(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION

Counsel For The State Bar

Eli Morgenstern Kim Kasreliovich Office of the Chief Trial Counsel The State Bar of California 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1378

Bar # 190560 - Morgenstern 261766 - Kasreliovich In Pro Per Respondent

Lisa Boegler Nevarez Law Offices of Lisa Nevarez 5664 Apia Drive Cypress, CA 92630 (714) 798-0074

Bar # 206226

In the Matter of: Lisa Boegler Nevarez

Bar # 206226

A Member of the State Bar of California (Respondent)

Case Number(s): 12-C-10462 - DFM; 12-C-10496

For Court use only

FILED

AUG 3 1 2012

STATE BAR COURT CLERK'S OFFICE LOS ANGELES

kwiktag* 152 141 649

Submitted to: Settlement Judge

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

ACTUAL SUSPENSION

☑ 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 February 14, 2000.
- (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.

(<u>Do</u> r	not wri	te above this line.)				
(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 consists of 12 pages, not including the order.					
(4)	A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."					
(5)	Co Lav	Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".				
(6)	The	The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."				
(7)	No per	more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any adding investigation/proceeding not resolved by this stipulation, except for criminal investigations.				
(8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086 6140.7. (Check one option only):						
В. А	□ ⊠ □□	Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure. Costs are to be paid in equal amounts prior to February 1 for the following membership years: three billing cycles following the effective date of the Supreme Court Order. See page 11 for a further discussion of costs. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately. Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs". Costs are entirely waived.				
F	rofe	essional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances equired.				
(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.				
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.				
		<i>,</i>				

(Do not write above this line.)			
(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)	\boxtimes	No aggravating circumstances are involved.	
Add	itiona	al aggravating circumstances:	
		ating Circumstances [see standard 1.2(e)]. Facts supporting mitigating imstances 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)	\boxtimes	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. See page 10 for a further discussion of Candor and Cooperation.	
(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.	

(Do n	ot writ	e abov	e this line.)			
(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)		Reh follo	Rehabilitation: Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.			
(13)		No	No mitigating circumstances are involved.			
Addi	tiona	al mit	igating circumstances:			
D. D	isci	iplin	e:			
(1)	\boxtimes	Stayed Suspension:				
	(a)	\boxtimes	Respondent must be suspended from the practice of law for a period of one year.			
		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 as set forth in the Financial Conditions form attached to this stipulation.			
		iii.	and until Respondent does the following:			
	(b)	\boxtimes	The above-referenced suspension is stayed.			
(2) Notation:		Prob	ation:			
	Res date	ponde of th	ent must be placed on probation for a period of three years, which will commence upon the effective e Supreme Court order in this matter. (See rule 9.18, California Rules of Court)			
(3)	\boxtimes	Actual Suspension:				
	(a)		Respondent must be actually suspended from the practice of law in the State of California for a period of 30 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 as set forth in the Financial Conditions form attached to this stipulation.			
		iii.	and until Respondent does the following:			

		directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
(8) 🗵	\boxtimes	Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation 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. Reason:
(O)	NZI	Property of the state of the st

(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 to be filed with the Office of Probation.

\boxtimes	The following conditions are attached hereto and incorporated:			
	\boxtimes	Substance Abuse Conditions		Law Office Management Conditions
		Medical Conditions	П	Financial Conditions

(10)

F. Other Conditions Negotiated by the Parties:

(1)	Multistate Professional Responsibility Examination: 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 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 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.
	☐ No MPRE recommended. Reason:
(2)	Rule 9.20, California Rules of Court: Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
(3)	Conditional Rule 9.20, California Rules of Court: If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
(4)	Credit for Interim Suspension [conviction referral cases only]: Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
(5)	Other Conditions:

E. Additional Conditions of Probation (cont'd):

(10) Substance Abuse Conditions:

Within ten days of the termination of Respondent's participation in the Orange County DUI Court Program, Respondent will notify the Office of Probation in writing. At that time, Respondent will be subject to these Substances Abuse Conditions for a period of two years or until the end of her probation, whichever is earlier.

Respondent must select a licensed medical laboratory or laboratories acceptable to the Office of Probation and having the capability to provide observed testing of Respondent as specified below. Respondent must provide a copy of this order and of the Office of Probation Lab Test Information Sheet to each and every laboratory utilized by her to perform any portion of the testing required to comply with this condition of probation. In the event that Respondent subsequently is informed or learns that any laboratory, previously approved by the Office of Probation to conduct the testing set forth below, is no longer able or willing to perform any of such testing in the manner set forth below, Respondent is to notify the Office of Probation in writing of that fact immediately after acquiring such information; and she must select a new licensed medical laboratory, acceptable to the Office of Probation and having the capability to provide observed testing of Respondent as specified below, sufficiently promptly that she will be able to continue to comply timely with the testing requirements set forth below and in no event later than seventy-two hours after learning of the need to select a new laboratory.

Respondent must be tested, at her expense, within the first five days of each calendar month during the period of the condition to show that she has abstained from the use of alcohol and drugs. This testing will utilize (1) a 10-panel test of the drugs listed on the Office of Probation's Lab Test Information Sheet of Respondent's blood and (2) an Ethyl Glucuronide ("EtG") test of a sample of Respondent's urine obtained by the laboratory by observed collection, or equivalent tests accepted and approved in advance by the Office of Probation. These tests are to be performed by the laboratory pursuant to the Department of Transportation Guidelines, including observed testing. Respondent must cause the laboratory to provide directly to the Office of Probation, at Respondent's expense, a screening report on or before the tenth day of each such month which contains an analysis of the above blood and urine tests, which shows that each tested sample was properly obtained within ten days of the date of the report, and demonstrates that the above testing requirements were satisfied. A "screening report" lists all of the items for which Respondent was tested, with the individual results for each item. An overall synopsis, e.g. "negative", with no breakdown, is not sufficient.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF:	LISA BOEGLER NEVAREZ
CASE NUMBER(S):	12-C-10462; 12-C-10496

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/or Rules of Professional Conduct.

Case No. 12-C-10462 (Conviction Proceedings)

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:

- 1. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.
 - 2. On October 31, 2007, Respondent was convicted of violating:

Vehicle Code section 23152(a), driving under the influence of alcohol and/or drugs; and

Vehicle Code section 23152(b), driving with a blood alcohol level of .08% or more.

3. On March 8, 2012, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department on the following issue:

Whether the facts and circumstances surrounding the offense involved moral turpitude or other misconduct warranting discipline.

FACTS:

- 4. On March 25, 2007 Garden Grove police were dispatched to the scene of a two-car traffic accident. The driver of one of the vehicles involved in the accident was stopped at a stop sign when he was struck from behind by Respondent's vehicle.
- 5. The officers made contact with Respondent. The officers could smell alcohol on Respondent and saw a 200-milliliter bottle of Smirnoff vodka, half full, in her purse.
- 6. Respondent admitted to police to taking two (2) Vicodin painkillers and having two (2) shots of vodka around noon.

- 7. Respondent was unable to pass the field sobriety examination and was arrested for Driving under the Influence of Alcohol/Drugs. Respondent's BAC was .27%.
- 8. On October 31, 2007, Respondent entered into a plea agreement and was sentenced for violations of Vehicle Code sections 23152(a), driving under the influence of alcohol and/or drug and 23152(b), driving with a blood alcohol level of .08% or more.
- 9. Respondent's first DUI occurred on or about December 21, 2002 when she was convicted of violating Vehicle Code section 23152(b), driving with a blood alcohol level of .08% or more. The 2007 conviction was Respondent's second DUI.

CONCLUSIONS OF LAW:

The facts and circumstances surrounding the above-described violation(s) did not involve moral turpitude but did involve other misconduct warranting discipline.

Case No. 12-C-10496 (Conviction Proceedings)

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:

- 1. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.
 - 2. On January 13, 2012, Respondent was convicted of violating:

Vehicle Code section 23152(a), driving under the influence of alcohol and/or drugs; and

Vehicle Code section 23152(b), driving with a blood alcohol level of .08% or more.

3. On April 17, 2012, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department on the following issue:

Whether the facts and circumstances surrounding the offense involved moral turpitude or other misconduct warranting discipline.

FACTS:

- 4. On October 24, 2011, the California State Highway Patrol was called to the scene of a car accident involving Respondent in unincorporated Orange County.
- 5. Respondent was driving eastbound on a surface street and failed to make sure oncoming traffic was clear prior to making a left turn.
- 6. The right front of Respondent's vehicle struck the left front of another vehicle, driven by Angel Lopez. Mr. Lopez's car was totaled and he was transported by ambulance to West Anaheim

Medical Center.

- 7. Highway patrol contacted Respondent who spoke with slurred speech and was emitting the odor of alcohol.
- 8. Respondent was arrested for Driving under the Influence of Alcohol and Causing Injury. Respondent's BAC was .14%.
- 9. On January 13, 2012, Respondent entered into a plea agreement and was sentenced for violations of Vehicle Code sections 23152(a), driving under the influence of alcohol and/or drug and 23152(b), driving with a blood alcohol level of .08% or more. Respondent was sentenced to five (5) years formal probation and enrolled in the Orange County DUI Court program.
- 10. DUI Court is a 12 month intensive program. Participants are required to attend weekly group therapy sessions as well as individual therapy appointments. Participants are tested for alcohol and drugs a minimum of three times per week, meet regularly with an assigned probation officer and attend monthly progress hearings in court. In addition, participants must attend 3-7 additional self-help meetings per week. Self-help programs include programs such as Alcoholics Anonymous.
 - 11. This conviction was Respondent's third DUI.

CONCLUSIONS OF LAW:

The facts and circumstances surrounding the above-described violation(s) did not involve moral turpitude but did involve other misconduct warranting discipline.

MITIGATING CIRCUMSTANCES.

1. Candor and Cooperation

Respondent is entitled to some mitigation for entering into this stipulation prior to trial. (Std. 1.2(e)(v).)

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was May 31, 2012.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 1.3 of the Standards For Attorney Sanctions For Professional Misconduct, Title IV of the Rules of Procedure ("Standards") states that the primary purposes of attorney discipline are, "the protection of the public, the courts and the legal profession; the maintenance of high legal professional standards by attorneys and the preservation of public confidence in the legal profession."

Standard 3.4 provides that when a member has been convicted of a crime not involving moral turpitude, the sanction shall be according to those prescribed under Part B of the standards appropriate to the nature and extent of the misconduct.

Under Part B, the appropriate standard is 2.6, the standard applicable to violations of Business and Professions Code section 6068(a), failure to obey the law. Standard 2.6 states that the level of discipline shall be disbarment or suspension.

In *In re Kelley* (1990) 52 Cal. 3d 487, Respondent suffered two convictions, with two charges each, for DUI and driving with a blood alcohol level of more than .10%. Both offenses occurred within Respondent's first 4 years of practice as an attorney. The court found that since Respondent's convictions did not cause a specific harm to the courts or the public and there were several mitigating factors, only minimal discipline was warranted. The court imposed a public reproval with three years of probation and the requirement that Respondent abstain from alcohol. The court did not find moral turpitude but did find other misconduct warranting discipline.

In the instant case, the facts suggest a level of discipline slightly higher than that imposed in *Kelley*. Respondent is before the Hearing Department due to her second and third DUIs, both of which involved car accidents. In the second accident, the driver was taken to the hospital for treatment and his car was totaled. In light of Respondent's multiple DUIs and the resulting car accidents, the State Bar submits that a period of actual suspension is warranted under Standard 1.3.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of 05-31-2012, the prosecution costs in this matter are \$4,574. The costs are to be paid in equal amounts prior to February 1 for the following three billing cycles following the effective date of the Supreme Court Order. 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.

If Respondent fails to pay any installment within the time provided herein or as may be modified by the State Bar Court pursuant to section 6086.10, subdivision (c), the remaining balance of the costs is due and payable immediately and enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment unless relief has been granted under the Rules of Procedure of the State Bar of California. (Rules Proc. of State Bar, rule 5.134.)

In the Matter of

LISA BOEGLER NEVAREZ Member # 206226 Case number(s):

12-C-10462; 12-C-10496

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.

Aug 3 , 2012 Date	Respondent's Signature	Lisa B. Nevarez Print Name
, 2012 Date	Respondent's Counsel Signature	Print Name
8 14 12 , 2012	Eli Margerston	Eli D. Morgenstern
Date 4	Senior Trial Counser's Signature	Print Name
8 114 12, 2012 Date	Deputy Trial Counsel's Signature	Kim G. Kasreliovich Print Name

(Do not write abov	ve this line.)			
In the Matter of		Case number(s):		
LISA BOEG Member # 2	SLER NEVAREZ 206226	12-C-10462; 12-C-10496		
	ACTU	AL SUSPENSION ORDER		
		nd that it adequately protects the public, IT IS ORDERED that the s GRANTED without prejudice, and:		
	The stipulated facts and disposition Supreme Court.	on are APPROVED and the DISCIPLINE RECOMMENDED to the		
	he stipulated facts and disposition	on are APPROVED AS MODIFIED as set forth below, and the D to the Supreme Court.		
A	all Hearing dates are vacated.			
On p. 2, para 2016	agraph A (8) [Payment of Dis)" after three billing cycles.	sciplinary Costs]: Insert the years "(2014, 2015, and		
within 15 days stipulation. (Se	after service of this order, is gran e rule 5.58(E) & (F), Rules of Pro	roved unless: 1) a motion to withdraw or modify the stipulation, filed nted; or 2) this court modifies or further modifies the approved occedure.) The effective date of this disposition is the effective date of 30 days after file date. (See rule 9.18(a), California Rules of		
8 3	1/12	Duraldific		

Judge of the State Bar Court

DONALD F. MILES

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); 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 August 31, 2012, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

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

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

LISA B. NEVAREZ LAW OFFICE OF LISA B. NEVAREZ 5664 APIA DRIVE CYPRESS, CA 92630

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

Kimberly G. Kasreliovich, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, August 31, 2012.

Johnnie Lee Smith Case Administrator

State Bar Court