

FILED

JAN 11 2005

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

S118768

**REVIEW DEPARTMENT OF THE STATE BAR COURT
IN BANK**

IN THE MATTER OF CASSANDRA D. JONES, State Bar No. 170053,

A MEMBER OF THE STATE BAR OF CALIFORNIA

Under the authority of rule 951(b), California Rules of Court, respondent **CASSANDRA D. JONES, State Bar No. 170053**, is suspended from the practice of law in this state effective February 3, 2005, pending proof of passage, since respondent has not passed the Multistate Professional Responsibility Examination within the time prescribed in the Supreme Court order filed November 25, 2003. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8; *In the Matter of Layton* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 366, 381, fn 9.)



Presiding Judge

(State Bar Court Case No. 01-O-01078; 01-O-04099; 01-O-04341; 01-O-05389; 02-O-11926;
02-O-12510 (Cons.))

S118768

SUPREME COURT
FILED

IN THE SUPREME COURT OF CALIFORNIA

NOV 25 2003

EN BANC

Frederick K. Ohlrich Clerk

DEPUTY

IN RE CASSANDRA DENISE JONES ON DISCIPLINE

It is ordered that **CASSANDRA DENISE JONES, State Bar No. 170053**, be suspended from the practice of law for two years, that execution of suspension be stayed, and that she be placed on probation for two years on condition that she be actually suspended for 60 days. Respondent is also ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed July 2, 2003. It is further ordered that she take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar and one-fifth of said costs shall be added to and become part of the membership fees for the years 2004, 2005, 2006, 2007 and 2008. (Business & Professions Code section 6086.10.)


Chief Justice

Counsel for the State Bar THE OFFICE OF THE CHIEF TRIAL COUNSEL, ENFORCEMENT ELI D. MORGENSTERN, No. 190560 THE STATE BAR OF CALIFORNIA 1149 South Hill Street Los Angeles, CA 90015-2299 Telephone: (213) 765-1000	Case number(s) 02-0-12510-RMT 02-0-11926-RMT 01-0-05389-RMT 01-0-04341-RMT 01-0-01099-RMT 01-0-04098 01-0-01078-RMT EDM	(for Court use) ORIGINAL PUBLIC MATTER FILED 'JUL'-2 2003 <i>He</i> STATE BAR COURT CLERKS OFFICE LOS ANGELES
Counsel for Respondent DAVID A. CLARE, No. 44971 12791 Western Avenue, #J Garden Grove, CA 92841		
In the Matter of CASSANDRA DENISE JONES Bar #170053 A Member of the State Bar of California (Respondent)	Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted April 15, 1994
(date)
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation, are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation and order consist of 18 pages.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - ☐ until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
 - ☒ costs to be paid in equal amounts prior to February 1 for the following membership years:
 costs shall be added to and become a part of the membership fees for the years 2004, 2005,
 (hardship, special circumstances or other good cause per rule 284, Rules of Procedure) 2006, 2007,
 and 2008.
 - ☐ costs waived in part as set forth under "Partial Waiver of Costs"
 - ☐ costs entirely waived

Note: All information required by this form and any additional information which cannot be provided in the space provided, shall be set forth in the text component of this stipulation under specific headings, i.e. "Facts," "Dismissals," "Conclusions of Law."

Aggravating circumstances, if any, see standards for Attorney sanctions for Professional Misconduct, standard 1.2(b).) Facts supporting aggravating circumstances are required.

(1) ☐ Prior record of discipline [see standard 1.2(f)]

(a) ☐ State Bar Court case # of prior case _____

(b) ☐ date prior discipline effective _____

(c) ☐ Rules of Professional Conduct/ State Bar Act violations: _____

(d) ☐ degree of prior discipline _____

(e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below or under "Prior Discipline".

(2) ☐ Dishonesty: Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.

(3) ☐ Trust Violation: Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.

(4) ☒ Harm: Respondent's misconduct harmed significantly a client, the public or the administration of justice.

(5) ☐ Indifference: Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

(6) ☐ Lack of Cooperation: Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.

(7) ☐ Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.

(8) ☐ No aggravating circumstances are involved.

Additional aggravating circumstances:

..., only supporting mitigating circumstances are required.

- (1) ☐ No Prior Discipline: Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ No Harm: Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☐ Candor/Cooperation: Respondent displayed spontaneous candor and cooperation to the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ Remorse: Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ Restitution: Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ Delay: These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ Good Faith: Respondent acted in good faith.
- (8) ☐ Emotional/Physical Difficulties: At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ Severe Financial Stress: At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☒ Family Problems: At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ Good Character: Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ Rehabilitation: Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ No mitigating circumstances are involved.

Additional mitigating circumstances: Please see page 17.

D. Discipline

1. Stayed Suspension.

A. Respondent shall be suspended from the practice of law for a period of two (2) years

- ☐ i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ☐ ii. and until Respondent pays restitution to _____ [payee(s)] (or the Client Security Fund, if appropriate), in the amount of _____, plus 10% per annum accruing from _____, and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel
- ☐ iii. and until Respondent does the following: _____

B. The above-referenced suspension shall be stayed.

2. Probation.

Respondent shall be placed on probation for a period of two (2) years, which shall commence upon the effective date of the Supreme Court order herein. (See rule 953, California Rules of Court.)

3. Actual Suspension.

A. Respondent shall be actually suspended from the practice of law in the State of California for a period of sixty (60) days

- ☐ i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ☐ ii. and until Respondent pays restitution to _____ [payee(s)] (or the Client Security Fund, if appropriate), in the amount of _____, plus 10% per annum accruing from _____, and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel
- ☐ iii. and until Respondent does the following: _____

E. Additional Conditions of Probation:

- (1) ☒ If Respondent is actually suspended for two years or more, he/she shall remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) ☒ During the probation period, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) ☒ Within ten (10) days of any change, Respondent shall report to the Membership Records Office of the State Bar and to the Probation Unit, all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) ☒ Respondent shall submit written quarterly reports to the Probation Unit on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, respondent shall state whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all

conditions of probation during the preceding calendar quarter. If the first report would cover less than 30 days, that report shall be submitted on the next quarter, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (5) ☐ Respondent shall be assigned a probation monitor. Respondent shall promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, respondent shall furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Probation Unit. Respondent shall cooperate fully with the probation monitor.
- (6) ☒ Subject to assertion of applicable privileges, Respondent shall answer fully, promptly and truthfully any inquiries of the Probation Unit of the Office of the Chief Trial Counsel and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (7) ☒ Within one (1) year of the effective date of the discipline herein, respondent shall provide to the Probation Unit satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended.
- (8) ☐ Respondent shall comply with all conditions of probation imposed in the underlying criminal matter and shall so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Probation Unit.
- (9) ☒ The following conditions are attached hereto and incorporated:
- | | |
|---|--|
| <input type="checkbox"/> Substance Abuse Conditions | <input checked="" type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |
- (10) ☒ Other conditions negotiated by the parties:
- ☒ Multistate Professional Responsibility Examination: Respondent shall provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Probation Unit of the Office of the Chief Trial Counsel during the period of actual suspension or within one year, whichever period is longer. Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 951(b), California Rules of Court, and rule 321(a)(1) & (b), Rules of Procedure.
- ☐ No MPRE recommended.
- ☐ Rule 955, California Rules of Court: Respondent shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 30 and 40 days, respectively, from the effective date of the Supreme Court order herein.
- ☐ Conditional Rule 955, California Rules of Court: If Respondent remains actually suspended for 90 days or more, he/she shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 120 and 130 days, respectively, from the effective date of the Supreme Court order herein.
- ☐ Credit for Interim Suspension [conviction referral cases only]: Respondent shall be credited for the period of his/her interim suspension toward the stipulated period of actual suspension.

In the Matter of

CASSANDRA DENISE JONES

A Member of the State Bar

Case Number(s):

02-0-12510-RMT, 02-0-11926-RMT

01-0-05389-RMT, 01-0-04341-RMT

01-0-01099-RMT, and 01-0-01078-RMT

Law Office Management Conditions

- a. ☒ Within 180 days/ ____ months/ ____ years of the effective date of the discipline herein, Respondent shall develop a law office management/ organization plan, which must be approved by respondent's probation monitor, or, if no monitor is assigned, by the Probation Unit. This plan must include procedures to send periodic reports to clients; the documentation of telephone messages received and sent; file maintenance; the meeting of deadlines; the establishment of procedures to withdraw as attorney, whether of record or not, when clients cannot be contacted or located; and, for the training and supervision of support personnel.
- b. ☒ Within 180 days/ ____ months ____ years of the effective date of the discipline herein, respondent shall submit to the Probation Unit satisfactory evidence of completion of no less than six (6) hours of MCLE approved courses in law office management, attorney client relations and/ or general legal ethics. ~~This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and respondent shall not receive MCLE credit for attending these courses (Rule 320) x Rules of Procedure of the State Bar) x~~
- c. ☐ Within 30 days of the effective date of the discipline, respondent shall join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for ____ year(s). Respondent shall furnish satisfactory evidence of membership in the section to the Probation Unit of the Office of Chief Trial Counsel in the first report required.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: CASSANDRA DENISE JONES

CASE NUMBER(S): 02-O-12510-RMT
 02-O-11926-RMT
 01-O-05389-RMT
 01-O-04341-RMT
 01-O-04099-RMT
 01-O-01078 -RMT

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that she is culpable of violations of the specified statutes and Rules of Professional Conduct.

Case No. 02-O-12510-RMT

Facts

1. In or about March 2000, George E. Ray ("Ray") employed Respondent to represent him in his pending marital dissolution proceeding , George Ray. Joan Ray, Orange County Superior Court case no. 99D001877. Respondent agreed to perform these services for an hourly fee and Ray paid Respondent an advance fee of \$1, 500.00 at the time she was retained; Ray agreed to pay additional fees to Respondent if the advance fee was exceeded.
2. On September 26, 2000, Respondent appeared for the trial in the Ray dissolution proceeding. At this time, the parties settled the case and filed a stipulation with the court. The court ordered Respondent to prepare the formal judgment and to provide it to opposing counsel for approval as to form and content before filing with the court.
3. Thereafter, Respondent failed and refused to prepare the judgment for the reason that Ray did not pay her fees that she claimed were owed on the case above the advance fee paid.
4. Respondent failed to adequately communicate with Ray after he did not pay her these

additional fees, and Respondent failed to return several telephonic messages from him.

5. Respondent failed to properly withdraw from this case once she decided not to proceed for non-payment of fees, and Respondent failed to promptly return her file to Ray upon his request.

6. On May 22, 2002, the State Bar opened an investigation on the complaint filed by Ray against Respondent. On May 29, 2002, and again on June 13, 2002, State Bar Investigator Holly Creamer ("Creamer") wrote to Respondent regarding this matter and requested Respondent's written response. Respondent failed to promptly furnish a written response to this complaint to Creamer.

Legal Conclusions

Respondent wilfully violated rule 3-700(A)(2) of the Rules of Professional Conduct, by withdrawing from employment without taking reasonable steps to avoid reasonably foreseeable prejudice to the rights of Ray.

Respondent failed to respond promptly to Ray's status inquiries after the settlement in the Ray dissolution proceeding, in wilful violation of Business and Professions Code section 6068(m).

Respondent wilfully failed to promptly deliver Ray's file to him, in wilful violation of rule 3-700(D)(1) of the Rules of Professional Conduct.

Respondent failed to furnish a written response to Creamer's letters of inquiry, in wilful violation of Business and Professions Code section 6068(i).

Case No. 02-O-11926-RMT

Facts

1. On or about November 3, 2001, Tuyet Mai ("Mai") employed Respondent to represent Mai in a child custody matter against Ngoc Nguyen, the father of Mai's children, in a previously filed action in the Orange County Superior Court, case no. 99P000529 ("child custody matter"). Respondent was paid an advance fee of \$1, 500.00 and the clients agreed to pay an hourly fee for Respondent's services.

2. Respondent reviewed the court file and otherwise investigated the situation, and came

to the conclusion that Mai had not sufficiently participated in visitation with her children to give her a viable case for custody. Respondent then advised Mai that she would have to pick up her children for all of her scheduled visitation and see whether that visitation would be interfered with by Mr. Nguyen.

3. Thereafter, only Mai's husband, Anthony Evans ("Evans") attempted to communicate with Respondent, and she requested that, instead, Mai contact her. Mai did not contact Respondent and thereafter in or about March 2002, Evans again called Respondent's office and left a message that Respondent's services were terminated and that he requested a refund of any unearned fees. Respondent believed that she had earned all fees paid and did not respond to this message, thereby failing to adequately communicate with Mai.

4. On April 19, 2002, the State Bar opened an investigation on the complaint filed by Evans on behalf of himself and Mai. On April 29, 2002, and again on May 23, 2002, State Bar Investigator Holly Creamer ("Creamer") wrote to Respondent regarding this matter and requested Respondent's written response. Respondent failed to promptly furnish a written response to this complaint to Creamer.

Legal Conclusions

Respondent failed to promptly respond to the telephone message in March 2002, left on behalf of Mai, in wilful violation of Business and Professions Code section 6068(m).

Respondent failed to furnish a written response to Creamer's letters of inquiry, in wilful violation of Business and Professions Code section 6068(i).

Case No. 01-O-05389-RMT

Facts

1. In or about July 2000, Melissa Greve ("Grove") employed Respondent to represent her in a her marital dissolution action. Respondent agreed to perform these services for an hourly fee and Grove paid Respondent an advance fee of \$1, 500.00 at the time Respondent was retained.

2. On or about July 20, 2000, Respondent filed a Petition for Dissolution of Marriage and an Order to Show Cause ("OSC") and Temporary Restraining Order ("TRO") and appeared at an ex parte hearing on behalf of Grove in Orange County Superior case no. 00D006789, entitled *Melissa Greve v. Ronald Greve* ("the Grove dissolution proceeding"). The TRO was issued on this date.

3. Respondent represented Greve at the OSC on August 14, 2000, and filed an Income and Expense Declaration on behalf of Greve. On this date, the court extended the TRO to August 14, 2003, and made orders granting sole legal and physical custody of the minor child to Greve and ordered her husband to pay monthly child support; Mr. Greve was allowed visitation under restricted conditions and on the schedule that the parties had agreed to in mediation. With the exception of the TRO, all orders were made until further order of the court.

4. Following this hearing, Respondent did not perform any further legal services on the case in court or by filing court documents. Respondent refused to go forward in court with the case for the reason that Greve did not pay her fees that Respondent claimed were owed on the case above the advance fee paid.

5. Respondent failed to adequately communicate with Greve after Greve did not pay these additional fees, and she failed to return several telephonic messages from Greve.

6. Respondent failed to properly withdraw from this case once she decided not to proceed for non-payment of fees, and she failed to promptly deliver her file to Greve upon Greve's request.

Legal Conclusions

Respondent wilfully violated rule 3-700(A)(2) of the Rules of Professional Conduct, by withdrawing from employment without taking reasonable steps to avoid reasonably foreseeable prejudice to the rights of Greve.

Respondent failed to respond promptly to Greve's status inquiries after she decided not to proceed in the Greve dissolution proceeding, in wilful violation of Business and Professions Code section 6068(m).

Respondent wilfully failed to promptly deliver Greve's file to her, in wilful violation of rule 3-700(D)(1) of the Rules of Professional Conduct.

Case No. 01-O-04341-RMT

Facts

1. On or about October 19, 1996, Lillian J. Rhooms ("Rhooms") retained Respondent to represent her in a discrimination action against the Santa Ana Unified School District on a

contingency fee basis. Rhooms was a cafeteria worker who had been denied a promotion that she felt she was entitled to receive.

2. On or about July 11, 1997, Respondent filed a lawsuit on behalf of Rhooms in Orange County Superior Court case no. 781633, entitled *Rhooms v. Santa Ana Unified School District* ("the Rhooms action").

3. Opposing counsel served discovery upon Respondent in the form of interrogatories and demand for production of documents, and attempted to depose Rhooms. This discovery was not promptly responded to and on or about June 11, 1998, opposing counsel brought a motion to compel responses to this discovery and to compel Rhooms' deposition; Respondent was served with this motion and did not file any opposition to it.

4. Around this same time, Respondent came to the conclusion that Rhooms' discrimination claim was without merit and should not be further pursued; Respondent would testify that Rhooms misled her as to the merit of the case by not advising her of other discrimination claims Rhooms had filed, and that these later discovered facts negatively impacted the claim that Respondent was handling for Rhooms.

5. After receiving the motion to compel discovery, Respondent met with Rhooms and advised her that she should dismiss her case; Respondent believed at this time that Rhooms agreed to this dismissal, and Respondent had Rhooms sign a court form for a request for dismissal (which was not intended for filing and was not filed), but Rhooms would testify that she did not fully understand the situation and did not agree to dismiss her case.

6. Following this meeting, Respondent contacted opposing counsel and agreed to dismiss the case in exchange for a waiver of costs and for withdrawing the pending motion to compel discovery. Respondent then filed a Request for Dismissal of the case on July 8, 1998, and it was dismissed on or about that date.

7. Respondent failed to adequately notify Rhooms of this dismissal, but believed that Rhooms knew of it.

8. On or about June 26, 2001, Rhooms wrote to Respondent inquiring about the status of her case and requesting other information. Respondent did not respond to this inquiry.

Legal Conclusion

By failing to adequately apprise Rhooms of the dismissal of the Rhooms action in terms

that Rhooms understood, and by not responding to Rhooms' letter of inquiry of June 26, 2001, Respondent violated Business and Professions Code section 6068(m).

Case No. 01-O-04099-RMT

Facts

1. On or about September 8, 2000, Reuben Sanders ("Sanders") employed Respondent to represent him in a post-judgment family law matter involving an Order to Show Cause ("OSC") re visitation and custody and a child support action by the District Attorney for Sanders alleged non-payment of child support. Sanders agreed to pay Respondent an hourly fee at the rate of \$150.00 for her services and paid her a total of \$1,750.00 in fees between on or about September 8, 2000, and on or about December 1, 2000.

2. Respondent prepared and filed the response to the District Attorney's motion against Sanders in *County of Los Angeles v. Reuben Sanders*, Los Angeles County Superior Court case no. BYO179139. On or about May 22, 2001, Respondent and Sanders appeared in this case for an OSC re modification which was continued on joint motion of Sanders and the District Attorney to September 7, 2001.

3. Although notice of this continued date was allegedly served by mail on Respondent and Sanders by the District Attorney's office, neither received notice of the September 7, 2001, OSC, and neither appeared in court on that date. On this date, the court proceeded in the absence of Respondent and Sanders and granted the motion resulting in higher child support payments for Sanders.

4. On or about September 19, 2001, Sanders was served with the Order after Hearing of September 7, 2001, and learned of the events of September 7, 2001. Respondent was not served with this order. Respondent then received a letter dated September 21, 2001, from another attorney on behalf of Sanders who enclosed a Substitution of Attorneys form for Respondent; Respondent signed and returned the substitution on or about October 1, 2001.

5. Respondent failed to promptly deliver the file to Sanders.

6. During her representation of Sanders, there were times when Respondent failed to promptly return his telephone calls regarding the status of his cases; Respondent would testify that she did not receive these messages, however, she failed to adequately supervise her staff to ensure that she learned of these communications.

7. On or about October 15, 2001, the State Bar opened an investigation on the complaint filed by Sanders against Respondent. On October 19, 2001, and again on November 2, 2001, State Bar Investigator Holly Creamer ("Creamer") wrote to Respondent regarding this matter and requested Respondent's written response. Respondent failed to promptly furnish a written response to this complaint to Creamer.

Legal Conclusions

Respondent failed to promptly respond to all of Sanders' status inquiries, in wilful violation of Business and Professions Code section 6068(m).

Respondent failed to promptly deliver Sanders' file to him, in wilful violation of rule 3-700(D)(1) of the Rules of Professional Conduct.

Respondent failed to furnish a written response to Creamer's letters of inquiry, in wilful violation of Business and Professions Code section 6068(i).

Case No. 01-O-01078-RMT

Facts

1. In or about November of 1997, Pablo Salgado ("Salgado") employed Respondent to represent him in a family law matter, Emma Salgado v. Pablo Salgado, case no. 97D008019, filed with the Orange County Superior Court ("Salgado matter").

2. On or about June 11, 1999, Respondent gave her office manager a fully executed Substitution of Attorney form ("the Substitution") and intended for him to file the document on that same day. Although the office manager advised Respondent that he had filed the Substitution on this date, it was not filed. Respondent failed to adequately supervise her office manager in filing this Substitution of Attorney and thus she remained as attorney of record in the Salgado matter.

3. In or about November 1999, Respondent received notice from the Court that the trial date in the Salgado matter was set for February 15, 2000. She then realized that the Substitution may not have been filed and she again attempted to file it through her office manager in or about November 1999. This time the Substitution was rejected by the Court for lack of a proof of service, and that rejection was received but not immediately seen by Respondent. Again, Respondent did not adequately supervise her office manager in filing the Substitution and remained as attorney of record in the Salgado matter.

4. In or about January 2003, Respondent realized again that the Substitution of Attorney was not filed and she caused it to be filed just before the February 11, 2000 trial date. In or about January 2003, Respondent claims she sent a letter to Salgado notifying him of the trial date for the Salgado matter; however, Salgado claims he did not receive the letter, and he did not appear for the February 11, 2003, trial, and a judgment was entered against Salgado.

5. On or about April 2, 2001, the State Bar opened an investigation on the complaint filed by Salgado against Respondent. On April 20, and June 1, 2001, State Bar Investigator Chin Eronobi wrote to Respondent about this complaint and requested her written response thereto.

6. Respondent called Investigator Eronobi and briefly discussed the matter but failed to furnish him with a timely written response to the complaint.

Legal Conclusions

By withdrawing from employment without properly supervising her office manager in filing the Substitution, Respondent failed to take reasonable steps to avoid reasonably foreseeable prejudice to the rights of Salgado, in wilful violation of rule 3-700(A)(2) of the Rules of Professional Conduct.

By failing to advise Salgado of the February 11, 2000, trial date and resulting judgment, Respondent failed to inform her client of significant events in a manner in which Respondent had agreed to provide legal services, in wilful violation of Business and Professions Code section 6068(m).

By not providing a written response to the allegations in the Salgado matter, Respondent failed to cooperate and participate in a disciplinary investigation pending against her, in wilful violation of Business and Professions Code section 6068(i).

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(6), was June 3, 2003.

DISMISSALS.

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
02-O-12510-RMT	ONE TWO	Rules of Professional Conduct, rule 3-110(A) Business and Professions Code section 6103
02-O-11926-RMT	ONE THREE FOUR	Rules of Professional Conduct, rule 3-110(A) Rules of Professional Conduct, rule 3-700(A)(2) Rules of Professional Conduct, rule 3-700(D)(2)
01-O-05389-RMT	ONE THREE	Rules of Professional Conduct, rule 3-110(A) Rules of Professional Conduct, rule 4-100(B)(3)
01-O-04341-RMT	ONE TWO FOUR FIVE SIX	Rules of Professional Conduct, rule 3-110(A) Business and Professions Code section 6068(m) Rules of Professional Conduct, rule 3-700(A)(2) Rules of Professional Conduct, rule 3-700(D)(1) Business and Professions Code section 6106
01-O-04099-RMT	ONE THREE FIVE SIX SEVEN SEVEN	Rules of Professional Conduct, rule 3-110(A) Business and Professions Code, section 6068(m) Rules of Professional Conduct, rule 3-700(D)(2) Rules of Professional Conduct, rule 4-100(B)(3) Rules of Professional Conduct, rule 3-700(A)(2) Rules of Professional Conduct, rule 3-700(A)(2)
01-O-01078-RMT	ONE	Rules of Professional Conduct, rule 3-110(A)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of June 3, 2003, the estimated prosecution costs in this matter are approximately \$12, 962.57. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. Respondent

further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings. Respondent does not waive her right to contest these costs.

AUTHORITIES SUPPORTING DISCIPLINE.

Standards for Attorney Sanctions for Professional Misconduct, Standards 1.2(b)(ii) and 1.2(b)(iv) apply to this case.

In *Matthew v. State Bar* (1989) 49 Cal.3d 784, the attorney failed to perform competently and failed to return unearned fees in two (2) separate client matters. In a third client matter, the attorney was employed by a client to prepare a living trust, which he failed to complete until four years after retention. The State Bar ordered that the attorney be actually suspended for sixty (60) days as a condition of probation.

In *Lester v. State Bar* (1976) 17 Cal.3d 547, the attorney was found to have wilfully failed to perform legal services in four (4) matters in which he was retained, failed to communicate and failed to refund fees until forced to do so. He showed no mitigation. The attorney received six months actual suspension.

In *Gold v. State Bar* (1989) 49 Cal. 3d 908, the attorney was hired by a minor to represent her in a personal injury matter. The client attempted to contact the attorney for four years without success. When respondent finally met with the client, he represented to her that he had settled her case for \$2,000.00; the attorney eventually provided the client with a distribution authorization and a check in the amount of \$907.25. In reality, the attorney never settled the client's case and intentionally misrepresented to the client that he had done so. The matter had been dismissed because the attorney failed to bring it to trial within five years. (*Id.* at 911.)

The attorney had no prior record of discipline over the 25 years that he had practiced law, received no financial benefit from the deception, and in fact paid the \$907.25 out of his own pocket. (*Id.* at 914-915.) The Supreme Court ordered respondent suspended for 30 days. (*Id.* at 915.)

In *Wren v. State Bar* (1983) 34 Cal.3d 81, the attorney failed to prosecute his client's claim, failed to return phone calls and answer written correspondence, and misrepresented to the client that a trial date had been set when, in fact, the attorney had not obtained a trial date or even filed suit. The Review Department also found that the attorney attempted to mislead the State Bar by giving false and misleading testimony before the hearing panel. The Supreme Court placed the attorney on probation for two years with certain conditions, including actual suspension for 45 days of the probationary period.

STATE BAR ETHICS SCHOOL.

Respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

OTHER CONDITIONS NEGOTIATED BY THE PARTIES.

Respondent has agreed to voluntarily refund George Ray (Complainant in Case No. 02-O-12510-RMT) \$750.00 and Reuban Sanders (Complainant in Case No. 01-O-04099-RMT) \$900.00, as a gesture of good faith, and will do so within six (6) months of the effective date of the discipline herein as a condition of probation.

MITIGATING CIRCUMSTANCES.

During the events set forth in this stipulation, Respondent was caring for, and was trustee for her mother who was suffering from Alzheimer's disease as well as other serious medical problems. The situation took Respondent away from her practice and kept her out of her law office on numerous occasions, often without warning. The time Respondent spent with her mother's matters, including litigation, negatively impacted her ability to work and, in particular, to handle communications in her office.

6/18/03
Date

Cassandra Jones
Petitioner's signature

CASSANDRA DENISE JONES
Print name

6/18/03
Date

David A. Clare
Respondent's Counsel's signature

DAVID A. CLARE
Print name

6/19/03
Date

Eli D. Morgenstern
Deputy Trial Counsel's signature

ELI D. MORGENSTERN
Print name

ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☒ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 953(a), California Rules of Court.)

6/27/03
Date

Richard A. Honn
Judge of the State Bar Court
RICHARD A. HONN

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on July 2, 2003, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING ACTUAL SUSPENSION, filed July 2, 2003**

in a sealed envelope for collection and mailing on that date as follows:

- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**DAVID A. CLARE, ESQ.,
12791 WESTERN AVE #J
GARDEN GROVE, CA 92841**

- [X] by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

ELI D. MORGENSTERN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **July 2, 2003.**

A handwritten signature in black ink, appearing to read "T. Cleaver", is written over a horizontal line.

Tammy R. Cleaver
Case Administrator
State Bar Court



The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in the State Bar Court.

ATTEST September 19, 2013

State Bar Court, State Bar of California,
Los Angeles

By

Clerk