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**State Bar Court of California  
Hearing Department  
San Francisco  
ACTUAL SUSPENSION**

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<p>Counsel For The State Bar</p> <p><b>Britta G. Pomrantz</b> Senior Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2292</p> <p>Bar # 310644</p>	<p>Case Number(s): <b>15-O-13787</b></p>	<p>For Court use only</p> <p><b>PUBLIC MATTER</b></p> <p><b>FILED</b> <i>[Signature]</i></p> <p><b>MAY 29 2018</b></p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Counsel For Respondent</p> <p><b>Russell S. Roeca</b> Roeca Haas Montes De Oca LLP 48 Gold Street San Francisco, CA 94133 (415) 352-0980</p> <p>Bar # 97297</p>	<p>Submitted to: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: <b>CLAYTON WILLIAM KENT</b></p> <p>Bar # 123164</p> <p>A Member of the State Bar of California (Respondent)</p>		

**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 10, 1986**.
- (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 consists of 13 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."

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- (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.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
  - Costs are to be paid in equal amounts prior to February 1 for the following membership years: (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.

**B. Aggravating Circumstances [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 92-O-14653; 92-O-17505; 92-O-17741; 92-O-19426. See page 8; Exhibit 1.
  - (b)  Date prior discipline effective August 29, 1994
  - (c)  Rules of Professional Conduct/ State Bar Act violations: Rules of Professional Conduct, rules 3-110(A), 3-500, 3-700(A)(2), and 3-700(D)(1); Business and Professions Code, section 6068(m)
  - (d)  Degree of prior discipline Six-month actual suspension
  - (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 involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.

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- (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.
- (9)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10)  **Candor/Lack of 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 page 8.
- (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

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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. **See page 9.**
- (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. **See page 9.**
- (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:**

**Community Service, see page 9.**  
**Remedial Measures, see page 9.**  
**Preffling Stipulation, see page 9.**  
**Spontaneous Candor to the State Bar, see page 9.**

**D. Discipline:**

- (1)  **Stayed Suspension:**
- (a)  Respondent must be suspended from the practice of law for a period of **1 year**.
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1) 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)  The above-referenced suspension is stayed.
- (2)  **Probation:**
- Respondent must be placed on probation for a period of **1 year**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)
- (3)  **Actual Suspension:**
- (a)  Respondent must be actually suspended from the practice of law in the State of California for a period of **60 days**.

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- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1), 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:

**E. Additional Conditions of Probation:**

- (1)  If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and present learning and ability in the general law, pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- (2)  During the probation period, 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 of the State Bar 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 thirty (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 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 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 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 twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (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 to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (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 probation conditions.
- (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 at a session of the Ethics School, and passage of the test given at the end of that session.

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- No Ethics School recommended. 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 to be filed with the Office of Probation.
- (10)  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:**

- (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:**

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

IN THE MATTER OF:                   CLAYTON WILLIAM KENT

CASE NUMBER:                       15-O-13787

**FACTS AND CONCLUSIONS OF LAW.**

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

Case No. 15-O-13787 (Complainant: Trevor Valli)

**FACTS:**

1. On January 31, 2014, Trevor Valli ("Valli") hired respondent to represent him against the City of Richmond for a motorcycle accident Valli sustained during a police pursuit. At the time, respondent advised Valli of the six-month limitations period on a government claim and further explained that any claim against the City of Richmond would have to be filed by March 4, 2014. Thereafter, respondent failed to calendar the deadline for submitting the claim.

2. Sometime between March 5, 2014, and March 11, 2014, respondent realized that the statute of limitations on Valli's claim had expired. In an effort to save Valli's claim, respondent immediately filed both a claim against the City of Richmond and an application, pursuant to Government Code section 911.4, for leave to file a late claim. In the application, respondent falsely stated that Valli was unaware of the six-month limitations period and that Valli did not contact respondent until after the statute of limitations had expired.

3. On March 18, 2014, the City of Richmond denied respondent's application. Respondent received the denial, but failed to inform Valli that the application had been denied.

4. On September 18, 2014, respondent filed a petition in superior court seeking an order relieving Valli from the operation of Government Code section 945.4, which requires timely filing of a government claim before a suit on the same cause of action may be brought in superior court. In both the memorandum of points and authorities and respondent's own declaration in support of the petition, respondent again falsely stated that Valli was unaware of the six-month limitations period on the government claim and that Valli contacted respondent after the claim's limitations period had expired.

5. Thereafter, the superior court scheduled a hearing to take place on February 4, 2015. Respondent received notice of the hearing, but failed to attend and failed to inform Valli of the hearing. At the hearing, the superior court issued a tentative ruling denying the petition. On February 9, 2015, counsel for the City of Richmond send a letter to respondent notifying him of the tentative ruling and enclosing a proposed order. Counsel advised respondent that he had five days from service of the proposed order to object to it. Respondent received proposed order, but failed to object to it and failed to notify Valli of the superior court's tentative denial.

6. Thereafter, the superior court issued an order denying the petition. Respondent received the order, but failed to inform Valli about the order.

7. Respondent never informed Valli that he failed to take action with the six-month limitations period. Later, Valli independently learned about the status of his case and filed a complaint against respondent with the State Bar.

#### CONCLUSIONS OF LAW:

8. By failing to file a government tort claim against the City of Richmond within the six-month statute of limitations, by failing to appear at the February 4, 2015 hearing in superior court, and by failing to object to the proposed order, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

9. By failing to inform Valli that respondent failed to take action within the six-month limitations period, by failing to inform Valli that the City of Richmond denied the application, and by failing to inform Valli that the superior court denied the petition, respondent failed to keep his client, reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).

10. By falsely stating in the application to the City of Richmond that Valli was unaware of the six-month limitations period, that Valli did not contact respondent until after the statute of limitations had expired and that respondent immediately proceeded with the application after being engaged, and by falsely stating in the petition that Valli was unaware of the six-month statute of limitations and that Valli not contact him until after the statute of limitations had expired when respondent knew the statements were false, respondent committed acts involving moral turpitude, dishonesty, or corruption in willful violation of Business and Professions Code, section 6106.

#### AGGRAVATING CIRCUMSTANCES.

**Prior Record of Discipline (Std. 1.5(a)):** In case no. 92-O-14653 et al., respondent stipulated to an actual suspension of six months based on violations of Rules of Professional Conduct, rules 3-110(A), 3-500, 3-700(A)(2), 3-700(D)(1) and Business and Professions Code section 6068(m). In four client matters, respondent failed to perform, effectively abandoning his clients. In aggravation, respondent stipulated to multiple acts of misconduct and concealment in one client matter. In mitigation, the parties stipulated that respondent suffered from extreme financial difficulties and family problems at the time of the misconduct.

**Multiple Acts of Wrongdoing (Std. 1.5(b)):** Respondent to perform, failed to inform his client of significant events and made misrepresentations to the City of Richmond and superior court demonstrating multiple acts of misconduct.



## MITIGATING CIRCUMSTANCES.

**Extraordinary Good Character (Std. 1.6(f)):** Respondent submitted 13 character letters from people aware of the full extent of respondent's misconduct. The letters — from judges, attorneys, clients, and friends — attest to respondent's integrity, honesty, and professionalism.

**Community Service:** In 1999, 2001, 2002, 2003, 2004 and 2005, respondent received the Wiley W. Manuel Award for Pro Bono Legal Services from the Board of Governors of the State Bar of California. Respondent was likewise recognized by the Marin County Bar Association and Legal Aid of the North Bay for his provision of pro bono services to low income residents of Marin County in 1999, 2000, and 2001. In 2006, respondent received a certificate honoring him as an Outstanding Member of the Board of Directors of Legal Aid of Marin from the California State Assembly. In 2016, respondent received a Certificate of Appreciation from the Sons of the American Legion for the promotion of the organization's programs and principles. Respondent's extensive and recognized community service should be deemed mitigating. (*In the Matter of Respondent K* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 335, 359 [civic service and charitable work considered as evidence of good character].)

**Family Problems:** During the time of the misconduct, respondent's daughter suffered from numerous serious health conditions which required intensive treatment. In addition to taking an emotional toll on respondent and his family, the daughter's health issues and the costs of treatment placed considerable financial strain on respondent, who runs a solo practice. (*In the Matter of Ward* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47, 59-60 [illness of family member which strongly affects an attorney may be given mitigating weight even in the absence of expert testimony establishing a nexus between the personal difficulties and the member's misconduct]; *In re Brown*, (1995) 12 Cal. 4<sup>th</sup> 205, 222-223 [financial difficulties can be mitigating to the extent they were unforeseeable].)

**Remedial Measures:** After receiving notification of the State Bar investigation, respondent implemented new procedures in his office, pursuant to which relevant statutes of limitations are calendared following every initial case consultation, even if formal acceptance of representation remains pending. The remedial measures taken by respondent in order to come into compliance with ethical duties may be deemed mitigating. (See *In the Matter of Sullivan* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608, 613.)

**Prefiling Stipulation:** By entering into this stipulation, respondent has acknowledged misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant resources and time. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability]; *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

**Spontaneous Candor to the State Bar:** Respondent was candid and cooperative in his timely response to the State Bar's request for his written response to the victim's complaint. Respondent admitted in writing that he included false information in documents he prepared on his client's behalf in an effort to assist his client. (*In the Matter of Yee* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 330, 335 [awarding mitigation credit where the attorney "admitt[ed] her misconduct to the investigator before trial"].)

## **AUTHORITIES SUPPORTING DISCIPLINE.**

The Standards for Attorney Sanctions for Professional Misconduct “set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to standards are to this source.) The standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given standard, in addition to the factors set forth in the specific standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member’s willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

In this matter, respondent failed to perform, failed to inform his client of significant developments and made misrepresentations to the City of Richmond and the superior court. The most severe sanction applicable to respondent’s misconduct is found in Standard 2.11, which provides:

disbarment or actual suspension is the presumed sanction for an act of moral turpitude, dishonesty, fraud, corruption, intentional or grossly negligent misrepresentation, or concealment of a material fact. The degree of sanction depends on the magnitude of the misconduct; the extent the misconduct harmed or misled the victim, which may include the adjudicator; the impact on the administration of justice, if any; and the extent to which the misconduct related to the member’s practice of law.

Standard 1.8(a) also applies since respondent has a prior record of discipline. The Standard provides that “[i]f a member has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust.” Although respondent’s prior misconduct was serious, it occurred more than 23 years ago. Based on the length of time since respondent’s prior misconduct, as well as the fact that he performed substantial community service after the prior discipline was imposed, it would be appropriate to deviate from the

requirement of progressive discipline under standard 1.8(a) in this matter. (See *In the Matter of Hanson* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 703, 713 [prior discipline not deserving of “significant weight” where the former misconduct was not serious and occurred 17 years prior to the first acts of misconduct in the subsequent case].)

Respondent’s misconduct is serious and directly related to the practice of law. While it is true that he made the misrepresentations to protect his client’s interests, this does not excuse or mitigate the misconduct. In aggravation, respondent has a prior record of discipline and committed multiple acts of misconduct. In mitigation, respondent is entitled to credit for good character, community service, family problems, implementing remedial measures, candor and entering into this stipulation.

Although respondent’s misconduct is serious and aggravated by a prior record of discipline, the limited scope of the misconduct and significant mitigation in this case supports a period of actual suspension at the lower end of the standards.

Case law is instructive. In *Bach v. State Bar* (1987) 43 Cal.3d 848, the Supreme Court imposed a 60-day actual suspension on an attorney who made misrepresentations to a court. In aggravation, the attorney had a prior public reproof for contacting a represented party. The Court found no mitigating circumstances. Although respondent’s misconduct is similar to that in *Bach*, his prior record of discipline is more serious. However, he is entitled to significantly more mitigation. Balancing the misconduct, aggravating and mitigation, it is appropriate to impose the same level of discipline in this case as was imposed in *Bach*.

Based on the foregoing, a 60-day actual suspension with a one year probationary period will serve the purposes of attorney discipline.

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of April 11, 2018, the discipline costs in this matter are \$3,305. 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.

#### **EXCLUSION FROM MINIMUM CONTINUING LEGAL EDUCATION (“MCLE”) CREDIT**

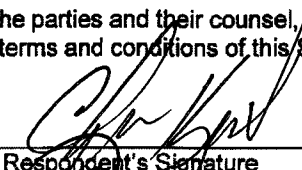
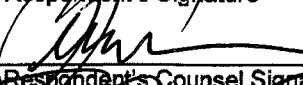
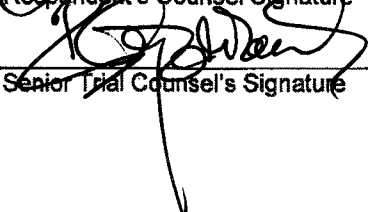
Respondent may not receive MCLE credit for completion of State Bar Ethics School, the MPRE, and/or any other educational course(s) to be ordered as a condition of reproof or suspension. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: <b>Clayton William Kent</b>	Case number(s): <b>15-O-13787</b>
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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.

<u>5/9/2016</u> Date	 Respondent's Signature	<u>Clayton W. Kent</u> Print Name
<u>5/15/18</u> Date	 Respondent's Counsel Signature	<u>Russell S. Roeca</u> Print Name
<u>5/16/2018</u> Date	 Senior Trial Counsel's Signature	<u>Britta G. Pomrantz</u> Print Name

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In the Matter of: CLAYTON WILLIAM KENT	Case Number(s): 15-O-13787
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### ACTUAL SUSPENSION ORDER

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

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

On page 1 of the stipulation, in paragraph A(3), in the last line, the number "13" is CORRECTED and CHANGED to the number "12."

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 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

Date May 29, 2018   
LUCY ARMENDARIZ  
Judge of the State Bar Court



Record Room, S. F. State Bar Office  
Please note this court order which is effective 3/9/95  
Transmittal date: 3/14/95  
Robert Wandruff

**SUPREME COURT  
FILED**  
FEB -7 1995

Robert Wandruff Clerk  
P. QUINN

(State Bar Court Case No. 92-0-14653; 92-0-17505; DEPUTY  
92-0-17741; 92-0-19426 (Cons.))

**S 0 4 3 5 9 8**

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

IN BANK

IN RE CLAYTON W. KENT ON DISCIPLINE

It is ordered that Clayton W. Kent, be suspended from the practice of law for a period of two years, that execution of suspension be stayed, and that he be placed on probation for a period of two years subject to the conditions of probation, including six months actual suspension, and restitution to Bruce L. Patton in the amount of \$2,500.00 plus interest at the rate of 10% per annum from November 11, 1991; and furnishes satisfactory proof thereof to the Probation Unit, State Bar Office of Trials. He is also ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its order regarding first amended stipulation filed September 29, 1994, as modified by its Order filed October 4, 1994. Credit against actual suspension will begin on August 29, 1994. It is further ordered that he take and pass the California Professional Responsibility Examination within one year after the effective date of this order. (See Segretti v. State Bar (1976) 15 Cal.3d 878, 891, fn. 8.) He is further ordered to comply with rule 955, 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 date this order is effective.\* Costs are awarded to the State Bar and shall be added to and become part of the membership fee for the next calendar year. (Bus. & Prof. Code section 6140.7.)

\* See Bus. & Prof. Code section 6126, subdivision (c).

I, Robert F. Wandruff, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court, as shown by the records of my office.

Witness my hand and the seal of the Court this  
\_\_\_\_\_ day of FEB - 8 1995 A.D. 19\_\_\_\_  
By P. QUINN Clerk  
Deputy Clerk

[Signature]  
Acting Chief Justice

**EXHIBIT**  
tabbies  
1

# PUBLIC MATTER

<b>THE STATE BAR COURT OF THE STATE BAR OF CALIFORNIA</b>  HEARING DEPARTMENT  <input checked="" type="checkbox"/> LOS ANGELES <input type="checkbox"/> SAN FRANCISCO	<b>FOR COURT USE ONLY</b>  <b>F I L E D</b>  SEP 29 1994  STATE BAR COURT CLERK'S OFFICE LOS ANGELES
IN THE MATTER OF  <b>CLAYTON W. KENT</b>  No. 123164,  MEMBER OF THE STATE BAR OF CALIFORNIA.	CASE NO. 92-O-14653-DSW  <b>ORDER REGARDING STIPULATION (<input checked="" type="checkbox"/> FIRST AMENDED <input type="checkbox"/> SECOND AMENDED) AS TO FACTS AND DISPOSITION</b>

A fully executed Stipulation as to Facts and Disposition pursuant to rules 405-407, Transitional Rules of Procedure of the State Bar of California, consisting of 43 pages, approved by the parties, was submitted to the State Bar Court in the above-captioned case(s). All stipulations submitted previously are rejected. The Stipulation is attached to this order and is incorporated by reference herein. Unless a party withdraws or modifies the stipulation pursuant to rule 407(c), Transitional Rules of Procedure of the State Bar of California, this order shall be effective 15 days from the service of this order. After consideration of this stipulation, the Court hereby orders:

- The above mentioned case numbers are hereby consolidated for the purposes of ruling upon this stipulation.
- Modifications to the stipulation are attached:
  - the parties having no objection.
  - the parties having agreed on the record on \_\_\_\_\_.
  - any party must object within 15 days of the service of this order to the stipulation, as modified by the Court, or it shall become effective; if any party objects, the Stipulation shall be deemed rejected.
- It appearing that this stipulation and all attachments are fair to the parties and consistent with adequate protection of the public, the stipulation is approved and the disposition is:
  - ordered.
  - recommended to the California Supreme Court.
  - further discussion attached.
- After due consideration of this stipulation and all attachments, it is rejected:
  - for the reasons discussed with the parties in previous conference(s).
  - for the reasons attached to this order.
- It is further  ordered  recommended that costs be awarded to the State Bar pursuant to Business and Professions Code section 6086.10.

DATE: September 27, 1994

  
\_\_\_\_\_  
David S. Wesley, Judge of the State Bar Court

Within document prepared to  
Judge on \_\_\_\_\_  
STATE BAR COURT CLERK'S OFFICE  
By: \_\_\_\_\_  
APPROVED BY STATE BAR COURT  
EXECUTIVE COMMITTEE EFFECTIVE MARCH 1, 1993



**MODIFICATION TO STIPULATION**

<p>In the Matter of</p> <p><b>CLAYTON W. KENT</b> No. 123164</p> <p>Member of the State Bar of California</p>	<p>Case No. <u>92-O-14653-DSW</u></p>
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The Stipulation as to Facts and Disposition shall be modified as follows:

1. On page 2 of STIP FORM 100, an "X" designating Form Prob 360 is added. The form was included in the stipulation package but this box was inadvertently not checked.
2. The request to modify page 29 of the STIP FORM 140 filed by the parties on July 19, 1994, is granted and the modified page 29 attached to the joint motion to modify will be incorporated into the stipulation with the following corrections:
  - a) the page number will be 29 not 29A as designated in the request for modification;
  - b) on line 2 of this modification on page 29, the word "of" found between "acts" and "omissions" is deleted and the word "and" is inserted. The sentence now reads in part "During the period of time corresponding with the occurrence of the acts and omissions contained herein...."
3. On page 29A, Form Disp 250, Condition 110 is modified by circling the word "months".

1 OFFICE OF TRIAL COUNSEL  
2 OFFICE OF TRIALS  
3 THE STATE BAR OF CALIFORNIA  
4 ROBERTA M. YANG  
5 TERESA J. SCHMID  
6 EDWARD O. LEAR, No. 26250  
7 1149 South Hill Street  
8 Los Angeles, California 90015-2299  
9 Telephone: (213) 765-1000

**FILED**

JUL 19 1994

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

10 THE STATE BAR COURT  
11 OF THE STATE BAR OF CALIFORNIA  
12 HEARING DEPARTMENT - LOS ANGELES

13 In the Matter of ) Case No. 92-O-14653  
14 ) 92-O-17505  
15 CLAYTON W. KENT, ) 92-O-17741  
16 No. 123164, ) 92-O-19426  
17 )  
18 A Member of the State Bar ) JOINT REQUEST TO MODIFY FIRST  
19 ) AMENDED STIPULATION

20 The parties hereto request the Court to modify the First  
21 Amended Stipulation as to Facts and Disposition by substituting  
22 the attached page 29A for page 29 of the filed Stipulation.

23 OFFICE OF TRIAL COUNSEL/  
24 OFFICE OF TRIALS  
25 THE STATE BAR OF CALIFORNIA

26 DATED: July 19, 1994

Edward Lear  
EDWARD O. LEAR  
Deputy Trial Counsel/Examiner

27 DATED: July 7, 1994

Clayton W. Kent  
CLAYTON W. KENT  
Respondent

Within document  
Judge on  
STATE BAR COURT CLERK'S OFFICE  
By: [Signature]

[ X ] 10. Additional circumstance(s) in aggravation or additional facts regarding the above paragraphs are stated as follows: During the period of time corresponding with the occurrence of the acts of omissions contained herein, Respondent was experiencing extreme financial difficulties. Respondent was unable to maintain uninterrupted telephone service, as evidenced by the complaints of Ostebo and Zanelli, and was unable to pay both his business and personal expenses and obligations as they became due. Respondent filed for Chapter 13 Bankruptcy relief on April 1, 1992 in order to maintain his office and handle his cases; however, Respondent was subsequently evicted from his office and later, his residence.

Additionally, Respondent was also dealing with a serious family illness during this same time period. The illness involved Respondent's brother, who resided, and was being treated in Northern California.

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DECLARATION OF SERVICE

Case Nos. 92-0-14653  
          92-0-17505  
          92-0-17741  
          92-0-19426

I, the undersigned, over the age of 18 years, whose business address and place of employment is the State Bar of California, 1149 South Hill Street, Los Angeles, CA 90015-2299, 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 in the City and County of Los Angeles, on the date shown below, I deposited or placed for collection and mailing a true copy of the within

JOINT REQUEST TO MODIFY FIRST AMENDED STIPULATION

in a sealed envelope placed for collection and mailing at 1149 South Hill Street, Los Angeles, CA 90015-2299, on the date shown below, addressed to:

CLAYTON WILLIAM KENT  
1370 TRANCAS, #376  
NAPA, CA 94558

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

Not Applicable

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

Signed: Diane Scofield Date: July 19, 1994  
Diane Scofield

**PUBLIC MATTER**

**COUNSEL FOR STATE BAR:**  
 OFFICE OF TRIAL COUNSEL  
 OFFICE OF TRIALS  
 THE STATE BAR OF CALIFORNIA  
 ROBERTA M. YANG  
 TERESA J. SCHMID  
 EDWARD O. LEAR, No. 132699  
 1149 South Hill Street  
 Los Angeles, California 90015-2299  
 Telephone: (213) 765-1000

**COUNSEL FOR RESPONDENT:**  
 CLAYTON W. KENT, IN PRO PER  
 1370 Trancas, #376  
 Napa, California 94558

THE STATE BAR COURT  
 OF THE  
 STATE BAR OF CALIFORNIA

HEARING DEPARTMENT

LOS ANGELES

SAN FRANCISCO

FOR COURT USE ONLY

**FILED**

JUN 17 1994

STATE BAR COURT  
 CLERK'S OFFICE  
 LOS ANGELES

IN THE MATTER OF

CLAYTON W. KENT

No. 123164

MEMBER OF THE STATE BAR OF CALIFORNIA.

CASE NO(S). 92-O-14653  
 92-O-17505  
 92-O-17741  
 92-O-19426

STIPULATION AS TO FACTS AND  
 DISPOSITION (RULES 405-407,  
 TRANSITIONAL RULES OF PROCEDURE  
 OF THE STATE BAR OF CALIFORNIA)  
 FIRST AMENDED  SECOND AMENDED

**SCHEDULE OF ATTACHMENTS**

- SECTION ONE:  FORM STIP 110: STIPULATION FORM, INCLUDING  
 GENERAL AGREEMENTS AND  
 WAIVERS
- SECTION TWO:  FORM STIP 120: AGREEMENTS AND WAIVERS
- SECTION TWO:  FORM STIP 130: STATEMENT OF ACTS OR OMISSIONS  
 AND CONCLUSIONS OF LAW  
 WARRANTING THE AGREED  
 DISPOSITION

Parties'  
Initials

W. G. O. H. PAGE 2

- [XX] SECTION THREE: [XX] FORM STIP 140: STATEMENT OF FACTS AND CIRCUMSTANCES BEARING ON THE AGREED DISPOSITION
- [XX] SECTION FOUR: [ ] FORM DISP 200: STATEMENT SUPPORTING DISMISSAL OF ALL CHARGES  
[ ] FORM DISP 205: STATEMENT SUPPORTING DISMISSAL OF CERTAIN CHARGES  
[ ] FORM DISP 210: ADMONITION  
[ ] FORM DISP 220: PRIVATE REPROVAL  
[ ] FORM DISP 230: PUBLIC REPROVAL  
[ ] FORM DISP 240: SUSPENSION, INCLUDES NO ACTUAL SUSPENSION  
[XX] FORM DISP 250: ACTUAL SUSPENSION  
[ ] FORM DISP 260: PROFESSIONAL RESPONSIBILITY EXAMINATION  
[ ] FORM DISP 270: REGARDING FURTHER CONDITIONS TO BE ATTACHED TO REPROVAL
- [XX] FORM PROB 310: GENERAL CONDITIONS OF PROBATION AND/OR APPOINTMENT OF PROBATION MONITOR
- [XX] FORM PROB 320: RESTITUTION  
[ ] FORM PROB 330: PROTECTION OF CLIENT FUNDS  
[ ] FORM PROB 340: MENTAL HEALTH TREATMENT  
[ ] FORM PROB 350: ALCOHOL/DRUG IMPAIRMENT  
[ ] FORM PROB 360: EDUCATION AND LAW OFFICE MANAGEMENT
- [XX] FORM PROB 370: COMMENCEMENT AND EXPIRATION OF PROBATION
- [XX] FORM PROB 380: FURTHER CONDITIONS OF PROBATION
- [XX] SECTION FIVE: [XX] APPROVAL OF PARTIES

Parties' Initials

*M. Gol.*

<p>THE STATE BAR COURT OF THE STATE BAR OF CALIFORNIA</p> <p>HEARING DEPARTMENT</p> <p><input type="checkbox"/> LOS ANGELES</p> <p><input type="checkbox"/> SAN FRANCISCO</p>	<p>FOR COURT USE ONLY</p> <p><b>FILED</b></p> <p>JUN 17 1994</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>IN THE MATTER OF</p> <p><u>CLAYTON W. KENT</u></p> <p>No. <u>123164</u></p> <p>MEMBER OF THE STATE BAR OF CALIFORNIA.</p>	<p>CASE NO(S). 92-0-14653 92-0-17505 92-0-17741 92-0-19426.</p> <p>STIPULATION AS TO FACTS AND DISPOSITION (RULES 405-407, TRANSITIONAL RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA)</p> <p><input type="checkbox"/> FIRST AMENDED <input type="checkbox"/> SECOND AMENDED</p>

SECTION ONE. GENERAL AGREEMENTS AND WAIVERS.

A. PARTIES.

1. The parties to this stipulation as to facts and disposition, entered into under rules 405-407, Transitional Rules of Procedure of the State Bar of California (herein "Rules of Procedure"), are the member of the State Bar of California, captioned above (hereinafter "Respondent"), who was admitted to practice law in the State of California on 06/10/86 and the Office of the Chief Trial Counsel, represented by the Deputy Trial Counsel of record whose name appears below.

2. If Respondent is represented by counsel, Respondent and his or her counsel have reviewed this stipulation, have approved it as to form and substance, and has signed FORM STIP 400 below.

3. If Respondent is appearing in propria persona, Respondent has received this stipulation, has approved it as to form and substance, and has signed FORM STIP 400 below.

B. JURISDICTION, SERVICE AND NOTICE OF CHARGE(S), AND ANSWER. The parties agree that the State Bar Court has jurisdiction over Respondent to take the action agreed upon within this stipulation. This stipulation is entered into pursuant to the provisions of rules 405-407, Rules of Procedure. No issue is raised over notice or service of any charge(s). The parties waive any variance between the basis for the action agreed to in this stipulation and any charge(s). As to any charge(s) not yet filed in any matter covered by this stipulation, the parties waive the filing of formal charge(s), any answer thereto, and any other formal procedures.

C. AUTHORITY OF EXAMINER. Pursuant to rule 406, Rules of Procedure, the Chief Trial Counsel has delegated to this Deputy Trial Counsel the authority to enter into this stipulation.

D. PROCEDURES AND TRIAL.

In order to accomplish the objectives of this stipulation, the parties waive all State Bar Court procedures regarding formal discovery as well as hearing or trial. Instead, the parties agree to submit this stipulation to a judge of the State Bar Court.

E. PENDING PROCEEDINGS.

Except as specified in subsection J, all pending investigations and matters included in this stipulation are listed by case number in the caption above.

F. EFFECT OF THIS STIPULATION.

1. The parties agree that this stipulation includes this form and all attachments.
2. The parties agree that this stipulation is not binding unless and until approved by a judge of the State Bar Court. If approved, this stipulation shall bind the parties in all matters covered by this stipulation and the parties expressly waive review by the Review Department of the State Bar Court.
3. If the stipulation is not approved by a State Bar Court judge, the parties will be relieved of all effects of the stipulation and any proceedings covered by this stipulation will resume.
4. The parties agree that stipulations as to proposed discipline involving suspension, are not binding on the Supreme Court of California. Pursuant to Business and Professions Code sections 6078, 6083-6084, and 6100, the Supreme Court must enter an order effectuating the terms and conditions of this stipulation before any stipulation for suspension, actual or stayed, will be effective.

G. PREVIOUSLY REJECTED STIPULATIONS IN PROCEEDINGS OR INVESTIGATIONS COVERED BY THIS STIPULATION.

Unless disclosed by the parties in subsection I, there have been no previously rejected or withdrawn stipulations in matters or investigations covered by this stipulation.

H. COSTS OF DISCIPLINARY PROCEEDINGS. (Check appropriate paragraph(s).)

- XX 1. The agreed disposition is eligible for costs to be awarded the State Bar. (Bus. & Prof. Code, §§ 6086.10 and 6140.7.) Respondent has been notified of his or her duty to pay costs. The amount of costs assessed by the Office of Chief Trial Counsel will be disclosed in a separate cost certificate submitted following approval of this stipulation by a hearing judge. The amount of costs assessed by the State Bar Court will be disclosed in a separate cost certificate submitted upon finalization of this matter.
- \_\_\_\_\_ 2. The agreed disposition is not eligible for costs to be awarded the State Bar.

I. SPECIAL OR ADDITIONAL AGREEMENTS AS TO SECTION ONE.

- XX Respondent has been advised of pending investigations, if any, which are not included in this stipulation.
- XX FORM STIP 120 is attached, stating further general agreements and waivers.



**SECTION TWO. STATEMENT OF ACTS OR OMISSIONS AND CONCLUSIONS OF LAW WARRANTING THE AGREED DISPOSITION.**

[XX] The parties have attached FORM STIP 130 and agree that the same warrants the disposition set forth in this stipulation.

**SECTION THREE. STATEMENT OF FACTS, FACTORS OR CIRCUMSTANCES BEARING ON THE AGREED DISPOSITION.**

The parties agree that the following attachment(s) constitute the facts and circumstances considered mitigating, aggravating or otherwise bearing on the agreed disposition:

[XX] FORM STIP 140: STATEMENT OF FACTS AND CIRCUMSTANCES BEARING ON THE AGREED DISPOSITION

**SECTION FOUR. AGREED DISPOSITION**

Based on the foregoing and all attachments, the parties agree that the appropriate disposition of all matters covered by this stipulation is (Check appropriate disposition(s); attach schedule(s) if indicated):

- DISMISSAL OF ALL CHARGES (FORM DISP 200)
- DISMISSAL OF CERTAIN CHARGES (Attach FORM DISP 205: STATEMENT SUPPORTING DISMISSAL OF CERTAIN CHARGES)
- ADMONITION (Attach FORM DISP 210: ADMONITION)
- PRIVATE REPROVAL (Attach FORM DISP 220: PRIVATE REPROVAL)
- PUBLIC REPROVAL (Attach FORM DISP 230: PUBLIC REPROVAL)
- SUSPENSION ENTIRELY STAYED (Attach FORM DISP 240: RECOMMENDATIONS FOR STAYED SUSPENSION)
- [XX] ACTUAL SUSPENSION (Attach FORM DISP 250: RECOMMENDATIONS FOR ACTUAL SUSPENSION)
- ADDITIONAL PROVISIONS:
  - FORM DISP 260: CALIFORNIA PROFESSIONAL RESPONSIBILITY EXAMINATION
  - FORM DISP 270: FURTHER CONDITIONS TO BE ATTACHED TO REPROVAL

IN THE MATTER OF	CASE NO(S). 92-0-14653
CLAYTON W. KENT	92-0-17505
A Member of the State Bar.	92-0-17741
	92-0-19426

ATTACHMENT TO:  STIPULATION     DECISION

### ADDITIONAL AGREEMENTS AND WAIVERS

- FORM TRI 121: WAIVER OF RIGHT TO PETITION FOR RELIEF FROM ASSESSED COSTS
- FORM TRI 122: WAIVER OF ISSUANCE OF NOTICE TO SHOW CAUSE
- FORM TRI 123: STATEMENT OF AUTHORITIES SUPPORTING DISCIPLINE
- FORM TRI 124: PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING
- FORM TRI 125: ADDITIONAL AGREEMENTS AND WAIVERS PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6049.1
- FORM TRI 126: RESOLUTION OF PROCEEDING
- FORM TRI 127: ESTIMATION OF COSTS
- FORM TRI 128: WAIVER OF REVIEW

Parties' Initials

*WAP*

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IN THE MATTER OF

Case No(s). 92-O-14653  
92-O-17505  
92-O-17741  
92-O-19426

CLAYTON W. KENT

A Member of the State Bar.

ATTACHMENT TO:     STIPULATION             DECISION

WAIVER OF RIGHT TO PETITION FOR RELIEF  
FROM ASSESSED COSTS

XX Respondent acknowledges that this Stipulation is a compromise of disputed allegations and that a petition for relief from costs pursuant to Transitional Rules of Procedure, rule 462, alleging special circumstances or other good cause shall not be based upon the timing of this Stipulation, any aspects of the negotiation process in this case, nor the degree of discipline agreed upon by the parties hereto.

Parties' Initials

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IN THE MATTER OF

Case No(s). 92-O-14653

92-O-17505

CLAYTON W. KENT

92-O-17741

92-O-19426

A Member of the State Bar.

ATTACHMENT TO:       STIPULATION       DECISION

WAIVER OF ISSUANCE OF NOTICE TO SHOW CAUSE

92-O-19426

It is agreed by the parties that investigative matters designated as case number(s) 92-O-14653, 92-O-17505, 92-O-17741 shall be incorporated into the within Stipulation. The parties waive the issuance of a Notice to Show Cause and the right to a formal hearing and any other procedures necessary with respect to these investigative matters in order to accomplish the objectives of this Stipulation.

Parties'  
Initials

*W. Col*

PAGE 8A

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IN THE MATTER OF

Case No(s). 92-0-14653  
92-0-17505  
92-0-17741  
92-0-19426

CLAYTON W. KENT

A Member of the State Bar.

ATTACHMENT TO:     STIPULATION                     DECISION

**STATEMENT OF AUTHORITIES SUPPORTING DISCIPLINE**

The following cases present fact patterns apposite to that in the instant case and support the discipline recommended herein:

1.    Carter v. State Bar (1988) 44 Cal.3d 1091.

In Two Count matter in which Respondent failed to perform the services for which he was hired, failed to communicate with the client, and misled the client into believing his case was awaiting trial when it had not been filed. Respondent effectively withdrew from representation without returning either the fees or the files to his clients. Based on this misconduct, the Court ordered: two years suspension, stayed, six months actual. (Respondent had a prior public reproof for similar acts of misconduct.)

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Parties'  
Initials

*W. Gol*

PAGE 8B

IN THE MATTER OF

Case No(s). 92-0-14653  
92-0-17505  
92-0-17741  
92-0-19426

CLAYTON W. KENT

A Member of the State Bar.

ATTACHMENT TO:     STIPULATION             DECISION

**STATEMENT OF AUTHORITIES SUPPORTING DISCIPLINE**

2.    In the Matter of Peterson (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 73 (Modification at 1 Cal. State Bar Ct. Rptr. 83.)

Three count matter in which Respondent abandoned three client matters over a three year period; deceived two of the three clients as to the status of their matters (he misrepresented that he had filed suits when he had not); and failed to participate in the State Bar's investigation into the complaints. Based on this misconduct, the court ordered: three years suspension; one year actual.

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Parties'  
Initials

*WJF*

PAGE 8C

IN THE MATTER OF

CLAYTON W. KENT

A Member of the State Bar.

Case No(s). 92-O-14653  
92-O-17505  
92-O-17741  
92-O-19426

ATTACHMENT TO:  STIPULATION [ ] DECISION

STATEMENT OF AUTHORITIES SUPPORTING DISCIPLINE

3. Lister v. State Bar (1990) 51 Cal.3d 1117.

Four count matter. In the first count, Respondent failed to file a complaint on client Merritt's behalf and failed to warn her of time limits. In the second count, Respondent failed to competently advise clients in tax matter resulting in them paying \$45,000.00. Respondent also put a check from the IRS in his file, where it remained for two and a half years. In the third count, Respondent was retained to file an action for a client in an age discrimination matter. Aside from some investigation of the claim, Respondent did nothing else to pursue it. Respondent also moved offices without telling this client. In the fourth count, Respondent failed to respond to any of the four letters that the Office of Investigations sent him.

On the basis of this misconduct, the Court ordered three years suspension, stayed; three years probation with nine months actual suspension.

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IN THE MATTER OF CLAYTON W. KENT  
A Member of the State Bar.

Case No(s). 92-0-14653  
92-0-17505  
92-0-17741  
92-0-19426

ATTACHMENT TO:  STIPULATION  DECISION

WAIVER OF REVIEW

The parties agree that if this Stipulation is approved by the Court, without modification, each party expressly waives its rights of reconsideration and review of this Stipulation under the procedure and waive the provisions of rules 952, 952.5 and 953 of the California Rules of Court, and agree that the Supreme Court of California may immediately order the agreed discipline and conditions.

The parties agree that the Court may include in its Order Approving Stipulation all provisions necessary to implement the waivers herein.



IN THE MATTER OF	CASE NO(S). 92-0-14653
CLAYTON W. KENT	92-0-17505
	92-0-17741
	92-0-19426
A Member of the State Bar.	

ATTACHMENT TO:  STIPULATION     DECISION

STATEMENT OF ACTS OR OMISSIONS  
WARRANTING THE AGREED DISPOSITION

CASE NO. 92-0-19426

COUNT ONE

1. In October of 1991, Respondent was retained by Bruce L. Patton (hereinafter "Patton") to represent him in a civil matter.
2. In November of 1991, Patton paid Respondent Two Thousand Five Hundred Dollars (\$2,500.00) in advance as a retainer.
3. In January of 1992, Respondent told Patton that the lawsuit was proceeding well and that it had been consolidated with another matter.
4. In approximately May of 1992, Patton spoke with Respondent's secretary who stated that Respondent would be in touch with Patton soon concerning the civil matter.
5. On or about June of 1992, Respondent closed his office and abandoned Patton with no forwarding address.
6. After several attempts to contact Respondent, Patton retained new counsel. The new counsel performed a diligent search and was unable to locate any action filed as of July 1, 1992 in any San Diego jurisdiction.

IN THE MATTER OF

CLAYTON W. KENT

A Member of the State Bar.

CASE NO(S). 92-0-14653  
92-0-17505  
92-0-17741  
92-0-19426

ATTACHMENT TO:  STIPULATION  DECISION

**STATEMENT OF ACTS OR OMISSIONS  
WARRANTING THE AGREED DISPOSITION**

CASE NO. 92-0-17741

COUNT TWO

1. On or about August 3, 1991, Respondent was retained by Michelle Ostebo (hereinafter "Ostebo") to represent her in a civil matter. Ostebo paid Respondent One Thousand Dollars (\$1,000.00) in advance as a retainer.
2. In June of 1992, Respondent was scheduled to make a court appearance in Ostebo's case. When Ostebo called Respondent's office to confirm Respondent's appearance, Ostebo discovered that the office telephones had been disconnected. Ostebo located Respondent at Respondent's residence and confirmed Ostebo's appearance at the June 1992 hearing. At the hearing, the Court had the matter continued for thirty days.
3. In July of 1992, Ostebo again attempted to contact Respondent regarding the re-scheduled court appearance of July 18, 1992. Respondent's office telephones were again disconnected. At that time Ostebo was informed that Respondent had moved out.

Parties' Initials

*W. Kent*

IN THE MATTER OF	CASE NO(S). 92-0-14653
<u>CLAYTON W. KENT</u>	92-0-17505
A Member of the State Bar.	92-0-17741
	92-0-19426

ATTACHMENT TO:  STIPULATION     DECISION

**STATEMENT OF ACTS OR OMISSIONS  
WARRANTING THE AGREED DISPOSITION**

CASE NO. 92-0-17741

COUNT TWO

4. On July 13, 1992, Ostebo wrote to Respondent, inquiring as to the status of her case, and asked for her file. Respondent failed to return the files. Respondent never informed Ostebo of his intention to move his practice.

5. At the July 18, 1992 hearing, Respondent failed to appear on behalf of Ostebo. Another hearing was scheduled for November 30, 1992.

6. On September 11, 1992, Ostebo received a reply from Respondent to Ostebo's July 13, 1992 letter. Respondent advised Ostebo of a mandatory September 14, 1992 court hearing. On September 13, 1992, Respondent informed Ostebo that he could no longer function as her attorney due to a "serious family illness" that caused him to move to Napa Valley, California.

IN THE MATTER OF

CASE NO(S). 92-0-14653

CLAYTON W. KENT

92-0-17505

92-0-17741

A Member of the State Bar.

92-0-19426

ATTACHMENT TO:  STIPULATION     DECISION

**STATEMENT OF ACTS OR OMISSIONS  
WARRANTING THE AGREED DISPOSITION**

CASE NO. 92-0-17741COUNT TWO

7. On September 14, 1992, Ostebo filed a Substitution of Attorney. On September 25, 1992, the date set for the trial, Ostebo in court in propria persona. Commissioner J.L. Duchnick informed Ostebo that the file was incomplete and that he would need time to review it. Ostebo was not given an opportunity to be heard.

8. On October 1, 1992 Ostebo received in the mail a civil trial minute sheet for the action which indicated that the cross-complaint had been dismissed without prejudice. The judge sanctioned Respondent in the amount of Two Hundred Fifty Dollars (\$250.00)

9. On October 6, 1992, Ostebo retained the Law Office of La Rocque, Wilson, Mitchell & Skola (hereinafter "LaRocque") to represent her in the action. On October 8, 1992, LaRocque filed an Ex Parte Application For Order Vacating Decision and Granting New or Further Trial. The motion was denied.

Parties'

Initials

*W. Kent*

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IN THE MATTER OF

CASE NO(S). 92-O-14653

92-O-17505

CLAYTON W. KENT

92-O-17741

92-O-19426

A Member of the State Bar.

ATTACHMENT TO:  STIPULATION  DECISION

**STATEMENT OF ACTS OR OMISSIONS  
WARRANTING THE AGREED DISPOSITION**

CASE NO. 92-O-17741

COUNT TWO

10. On October 16, 1992 LaRocque filed a Memorandum of Points and Authorities in Support of Cross-Complainant's Application for Order Vacating Decision and Granting New or Further Trial. The hearing on this motion was set for December 2, 1992.

11. On December 10, 1992, Ostebo's motion to have a new trial date set was taken under submission. Counsel was to be notified by December 14, 1992. On December 17, 1992, the Court gave a tentative ruling of Ostebo's case. The motion was withdrawn by LaRocque for Ostebo.

12. On December 22, 1992, R. Dawn Matalon of LaRocque sent a letter to Commissioner Duchnick confirming to the Court that Ostebo no longer desired to pursue the case because she had received Five Thousand Dollars (\$5,000.00) from Amwest Surety Insurance Company.

Parties' Initials

MLL for

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IN THE MATTER OF	CASE NO(S). 92-0-14653
<u>CHRISTON W. KENT</u>	92-0-17505
	92-0-17741
A - Member of the State Bar.	92-0-19426

ATTACHMENT TO:  STIPULATION     DECISION

**STATEMENT OF ACTS OR OMISSIONS  
WARRANTING THE AGREED DISPOSITION**

CASE NO. 92-0-17741

COUNT TWO

13. Respondent's wilful actions in improperly withdrawing from Ostebo's case without taking reasonable steps to avoid reasonably foreseeable prejudice to Ostebo (i.e. not giving due notice to the client), failing to communicate with her, failing to perform with competence, and failing to return her files as requested, resulted in economic and personal damage to Ostebo.

**CONCLUSION OF LAW**

Respondent committed the above-described acts in wilful violation of Business & Professions Code §6068(m) and Rules 3-110(A), 3-700(A)(2) and 3-700(D)(1) of the Rules of Professional Conduct.

IN THE MATTER OF

CLAYTON W. KENT

A Member of the State Bar.

CASE NO(S). 92-0-14653  
92-0-17505  
92-0-17741  
92-0-19426ATTACHMENT TO:  STIPULATION     DECISION

**STATEMENT OF ACTS OR OMISSIONS  
WARRANTING THE AGREED DISPOSITION**

CASE NO. 92-0-14653COUNT THREE

1. On or about March 31, 1990, Mario Zanelli (hereinafter "Zanelli") retained Respondent to represent him in a civil matter. Zanelli paid Respondent Six Hundred Dollars (\$600.00) to cover the partial costs for a deposition transcript relevant to the case. Respondent did not receive any fees for services rendered.

2. On April 28, 1992, Zanelli attempted to contact Respondent and discovered that his home and office telephone numbers had been disconnected. The phone company had no record of the new numbers for either Respondent's home or office. Zanelli visited Respondent's office and it appeared abandoned. Zanelli mailed a certified letter to Respondent and received no response.

IN THE MATTER OF	CASE NO(S). 92-0-14653
<u>CLAYTON W. KENT</u>	92-0-17505
	92-0-17741
A Member of the State Bar.	92-0-19426

ATTACHMENT TO:  STIPULATION     DECISION

**STATEMENT OF ACTS OR OMISSIONS  
WARRANTING THE AGREED DISPOSITION**

CASE NO. 92-0-14653

COUNT THREE

3. On July 15, 1992, Stephen R. Kilstofte (hereinafter "Opposing Counsel") appeared in Department A of the Pasadena Superior Court on the court's own motion to dismiss and for sanctions. The court dismissed Zanelli's complaint, struck his answer to the cross-complaint and ordered the matter to proceed on the cross-complaint.

4. On July 16, 1992, Zanelli informed the State Bar that he had retained the services of Brian R. Riley (hereinafter "Riley"). Riley discovered that Respondent failed to appear on a motion to compel responses to interrogatories. Sanctions were imposed against Zanelli in the amount of One Thousand Five Hundred Dollars (\$1,500.00). Respondent allowed a demurrer to be sustained against Zanelli and thus allowed the defendant, State Farm Insurance, to be dismissed from the action with prejudice. Respondent failed to appear for two later status conferences and Zanelli's case was dismissed.



IN THE MATTER OF

CASE NO(S). 92-0-14653

CLAYTON W. KENT

92-0-17505

92-0-17741

92-0-19426

A Member of the State Bar.

ATTACHMENT TO:  STIPULATION  DECISION

**STATEMENT OF ACTS OR OMISSIONS  
WARRANTING THE AGREED DISPOSITION**

CASE NO. 92-0-14653COUNT THREE

5. On July 22, 1992, Opposing Counsel mailed Riley a copy of the Order to Show Cause Why Sanctions Should Not Be Imposed and the Notice of Ruling on Court's Order to Show Cause Why Sanctions Should Not Be Imposed.

6. On August 25, 1992, Respondent informed the State Bar that he was forced to move to Northern California due to a family illness. Respondent promised that he would give a written response to the State Bar by September 2, 1992. Respondent informed the State Bar that he would execute a Substitution of Attorney and transfer all client files. Respondent failed to honor his commitments.

IN THE MATTER OF

CASE NO(S). 92-0-14653

CLAYTON W. KENT

92-0-17505

92-0-17741

92-0-19426

A Member of the State Bar.

ATTACHMENT TO:  STIPULATION  DECISION

**STATEMENT OF ACTS OR OMISSIONS  
WARRANTING THE AGREED DISPOSITION**

CASE NO. 92-0-14653COUNT THREE

7. Respondent's wilful actions in improperly withdrawing from Zanelli's case without taking reasonably foreseeable steps to avoid reasonably foreseeable prejudice to Zanelli, failing to communicate with him and failing to perform with competence resulted in personal and economic damage to Zanelli.

**CONCLUSIONS OF LAW**

By the aforesaid acts, Respondent wilfully violated Business and Professions Code §6068(m) and Rules 3-110(A) and 3-700(A)(2) of the Rules of Professional Conduct.

W. Kent LOF

IN THE MATTER OF

CLAYTON W. KENT

A Member of the State Bar.

CASE NO(S). 92-0-14653

92-0-17505

92-0-17741

92-0-19426

ATTACHMENT TO: [ X ] STIPULATION [ ] DECISION

**STATEMENT OF ACTS OR OMISSIONS  
WARRANTING THE AGREED DISPOSITION**

CASE NO. 92-0-17505COUNT FOUR

1. On or about December 30, 1991, Respondent was employed by Linda C. Brown (hereinafter "Brown") to represent her in a lawsuit entitled G. N. Davisson Construction Inc. vs. Linda Brown, San Diego County Municipal Court Case No. 123488. At that time, Brown was a resident of San Diego County, and Respondent's law office was located in San Diego.

2. On or about December 30, 1991, Brown paid Respondent \$1,500.00 in advanced attorney fees.

3. On or about February 7, 1992, Brown sent Respondent a letter mailed to his official membership address, requesting copies of the Answer and Cross-Complaint which Respondent had filed, and also requesting that Respondent initiate certain discovery in the case. Respondent failed to reply to her requests.

4. A trial date in the case was set for July 13, 1992. Respondent failed to inform Brown of that date, and Respondent failed to appear in court on her behalf.

Parties' Initials

*W. Kent* *1901*

IN THE MATTER OF	CASE NO(S).	92-0-14653
<u>CLAYTON W. KENT</u>		92-0-17505
A Member of the State Bar.		92-0-17741
		92-0-19426

ATTACHMENT TO:  STIPULATION  DECISION

**STATEMENT OF ACTS OR OMISSIONS  
WARRANTING THE AGREED DISPOSITION**

CASE NO. 92-0-17505

COUNT FOUR

5. Respondent failed to perform all of the services for which he was retained by Brown.

6. Respondent withdrew from employment by Brown without taking reasonable steps to avoid reasonably foreseeable prejudice to the rights of his client, including giving due notice to her and allowing time for employment of other counsel.

7. During the period from in or about May 1992 to in or about July 1992, Respondent moved from San Diego to Napa, California. Respondent failed to advise Brown that he had moved.

8. On or about August 7, 1992, Attorney Craig A. Ramseyer advised Respondent by letter that he had been retained by Brown, and he requested the client file.

9. During the period from August 1992 to in or about March 1993, Respondent failed to send the client file to Ramseyer.

Parties'

Initials

*ML*, *PL*

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IN THE MATTER OF

CASE NO(S). 92-0-14653

92-0-17505

CLAYTON W. KENT

92-0-17741

92-0-19426

A Member of the State Bar.

ATTACHMENT TO:  STIPULATION  DECISION

**STATEMENT OF ACTS OR OMISSIONS  
WARRANTING THE AGREED DISPOSITION**

CASE NO. 92-0-17505

COUNT FOUR

CONCLUSIONS OF LAW

By the aforesaid acts, Respondent wilfully violated California Business and Professions Code Section 6068(m), and Rules of Professional Conduct, rules 3-110(A), 3-500, and 3-700(A)(2),

Parties' Initials

*M. G. P.*

IN THE MATTER OF  CLAYTON W. KENT  A Member of the State Bar.	CASE NO(S). 90-0-19426 92-0-17505 92-0-17741 92-0-14653
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ATTACHMENT TO:  STIPULATION     DECISION

**STATEMENT OF FACTS AND CIRCUMSTANCES  
BEARING ON THE AGREED DISPOSITION**

**A. AGGRAVATING CIRCUMSTANCES:**

1. Respondent has a record of prior discipline. (Std. 1.2 (b)(i).) Supporting facts:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Respondent's misconduct evidences multiple acts of wrongdoing. (Std. 1.2 (b)(ii).) Supporting facts: Respondent abandoned several clients.  
Respondent failed to perform with competence, failed to return files and failed to communicate with regard to several clients.  
\_\_\_\_\_

3. Respondent's misconduct evidences\demonstrates a pattern of misconduct. (Std. 1.2 (b)(ii).) Supporting facts: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Respondent's misconduct was surrounded or followed by bad faith, dishonesty, concealment, overreaching or other circumstances defined by Standard 1.2 (b)(iii). Supporting facts: In matter No.: 92-0-19426, Respondent misrepresented essential facts to his client. (See Stip Form 130, supra.)  
\_\_\_\_\_  
\_\_\_\_\_

References to "Standards" are to the "Standards for Attorney Sanctions for Professional Misconduct: (See Transitional Rules of Procedure of the State Bar of California, Division V.)

5. Respondent's misconduct harmed significantly client(s), the public or the administration of justice. (Std. 1.2 (b)(iv).) Supporting facts: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

6. Respondent demonstrated indifference to rectifying the consequences of misconduct. (Std. 1.2 (b)(v).) Supporting facts: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

7. Respondent demonstrated indifference to atoning for the consequences of misconduct. (Std. 1.2 (b)(v).) Supporting facts: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

8. Respondent displayed a lack of candor and cooperation to any victim(s) of misconduct. (Std. 1.2 (b)(vi).) Supporting facts: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

9. Respondent displayed a lack of candor and cooperation to the State Bar during disciplinary investigation or proceedings. (Std. 1.2 (b)(vi).) Supporting facts: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





*M. J. P.*

**B. MITIGATING CIRCUMSTANCES:**

1. Respondent has no record of prior discipline over many years of practice, coupled with present misconduct not deemed serious. (Std. 1.2 (e)(i).) Supporting facts: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Respondent acted in good faith. (Std. 1.2 (e)(ii).) Supporting facts: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Respondent's misconduct did not result in harm to the client(s) or person(s) who were the objects of misconduct. (Std. 1.2 (e)(iii).) Supporting facts: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Respondent suffered extreme emotional difficulties at the time of misconduct of the type which is subject to the conditions recognized by Standard 1.2 (e)(iv). Supporting facts: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Respondent suffered extreme physical disabilities at the time of misconduct of the type which is subject to the conditions recognized by Standard 1.2 (e)(iv). Supporting facts: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Respondent displayed spontaneous candor and cooperation to the victim(s) of misconduct. (Std. 1.2 (e)(v).) Supporting facts: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[ ] 7. Respondent displayed spontaneous candor and cooperation to the State Bar during disciplinary investigation and proceedings. (Std. 1.2 (e)(v).) Supporting facts: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

[ ] 8. Respondent presented an extraordinary demonstration of good character as set forth in Standard 1.2 (e)(vi). Supporting facts: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

[ ] 9. Respondent promptly took objective steps to spontaneously demonstrate remorse which steps were designed to timely atone for any consequences of Respondent's misconduct. (Std. 1.2 (e)(vii).) Supporting facts: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[ ] 10. Respondent promptly took objective steps to spontaneously demonstrate recognition of the wrongdoing acknowledged, which steps were designed to timely atone for any consequences of Respondent's misconduct. (Std. 1.2 (e)(vii).) Supporting facts: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

[ ] 11. Considerable time has passed since Respondent's misconduct, followed by convincing proof of subsequent rehabilitation (Std. 1.2 (e)(viii)). Supporting facts: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

[ ] 12. Excessive delay occurred in conducting this disciplinary proceeding, which delay is not attributable to Respondent and which delay was prejudicial to Respondent. (Std. 1.2 (e)(ix).) Supporting facts: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Parties'

Initials

*W. Kent* *908*

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IN THE MATTER OF	CASE NO(S). 92-O-14653
<u>CLAYTON W. KENT</u>	92-O-17505
A Member of the State Bar.	92-O-17741
	92-O-19426

ATTACHMENT TO:  STIPULATION     DECISION

### ACTUAL SUSPENSION

[Fill in the blanks as appropriate and check the boxes at left for all language that is intended to be included in the stipulation, deleting words or phrases that are not appropriate. When designating numbers for the length of suspension or probation, please spell out the number and include the arabic numeral in parenthesis provided.]

#### ALL ACTUAL SUSPENSION, NO STAYED SUSPENSION

It is recommended that Respondent be actually suspended from the practice of law in the State of California for a period of \_\_\_\_\_ ( ) days/months/years;

and until Respondent has shown proof satisfactory to the State Bar Court of Respondent's rehabilitation, fitness to practice and learning and ability in the general law pursuant to Standard 1.4(c)(iii), Standards for Attorney Sanctions for Professional Misconduct;

and until Respondent makes restitution as set forth on FORM PROB 320.

and until \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### ACTUAL SUSPENSION WITH STAYED SUSPENSION

It is recommended that Respondent be suspended from the practice of law for a period of two ( 2 ) ~~days/months/years~~, that the execution of such suspension be stayed, that Respondent be placed upon probation for a period of two ( 2 ) ~~days/months/years~~, and that Respondent be ordered to comply with the following conditions of probation:

COND. 110. BASIC PROVISION: That during the first six ( 6 ) days/months/years of said period of probation, Respondent shall be actually suspended from the practice of law in the State of California;

*M. G. P.*

and until Respondent makes restitution as set forth on FORM PROB 320.

and until \_\_\_\_\_  
\_\_\_\_\_

COND. 130. ACTUAL SUSPENSION CONTINUES UNTIL RESTITUTION: That Respondent shall be suspended from the practice of law in California during the first \_\_\_\_\_ ( ) days / months / years of said period of probation and until Respondent makes restitution to: \_\_\_\_\_ or the Client Security Fund if it has paid, in the sum of \$ \_\_\_\_\_ at 10% interest per annum from \_\_\_\_\_ [date] and until Respondent provides satisfactory evidence of said restitution to the Probation Unit, Office of Trials, Los Angeles;

COND. 150. TWO OR MORE THAN TWO YEARS OF ACTUAL SUSPENSION: That during the first \_\_\_\_\_ ( ) days / months / years of said period of probation and until Respondent has shown proof satisfactory to the State Bar Court of Respondent's rehabilitation, fitness to practice and learning and ability in the general law pursuant to Standard 1.4 (c)(iii), Standards for Attorney Sanctions for Professional Misconduct, Respondent shall be actually suspended from the practice of law in the State of California.

CONDITIONS OF PROBATION ARE ATTACHED:

- FORM PROB 310: GENERAL CONDITIONS OF PROBATION AND/OR APPOINTMENT OF PROBATION MONITOR
- FORM PROB 320: RESTITUTION
- FORM PROB 330: PROTECTION OF CLIENT FUNDS
- FORM PROB 340: MENTAL HEALTH TREATMENT
- FORM PROB 350: ALCOHOL/DRUG IMPAIRMENT
- FORM PROB 360: EDUCATION AND LAW OFFICE MANAGEMENT
- FORM PROB 370: COMMENCEMENT AND EXPIRATION OF PROBATION
- FORM PROB 380: ADDITIONAL 5 PAGE(S) REGARDING FURTHER CONDITIONS OF PROBATION

Parties'

Initials

*M. G. P.*

FURTHER RECOMMENDATIONS:

It is further recommended that the California Supreme Court order Respondent to take and pass the California Professional Responsibility Examination administered by the Committee of Bar Examiners of the State Bar of California within one (1) year of the effective date of the order of the Supreme Court (Segretti v. State Bar (1976) 15 Cal.3d 878, 890-891) and furnish satisfactory proof of such passage to the Probation Unit, Office of Trials, within said year ~~BY~~ ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~.

[IF ACTUAL SUSPENSION IS 90 DAYS OR MORE]

It is further recommended that the Supreme Court of California order Respondent to comply with the provisions of paragraph (a) or rule 955, California Rules of Court, within thirty (30) days of the effective date of the Supreme Court order herein, and file an affidavit with the Clerk of the State Bar Court as provided in paragraph (c) of rule 955 within forty (40) days of the effective date of the order showing Respondent's compliance with said order.

FURTHER RECOMMENDATIONS ARE ATTACHED

IN THE MATTER OF	CASE NO(S).	92-0-14653
<u>CLAYTON W. KENT</u>		92-0-17505
		92-0-17741
		92-0-19426
A Member of the State Bar.		

ATTACHMENT TO:  STIPULATION     DECISION

### STANDARD CONDITIONS OF PROBATION<sup>1</sup> - GENERAL

COND. 310. That during the period of probation, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct of the State Bar of California;

COND. 410. That during the period of probation, Respondent shall report not later than January 10, April 10, July 10 and October 10 of each year or part thereof during which the probation is in effect, in writing, to the Probation Unit, Office of Trials, Los Angeles, which report shall state that it covers the preceding calendar quarter or applicable portion thereof, certifying by affidavit or under penalty of perjury (provided, however, that if the effective date of probation is less than 30 days preceding any of said dates, Respondent shall file said report on the due date next following the due date after said effective date):

(a) in Respondent's first report, that Respondent has complied with all provisions of the State Bar Act, and Rules of Professional Conduct since the effective date of said probation;

(b) in each subsequent report, that Respondent has complied with all provisions of the State Bar Act and Rules of Professional Conduct during said period;

(c) provided, however, that a final report shall be filed covering the remaining portion of the period of probation following the last report required by the foregoing provisions of this paragraph certifying to the matters set forth in subparagraph (b) thereof;

<sup>1</sup> If attached to forms DISP 220 or DISP 230, the word "probation," as used herein, shall be interpreted to mean "condition attached to a reproof" pursuant to rule 956, California Rules of Court.

COND. 600. MAINTENANCE OF OFFICIAL MEMBERSHIP ADDRESS.

- [XX] COND. 610. That Respondent shall promptly report, and in no event in more than ten days, to the membership records office of the State Bar and to the Probation Unit, Office of Trials, all changes of information including current office or other address for State Bar purposes as prescribed by section 6002.1 of the Business and Professions Code;

**STANDARD CONDITIONS OF PROBATION:  
ASSIGNMENT OF PROBATION MONITOR**

COND. 510. ASSIGNMENT OF PROBATION MONITOR:

- [ ] That Respondent shall be referred to the Probation Unit, Office of Trials, for assignment of a probation monitor. Respondent shall promptly review the terms and conditions of Respondent's probation with the probation monitor to establish a manner and schedule of compliance consistent with these terms of probation. During the period of probation, Respondent shall furnish such reports concerning Respondent's compliance as may be requested by the probation monitor. Respondent shall cooperate fully with the probation monitor to enable him/her to discharge Respondent's duties pursuant to rule 611, Rules of Procedure of the State Bar;

COND. 550. AUTHORITY OF PROBATION MONITOR TO QUESTION RESPONDENT:

- [ ] That subject to assertion of applicable privileges, Respondent shall answer fully, promptly and truthfully any inquiries of the Probation Unit, Office of Trials, and any probation monitor assigned under these conditions of probation which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with these terms of probation;

W. Gol

IN THE MATTER OF

CASE NO(S). 92-0-14653  
92-0-17505  
92-0-17741  
92-0-19426

CLAYTON W. KENT

A Member of the State Bar.

ATTACHMENT TO:  STIPULATION  DECISION

**RESTITUTION**

[Please use a separate form for each person or entity to which restitution will be made.]

COND. 210. That within one (~~1~~) ~~days/months/years~~ from the effective date of:

The Supreme Court's order in this matter,

The administration of a reproof by the State Bar Court in this matter,

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

As set forth in FORM DISP 250:

Respondent must make restitution to Bruce L. Patton  
or the Client Security Fund if it has paid, in the amount of \$2,500.00  
plus interest at the rate of 10% per annum from 11/13/91  
until paid in full and furnish satisfactory evidence of restitution to the Probation Unit,  
Office of Trials, Los Angeles;

Respondent must make restitution to \_\_\_\_\_  
or the Client Security Fund if it has paid, in the amount of \_\_\_\_\_  
plus interest at the rate of 10% per annum from \_\_\_\_\_  
in \_\_\_\_\_ monthly / quarterly / yearly installments \_\_\_\_\_

\_\_\_\_\_  
until paid in full and furnish satisfactory evidence of such restitution to the Probation  
Unit, Office of Trials, Los Angeles;

Other: See Attachment

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



This matter involves four counts of abandonment. Regarding the issue of restitution, the following is pertinent:

**COUNT 1:**

The Office of Trial Counsel recommends that Respondent be ordered to pay restitution as set forth in form PROB 320, infra.

**COUNT 2:**

The Office of Trial Counsel recommends that Respondent not be ordered to pay restitution in light of the services which Respondent did render in this matter, namely the preparation and filing of an answer, cross-complaint, and motion to compel discovery responses. Respondent's services through discovery justify the advance fees paid.

**COUNT 3:**

The Office of Trial Counsel recommends that Respondent not be ordered to pay restitution in that Respondent was not paid any advance fees to be applied to services rendered.

**COUNT 4:**

Office of Trial Counsel recommends that Respondent not be ordered to pay restitution in light of the services which the Respondent did render in this matter, namely the preparation and filing of an answer and cross-complaint. Respondent's services through the filing of the cross-complaint justify the advance fees paid.

ATTACHMENT

*M. G.P.*

IN THE MATTER OF	CASE NO(S).
<u>CLAYTON W. KENT</u>	92-O-14653    92-O-19426
A Member of the State Bar.	92-O-17505
	92-O-17741

ATTACHMENT TO: [ ] STIPULATION [ ] DECISION

**STANDARD CONDITIONS OF PROBATION:<sup>1</sup>  
EDUCATION AND LAW OFFICE MANAGEMENT**

**COND. 1000. LAW OFFICE MANAGEMENT PROBLEMS.**

**COND. 1010. PLAN TO BE SUBMITTED TO PROBATION MONITOR:**

- [ ] That Respondent develop a law office management/organization plan that meets with the approval of Respondent's probation monitor within \_\_\_\_\_ [days/ months] from the date on which Respondent is notified of the assignment of Respondent's probation monitor. This plan must include procedures to send periodic status reports to clients, the documentation of telephone messages received and sent, file maintenance, the meeting of deadlines, the establishment of procedures to withdraw as attorney, whether of record or not, when clients cannot be contacted or located, and for the training and supervision of support personnel.

**COND. 1050. COMPLETION OF COURSE ON LAW OFFICE MANAGEMENT:**

- [ ] That Respondent provide satisfactory evidence of completion of a course on law office management which meets with the approval of Respondent's probation monitor within \_\_\_ [days/month(s)/year(s)] from the date on which the order of the Supreme Court<sup>2</sup> in this matter becomes effective.

**COND. 1100. CONTINUING LEGAL EDUCATION**

- [XX] COND. 1100. That within one year [or \_\_\_\_\_] of the effective date of the Supreme Court's order<sup>3</sup> in this matter, Respondent must attend no less than \_\_\_\_\_ hours of courses which are California Mandatory Continuing Legal Education approved in law office management, attorney/client relations, and/or general legal ethics and which must be approved in advance by Respondent's probation monitor. Respondent must provide satisfactory proof of attendance to the probation

<sup>1</sup> If attached to forms DISP 220 or DISP 230, the word "probation," as used herein, shall be interpreted to mean "condition attached to a reproof" pursuant to rule 956, California Rules of Court.

<sup>2</sup> If attached to forms DISP 220 or DISP 230, the "order of the Supreme Court," as used herein, shall mean the State Bar Court order approving the stipulation or decision.

<sup>3</sup> If attached to forms DISP 220 or DISP 230, the "Supreme Court order" shall refer to the State Bar Court order approving the stipulation or decision.

Parties'

Initials

M. J. O'Brien

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~~monitor (and the Probation Unit, Los Angeles) within said one year (or  
{period of time}). The California State Bar's  
"Ethics School" will be considered a satisfactory general legal ethics course as to six  
hours of this requirement.~~

*[Handwritten initials]*

IN THE MATTER OF	CASE NO(S). 92-0-14653
<u>CLAYTON W. KENT</u>	92-0-17505
	92-0-17741
A Member of the State Bar.	92-0-19426

ATTACHMENT TO:  STIPULATION  DECISION

### COMMENCEMENT AND EXPIRATION OF PROBATION<sup>1</sup>

#### COMMENCEMENT OF PROBATION

That the period of probation shall commence as of the date:

On which the order of the Supreme Court in this matter becomes effective.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### COMMENCEMENT OF SUSPENSION

That the period of actual suspension shall commence ~~on~~ subject to the provisions of form TRI 388, *infra*.

That the period of suspension shall commence as of the date:

on which the order of the Supreme Court in this matter becomes effective.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### EXPIRATION OF PROBATION

That at the expiration of the period of this probation if Respondent has complied with the terms of probation, the order of the Supreme Court suspending Respondent from the practice of law for a period of two ( 2 ) ~~days/month(s)/year(s)~~ shall be satisfied and the suspension shall be terminated.

<sup>1</sup> If attached to forms DISP 220 or DISP 230, the word "probation," as used herein, shall be interpreted to mean "condition attached to a reproof" pursuant to rule 956, California Rules of Court.

Parties'

Initials

*W. J. G. H.*

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IN THE MATTER OF

CLAYTON W. KENT

A Member of the State Bar.

CASE NO(S). 92-O-14653  
92-O-17505  
92-O-17741  
92-O-19426

ATTACHMENT TO:  STIPULATION     DECISION

**FURTHER CONDITIONS OF PROBATION:<sup>1</sup>**

- FORM TRI 381: MODIFICATION OF PROBATION, RULE 951(c) OF THE CALIFORNIA RULES OF COURT
- FORM TRI 382: ALCOHOL/DRUG ABUSE CONDITIONS OF PROBATION
- FORM TRI 383: MENTAL HEALTH CONDITIONS OF PROBATION
- FORM TRI 384: ADDITIONAL CONDITIONS OF PROBATION
- FORM TRI 385: STATE BAR ETHICS SCHOOL
- FORM TRI 386: STATE BAR ETHICS SCHOOL CLIENT TRUST ACCOUNT RECORD-KEEPING COURSE
- FORM TRI 387: COMPLIANCE WITH CONDITIONS OF PROBATION/PAROLE IN UNDERLYING CRIMINAL MATTER
- FORM TRI 388: EARLY INACTIVE ENROLLMENT

<sup>1</sup> If attached to forms DISP 220 or DISP 230, the word "probation," as used herein, shall be interpreted to mean "condition attached to a reproof" pursuant to rule 956, California Rules of Court.

*fol*

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IN THE MATTER OF

Case No(s). 92-0-14653  
92-0-17505  
92-0-17741  
92-0-19426

CLAYTON W. KENT,

A Member of the State Bar.

ATTACHMENT TO:     STIPULATION             DECISION

STATE BAR ETHICS SCHOOL

FOR REPROVAL CASES:

Within one (1) year of the date of the issuance of the letter of reprobation in this matter, Respondent shall attend the State Bar Ethics School, which is held periodically at the State Bar of California (555 Franklin Street, San Francisco, or 1149 South Hill Street, Los Angeles) and shall take and pass the test given at the end of such session. Respondent understands that this requirement is separate and apart from fulfilling the MCLE ethics requirement, and is not approved for MCLE credit.

FOR SUSPENSION CASES:

Within one (1) year of the effective date of the Supreme Court order in this matter, Respondent shall attend the State Bar Ethics School, which is held periodically at the State Bar of California (555 Franklin Street, San Francisco, or 1149 South Hill Street, Los Angeles) and shall take and pass the test given at the end of such session. Respondent understands that this requirement is separate and apart from fulfilling the MCLE ethics requirement, and is not approved for MCLE credit.

*hcl*

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IN THE MATTER OF

Case No(s).

CLAYTON W. KENT

92-O-14653    92-O-19426  
92-O-17505  
92-O-17741

A Member of the State Bar.

ATTACHMENT TO:     STIPULATION     DECISION

STATE BAR ETHICS SCHOOL CLIENT TRUST  
ACCOUNT RECORD-KEEPING COURSE

[ ] FOR REPROVAL CASES:

Within one (1) year of the date of the issuance of the letter of reproof in this matter, Respondent shall attend the State Bar Ethics School Client Trust Account Record-Keeping Course, which is held periodically at the State Bar of California (555 Franklin Street, San Francisco, or 1149 South Hill Street, Los Angeles) and shall take and pass the test given at the end of such session. Respondent understands that this requirement is separate and apart from fulfilling the MCLE ethics requirement, and is not approved for MCLE credit.

FOR SUSPENSION CASES:

Within one (1) year of the effective date of the Supreme Court order in this matter, Respondent shall attend the State Bar Ethics School Client Trust Account Record-Keeping Course, which is held periodically at the State Bar of California (555 Franklin Street, San Francisco, or 1149 South Hill Street, Los Angeles) and shall take and pass the test given at the end of such session. Respondent understands that this requirement is separate and apart from fulfilling the MCLE ethics requirement, and is not approved for MCLE credit.

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IN THE MATTER OF

Case No(s).

A Member of the State Bar.

ATTACHMENT TO: [ ] STIPULATION [ ] DECISION

**EARLY INACTIVE ENROLLMENT**

The Respondent is currently an active member of the State Bar of California and is presently entitled to practice law in all respects. Respondent agrees to change his/her membership status with the State Bar of California to voluntary inactive status, effective July 1, 1994. Respondent certifies that he/she is entitled to practice law in all respects and is under no prohibition or obligation affecting his/her licensure, including the following:

- California Minimum Continuing Legal Education requirements;
- all bar dues;
- child and family support;
- fee arbitration awards;
- disciplinary costs;
- Professional Responsibility Examination requirement; or
- suspended for any other reason or not entitled to practice law for any other reason.

The parties have agreed to recommend to State Bar Court and the Supreme Court that the period of actual suspension stipulated to herein shall commence on the above-mentioned date. Respondent agrees to remain on voluntary inactive status until the effective date of the Supreme Court order and until completion of the actual suspension ordered, if longer.

In the event the Respondent does not remain on voluntary inactive status until the effective date of the disciplinary order of the Supreme Court or is administratively deemed not entitled to practice law before the effective date of the disciplinary order of the Supreme Court, this provision of the Stipulation is inapplicable and Respondent acknowledges and agrees that he/she will not receive any credit toward the period of actual suspension.

Respondent further agrees, within thirty (30) days from the date of inactive enrollment stipulated to herein, to comply with the following:



(1) notify all clients being represented in pending matters and any co-counsel of his/her inactive status and his/her immediate disqualification to act as an attorney and, in the absence of co-counsel, to also notify the clients to seek legal advice elsewhere, calling attention to the urgency in seeking substitution of another attorney or attorneys in his/her place; (2) deliver to all clients being represented in pending matters any papers or other property to which the clients are entitled, or notify the clients and any co-counsel of a suitable time and place where the papers and other property may be obtained, calling attention to the urgency for obtaining the papers or other properties; (3) refund any part of any fees paid in advance that have not been earned; and (4) notify opposing counsel in pending matters or, in the absence of counsel, the adverse parties of his/her inactive enrollment, and file a copy of the notice with the court, agency, or tribunal before which the matter is pending for inclusion in the respective file or files. All notices required under this agreement shall be given by registered or certified mail, return receipt requested, and shall contain the inactive member's current State Bar Membership Records address where communications may thereafter be directed to the inactive member.

Respondent agrees that within forty (40) days of the date of inactive enrollment stipulated to herein, Respondent shall file with the Deputy Trial Counsel, Office of Trials, in this matter an affidavit under penalty of perjury showing that he/she has complied with this Stipulation, enrolled him/herself voluntarily inactive with the State Bar of California, and has fully complied with the above provisions regarding notice to clients, co-counsel, opposing counsel and adverse parties, and the relevant courts, agencies, and tribunals. Such affidavit will also set forth the Respondent's current State Bar Membership Records address where communications may thereafter be directed to the Respondent.

Respondent agrees that he/she shall keep and maintain records of the various steps taken by him/her in compliance with this inactive status and, upon request by the Office of Trials, shall make available to the Office of Trials all records and evidence of compliance with the above provisions. It is also agreed that these records may be admitted into evidence in any proceeding for Respondent's failure to comply with these provisions.

Respondent further agrees that a breach of any term of this agreement shall constitute a violation of a court order within the definition of Business and Professions Code section 6103, that no credit toward the period of actual suspension will be applied, and that the Office of Trials may initiate proceedings seeking independent discipline, up to and including disbarment, for such breach.

Respondent further acknowledges that this provision is not intended to relieve him/her of any obligation to comply with California Rule of Court, rule 955, if ordered by the Supreme Court. In the event this Stipulation is not approved, Respondent acknowledges that he/she bears the responsibility of changing his/her membership status to active status and Respondent acknowledges that such transfer will not be retroactive.



## DECLARATION OF SERVICE

[Rule 242, Trans. Rules Proc.; Code Civ. Proc., § 1013a(1)]

I am a Deputy Court Clerk of the State Bar Court. I am over the age of eighteen and not a party to the within proceeding. In the City and County of Los Angeles, on the date shown below, I deposited a true copy of the following document(s)

**ORDER REGARDING STIPULATION (FIRST AMENDED) AS TO FACTS AND DISPOSITION with Modification To Stipulation filed September 29, 1994 and JOINT REQUEST TO MODIFY FIRST AMENDED STIPULATION filed July 19, 1994 and STIPULATION AS TO FACTS AND DISPOSITION (RULES 405-407, TRANSITIONAL RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA) FIRST AMENDED filed June 17, 1994**

in a sealed envelope as follows:

[ X ] with first-class postage thereon fully prepaid in a facility regularly maintained by the United States Postal Service at Los Angeles, California, addressed as follows:

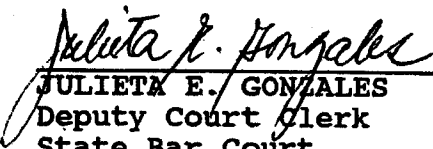
**CLAYTON W KENT ESQ  
1370 TRANCAS #376  
NAPA CA 94558**

[ ] by certified mail, with a return receipt requested, in a facility regularly maintained by the United States Postal Service at Los Angeles, California, addressed as follows:

[ X ] in an interoffice mail facility regularly maintained by the State Bar of California addressed as follows:

**Cecilia M. Horton-Billard, Attorney at Law  
Office of Trials**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed in Los Angeles, California, on September 29, 1994.

  
\_\_\_\_\_  
JULIETA E. GONZALES  
Deputy Court Clerk  
State Bar Court

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



ATTEST April 11, 2018  
State Bar Court, State Bar of California,  
Los Angeles

By *Cristina Dettl*  
Clerk

**CERTIFICATE OF SERVICE**

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Court Specialist 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 San Francisco, on May 29, 2018, 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:

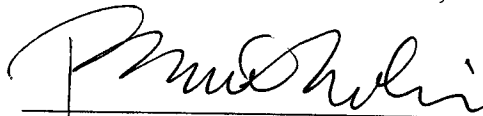
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

RUSSELL SAMUEL ROECA  
ROECA HAAS MONTES DE OCA LLP  
48 GOLD ST  
SAN FRANCISCO, CA 94133 - 5103

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

BRITTA G. POMRANTZ, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on May 29, 2018.



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Bernadette Molina  
Court Specialist  
State Bar Court