. CLASSIFICATION APPEALS

Rule 3.01. Notice of Right to Appeal

(a) If a grievance filed by the Complainant under TRDP 2.10 is classified as an inquiry, the CDC must notify the Complainant of his or her right to appeal as set out in TRDP 2.10 or another applicable rule. If a grievance is classified as a complaint, the CDC must notify both the Complainant and the Respondent of the Respondent's right to appeal as set out in TRDP 2.10 or another applicable rule.

(b) To facilitate the potential filing of an appeal of a grievance classified as an inquiry, the CDC must send the Complainant an appeal notice form, approved by BODA, with the classification disposition. For a grievance classified as a complaint, the CDC must send the Respondent an appeal notice form, approved by BODA, with notice of the classification disposition. The form must

include the docket number of the matter; the deadline for appealing; and information for mailing, faxing, or emailing the appeal notice form to BODA. The appeal notice form must be available in English and Spanish.

Rule 3.02. Record on Appeal

BODA must not consider documents or other submissions that the Complainant or Respondent filed with the CDC or BODA after the CDC's classification. When a notice of appeal from a classification decision has been filed, the CDC must forward to BODA a copy of the grievance and all supporting documentation. If the appeal challenges the classification of an amended grievance, the CDC must also send BODA a copy of the initial grievance, unless it has been destroyed.

Rule 3.03. Disposition of Classification Appeal

(a) BODA may decide a classification appeal by doing any of the following:

(1) affirm the CDC's classification of the grievance as an inquiry and the dismissal of the grievance;

(2) reverse the CDC's classification of the grievance as an inquiry, reclassify the grievance as a complaint, and return the matter to the CDC for investigation, just cause determination, and further proceedings in accordance with the TRDP;

(3) affirm the CDC's classification of the grievance as a complaint and return the matter to the CDC to proceed with investigation, just cause determination, and further proceedings in accordance with the TRDP; or

(4) reverse the CDC's classification of the grievance as a complaint, reclassify the grievance as an inquiry, and dismiss the grievance.

(b) When BODA reverses the CDC's inquiry classification and reclassifies a grievance as a complaint, BODA must reference any provisions of the TDRPC under which BODA concludes professional misconduct is alleged. When BODA affirms the CDC's complaint classification, BODA may reference any provisions of the TDRPC under which BODA concludes professional misconduct is alleged. The scope of investigation will be determined by the CDC in accordance with TRDP 2.12.

(c) BODA's decision in a classification appeal is final and conclusive, and such decision is not subject to appeal or reconsideration.

(d) A classification appeal decision under (a)(1) or (4), which results in dismissal, has no bearing on whether the Complainant may amend the grievance and resubmit it to the CDC under TRDP 2.10.

IV. APPEALS FROM EVIDENTIARY PANEL HEARINGS

Rule 4.01. Perfecting Appeal

(a) **Appellate Timetable.** The date that the evidentiary

judgment is signed starts the appellate timetable under this section. To make TRDP 2.21 [2.20] consistent with this requirement, the date that the judgment is signed is the “date of notice” under Rule [TRDP] 2.21 [2.20].

(b) Notification of the Evidentiary Judgment. The clerk of the evidentiary panel must notify the parties of the judgment as set out in TRDP 2.21 [2.20].

(1) The evidentiary panel clerk must notify the Commission and the Respondent in writing of the judgment. The notice must contain a clear statement that any appeal of the judgment must be filed with BODA within 30 days of the date that the judgment was signed. The notice must include a copy of the judgment rendered.

(2) The evidentiary panel clerk must notify the Complainant that a judgment has been rendered and provide a copy of the judgment, unless the evidentiary panel dismissed the case or imposed a private reprimand. In the case of a dismissal or private reprimand, the evidentiary panel clerk must notify the Complainant of the decision and that the contents of the judgment are confidential. Under TRDP 2.16, no additional information regarding the contents of a judgment of dismissal or private reprimand may be disclosed to the Complainant.

(c) Filing Notice of Appeal. An appeal is perfected when a written notice of appeal is filed with BODA. If a notice of appeal and any other accompanying documents are mistakenly filed with the evidentiary panel clerk, the notice is deemed to have been filed the same day with BODA, and the evidentiary panel clerk must immediately send the BODA Clerk a copy of the notice and any accompanying documents.

(d) Time to File. In accordance with TRDP 2.24 [2.23], the notice of appeal must be filed within 30 days after the date the judgment is signed. In the event a motion for new trial or motion to modify the judgment is timely filed with the evidentiary panel, the notice of appeal must be filed with BODA within 90 days from the date the judgment is signed.

(e) Extension of Time. A motion for an extension of time to file the notice of appeal must be filed no later than 15 days after the last day allowed for filing the notice of appeal. The motion must comply with Rule 1.09.

Rule 4.02. Record on Appeal

(a) Contents. The record on appeal consists of the evidentiary panel clerk’s record and, where necessary to the appeal, a reporter’s record of the evidentiary panel hearing.

(b) Stipulation as to Record. The parties may designate parts of the clerk’s record and the reporter’s record to be included in the record on appeal by written stipulation filed with the clerk of the evidentiary panel.

(c) Responsibility for Filing Record.

(1) Clerk’s Record.

(i) After receiving notice that an appeal has been filed, the clerk of the evidentiary panel is responsible for preparing, certifying, and timely filing the clerk’s record.

(ii) Unless the parties stipulate otherwise, the clerk’s record on appeal must contain the items listed in TRAP 34.5(a) and any other paper on file with the evidentiary panel, including the election letter, all pleadings on which the hearing was held, the docket sheet, the evidentiary panel’s charge, any findings of fact and conclusions of law, all other pleadings, the judgment or other orders appealed from, the notice of decision sent to each party, any postsubmission pleadings and briefs, and the notice of appeal.

(iii) If the clerk of the evidentiary panel is unable for any reason to prepare and transmit the clerk’s record by the due date, he or she must promptly notify BODA and the parties, explain why the clerk’s record cannot be timely filed, and give the date by which he or she expects the clerk’s record to be filed.

(2) Reporter’s Record.

(i) The court reporter for the evidentiary panel is responsible for timely filing the reporter’s record if:

- a) a notice of appeal has been filed;
- b) a party has requested that all or part of the reporter’s record be prepared; and
- c) the party requesting all or part of the reporter’s record has paid the reporter’s fee or has made satisfactory arrangements with the reporter.

(ii) If the court reporter is unable for any reason to prepare and transmit the reporter’s record by the due date, he or she must promptly notify BODA and the parties, explain the reasons why the reporter’s record cannot be timely filed, and give the date by which he or she expects the reporter’s record to be filed.

(d) Preparation of Clerk’s Record.

(1) To prepare the clerk’s record, the evidentiary panel clerk must:

- (i) gather the documents designated by the parties’ written stipulation or, if no stipulation was filed, the documents required under (c)(1)(ii);
- (ii) start each document on a new page;
- (iii) include the date of filing on each document;
- (iv) arrange the documents in chronological order, either by the date of filing or the date of occurrence;
- (v) number the pages of the clerk’s record in the manner required by (d)(2);

(vi) prepare and include, after the front cover of the clerk's record, a detailed table of contents that complies with (d)(3); and

(vii) certify the clerk's record.

(2) The clerk must start the page numbering on the front cover of the first volume of the clerk's record and continue to number all pages consecutively—including the front and back covers, tables of contents, certification page, and separator pages, if any—until the final page of the clerk's record, without regard for the number of volumes in the clerk's record, and place each page number at the bottom of each page.

(3) The table of contents must:

(i) identify each document in the entire record (including sealed documents); the date each document was filed; and, except for sealed documents, the page on which each document begins;

(ii) be double-spaced;

(iii) conform to the order in which documents appear in the clerk's record, rather than in alphabetical order;

(iv) contain bookmarks linking each description in the table of contents (except for descriptions of sealed documents) to the page on which the document begins; and

(v) if the record consists of multiple volumes, indicate the page on which each volume begins.

(e) **Electronic Filing of the Clerk's Record.** The evidentiary panel clerk must file the record electronically. When filing a clerk's record in electronic form, the evidentiary panel clerk must:

(1) file each computer file in text-searchable Portable Document Format (PDF);

(2) create electronic bookmarks to mark the first page of each document in the clerk's record;

(3) limit the size of each computer file to 100 MB or less, if possible; and

(4) directly convert, rather than scan, the record to PDF, if possible.

(f) **Preparation of the Reporter's Record.**

(1) The appellant, at or before the time prescribed for perfecting the appeal, must make a written request for the reporter's record to the court reporter for the evidentiary panel. The request must designate the portion of the evidence and other proceedings to be included. A copy of the request must be filed with the evidentiary panel and BODA and must be served on the appellee. The reporter's record must be certified by the court reporter for the evidentiary panel.

(2) The court reporter or recorder must prepare and file the reporter's record in accordance with TRAP 34.6 and

35 and the Uniform Format Manual for Texas Reporters' Records.

(3) The court reporter or recorder must file the reporter's record in an electronic format by emailing the document to the email address designated by BODA for that purpose.

(4) The court reporter or recorder must include either a scanned image of any required signature or "/s/" and name typed in the space where the signature would otherwise

(6¹) In exhibit volumes, the court reporter or recorder must create bookmarks to mark the first page of each exhibit document.

(g) **Other Requests.** At any time before the clerk's record is prepared, or within ten days after service of a copy of appellant's request for the reporter's record, any party may file a written designation requesting that additional exhibits and portions of testimony be included in the record. The request must be filed with the evidentiary panel and BODA and must be served on the other party.

(h) **Inaccuracies or Defects.** If the clerk's record is found to be defective or inaccurate, the BODA Clerk must inform the clerk of the evidentiary panel of the defect or inaccuracy and instruct the clerk to make the correction. Any inaccuracies in the reporter's record may be corrected by agreement of the parties without the court reporter's recertification. Any dispute regarding the reporter's record that the parties are unable to resolve by agreement must be resolved by the evidentiary panel.

(i) **Appeal from Private Reprimand.** Under TRDP 2.16, in an appeal from a judgment of private reprimand, BODA must mark the record as confidential, remove the attorney's name from the case style, and take any other steps necessary to preserve the confidentiality of the private reprimand.

¹ So in original.

Rule 4.03. Time to File Record

(a) **Timetable.** The clerk's record and reporter's record must be filed within 60 days after the date the judgment is signed. If a motion for new trial or motion to modify the judgment is filed with the evidentiary panel, the clerk's record and the reporter's record must be filed within 120 days from the date the original judgment is signed, unless a modified judgment is signed, in which case the clerk's record and the reporter's record must be filed within 60 days of the signing of the modified judgment. Failure to file either the clerk's record or the reporter's record on time does not affect BODA's jurisdiction, but may result in BODA's exercising its discretion to dismiss the appeal, affirm the judgment appealed from, disregard materials filed late, or apply presumptions against the appellant.

(b) **If No Record Filed.**

(1) If the clerk's record or reporter's record has not been

timely filed, the BODA Clerk must send notice to the party responsible for filing it, stating that the record is late and requesting that the record be filed within 30 days. The BODA Clerk must send a copy of this notice to all the parties and the clerk of the evidentiary panel.

(2) If no reporter's record is filed due to appellant's fault, and if the clerk's record has been filed, BODA may, after first giving the appellant notice and a reasonable opportunity to cure, consider and decide those issues or points that do not require a reporter's record for a decision. BODA may do this if no reporter's record has been filed because:

- (i) the appellant failed to request a reporter's record; or
- (ii) the appellant failed to pay or make arrangements to pay the reporter's fee to prepare the reporter's record, and the appellant is not entitled to proceed without payment of costs.

(c) Extension of Time to File the Reporter's Record.

When an extension of time is requested for filing the reporter's record, the facts relied on to reasonably explain the need for an extension must be supported by an affidavit of the court reporter. The affidavit must include the court reporter's estimate of the earliest date when the reporter's record will be available for filing.

(d) Supplemental Record. If anything material to either party is omitted from the clerk's record or reporter's record, BODA may, on written motion of a party or on its own motion, direct a supplemental record to be certified and transmitted by the clerk for the evidentiary panel or the court reporter for the evidentiary panel.

Rule 4.04. Copies of the Record

The record may not be withdrawn from the custody of the BODA Clerk. Any party may obtain a copy of the record or any designated part thereof by making a written request to the BODA Clerk and paying any charges for reproduction in advance.

Rule 4.05. Requisites of Briefs

(a) Appellant's Filing Date. Appellant's brief must be filed within 30 days after the clerk's record or the reporter's record is filed, whichever is later.

(b) Appellee's Filing Date. Appellee's brief must be filed within 30 days after the appellant's brief is filed.

(c) Contents. Briefs must contain:

- (1) a complete list of the names and addresses of all parties to the final decision and their counsel;
- (2) a table of contents indicating the subject matter of each issue or point, or group of issues or points, with page references where the discussion of each point relied on may be found;
- (3) an index of authorities arranged alphabetically and

indicating the pages where the authorities are cited;

(4) a statement of the case containing a brief general statement of the nature of the cause or offense and the result;

(5) a statement, without argument, of the basis of BODA's jurisdiction;

(6) a statement of the issues presented for review or points of error on which the appeal is predicated;

(7) a statement of facts that is without argument, is supported by record references, and details the facts relating to the issues or points relied on in the appeal;

(8) the argument and authorities;

(9) conclusion and prayer for relief;

(10) a certificate of service; and

(11) an appendix of record excerpts pertinent to the issues presented for review.

(d) Length of Briefs; Contents Included and Excluded.

In calculating the length of a document, every word and every part of the document, including headings, footnotes, and quotations, must be counted except the following: caption, identity of the parties and counsel, statement regarding oral argument, table of contents, index of authorities, statement of the case, statement of issues presented, statement of the jurisdiction, signature, proof of service, certificate of compliance, and appendix. Briefs must not exceed 15,000 words if computer-generated, and 50 pages if not, except on leave of BODA. A reply brief must not exceed 7,500 words if computer-generated, and 25 pages if not, except on leave of BODA. A computer generated document must include a certificate by counsel or the unrepresented party stating the number of words in the document. The person who signs the certification may rely on the word count of the computer program used to prepare the document.

(e) Amendment or Supplementation. BODA has discretion to grant leave to amend or supplement briefs.

(f) Failure of the Appellant to File a Brief. If the appellant fails to timely file a brief, BODA may:

- (1) dismiss the appeal for want of prosecution, unless the appellant reasonably explains the failure, and the appellee is not significantly injured by the appellant's failure to timely file a brief;
- (2) decline to dismiss the appeal and make further orders within its discretion as it considers proper; or
- (3) if an appellee's brief is filed, regard that brief as correctly presenting the case and affirm the evidentiary panel's judgment on that brief without examining the record.

Rule 4.06. Oral Argument

(a) Request. A party desiring oral argument must note the

request on the front cover of the party's brief. A party's failure to timely request oral argument waives the party's right to argue. A party who has requested argument may later withdraw the request. But even if a party has waived oral argument, BODA may direct the party to appear and argue. If oral argument is granted, the clerk will notify the parties of the time and place for submission.

(b) **Right to Oral Argument.** A party who has filed a brief and who has timely requested oral argument may argue the case to BODA unless BODA, after examining the briefs, decides that oral argument is unnecessary for any of the following reasons:

- (1) the appeal is frivolous;
- (2) the dispositive issue or issues have been authoritatively decided;
- (3) the facts and legal arguments are adequately presented in the briefs and record; or
- (4) the decisional process would not be significantly aided by oral argument.

(c) **Time Allowed.** Each party will have 20 minutes to argue. BODA may, on the request of a party or on its own, extend or shorten the time allowed for oral argument. The appellant may reserve a portion of his or her allotted time for rebuttal.

Rule 4.07. Decision and Judgment

(a) **Decision.** BODA may do any of the following:

- (1) affirm in whole or in part the decision of the evidentiary panel;
- (2) modify the panel's findings and affirm the findings as modified;
- (3) reverse in whole or in part the panel's findings and render the decision that the panel should have rendered; or
- (4) reverse the panel's findings and remand the cause for further proceedings to be conducted by:
 - (i) the panel that entered the findings; or
 - (ii) a statewide grievance committee panel appointed by BODA and composed of members selected from the state bar districts other than the district from which the appeal was taken.

(b) **Mandate.** In every appeal, the BODA Clerk must issue a mandate in accordance with BODA's judgment and send it to the evidentiary panel and to all the parties.

Rule 4.08. Appointment of Statewide Grievance Committee

If BODA remands a cause for further proceedings before a statewide grievance committee, the BODA Chair will appoint the statewide grievance committee in accordance with TRDP 2.27 [2.26]. The committee must consist of six members: four attorney members and two public members

randomly selected from the current pool of grievance committee members. Two alternates, consisting of one attorney and one public member, must also be selected. BODA will appoint the initial chair who will serve until the members of the statewide grievance committee elect a chair of the committee at the first meeting. The BODA Clerk will notify the Respondent and the CDC that a committee has been appointed.

Rule 4.09. Involuntary Dismissal

Under the following circumstances and on any party's motion or on its own initiative after giving at least ten days' notice to all parties, BODA may dismiss the appeal or affirm the appealed judgment or order. Dismissal or affirmance may occur if the appeal is subject to dismissal:

- (a) for want of jurisdiction;
- (b) for want of prosecution; or
- (c) because the appellant has failed to comply with a requirement of these rules, a court order, or a notice from the clerk requiring a response or other action within a specified time.

V. PETITIONS TO REVOKE PROBATION

Rule 5.01. Initiation and Service

(a) Before filing a motion to revoke the probation of an attorney who has been sanctioned, the CDC must contact the BODA Clerk to confirm whether the next regularly available hearing date will comply with the 30-day requirement of TRDP. The Chair may designate a three-member panel to hear the motion, if necessary, to meet the 30-day requirement of TRDP 2.23 [2.22].

(b) Upon filing the motion, the CDC must serve the Respondent with the motion and any supporting documents in accordance with TRDP 2.23 [2.22], the TRCP, and these rules. The CDC must notify BODA of the date that service is obtained on the Respondent.

Rule 5.02. Hearing

Within 30 days of service of the motion on the Respondent, BODA must docket and set the matter for a hearing and notify the parties of the time and place of the hearing. On a showing of good cause by a party or on its own motion, BODA may continue the case to a future hearing date as circumstances require.

VI. COMPULSORY DISCIPLINE

Rule 6.01. Initiation of Proceeding

Under TRDP 8.03, the CDC must file a petition for compulsory discipline with BODA and serve the Respondent in accordance with the TRDP and Rule 1.06 of these rules.

Rule 6.02. Interlocutory Suspension

(a) **Interlocutory Suspension.** In any compulsory proceeding under TRDP Part VIII in which BODA

determines that the Respondent has been convicted of an Intentional Crime and that the criminal conviction is on direct appeal, BODA must suspend the Respondent's license to practice law by interlocutory order. In any compulsory case in which BODA has imposed an interlocutory order of suspension, BODA retains jurisdiction to render final judgment after the direct appeal of the criminal conviction is final. For purposes of rendering final judgment in a compulsory discipline case, the direct appeal of the criminal conviction is final when the appellate court issues its mandate.

(b) **Criminal Conviction Affirmed.** If the criminal conviction made the basis of a compulsory interlocutory suspension is affirmed and becomes final, the CDC must file a motion for final judgment that complies with TRDP 8.05.

(1) If the criminal sentence is fully probated or is an order of deferred adjudication, the motion for final judgment must contain notice of a hearing date. The motion will be set on BODA's next available hearing date.

(2) If the criminal sentence is not fully probated:

(i) BODA may proceed to decide the motion without a hearing if the attorney does not file a verified denial within ten days of service of the motion; or

(ii) BODA may set the motion for a hearing on the next available hearing date if the attorney timely files a verified denial.

(c) **Criminal Conviction Reversed.** If an appellate court issues a mandate reversing the criminal conviction while a Respondent is subject to an interlocutory suspension, the Respondent may file a motion to terminate the interlocutory suspension. The motion to terminate the interlocutory suspension must have certified copies of the decision and mandate of the reversing court attached. If the CDC does not file an opposition to the termination within ten days of being served with the motion, BODA may proceed to decide the motion without a hearing or set the matter for a hearing on its own motion. If the CDC timely opposes the motion, BODA must set the motion for a hearing on its next available hearing date. An order terminating an interlocutory order of suspension does not automatically reinstate a Respondent's license.

VII. RECIPROCAL DISCIPLINE

Rule 7.01. Initiation of Proceeding

To initiate an action for reciprocal discipline under TRDP Part IX, the CDC must file a petition with BODA and request an Order to Show Cause. The petition must request that the Respondent be disciplined in Texas and have attached to it any information concerning the disciplinary matter from the other jurisdiction, including a certified copy of the order or judgment rendered against the Respondent.

Rule 7.02. Order to Show Cause

When a petition is filed, the Chair immediately issues a show cause order and a hearing notice and forwards them to the CDC, who must serve the order and notice on the Respondent. The CDC must notify BODA of the date that service is obtained.

Rule 7.03. Attorney's Response

If the Respondent does not file an answer within 30 days of being served with the order and notice but thereafter appears at the hearing, BODA may, at the discretion of the Chair, receive testimony from the Respondent relating to the merits of the petition.

VIII. DISTRICT DISABILITY COMMITTEE HEARINGS

Rule 8.01. Appointment of District Disability Committee

(a) If the evidentiary panel of the grievance committee finds under TRDP 2.17(P)(2), or the CDC reasonably believes under TRDP 2.14(C), that a Respondent is suffering from a disability, the rules in this section will apply to the de novo proceeding before the District Disability Committee held under TRDP Part XII.

(b) Upon receiving an evidentiary panel's finding or the CDC's referral that an attorney is believed to be suffering from a disability, the BODA Chair must appoint a District Disability Committee in compliance with TRDP 12.02 and designate a chair. BODA will reimburse District Disability Committee members for reasonable expenses directly related to service on the District Disability Committee. The BODA Clerk must notify the CDC and the Respondent that a committee has been appointed and notify the Respondent where to locate the procedural rules governing disability proceedings.

(c) A Respondent who has been notified that a disability referral will be or has been made to BODA may, at any time, waive in writing the appointment of the District Disability Committee or the hearing before the District Disability Committee and enter into an agreed judgment of indefinite disability suspension, provided that the Respondent is competent to waive the hearing. If the Respondent is not represented, the waiver must include a statement affirming that the Respondent has been advised of the right to appointed counsel and waives that right as well.

(d) All pleadings, motions, briefs, or other matters to be filed with the District Disability Committee must be filed with the BODA Clerk.

(e) Should any member of the District Disability Committee become unable to serve, the BODA Chair must appoint a substitute member.

Rule 8.02. Petition and Answer

(a) **Petition.** Upon being notified that the District Disability Committee has been appointed by BODA, the

CDC must, within 20 days, file with the BODA Clerk and serve on the Respondent a copy of a petition for indefinite disability suspension. Service must comply with Rule 1.06.

(b) **Answer.** The Respondent must, within 30 days after service of the petition for indefinite disability suspension, file an answer with the BODA Clerk and serve a copy of the answer on the CDC.

(c) **Hearing Setting.** The BODA Clerk must set the final hearing as instructed by the chair of the District Disability Committee and send notice of the hearing to the parties.

Rule 8.03. Discovery

(a) **Limited Discovery.** The District Disability Committee may permit limited discovery. The party seeking discovery must file with the BODA Clerk a written request that makes a clear showing of good cause and substantial need and a proposed order. If the District Disability Committee authorizes discovery in a case, it must issue a written order. The order may impose limitations or deadlines on the discovery.

(b) **Physical or Mental Examinations.** On written motion by the Commission or on its own motion, the District Disability Committee may order the Respondent to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. Nothing in this rule limits the Respondent's right to an examination by a professional of his or her choice in addition to any exam ordered by the District Disability Committee.

(1) Motion. The Respondent must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.

(2) Report. The examining professional must file with the BODA Clerk a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the CDC and the Respondent.

(c) **Objections.** A party must make any objection to a request for discovery within 15 days of receiving the motion by filing a written objection with the BODA Clerk. BODA may decide any objection or contest to a discovery motion.

Rule 8.04. Ability to Compel Attendance

The Respondent and the CDC may confront and cross-examine witnesses at the hearing. Compulsory process to compel the attendance of witnesses by subpoena, enforceable by an order of a district court of proper jurisdiction, is available to the Respondent and the CDC as provided in TRCP 176.

Rule 8.05. Respondent's Right to Counsel

(a) The notice to the Respondent that a District Disability Committee has been appointed and the petition for

indefinite disability suspension must state that the Respondent may request appointment of counsel by BODA to represent him or her at the disability hearing. BODA will reimburse appointed counsel for reasonable expenses directly related to representation of the Respondent.

(b) To receive appointed counsel under TRDP 12.02, the Respondent must file a written request with the BODA Clerk within 30 days of the date that Respondent is served with the petition for indefinite disability suspension. A late request must demonstrate good cause for the Respondent's failure to file a timely request.

Rule 8.06. Hearing

The party seeking to establish the disability must prove by a preponderance of the evidence that the Respondent is suffering from a disability as defined in the TRDP. The chair of the District Disability Committee must admit all relevant evidence that is necessary for a fair and complete hearing. The TRE are advisory but not binding on the chair.

Rule 8.07. Notice of Decision

The District Disability Committee must certify its finding regarding disability to BODA, which will issue the final judgment in the matter.

Rule 8.08. Confidentiality

All proceedings before the District Disability Committee and BODA, if necessary, are closed to the public. All matters before the District Disability Committee are confidential and are not subject to disclosure or discovery, except as allowed by the TRDP or as may be required in the event of an appeal to the Supreme Court of Texas.

IX. DISABILITY REINSTATEMENTS

Rule 9.01. Petition for Reinstatement

(a) An attorney under an indefinite disability suspension may, at any time after he or she has been suspended, file a verified petition with BODA to have the suspension terminated and to be reinstated to the practice of law. The petitioner must serve a copy of the petition on the CDC in the manner required by TRDP 12.06. The TRCP apply to a reinstatement proceeding unless they conflict with these rules.

(b) The petition must include the information required by TRDP 12.06. If the judgment of disability suspension contained terms or conditions relating to misconduct by the petitioner prior to the suspension, the petition must affirmatively demonstrate that those terms have been complied with or explain why they have not been satisfied. The petitioner has a duty to amend and keep current all information in the petition until the final hearing on the merits. Failure to do so may result in dismissal without notice.

(c) Disability reinstatement proceedings before BODA are not confidential; however, BODA may make all or any part of the record of the proceeding confidential.

Rule 9.02. Discovery

The discovery period is 60 days from the date that the petition for reinstatement is filed. The BODA Clerk will set the petition for a hearing on the first date available after the close of the discovery period and must notify the parties of the time and place of the hearing. BODA may continue the hearing for good cause shown.

Rule 9.03. Physical or Mental Examinations

(a) On written motion by the Commission or on its own, BODA may order the petitioner seeking reinstatement to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. The petitioner must be served with a copy of the motion and given at least seven days to respond. BODA may hold a hearing before ruling on the motion but is not required to do so.

(b) The petitioner must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.

(c) The examining professional must file a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the parties.

(d) If the petitioner fails to submit to an examination as ordered, BODA may dismiss the petition without notice.

(e) Nothing in this rule limits the petitioner's right to an examination by a professional of his or her choice in addition to any exam ordered by BODA.

Rule 9.04. Judgment

If, after hearing all the evidence, BODA determines that the petitioner is not eligible for reinstatement, BODA may, in its discretion, either enter an order denying the petition or direct that the petition be held in abeyance for a reasonable period of time until the petitioner provides additional proof as directed by BODA. The judgment may include other orders necessary to protect the public and the petitioner's potential clients.

X. APPEALS FROM BODA TO THE SUPREME COURT OF TEXAS

Rule 10.01. Appeals to the Supreme Court

(a) A final decision by BODA, except a determination that a statement constitutes an inquiry or a complaint under TRDP 2.10, may be appealed to the Supreme Court of Texas. The clerk of the Supreme Court of Texas must docket an appeal from a decision by BODA in the same manner as a petition for review without fee.

(b) The appealing party must file the notice of appeal directly with the clerk of the Supreme Court of Texas within 14 days of receiving notice of a final determination by BODA. The record must be filed within 60 days after

BODA's determination. The appealing party's brief is due 30 days after the record is filed, and the responding party's brief is due 30 days thereafter. The BODA Clerk must send the parties a notice of BODA's final decision that includes the information in this paragraph.

(c) An appeal to the Supreme Court is governed by TRDP 7.11 and the TRAP.