

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**GREGORY L. LATTIMER,**

Respondent.

**PDJ-2020-9019**

**FINAL JUDGMENT  
AND ORDER**

[State Bar No. 19-1227]

**FILED JULY 7, 2020**

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

Accordingly:

**IT IS ORDERED** Respondent, **GREGORY L. LATTIMER**, is admonished for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

**DATED** this 7<sup>th</sup> day of July 2020.

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

Copies of the foregoing mailed/mailed  
this 7th day of July 2020, to:

Gregory L. Lattimer  
1200 G Street NW, Suite 800  
Washington, DC 20005  
Email: lattlaw@aol.com  
Respondent

James D. Lee  
Senior Bar Counsel  
State Bar of Arizona  
4201 North 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
Email: LRO@staff.azbar.org

by: BEnsign

James D. Lee, Bar No. 011586  
Senior Bar Counsel  
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4201 North 24<sup>th</sup> Street, Suite 100  
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1200 G Street NW, Suite 800  
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Telephone: (202) 434-4513  
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Respondent

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**GREGORY L. LATTIMER,**

Respondent.

**PDJ-2020-9019**

**AGREEMENT FOR DISCIPLINE  
BY CONSENT**

[State Bar File No. 19-1227]

The State Bar of Arizona, and Respondent Gregory L. Lattimer, who has chosen not to seek the assistance of counsel, hereby submit their Agreement for Discipline by Consent pursuant to Rule 57(a), Ariz. R. Sup. Ct. The Attorney Discipline Probable Cause Committee (ADPCC) found probable cause that Respondent had

engaged in misconduct, and imposed an admonition and probation on January 22, 2020. Respondent timely filed a demand that a formal proceeding be instituted. The ADPCC vacated the admonition and probation on February 19, 2020, and directed bar counsel to prepare and file a complaint. A formal complaint was filed February 28, 2020.

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 hereafter, if the conditional admissions and proposed form of discipline are approved.

Pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct., notice of this agreement was provided to the complainant, Maricopa County Superior Court Judge Jay M. Polk, by email on May 20, 2020. On May 22, 2020, Judge Polk emailed an objection to the State Bar regarding the proposed resolution of this matter based on the dismissal of the conflict of interest allegations. Judge Polk does *not* object to the sanctions agreed upon. A copy of Judge Polk's objection is attached hereto as Exhibit A.<sup>1</sup>

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<sup>1</sup> One of the two attachments to Judge Polk's email message was a copy of a minute entry filed on April 22, 2019 (that minute entry formed the "charge" that was investigated by the State Bar). Judge Polk objects to the dismissal of the alleged violations of ER 1.7(a) and ER 1.8(g), which were the most serious allegations he submitted. He does *not* object to the admonition and Respondent's agreement to complete the State Bar's "10 Deadly Sins of Conflicts" continuing legal education

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ERs 1.5(b) and (c). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Admonition.

## **FACTS**

### **GENERAL ALLEGATIONS**

1. At all times relevant, Respondent was a lawyer licensed to practice law in the District of Columbia, having been first admitted to practice in the District of Columbia on July 5, 1983. Respondent has never been a member of the State Bar of Arizona, but has been admitted *pro hac vice* in the U.S. District Court for the District of Arizona.

### **COUNT ONE**

#### **(File No. 19-1227/Judicial Referral)**

2. On December 2, 2014, a Phoenix police officer shot and killed Romain Brisbon (“Romain”), who died intestate.

3. Romain had four minor daughters at the time of his death:<sup>2</sup> A.R., S.A.B., S.N.B. and Z.C. (collectively, “Romain’s daughters”). Romain was also survived by

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course. See the “Conditional Dismissals” section below for the State Bar’s reasoning behind the dismissal of the conflict of interest allegations.

<sup>2</sup> Romain’s daughters, who were minors at the time of his death, are identified by initials to protect their identity.

his parents, Ricky McGee and Nora Brisbon.

4. In early December 2014, Mykel Chambers (A.R.'s mother) contacted Washington, D.C. Attorney Malik Shabazz. Shortly thereafter, Respondent and Attorney Shabazz spoke with Ms. Chambers.

5. On December 9, 2014, Mykel Chambers retained Respondent and Attorney Shabazz to initiate a wrongful death and survival action regarding the death of Romain Brisbon, who was the father of her daughter, A.R. It was understood at that time that local counsel would be retained by Respondent and Shabazz to have her appointed as the personal representative of the Estate of Romain Brisbon, as that was the only mechanism by which she could initiate such litigation.

a. The "Agreement of Retainer" did not clearly set forth in writing the types of costs and expenses for which Ms. Chambers would be responsible.

b. That "Agreement of Retainer" did not provide any written explanation regarding the meaning of "costs" or "expenses," and provided no examples.

6. Attorney Shabazz contacted Arizona Attorney LaShawn Jenkins about assisting with the case in Arizona.

7. Attorney Jenkins was retained by Respondent and Attorney Shabazz to represent Mykel Chambers in a probate proceeding (to get her appointed as personal

representative of Romain's estate) and to act as local counsel for the district court case that Respondent and Attorney Shabazz intended to file in the U.S. District Court for the District of Arizona.

8. Following a hearing on January 8, 2015, Commissioner Lisa Vandenberg appointed Mykel Chambers as A.R.'s guardian and limited conservator.

9. On February 19, 2015, Commissioner Vandenberg entered an *Order of Appointment of Personal Representative, Intestacy, and Determination of Heirs* in PB2015-000082. She determined that A.R., S.A.B. and S.N.B. were Romain's heirs. She also appointed Mykel Chambers as the personal representative of Romain's estate.

10. On April 23, 2015, as a result of Mykel Chambers being appointed Personal Representative of the Estate of Romain Brisbon, Respondent and Attorneys Shabazz and Jenkins jointly filed a complaint (electronically signed by Attorney Jenkins) in U.S. District Court on behalf of Mykel Chambers, the personal representative of the Estate of Romain Brisbon and the next best friend of his minor heirs, against the City of Phoenix and Officer Mark Rine (No. 2:15-cv-00740). The caption of that complaint listed Ms. Chambers (the sole plaintiff) "as the Personal Representative of the Estate of Romain Brisbon and as the Next Best Friend of SAB,

AJR, & SNB, the Minor Offspring of Romain Brisbon and Nora Brisbon, the Mother of Romain Brisbon.” The complaint set forth claims for wrongful death, assault and battery, intentional infliction of emotional distress, and three violations of 42 U.S.C. § 1983. The signature block on the complaint indicated that Respondent was one of the “Attorneys for the Plaintiff Mykel Chambers,” in her capacity as personal representative of the Estate of Romain Brisbon and as the next best friend of his minor heirs.

11. At the time the district court complaint was filed, Respondent and Attorney Shabazz represented the personal representative of the Estate of Romain Brisbon, Mykel Chambers, who was the only plaintiff in that litigation.

12. On May 5, 2015, in an effort to appear on Mykel Chambers’s behalf in U.S. District Court, Respondent filed an *Application of Attorney for Admission to Practice Pro Hac Vice pursuant to LRCiv 83.1(b)(2)*.

13. On May 12, 2015, the U.S. District Court granted Respondent’s motion to be admitted *pro hac vice*.

14. Sometime in 2015, Mykel Chambers informed Respondent that Romain’s father, Ricky McGee, was incarcerated in Illinois. Respondent informed her that they needed to locate Mr. McGee because he was entitled to participate in the lawsuit as a beneficiary.



15. Respondent was able to locate Ricky McGee and wrote to him on October 20, 2015.

16. On October 23, 2015, Ricky McGee wrote a letter to Respondent stating he wanted Respondent and Attorney Jenkins to represent him.

17. On October 30, 2015, Respondent and Attorney Jenkins, acting on behalf of the personal representative Mykel Chambers, filed an amended complaint in the pending district court case, which identified Ricky McGee as a beneficiary. As of that date, Mr. McGee had not yet signed an ER 1.5(b) writing for Respondent or Attorney Jenkins.

18. On November 3, 2015, approximately seven months after Attorney Jenkins served notices of claim on the City of Phoenix, the Phoenix Police Department and Officer Mark Rine, Mykel Chambers executed a second "Agreement of Retainer" following the withdrawal of Attorney Shabazz, wherein she retained the Respondent and LaShawn Jenkins to litigate the federal court lawsuit that had been filed.

19. On November 12, 2015, Respondent wrote to Ricky McGee and forwarded a joint "Agreement of Representation" on behalf of his law firm and Attorney Jenkins's law firm.

20. On November 23, 2015, approximately three weeks after the amended complaint was filed in district court, Ricky McGee signed a joint “Agreement of Retainer” with Respondent and Attorney Jenkins’s law firms.

21. Respondent’s November 2015 “Agreement[s] of Retainer” with Mykel Chambers and Ricky McGee did not (a) include the fee they were entitled to receive in the event of appeal; or (b) clearly state the litigation and other expenses to be deducted from the recovery.

a. For example, Respondent and Attorney Jenkins’s November 2015 “Agreement[s] of Retainer” with Mykel Chambers and Ricky McGee did not provide any explanation regarding the meaning of “costs” or “expenses,” and provided no examples.

22. During mediation of the district court case on May 6, 2017, Nora Brisbon, the successor personal representative of the Estate of Romain Brisbon, agreed to enter into a global settlement of \$1.5 million regarding all claims, including both the wrongful death claims and the § 1983 claims. All heirs and beneficiaries were present at the settlement conference except Ricky McGee, who was allowed to appear telephonically. Each of them consented to and agreed with the settlement proposed by Nora Brisbon. Respondent was also present at that mediation conference, as was Attorney Jenkins, Nora Brisbon, and counsel for each of the heirs.

### **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 Rule 42, Ariz. R. Sup. Ct., specifically ERs 1.5(b) and (c).

### **CONDITIONAL DISMISSALS**

Upon acceptance of the Agreement for Discipline by Consent, the following ethical rule violations will be dismissed with prejudice as part of the agreement to resolve this case: ER 1.7(a) and ER 1.8(g).

The State Bar agreed, as part of the settlement of this matter, to dismiss the conflict of interest allegations because Respondent denies violating those rules and, while the State Bar believes it could prove the conflict of interest allegations at a contested hearing, the State Bar believes that the imposition of an admonition (as agreed in this consent agreement) would be an appropriate sanction if a hearing panel were to find that Respondent failed to comply with the conflict of interest rules, as well as ER 1.5(b) and (c). Furthermore, the ADPCC initially imposed an admonition and probation after reviewing and considering bar counsel's 17-page report of investigation that fully addressed the conflict of interest allegations. The State Bar also considered the fact that Respondent, who is presently suspended from the

practice of law in the District of Columbia, is not admitted to practice law in Arizona, rarely practices law in Arizona, and must fulfill a fitness requirement before being reinstated to the practice of law in the District of Columbia.

### **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 sanction is appropriate: Admonition.

### **LEGAL GROUNDS IN SUPPORT OF SANCTION**

In determining an appropriate sanction, the parties consulted the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* pursuant to Rule 57(a)(2)(E). The *Standards* are designed to promote consistency in the imposition of sanctions by identifying relevant factors that courts should consider and then applying those factors to situations where lawyers have engaged in various types of misconduct. *Standards* 1.3, former Commentary.<sup>3</sup> The *Standards* provide guidance with respect to an appropriate sanction in this matter.

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<sup>3</sup> The ABA House of Delegates passed/adopted a resolution on or about February 4, 2012, that reaffirmed the "black letter" of the ABA *Standards for Imposing Lawyer Sanctions*, but rescinded its adoption of the "Commentary."

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 ABA *Standards for Imposing Lawyer Sanctions* are the appropriate *Standards* to apply for violations of ERs 1.5(b) and (c) given the facts and circumstances of this matter: *Standards 4.64 and 7.4.*

*Standard 4.64* states, "Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence in failing to provide a client with accurate or complete information, and causes little or no actual or potential injury to the client."

*Standard 7.4* states, "Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence that is a violation of a duty owed as a professional, and causes little or no actual or potential injury to a client, the public, or the legal system."

### **The duty violated**

Respondent's violation of ER 1.5(b) and (c) violated his duty to the profession by failing to communicate to his clients the possible costs and expenses that may be associated with litigation within a reasonable time of commencing the representation.

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

Respondent negligently failed to have a writing signed by Ricky McGee and Mykel Chambers (the latter as personal representative of Romain Brisbon's estate), which included a statement explaining the type of litigation and other expenses to be deducted from the recovery.

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

No known actual injury resulted from Respondent's violations of ER 1.5(b) and (c).

### **Aggravating and mitigating circumstances**

The presumptive sanction is admonition. The parties conditionally agree that the following aggravating and mitigating factors should be considered:

#### **In aggravation:**

(a) *Standard* 9.22(a) – prior disciplinary offenses.

- Respondent was informally admonished by District of Columbia Office of Bar Counsel on May 25, 2006, for violating Rules 1.1(a), 1.1(b), 1.5(e)(2), 1.15(a), and 1.15(b) (he failed to safe-keep his client's property, failed to deliver client funds promptly, failed to provide competent representation and serve a client with the skill and care commensurate with that generally afforded to clients by other

lawyers in similar matters, and failed to provide the proper writing for a division of legal fees between two lawyers who are not in the same firm, while retained to represent the parent of two minor children in a civil action against the District of Columbia).

- On January 16, 2020, the District of Columbia Court of Appeals suspended Respondent for 60 days, ordered restitution (to the family of one client) and imposed a fitness requirement for reinstatement for violating of District of Columbia Rule 1.4(a) and Virginia Rules 1.1, 1.3(a) and 8.4(c).

(b) *Standard 9.22(i)* – substantial experience in the practice of law (Respondent was admitted to practice law on July 5, 1983, by the District of Columbia Bar, and on October 3, 1988, by the U.S. District Court for the District of Columbia).

**In mitigation:**

- (a) *Standard 9.32(b)* – absence of a dishonest or selfish motive.
- (b) *Standard 9.32(e)* – full and free disclosure to bar counsel and cooperative attitude toward the proceedings.

## **Discussion**

The parties conditionally agree that the sanction of admonition is within the range of appropriate sanctions 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). In this case, no charge of misconduct was submitted by Mykel Chambers, Ricky McGee, any party, or the district court judge that presided over the district court lawsuit. While the parties recognize that the Presiding Disciplinary Judge must determine whether a factual basis exists for the conditionally admitted misconduct and whether the proposed sanction is appropriate, the State Bar and Respondent believe the objectives of discipline will be met by the imposition of the proposed sanction of admonition. The parties agree that no costs and expenses will be imposed due to the inability to determine whether the settlement offer included payment of costs and expenses. A proposed form of order is attached hereto as Exhibit B.

**DATED** this 11th day of June, 2020.

**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.**

DATED this 11<sup>th</sup> day of June, 2020.

  
\_\_\_\_\_  
Gregory L. Lattimer  
Respondent

Approved as to form and content

/s/Maret Vessella

Maret Vessella  
Chief Bar Counsel

Original filed with the Disciplinary Clerk of  
the Office of the Presiding Disciplinary Judge  
of the Supreme Court of Arizona  
this 11th day of June, 2020.

Copy of the foregoing emailed  
this 11th day of June, 2020, to:

The Honorable William J. O'Neil  
Presiding Disciplinary Judge  
Supreme Court of Arizona  
1501 West Washington Street, Suite 102  
Phoenix, Arizona 85007  
E-mail: [officepdj@courts.az.gov](mailto:officepdj@courts.az.gov)

Copy of the foregoing emailed  
this 11th day of June, 2020, to:

Gregory L. Lattimer  
1200 G Street NW, Suite 800  
Washington, DC 20005  
Email: lattlaw@aol.com  
Respondent

Copy of the foregoing electronically  
maintained by the State Bar of Arizona  
this 11th day of June, 2020, for:

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

by: /s/Jackie Brokaw  
JDL/jlb

**EXHIBIT A**



## SUPERIOR COURT OF ARIZONA

From the Chambers of  
Jay M. Polk  
Associate Presiding Judge  
Probate and Mental Health Department

MARICOPA COUNTY  
East Court Building  
101 West Jefferson, Courtroom 511  
Phoenix, AZ 85003

Phone: (602) 372-0879  
Fax: (602) 506-2289

May 22, 2020

**VIA U.S. MAIL & E-MAIL to [jim.lee@staff.azbar.org](mailto:jim.lee@staff.azbar.org) and [jackie.brokaw@staff.azbar.org](mailto:jackie.brokaw@staff.azbar.org)**

James D. Lee, Esq.  
Senior Bar Counsel  
State Bar of Arizona  
4201 North 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266

**Re: Your File No. 19-1227, Gregory L. Lattimer**

Dear Mr. Lee:

Thank you for your May 20, 2020, letter regarding the above-referenced matter. Although I certainly appreciate the many reasons why a disputed matter may be resolved through settlement, I respectfully object to the settlement in Mr. Lattimer's case. In particular, I object to the dismissal of the conflicts of interest allegations against Mr. Lattimer because I believe those ethical violations are far more serious than the ER 1.5 violations. However, I do not object to the sanctions agreed upon as part of the settlement (i.e., an admonishment and a requirement to complete the "10 Deadly Sins of Conflict" course).

As explained in more detail on pages 3 through 6 and 21 through 26 of my April 11, 2019, Minute Entry in case numbers PB2015-000082, PB2014-003388, PB2016-00114, PB2016-001115, and PB2016-001116 (a copy of which is enclosed with this letter), Mr. Lattimer violated ER 1.7(a) and 1.8(g) by simultaneously representing three clients whose interests conflicted with one another. Those three clients are the following: (1) Mykel A. Chambers ("Ms. Chambers") in her capacity as the conservator for her minor daughter, Aiyana Raines; (2) Ms. Chambers in her capacity as the personal representative of the Estate of Romain Brisbon, deceased (the "Estate"); and (3) Ricky McGee ("Mr. McGee"), who is the surviving father of Romain Brisbon ("Mr. Brisbon").

Initially, Mr. Lattimer undertook to represent Ms. Chambers in connection with any claims for damages that "[Aiyana] sustained as a result of the shooting death of Romain Brisbon." (The quoted language is from the December 9, 2014, *Agreement of Retainer* between Mr. Lattimer and

Ms. Chambers.) Thus, Mr. Lattimer owed Ms. Chambers and Aiyana a duty of “undeviating and single allegiance.” *In re Estate of Shano*, 177 Ariz. 550, 556, 869 P.2d 1203, 1209 (App. 1993). In other words, Mr. Lattimer ethically was obligated to try to obtain the largest amount of damages that he reasonably could *for Aiyana* and no one else.

Mr. Lattimer subsequently undertook to represent Ms. Chambers regarding claims for damages that “the Estate of Romain Brisbon and [Aiyana] sustained as a result of the shooting death of Romain Brisbon.” (The quoted language is from the November 3, 2015, *Agreement of Retainer* between Mr. Lattimer and Ms. Chambers.) By this time, Ms. Chambers was serving in two different fiduciary capacities, first as Aiyana’s conservator and then as the Estate’s personal representative. As Aiyana’s conservator, Ms. Chambers was obligated to act solely in Aiyana’s best interest. *See* Ariz. Rev. Stat. § 14-5417. However, as the Estate’s personal representative, she had a duty to be neutral and not favor the interest of any of the Estate’s beneficiaries. *See Shano’s Estate*, 177 Ariz. at 556, 869 P.2d at 1209. Because the beneficiaries of the Estate included three other minor children besides Aiyana (and none of who were children of Ms. Chambers), Ms. Chambers’ duty as Aiyana’s conservator conflicted with her duty as the Estate’s personal representative. This conflict passed through to Mr. Lattimer, who undertook to represent Ms. Chambers in both of her fiduciary capacities at the same time. *See In re Estate of Fogleman*, 197 Ariz. 252, 258, ¶ 18, 3 P.3d 1172, 1178 (App. 2000) (holding that the attorney for the personal representative of an estate owes a derivative fiduciary duty to the estate’s beneficiaries); *Fickett v. Super. Ct. of Pima County*, 27 Ariz. App. 793, 795-96, 558 P.2d 988, 990-91 (1976) (holding that the attorney for a guardian owes a derivative duty to the ward).

Mr. Lattimer then engaged in a new conflict of interest when he undertook to represent Mr. McGee “to prosecute the claim or claims for damages against any and all persons, entities or governments, which may be liable and responsible . . . as a result of the shooting death of Romain Brisbon.” (The quoted language is from the November 23, 2015, *Agreement of Retainer* between Mr. Lattimer and Mr. McGee.) As Mr. McGee’s lawyer, Mr. Lattimer owed Mr. McGee a duty of “undivided loyalty.” *See Fogleman’s Estate*, 197 Ariz. at 258, ¶ 19, 3 P.3d at 1178. Thus, Mr. Lattimer was obligated to try to obtain the largest amount of damages that he reasonably could obtain *for McGee* and no one else. However, this obligation directly conflicted with his obligations to Ms. Chambers, who was acting in two different fiduciary capacities.

These conflicts were exacerbated by the competing legal claims that Mr. Lattimer made on behalf of his multiple clients in the federal lawsuit. Mr. Lattimer asserted two classes of claims. He asserted a wrongful death claim under A.R.S. section 12-612, and he asserted multiple claims under 42 U.S.C. § 1983 (the “Section 1983 Claims”). The persons entitled to damages under these two sets of claims differed. The only “person” entitled to damages for the Section 1983 Claims was the Estate. Pursuant to Arizona’s laws of intestate succession, each of Mr. Brisbon’s four minor children was entitled to an equal share of the Estate. In contrast, pursuant to A.R.S. sections 12-612(A), (C), and -613, Mr. Brisbon’s four minor children, as well as his two parents (one of whom is Mr. McGee), were entitled to compensation for the wrongful death claim based on their individual, unique damages.

Thus, Mr. Lattimer had two levels of conflict resulting from his simultaneous representation of Ms. Chambers and Mr. McGee. First, after the City of Phoenix agreed to pay a

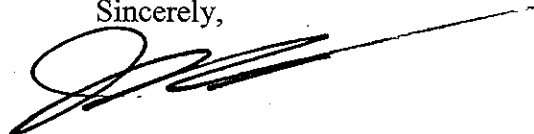
James D. Lee, Esq.  
May 22, 2020  
Page 3 of 3

lump sum to settle *all* the claims, the settlement proceeds needed to be allocated between the wrongful death claim and the Section 1983 Claims. Because Mr. McGee was not entitled to any of the proceeds allocated to the Section 1983 Claims whereas Aiyana was entitled to one-fourth ( $\frac{1}{4}$ ) of the proceeds allocated to the Section 1983 Claims, Mr. Lattimer's clients' interests conflicted when determining how to allocate the settlement proceeds between the wrongful death claim and the Section 1983 Claims. Second, because each beneficiary of a wrongful death claim is entitled to compensation based on that particular beneficiary's individual damages, *see Nunez v. Nunez*, 25 Ariz. App. 558, 563, 545 P.2d 69, 74 (1976) (recognizing that "the respective interests of the persons entitled to be compensated for the loss of the decedent are different and in some circumstances . . . may be conflicting"), Mr. McGee's and Ms. Chambers' interests in allocating the limited pool of settlement proceeds attributed to the wrongful death claim among the six statutory beneficiaries necessarily conflicted with one another (Aiyana was Mr. Brisbon's minor child whom he was legally obligated to support whereas Mr. McGee was Mr. Brisbon's estranged father who had been in prison).

What best illustrates Mr. Lattimer's conflicts are the numbers themselves. On October 30, 2017, Mr. Lattimer's co-counsel, LaShawn D. Jenkins, filed on behalf of Ms. Chambers and Mr. McGee an *Opposition to the Petition for Approval of Allocation of Settlement Filed by Nora Brisbon and Petition for a More Appropriate Allocation*. Mr. Jenkins proposed that Aiyana be allocated \$150,000 and that Mr. McGee be allocated \$45,000 as damages for their wrongful death claims. He also proposed that \$64,401.26 be allocated to the Estate on the Section 1983 Claims, which would have resulted in Aiyana receiving approximately another \$16,100 (this does not consider any attorney fees or expenses the estate would have had to pay before distributions). However, Mr. Lattimer subsequently objected when the Special Master recommended that Aiyana receive \$200,000 (\$50,000 *more* than Mr. Jenkins proposed) and Ricky McGee receive \$40,000 (\$5,000 less than Mr. Jenkins proposed) for their wrongful death claims and that the Estate receive \$360,000 for the Section 1983 Claims (the \$360,000 is before the payment of approximately \$246,000 in attorney fees and expenses to various law firms).

I recognize that the "purpose of lawyer discipline is not to punish the lawyer but to protect the public, the legal profession, and the justice system." *In re Martinez*, 2020 WL 2071939, ¶ 40 (2020). To that end, my concern is that the proposed consent agreement's failure to recognize Mr. Lattimer's multiple conflicts of interest will not deter Mr. Lattimer from engaging in similar misconduct in the future, nor will it serve as a deterrent to others. *See id.* (stating that lawyer discipline deters the disciplined lawyer and others from engaging in the same or similar misconduct). Accordingly, I very respectfully object to the proposed settlement.

Sincerely,



Jay M. Polk

JMP/jp  
Enclosure

**EXHIBIT B**

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**GREGORY L. LATTIMER,**

Respondent.

**PDJ-2020-9019**

**FINAL JUDGMENT  
AND ORDER**

[State Bar No. 19-1227]

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

**Accordingly:**

**IT IS ORDERED** that Respondent, **Gregory L. Lattimer**, is admonished for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

**DATED** this \_\_\_\_\_ day of June, 2020.

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



Original filed with the Disciplinary Clerk of  
the Office of the Presiding Disciplinary Judge  
of the Supreme Court of Arizona  
this \_\_\_\_\_ day of June, 2020.

Copies of the foregoing mailed/mailed  
this \_\_\_\_\_ day of June, 2020, to:

Gregory L. Lattimer  
1200 G Street NW, Suite 800  
Washington, DC 20005  
Email: lattlaw@aol.com  
Respondent

Copy of the foregoing emailed/hand-delivered  
this \_\_\_\_\_ day of June, 2020, to:

James D. Lee  
Senior Bar Counsel  
State Bar of Arizona  
4201 North 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
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Phoenix, Arizona 85016-6266

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