

# PUBLIC MATTER

FILED

FEB 21 2018

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT - LOS ANGELES

In the Matter of )  
JAMES DREW DeOLDEN, )  
A Member of the State Bar, No. 200878. )  
\_\_\_\_\_ )

Case Nos. 14-C-06279; 15-C-11372;  
15-C-11373; 15-C-12050 (Cons.)  
DECISION AND ORDER SEALING  
CERTAIN DOCUMENTS

## INTRODUCTION

In these consolidated conviction referral proceedings, Respondent James Drew DeOlden (Respondent) was accepted for participation in the State Bar Court's Alternative Discipline Program (ADP). As the court has now terminated Respondent from the ADP, the court will recommend to the Supreme Court that Respondent be suspended from the practice of law in California for two years, that execution of that period of suspension be stayed, and that he be placed on probation for three years subject to certain conditions, including a one-year period of actual suspension that will continue until Respondent shows proof satisfactory to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law, pursuant to standard 1.2(c)(1).<sup>1</sup>

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<sup>1</sup> All references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

## **PERTINENT PROCEDURAL HISTORY**

### **Case No. 14-C-06279**

After the transmittal to the State Bar Court of Respondent's conviction records in case number 14-C-06279, the Review Department of the State Bar Court issued an order on June 19, 2015, referring Respondent's final misdemeanor convictions for violating Vehicle Code sections 14601.2, subdivision (a) (driving when privilege suspended for driving under the influence of alcoholic beverage) and 20002, subdivision (a) (hit and run with property damage) to the hearing department for a hearing and decision recommending the discipline to be imposed in the event that the hearing department finds that the facts and circumstances surrounding Respondent's criminal violations involved moral turpitude or other misconduct warranting discipline.

A Notice of Hearing on Conviction (NOH) was filed against Respondent on June 25, 2015. On that same date, the matter was assigned to the Honorable Yvette D. Roland. On August 24, 2015, the court filed an order entering Respondent's default. Respondent moved to set aside the default on November 19, 2015. The court granted the motion on December 2, 2015. Respondent filed his response to the NOH on December 10, 2015.

### **Case No. 15-C-11372**

After the transmittal to the State Bar Court of Respondent's conviction records in case number 15-C-11372, the review department issued an order on November 30, 2015, referring Respondent's final misdemeanor convictions for violating Vehicle Code section 23152, subdivisions (a) (driving under the influence) and (b) (driving under the influence with blood alcohol content of .08 percent or more) to the hearing department for a hearing and decision recommending the discipline to be imposed in the event that the hearing department finds that the facts and circumstances surrounding Respondent's criminal violations involved moral turpitude or other misconduct warranting discipline.

A NOH was filed against Respondent on December 3, 2015. On that same date, the matter was assigned to Judge Roland. Respondent filed his response to the NOH on December 14, 2015.

**Case No. 15-C-11373**

After the transmittal to the State Bar Court of Respondent's conviction records in case number 15-C-11373, the review department issued an order on December 17, 2015, referring Respondent's final misdemeanor convictions for violating Penal Code sections 243, subdivision (e)(1) (domestic violence battery) and 273a, subdivision (b) (child abuse) to the hearing department for a hearing and decision recommending the discipline to be imposed in the event that the hearing department finds that the facts and circumstances surrounding Respondent's criminal violations involved moral turpitude or other misconduct warranting discipline.

A NOH was filed against Respondent on January 7, 2016. On that same date, the matter was assigned to Judge Roland. Respondent filed his response to the NOH on February 10, 2016.

**Case No. 15-C-12050**

After the transmittal to the State Bar Court of Respondent's conviction records in case number 15-C-12050, the review department issued an order on December 17, 2015, referring Respondent's final misdemeanor convictions for violating Vehicle Code sections 23152, subdivision (a) (driving under the influence with two priors); 23152, subdivision (b) (driving under the influence with blood alcohol content of .08 percent or more with two priors); 2800.1, subdivision (a) (evading a peace officer); and 14601.2, subdivision (a) (driving on a suspended license) to the hearing department for a hearing and decision recommending the discipline to be imposed in the event that the hearing department finds that the facts and circumstances surrounding Respondent's criminal violations involved moral turpitude or other misconduct warranting discipline.

A NOH was filed against Respondent on January 7, 2016. On that same date, the matter was assigned to Judge Roland. Respondent filed his response to the NOH on February 10, 2016.

**Consolidated Case**

On March 15, 2016, the conviction matters were consolidated.

On April 5, 2016, Respondent filed a written request to be admitted into the ADP.

On April 21, 2016, Judge Roland filed an order referring the matter to the undersigned judge for ADP evaluation.

On May 9, 2016, the court ordered Respondent to contact and cooperate with the State Bar's Lawyer Assistance Program (LAP).

On June 6, 2016, the court received Respondent's nexus statement regarding the nexus between his substance abuse issue and his misconduct in this matter. Respondent's nexus statement, as well as other documents, which are part of the court record, provided sufficient evidence to establish a nexus between Respondent's substance abuse issue and his misconduct.

Respondent and the Office of Chief Trial Counsel of the State Bar of California (State Bar) entered into a Stipulation Re Facts and Conclusions of Law (Stipulation) in this matter in June 2016.

On September 1, 2016, the State Bar filed its brief regarding the recommended level of discipline in this matter. Respondent filed his brief regarding the recommended level of discipline on September 2, 2016.

On September 7, 2016 the court received Respondent's LAP participation plan.

On September 12, 2016, the court ordered Respondent to notify the court whether he accepted the court's high/low recommendation for the level of discipline.

On September 22, 2016, Respondent filed a document accepting the court's recommendation for the high/low level of discipline.

On November 21, 2016, the court executed the Confidential Statement of Alternative Dispositions and Orders (Confidential Statement), which set forth the discipline the court would recommend if Respondent successfully completed the ADP and the discipline which the court would recommend if Respondent was terminated from, or failed to successfully complete, the ADP. Also, on that same date: (1) Respondent and his counsel executed the Contract and Waiver for Participation in the State Bar Court's ADP (Contract); (2) the parties' Stipulation and its accompanying court order were filed; and (3) the court accepted Respondent for participation in the ADP.

On December 21, 2017, the court received a LAP report indicating that Respondent withdrew from LAP.

On January 12, 2018, Respondent filed a request to be terminated from the ADP. In that request he acknowledged that he would be subject to the high discipline recommendation set forth in the Confidential Statement.

On January 19, 2018, the court submitted this matter for decision.

## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

### **Culpability Findings**

The parties' Stipulation, including the court's order approving the stipulation, is attached hereto and hereby incorporated by reference, as if fully set forth herein. The Stipulation sets forth the factual findings, legal conclusions, and mitigating and aggravating circumstances in this matter.

### **Background Facts**

On December 6, 2011, Respondent pled guilty in San Bernardino County Superior Court to one count of violating Vehicle Code section 23152, subdivision (b) (driving under the influence with blood alcohol content of .08 percent or more) based on a June 11, 2011 incident.

The court sentenced Respondent to three years of probation including an order not to drive a vehicle while intoxicated or without a license. He was further ordered to attend a nine-month county-approved alcohol program.

**Case No. 15-C-11372 – Driving under the Influence and Driving with Blood Alcohol Content of .08 Percent or More**

On October 18, 2011, an officer responded to a call of a tire in the roadway. When he arrived at the scene, he noticed Respondent. Respondent told the officer that his BMW had broken down and that he had driven his GMC to the scene. The officer noticed that Respondent seemed unsteady, had glassy eyes, and slurred speech. As Respondent spoke, the officer could smell the odor of alcohol. The officer asked Respondent to perform a series of field sobriety tests, all of which he was unable to complete. Respondent was then arrested. A blood test revealed a .17 percent blood alcohol content.

On October 29, 2012, Respondent pled guilty in Orange County Superior Court to two misdemeanors, violations of Vehicle Code section 23152, subdivisions (a) (driving under the influence) and (b) (driving under the influence with blood alcohol content of .08 percent or more). The court suspended the imposition of sentence and ordered that Respondent be placed on informal probation for three years on conditions which included, without limitation, that Respondent not drive without a license, proof of insurance, or with a measurable amount of alcohol in his system. The court ordered him to attend a Victim Impact Panel, attend a three-month first offender program, and pay various fines.

Respondent and the State Bar stipulated that the facts and circumstances surrounding Respondent's conviction did not involve moral turpitude, but did involve other misconduct warranting discipline.

The court agreed with the parties, and reached the legal conclusion that the facts and circumstances surrounding Respondent's conviction did not involve moral turpitude, but did involve other misconduct that warrants discipline.

**Case No. 14-C-06279 – Driving on Suspended License and Hit and Run with Property Damage**

On October 24, 2014, Respondent was driving in the city of Irvine and collided with another vehicle. Both vehicles received minor property damage. Respondent did not pull over after the collision. Officers went to Respondent's home and noticed an "obvious odor" of alcohol, that Respondent's eyes were red and watery, and that his speech was slurred. At the time of the incident, Respondent's driver's license was suspended.

On February 24, 2015, Respondent pled guilty in Orange County Superior Court to two misdemeanors, violations of Vehicle Code sections 14601.2, subdivision (a) (driving when privilege suspended for driving under the influence of alcoholic beverage) and 20002, subdivision (a) (hit and run with property damage). At the time of the entry of the plea, the court suspended the imposition of sentence and ordered that Respondent be placed on informal probation for three years on conditions which included that Respondent violate no law, pay various fines, and serve 10 days in jail. Alternatively, Respondent was allowed to complete community service in lieu of jail or fines.

Respondent and the State Bar stipulated that the facts and circumstances surrounding Respondent's conviction did not involve moral turpitude, but did involve other misconduct warranting discipline.

The court agreed with the parties, and reached the legal conclusion that the facts and circumstances surrounding Respondent's conviction did not involve moral turpitude, but did involve other misconduct that warrants discipline.

**Case No. 15-C-12050 – Driving Under the Influence with Two Priors, Driving Under the Influence with Blood Alcohol Content of .08 Percent or More with Two Priors, Evading a Peace Officer, and Driving on a Suspended License**

On November 15, 2014, an officer observed Respondent speaking on his cell phone while driving. When the officer attempted to effectuate a traffic stop, Respondent drove for approximately two miles. Respondent only stopped when he reached his house and parked his car in the garage. During the pursuit, another officer arrived and followed Respondent. The officers ordered Respondent out of the vehicle and observed the strong smell of alcohol and noted that Respondent had watery, bloodshot, and glassy eyes. Respondent was unable to successfully complete a series of field sobriety tests. He was taken into custody and transported to the police station. A blood test revealed a blood alcohol content of .25 percent. At the time of the incident, Respondent was under probation for his previous violations.

On September 1, 2015, the Orange County Superior Court entered Respondent's guilty plea to Vehicle Code sections 23152, subdivision (a) (driving under the influence with two priors); 23152, subdivision (b) (driving under the influence with blood alcohol content of .08 percent or more with two priors); 2800.1, subdivision (a) (evading a peace officer); and 14601.2, subdivision (a) (driving on a suspended license). The court ordered that Respondent be placed on formal probation for five years on conditions which included that he complete the DUI Court Program, consume no alcoholic beverages, serve 545 days in county jail (stayed pending completion of DUI Court except for the statutory minimum served by supervised electronic confinement), complete Victim Impact Counseling, complete an 18-month multiple offender alcohol program, and revocation of his driver's license for six months. Respondent was also designated a habitual traffic offender.

Respondent and the State Bar stipulated that the facts and circumstances surrounding Respondent's conviction involved moral turpitude.



The court agreed with the parties, and reached the legal conclusion that the facts and circumstances surrounding Respondent's conviction involved moral turpitude.

**Case No. 15-C-11373 – Domestic Violence Battery and Child Abuse**

On February 1, 2015, an officer was sent to Respondent's home as the result of a domestic disturbance. The officer entered the home and encountered Respondent. He noted a strong odor of alcohol and that Respondent's speech was slurred. Respondent refused to describe what happened to the officer. Respondent had been intoxicated during an argument with his wife which resulted in an altercation. This happened in front of Respondent's two children. Respondent knowingly placed the children in a situation that permitted them to suffer. Respondent's conduct violated the express terms of his probation.

On September 1, 2015, the Orange County Superior Court entered Respondent's guilty plea to Penal Code sections 243, subdivision (e)(1) (domestic violence battery) and 273a, subdivision (b) (child abuse). The court sentenced Respondent to four years of formal probation, 30 days of county jail, the payment of various fines, eight hours of community service, attendance in a Domestic Violence Batterer's Treatment Program, and completion of the Child Abuser's Treatment Program.

Respondent and the State Bar stipulated that the facts and circumstances surrounding Respondent's conviction involved moral turpitude.

The court agreed with the parties, and reached the legal conclusion that the facts and circumstances surrounding Respondent's conviction involved moral turpitude.

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### **Aggravating Circumstances**

#### **Multiple Acts of Wrongdoing (Std. 1.5(b))**

Respondent's misconduct spans at least four separate incidents over an approximate four-year period. The multiple acts tend to indicate that the misconduct is ongoing and likely to be repeated. Therefore, Respondent's conduct is aggravated.

#### **Significant Harm to the Public (Std. 1.5(j))**

Respondent's misconduct has significantly harmed the public, including the owner of the vehicle he damaged as well as Respondent's wife and children. Respondent's actions resulted in property damage as well as harm to the well-being of his family. Thus, his actions constitute an aggravating factor.

#### **Indifference (Std 1.5(k))**

In three of the four conviction matters, Respondent was on probation from a prior conviction and violated express terms of his probation. This demonstrates an indifference toward rectification or atonement for the consequences of his actions, which is an aggravating factor.

### **Mitigating Circumstances**

#### **No Prior Record (Std. 1.6(a))**

Respondent was admitted to practice law in California in 1999 and was discipline-free over the 12 years of practice from admission to the earliest misconduct herein (2011) and is therefore entitled to mitigation for his lack of a prior disciplinary record.

### **DISCUSSION**

The purpose of State Bar disciplinary proceedings is not to punish the attorney but, rather, to protect the public, to preserve public confidence in the legal profession, and to maintain

the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

In determining the appropriate discipline to impose in this matter if Respondent successfully completed the ADP or was terminated from, or failed to successfully complete, the ADP, the court considered the discipline recommended by the parties, as well as certain standards and case law. In particular, the court considered standards 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 2.15(c), and 2.16(b) and *In the Matter of Guillory* (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 402.

Because Respondent has been terminated from the ADP, this court, in turn, now imposes the higher level of discipline, set forth more fully below.

## RECOMMENDATIONS

### Actual Suspension/Probation

It is hereby recommended that respondent **James Drew DeOlden**, State Bar Number 200878, be suspended from the practice of law in California for two years, that execution of that period of suspension be stayed, and that he be placed on probation for a period of three years subject to the following conditions:

1. Respondent is actually suspended from the practice of law in the State of California for the first year of his probation and until he shows proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice, and present learning and ability in the general law, pursuant to standard 1.2(c)(1).
2. During the probation period, Respondent must comply with the provisions of the State Bar Act and the Rules of Professional Conduct of the State Bar of California.
3. Within 10 days of any change, Respondent must report to the State Bar of Attorney Regulation and Consumer Resources 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 after 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 period of probation. 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 probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him 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 30 days, that report must be submitted on the next 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 20 days before the last day of the period of probation and no later than the last day of the probation period.

6. Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation 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 year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session. If Respondent has already provided proof to the court of attendance at and passage of the test given at the end of Ethics School during his period of participation in the ADP, Respondent need not again comply with this condition. Otherwise, Respondent must comply with this condition as set forth above.
8. 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; and
9. Respondent must obtain an examination of his mental and physical condition with respect to his substance abuse issue pursuant to rule 5.68 of the Rules of Procedure of the State Bar of California from a qualified practitioner approved by the Office of Probation and must comply with any treatment/monitoring plan recommended following such examination. The examination and any further help/treatment/monitoring recommended by the examining practitioner will be at Respondent's own expense. The examination must be conducted no later than thirty (30) days after the effective date of the final disciplinary order in this matter. Help/treatment/monitoring should commence immediately after said

examination and, in any event, no later than thirty (30) days after said examination. With each quarterly report, Respondent must furnish to the Office of Probation sufficient evidence, as specified by the Office of Probation, that he is so complying with this condition of probation. Treatment/monitoring must continue for the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

If the examining or treating practitioner determines that there has been a substantial change in Respondent's condition, Respondent or the State Bar's Office of Probation may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 5.300 of the Rules of Procedure. The motion must be supported by a written statement from the examining or treating practitioner, by affidavit or under penalty of perjury, in support of the proposed modification.

Upon the request of the Office of Probation, Respondent must provide the Office of Probation with medical and confidentiality waivers and access to all of Respondent's medical records necessary to monitor this probation condition. Revocation of any medical/confidentiality waiver is a violation of this condition. Any medical records obtained by the Office of Probation will be confidential and no information concerning them or their contents will be given to anyone except members of the Office of Chief Trial Counsel, the Office of Probation, and the State Bar Court, who are directly involved with maintaining, enforcing or adjudicating this condition.

#### **Multistate Professional Responsibility Examination**

It is recommended that James Drew DeOlden be ordered to take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners during the period of his actual suspension in this matter or within one year, whichever period is longer, and to provide satisfactory proof of such passage to the Office of Probation within the same period. Failure to do so may result in an automatic suspension. (Cal. Rules of Court, rule 9.10(b).)

#### **California Rules of Court, Rule 9.20**

It is recommended that James Drew DeOlden be ordered to comply with the requirements of rule 9.20 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding. Failure to do so may result in disbarment or suspension.

**Costs**


It is further recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in section 6140.7 and as a money judgment.

**DIRECTION RE DECISION AND ORDER SEALING CERTAIN DOCUMENTS**

The court directs a court case administrator to file this Decision and Order Sealing Certain Documents. Thereafter, pursuant to rule 5.388(c) of the Rules of Procedure of the State Bar of California (Rules of Procedure), all other documents not previously filed in this matter are ordered sealed pursuant to rule 5.12 of the Rules of Procedure. It is further ordered that protected and sealed material will only be disclosed to (1) parties to the proceeding and counsel; (2) personnel of the Supreme Court, the State Bar Court and independent audiotape transcribers; and (3) personnel of the Office of Probation when necessary for their official duties. Protected material will be marked and maintained by all authorized individuals in a manner calculated to prevent improper disclosure. All persons to whom protected material is disclosed will be given a copy of this order sealing the documents by the person making the disclosure.

**IT IS SO ORDERED.**

Dated: February 21, 2018

  
DONALD F. MILES  
Judge of the State Bar Court

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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>ALTERNATIVE DISCIPLINE PROGRAM</b>		
Counsel For The State Bar  <b>Drew Massey</b> Deputy Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017 Tel: (213) 765-1204  Bar # 244350	Case Number (s) 14-C-06279 15-C-12050 15-C-11372 15-C-11373	(for Court's use)  <div style="text-align: center; font-size: 24pt; font-weight: bold;">PUBLIC MATTER</div>  <div style="text-align: center; font-size: 18pt; font-weight: bold;">FILED</div> <div style="text-align: center; font-size: 18pt; font-weight: bold;">NOV 21 2016</div> <div style="text-align: center; font-weight: bold;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div>
Counsel For Respondent  <b>Samuel Bellicini</b> 1005 Northgate Drive #240 San Rafael, CA 94903 Tel: (415) 298-7284  Bar # 152191	Submitted to: <b>Program Judge</b>  <b>STIPULATION RE FACTS AND CONCLUSIONS OF LAW</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter Of: <b>JAMES DREW DEOLDEN</b>  Bar # 200878  A Member of the State Bar of California (Respondent)		

**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 **June 2, 1999**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, except as otherwise provided in rule 804.5(c) of the Rules of Procedure, if Respondent is not accepted into the Alternative Discipline Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (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, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **11** pages, excluding the order.
- (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."

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- (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 and will pay timely any disciplinary costs imposed in this proceeding.

**B. Aggravating Circumstances [see Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are required.**

- (1)  **Prior record of discipline**
- (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)  **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3)  **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by misrepresentation.
- (4)  **Concealment:** Respondent's misconduct was surrounded by, or followed by concealment.
- (5)  **Overreaching:** Respondent's misconduct was surrounded by, or followed by overreaching.
- (6)  **Uncharged Violations:** Respondent's conduct involved uncharged violations of the Business and Professions Code or the Rules of Professional Conduct.
- (7)  **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.
- (8)  **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice. See attachment, page 10.
- (9)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct. See attachment, page 10.
- (10)  **Lack of Candor/Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11)  **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See attachment, page 10.



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- (12)  **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13)  **Restitution:** Respondent failed to make restitution.
- (14)  **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standards 1.2(i) & 1.6]. 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 likely to recur.
- (2)  **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3)  **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4)  **Remorse:** Respondent promptly took objective steps demonstrating spontaneous 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 with a good faith belief that was honestly held and objectively reasonable.
- (8)  **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental 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 the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (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 extraordinarily 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.

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**Additional mitigating circumstances: No prior discipline, see attachment page 10.**



amount of alcohol in his system, ordered him to attend a Victim Impact Panel, attend a three-month first offender program, and pay various fines.

**FACTS:**

5. On October 18, 2011, Officer Robert Rand of the California Highway Patrol responded to a call of a tire in the roadway on the southbound I-5. Once there, Officer Rand noticed a blue BMW in the gore point of the off ramp to Camino de Estrella. There was also a GMC Yukon parked just ahead of it.

6. As Officer Rand approached, he noticed a pedestrian, Respondent, waving his arms and trying to get the attention of a nearby tow truck. Officer Rand stopped his vehicle ahead of Respondent and asked him what he wanted. Respondent stated that he wanted his vehicle towed and that he owned the BMW and GMC vehicles. He further stated that his BMW had broken down and that he had driven back in the GMC, arriving approximately four minutes before. He indicated that he had driven alone.

7. Officer Rand noticed that Respondent seemed unsteady, had glassy eyes, and slurred speech. As Respondent spoke, Officer Rand could smell the odor of alcohol. Officer Rand asked Respondent to perform a series of field sobriety tests, all of which Respondent was unable to complete.

8. Respondent was then arrested and transported to the police station. There, he elected a breath test to determine his Blood Alcohol Content. However, during the test, Respondent did not blow through the tube correctly, nor was he sealing his lips around the tube which allowed air to escape. This resulted in a "VOID/ABRT" reading from the breath machine. A blood test was then utilized and the results revealed a .17% Blood Alcohol Content.

**CONCLUSIONS OF LAW:**

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

Case No. 14-C-06279 (Conviction Proceeding)

**PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:**

10. On December 2, 2014, the Orange County District Attorney filed a criminal complaint in the Orange County Superior Court, case no. 14HM09863, charging respondent with one count of violation of Vehicle Code section 14601.2(a) [driving on suspended license], a misdemeanor, one count of violation of Vehicle Code section 20002(a) [hit and run with property damage], a misdemeanor, and one count of violation of Vehicle Code section 16020(a) [failure to maintain insurance or proof of financial responsibility], an infraction.

11. On February 24, 2015, the court entered respondent's plea of guilty to one count of violation of Vehicle Code section 14601.2(a) [driving on suspended license] and one count of violation of Vehicle Code section 20002(a) [hit and run with property damage]. The court dismissed the remaining count on motion of the people.

12. At the time of the entry of the plea, the court suspended the imposition of sentence and ordered that respondent be placed on informal probation for three years on conditions which included,

that respondent violate no law, pay various fines and serve 10 days in jail. Alternatively, Respondent was allowed to complete community service in lieu of jail or fines.

**FACTS:**

13. On October 24, 2014, Respondent was driving his vehicle in the city of Irvine. At a certain point in the roadway, it decreased from three lanes to two. In that area, Respondent drove his vehicle and collided with a second vehicle driven by a Charles T.<sup>1</sup> Respondent's car sustained minor damage on the driver's side near the front and Charles T's car received minor damage on the passenger's side near the back.

14. Charles T pulled over to exchange information. Respondent, however, moved to another lane and continued driving. Charles T then followed Respondent honking his horn and taking pictures of Respondent's license plate. The pursuit continued for several minutes until Charles T stopped the pursuit.

15. Officer Ridlon of the Irvine Police Department ("IPD") arrived on the scene and was flagged down by Charles T. IPD Dispatch provided the address at which Respondent's vehicle was registered. Officer Vilelli arrived and both officers proceeded to Respondent's home.

16. Officer Vilelli observed Respondent's vehicle in front of Respondent's house with a matching license plate and damage to the driver's side near the front. It was parked far from the curb and Officer Vilelli used a rol-a-tape to measure the distance as three feet, one inch.

17. Respondent's wife answered the door and confirmed that Respondent had arrived home approximately five minutes before. Respondent also came to the front door and the officers requested that he sit on the front porch and speak with them. Respondent complied.

18. The Officers asked Respondent about the incident, but Respondent denied any knowledge of a collision. When he spoke, the Officers noticed an "obvious odor" of alcohol, that Respondent's eyes were red and watery, and that his speech was slurred. When asked about it, Respondent stated that he drank two or three glasses of wine after he arrived home.

19. At the time of the incident, Respondent's driver license was suspended.

20. At the time of this incident, Respondent was under probation from the violation in the 15-C-11372 matter as well as the earlier San Bernardino matter in criminal case number TWV1101383. Respondent's conduct violated express terms of his probations.

**CONCLUSIONS OF LAW:**

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

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<sup>1</sup> The full name of the other driver has been omitted because he is not a complaining witness and not a party to this matter.

Case No. 15-C-12050 (Conviction Proceeding)

**PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:**

22. On March 4, 2015, the Orange County District Attorney filed a criminal complaint in the Orange County Superior Court, case no. 15HM02026, charging respondent with one count of violation of Vehicle Code section 23152(a) [driving under the influence of alcohol/drugs with two priors], a misdemeanor, one count of violation of Vehicle Code section 23152(b) [driving with blood alcohol .08% or more with two priors], a misdemeanor, one count of violation of Vehicle Code section 2800.1(a) [evading a peace officer], a misdemeanor, one count of violation of Vehicle Code section 14601.2(a) [driving on suspended license], a misdemeanor, and one count of violation of Vehicle Code section 23154(a) [Driving with a .01 or Greater BAC), an infraction. The complaint further alleged that Respondent had a blood concentration greater than .20 percent by weight and that Respondent refused a peace officer's request to submit to testing.

23. On September 1, 2015, the court entered respondent's plea of guilty to one count of violation of Vehicle Code section 23152(a) [driving under the influence of alcohol/drugs with two priors], one count of violation of Vehicle Code section 23152(b) [driving with blood alcohol .08% or more with two priors], one count of violation of Vehicle Code section 2800.1(a) [evading a peace officer], and one count of violation of Vehicle Code section 14601.2(a) [driving on suspended license]. The court dismissed the remaining count on motion of the people.

24. At the time of the entry of the plea, the court ordered that respondent be placed on formal probation for five years on conditions which included, that he complete the DUI Court Program, consume no alcoholic beverages, serve 545 days in county jail (stayed pending completion of DUI Court except for the statutory minimum served by Supervised Electronic Confinement), complete Victim Impact Counseling, complete an 18-month multiple offender alcohol program, and revocation of driver license for six months. Respondent was also designated a Habitual Traffic Offender.

**FACTS:**

25. On November 15, 2014, Irvine Police Department Officer Jared Kemper observed Respondent speaking on his cell phone while driving. Officer Kemper pulled behind Respondent and activated his forward facing steady red light to effectuate a traffic stop. Respondent accelerated quickly and Officer Kemper turned on his siren. Respondent failed to yield and instead drove for approximately two miles. Respondent stopped only upon reaching his house and parking his car in the garage. During the pursuit, Officer Brophy also arrived and followed Respondent.

26. After stopping, the officers ordered Respondent out of his vehicle and ultimately helped him walk to the curb. As they were walking him to the curb, the officers could smell the strong odor of alcohol and also noted watery, bloodshot, and glassy eyes.

27. Officer Brophy checked Respondent's eyes and noted that they lacked smooth pursuit with a distinct and sustained nystagmus. Respondent was unable to successfully complete a series of field sobriety tests. He was taken into custody and transported to the police station.

28. There, he indicated that he would consent to a breath test. However, he was uncooperative during the observation prior to the test and, ultimately, a blood test was necessary. A court order was obtained to secure the sample. The test revealed a Blood Alcohol Content of 0.25% by weight.

29. At the time of this incident, Respondent was under probation from the violation in the 15-C-11372 matter, the violation in the 14-C-06279 matter, as well as the earlier San Bernardino matter in criminal case number TWV1101383. Respondent's conduct violated express terms of his probation in both matters.

**CONCLUSIONS OF LAW:**

30. The facts and circumstances surrounding the above-described violation(s) involve moral turpitude.

**Case No. 15-C-11373 (Conviction Proceeding)**

**PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:**

31. On February 24, 2015, the Orange County District Attorney filed a criminal complaint in the Orange County Superior Court, case no. 15HM01744, charging respondent with one count of violation of Penal Code section 243(e)(1) [domestic violence battery], a misdemeanor, and one count of violation of Penal Code section 273a(b) [child abuse], a misdemeanor.

32. On September 1, 2015, the court entered respondent's plea of guilty to both counts.

33. At the time of the entry of the plea, the Court sentenced Respondent to four years of formal probation, 30 days of county jail, the payment of various fines, eight hours of community service, attend a Domestic Violence Batterer's Treatment Program, and complete Child Abuser's Treatment Program.

**FACTS:**

34. On February 1, 2015, Officer Meyer of the Irvine Police Department was sent to Respondent's home as the result of a domestic disturbance. As Officer Meyer arrived, he met with Respondent's wife and children who were leaving the home. Officer Meyer then went into the home and found Respondent in a bedroom.

35. Officer Meyer began to question Respondent and noted a strong odor of alcohol. He also noted that Respondent's speech was slurred. Respondent refused to describe the incident or talk about what happened.

36. Respondent had been intoxicated at the time of the incident. As Respondent's wife began making dinner, Respondent argued with her. Respondent attempted to take a frying pan away from his wife, ultimately pulling it away from her.

37. The altercation occurred in front of Respondent's two children and he thereby knowingly placed them in a situation that permitted them to suffer.

38. At the time of this incident, Respondent was under probation from the violation in the 15-C-11372 matter, the violation in the 14-C-06279 matter, as well as the earlier San Bernardino matter in criminal case number TWV1101383. Respondent's conduct violated express terms of his probation in those matters.

## CONCLUSIONS OF LAW:

39. The facts and circumstances surrounding the above-described violation(s) involve moral turpitude.

### AGGRAVATING CIRCUMSTANCES.

**Multiple Acts of Wrongdoing (Std. 1.5(b)).** Respondent's misconduct spans at least four separate incidents over an approximate four year period. The multiple acts tend to indicate that the misconduct is ongoing and likely to be repeated. Therefore, Respondent's conduct is aggravated. (*In the Matter of Elkins* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160, 168.)

**Significant Harm to the Public (Std. 1.5(j)).** Respondent's misconduct has significantly harmed the public. Members of the public harmed by Respondent's misconduct include Charles T as well as Respondent's wife and children. Respondent's actions resulted in property damage as well as harm to the well-being of his family. In addition, while Respondent avoided damage in his two other conviction matters, the repeated nature of Respondent's misconduct means that the absence of more serious damage or injury was "merely fortuitous." (*In the Matter of Anderson* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 208, 215.)

**Indifference (Std. 1.5(k)).** In three of the four cases involved, Respondent was on probation from a prior conviction. In fact, each of the last three convictions (14-O-06279, 15-C-12050, and 15-C-11373), Respondent violated express terms of his probation. This demonstrates an indifference toward rectification or atonement for his actions, which is an aggravating factor. (*In the Matter of Kinney* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 360, 368.)

### MITIGATING CIRCUMSTANCES.

**Absence of Prior Misconduct.** Respondent has been admitted to practice law since June 1999. Respondent has been discipline free over the twelve years of practice from admission to the earliest misconduct herein (2011) and is therefore entitled to mitigation. (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 (ten years given "significant weight").)



(Do not write above this line.)

In the Matter of: <b>JAMES DREW DEOLDEN</b>	Case number(s): 14-C-06279; 15-C-12050; 15-C-11372; 15-C-11373
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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 and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, this Stipulation will be filed and will become public. Upon Respondent's successful completion of or termination from the Program, the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Confidential Statement of Alternative Dispositions and Orders shall be imposed or recommended to the Supreme Court.

6/7/14 Date	 Respondent's Signature	James DeOlden Print Name
17 June 2014 Date	 Respondent's Counsel Signature	Samuel Bellicini Print Name
6-22-16 Date	 Deputy Trial Counsel's Signature	Drew Massey Print Name

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(Do not write above this line.)

In the Matter of: JAMES DREW DEOLDEN	Case Number(s): 14-C-06279; 15-C-12050; 15-C-11372; 15-C-11373
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### ALTERNATIVE DISCIPLINE PROGRAM 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 stipulation as to facts and conclusions of law is APPROVED.
- The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- 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; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 5.58(E) & (F) and 5.382(D), Rules of Procedure.)

11/21/14  
Date

  
Judge of the State Bar Court

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**DECLARATION OF SERVICE BY REGULAR MAIL**

**CASE NUMBER: 14-C-06279 et al**

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 845 South Figueroa Street, Los Angeles, California 90017, declare that I am not a party to the within action; that I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service; that in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day; that I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit; and that in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles, on the date shown below, a true copy of the within

**Alternative Discipline Program - Stipulation**

in a sealed envelope placed for collection and mailing at Los Angeles, on the date shown below, addressed to:

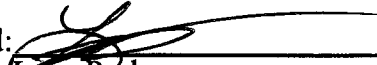
**Samuel Bellicini  
1005 Northgate Drive #240  
San Rafael, CA 94903**

in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

N/A

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: June 22, 2016

Signed:   
Lupe Pacheco  
Declarant

## 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 November 21, 2016, I deposited a true copy of the following document(s):

### STIPULATION RE FACTS AND CONCLUSIONS OF LAW

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

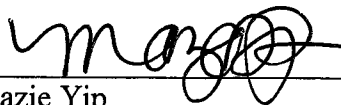
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

SAMUEL C. BELLICINI  
SAMUEL C. BELLICINI, LAWYER  
1005 NORTHGATE DR # 240  
SAN RAFAEL, CA 94903

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

DREW D. MASSEY, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 21, 2016.



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Mazie Yip  
Case Administrator  
State Bar Court

## 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 February 21, 2018, I deposited a true copy of the following document(s):

DECISION AND ORDER SEALING CERTAIN DOCUMENTS;  
STIPULATION RE FACTS AND CONCLUSIONS OF LAW

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:

SAMUEL C. BELLICINI  
SAMUEL C. BELLICINI, LAWYER  
1005 NORTHGATE DR # 240  
SAN RAFAEL, CA 94903

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

DREW D. MASSEY, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 21, 2018.



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Mazie Yip  
Case Administrator  
State Bar Court