


# PUBLIC MATTER

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State Bar Court of California		
Hearing Department <input checked="" type="checkbox"/> Los Angeles <input type="checkbox"/> San Francisco		
<b>Counsel for the State Bar</b> Gordon L. Grenier Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015-2299 (213) 765-1000 Bar # 225430	<b>Case number(s)</b>  04-O-12283, 04-O-12371  kwiktag® 022 606 658 	<b>(for Court's use)</b>  <b>FILED</b>  SEP 20 2006 <i>g</i>  STATE BAR COURT CLERK'S OFFICE LOS ANGELES
<input checked="" type="checkbox"/> Counsel for Respondent <input type="checkbox"/> In Pro Per, Respondent Ellen A. Pansky 500 S. Grand Ave., FL 14 Los Angeles, CA 90071 Bar # 77688	<b>Submitted to</b> <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge	
<b>In the Matter of</b> Afsaneh N. Newman Bar # 210357 A Member of the State Bar of California (Respondent)	<b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</b>  <b>REPROVAL</b> <input type="checkbox"/> PRIVATE <input checked="" type="checkbox"/> PUBLIC  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

## A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted DECEMBER 4, 2000  
(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 12 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) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) 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.

(Do not write above this line.)

(8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):

- (a)  costs added to membership fee for calendar year following effective date of discipline (public reproof)
- (b)  case ineligible for costs (private reproof)
- (c)  costs to be paid in equal amounts for the following membership years:  
\_\_\_\_\_ (hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
- (d)  costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
- (e)  costs entirely waived

(9) The parties understand that:

- (a)  A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
- (b)  A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
- (c)  A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

**B. Aggravating Circumstances [for definition, 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 \_\_\_\_\_

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- (e)  If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "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:

**C. Mitigating Circumstances [see standard 1.2(e)]. Facts 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 with 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.

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- (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:**

1. Respondent has no prior record of discipline in nearly six years of practice.
2. Respondent has displayed candor and cooperation with the State Bar during the disciplinary investigation and proceedings.
3. Respondent underwent surgery and was placed on medical disability during part of the time period in which the misconduct occurred.

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**D. Discipline:**

- (1)  Private reproof (check applicable conditions, if any, below)
- (a)  Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b)  Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).
- or
- (2)  Public reproof (check applicable conditions, if any, below)

**E. Conditions Attached to Reproof:**

- (1)  Respondent must comply with the conditions attached to the reproof for a period of 1 year
- (2)  During the condition period attached to the reproof, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3)  Within ten (10) days of any change, Respondent must report to the Membership Records Office and to the Office of Probation of the State Bar of California ("Office of Probation"), 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)  Within 30 days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5)  Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the condition period attached to the reproof. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of the reproof during the preceding calendar quarter. Respondent must also state in each report whether there are any proceedings pending against him or her in the State Bar Court and, if so, the case number and current status of that proceeding. If the first report would cover less than thirty (30) days, that report must be submitted on the next following quarter date 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 condition period and no later than the last day of the condition period.

- (6)  Respondent must be assigned a probation monitor. Respondent must 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 must furnish such reports as may be requested, in addition to quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the monitor.

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- (7)  Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation 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 conditions attached to the reproof.
- (8)  Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance of the Ethics School and passage of the test given at the end of that session.
- No Ethics School ordered. Reason: \_\_\_\_\_
- (9)  Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report required to be filed with the Office of Probation.
- (10)  Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year of the effective date of the reproof.
- No MPRE ordered. Reason: \_\_\_\_\_
- (11)  The following conditions are attached hereto and incorporated:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input type="checkbox"/> Financial Conditions             |

**F. Other Conditions Negotiated by the Parties:**

**ATTACHMENT TO**

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:       AFSANEH N. NEWMAN

CASE NUMBER(S):       04-O-12283, 04-O-12371

**FACTS AND CONCLUSIONS OF LAW.**

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

**WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY**

The parties waive any variance between the Second Amended Notices of Disciplinary Charges filed concurrently with this stipulation, and the facts and/or conclusions of law contained in this stipulation.

**Case No. 04-O-12283**

**Statement of Facts:**

1. On December 26, 2001, Juan Corona and Martha Corona (collectively "the Coronas") hired attorney Geraldine Ly ("Ly") to represent them in a personal injury matter arising out of automobile accident that occurred on or about November 15, 2001. Ly was hired on a contingency fee basis.

2. On September 26, 2002, Ly filed a lawsuit on behalf of the Coronas, entitled *Corona v. Van Noort*, Case no. 02SL04601, venued in Orange County Superior Court ("the Corona lawsuit").

3. During the course of the litigation, the defendant in the Corona lawsuit was deployed to serve in the military in Iraq and Ly informed the Coronas that litigation proceedings must be stayed as a result of the deployment, and that the Coronas would not be receiving any monetary compensation until the case is actively litigated again. The Coronas were displeased with the delay and Ly advised that they could seek alternative counsel.

4. The Coronas therefore consulted with Respondent about their lawsuit. The Coronas

informed Respondent that Ly was representing them at the time. The Coronas retained Respondent to represent them in their lawsuit.

5. In March of 2004, Respondent negotiated a settlement of the Coronas lawsuit with Farmers Insurance Group ("Farmers"). But Ly remained the attorney of record in the Corona lawsuit.

6. On March 5, 2004, Respondent's office filed a request for dismissal of the Corona lawsuit. Four days later the Orange County Superior Court rejected Respondent's request for dismissal because Respondent was not the attorney of record in the Corona lawsuit.

7. On March 17, 2004, Respondent's office filed a second request for dismissal ("second request") of the Corona lawsuit.

8. The second request was prepared by a non-attorney-staff member in Respondent's office. Respondent did not supervise the drafting of the second request; nor did she review the second request prior to her office filing it in the Orange County Superior Court.

9. The second request was misleading. It contained Ly's name in the caption and Ly's purported signature, but failed to disclose that it had come from Respondent's office without Ly's actual consent.

10. The Orange County Superior Court relied upon the second request and accordingly dismissed the Corona lawsuit in its entirety on March 17, 2004.

Conclusions of Law:

11. By failing to supervise her non-attorney employee in drafting and subsequently filing the second request, Respondent repeatedly failed to supervise the work of a non-attorney employee in violation of rule 3-100(A) of the Rules of Professional Conduct.

Case No. 04-O-12371

Statement of Facts:

12. On or about August 29, 2003, Lori Aaron Banks ("Banks") hired Respondent to pursue a personal injury matter which arose out of an automobile accident involving her and her two minor sons.

13. On December 16, 2003, Banks hired a new attorney, Victor Oswald ("Oswald").



14. On January 8, 2004, GMAC Insurance ("GMAC") issued three (3) checks in the Banks matter: a check in the amount of \$848 for Brandon Banks' medical bills, a check in the amount of \$1,458 for Taylor Banks' medical bills, and a check in the amount of \$2,000 for Lori Banks' medical bills (collectively "medical payment checks"). Each of the medical payment checks was made payable to Respondent and Lori Aaron-Banks, and all were sent to Respondent's office.

15. Respondent's office turned over a copy of the Banks client file to Oswald on January 29, 2004, but the file did not include any indication that Respondent's office received the medical payment checks.

16. Respondent failed to promptly inform Banks or Oswald that she had received the medical payment checks.

#### Conclusion of Law:

17. By not promptly informing Banks or Oswald that she had received the medical payment checks, Respondent failed to keep her client reasonably informed about significant developments relating to the employment or representation.

#### **MITIGATING CIRCUMSTANCES**

##### No Prior Record of Discipline

Respondent has no prior record of discipline in nearly six years of practice.

##### Candor and Cooperation with the State Bar

Respondent has displayed candor and cooperation with the State Bar during the disciplinary investigation and proceedings.

##### Period of Physical Disability During the Time of the Misconduct

Pursuant to Milind K. Ambe, M.D., Respondent underwent surgery and was placed on medical disability between December 15, 2003 and January 5, 2004.

#### **AUTHORITIES SUPPORTING DISCIPLINE**

Standard 2.10 states that culpability of a member of a violation of any Rule of Professional Conduct not specified in the standards shall result in reproof or suspension according to the gravity of the offense or the harm, if any, to the victim, with due regard to the

purposes of imposing discipline set forth in standard 1.3.

In *Samuelson v. State Bar* (1979) 23 Cal.3d 558, the respondent failed to expeditiously process probate proceedings by delaying the matter for five years even though the issues were not complex. Samuelson failed to communicate with one of the heirs to the estate and failed to communicate with the State Bar even after promising to do so. In mitigation, the Court considered respondent's 30 years of practice without prior discipline. The respondent received a public reproof.

In *In the Matter of Hanson* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 703, the respondent, in a single client matter, failed to refund promptly an unearned legal fee and failed to take reasonable steps to avoid prejudice to a client prior to withdrawal from representation. The respondent had a prior private reproof approximately nineteen years earlier, but the court found this prior to be remote and minimal in nature. As such, the court did not award it significant weight in aggravation. The Respondent received a public reproof

In the instant case, the facts are less egregious than that of *Samuelson*, however, Respondent's years in practice are considerably fewer. Additionally, the record is void of any evidence that Respondent possessed any type of criminal intent or sinister motive. Therefore, a public reproof is consistent with the degree of misconduct and level of discipline reflected in both *Samuelson* and *Hanson*.

#### **DISMISSALS**

The filing of the Amended Notice of Disciplinary Charges – on March 14, 2006 – included allegations under case no. 05-O-04402. Based upon the recent evidence and explanation provided by Respondent to the State Bar, those allegations are not included in the current Second Amended Notice of Disciplinary Charges. The allegations contained in case no. 05-O-04402 are effectively dismissed without prejudice.

(Do not write above this line.)

In the Matter of  AFSANEH N. NEWMAN	Case number(s):  04-O-12283, 04-O-12371
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**SIGNATURE OF THE PARTIES**

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law and Disposition.

9/14/06

Date

*Newman*

Respondent's signature

AFSANEH N. NEWMAN

Print name

9/18/06

Date

*Ellen Pansky*

Respondent's Counsel's signature

ELLEN A. PANSKY

Print name

9/19/06

Date

*Gordon L. Grenier*

Deputy Trial Counsel's signature

GORDON L. GRENIER

Print name

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In the Matter of  AFSANEH N. NEWMAN	Case number(s):  04-O-12283, 04-O-12371
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### ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproval, 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 REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- All court dates in the Hearing Department are vacated.

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 125(b), Rules of Procedure.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

**Failure to comply with any conditions attached to this reproval may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.**

09/20/06  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Judge of the State Bar Court

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

I am a Case Administrator of the State Bar Court of California. 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 September 20, 2006, I deposited a true copy of the following document(s):

**STATUS CONFERENCE ORDER**

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

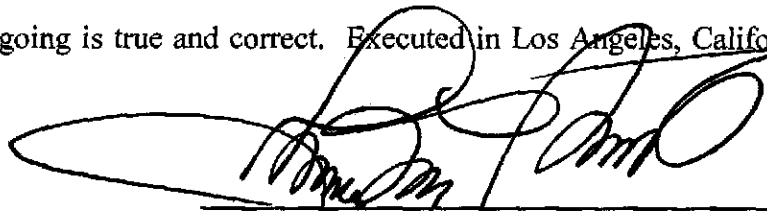
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**ELLEN ANNE PANSKY  
PANSKY & MARKLE  
500 S GRAND AVE FL 14  
LOS ANGELES, CA 90071**

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

**GORDON GRENIER , Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on ~~September 20, 2006.~~



**Johnnie Lee Smith**  
Case Administrator  
State Bar Court