

State Bar Court of California Hearing Department Los Angeles DISBARMENT		
Counsel For The State Bar Nina Sarraf-Yazdi Deputy Trial Counsel 845 South Figueroa Street Los Angeles, California 90017 213-765-1277 Bar # 278877	Case Number(s): 16-N-16784	For Court use only <div style="text-align: center; font-size: 24px; font-weight: bold;">PUBLIC MATTER</div> <div style="text-align: center; font-size: 24px; font-weight: bold;">FILED</div> <div style="text-align: center; font-size: 24px; font-weight: bold;">JAN -9 2017</div> <div style="text-align: center; font-weight: bold;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div>
In Pro Per Respondent Beryl Droegemueller 2836 Hutchinson Street Vista, California 92084 (760) 533-1072 Bar # 76278	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT DISBARMENT <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: Beryl Droegemueller Bar # 76278 A Member of the State Bar of California (Respondent)		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 21, 1977**.
- (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 resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **(10)** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."



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- (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):
- Costs to be awarded to the State Bar.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.
- (9) ORDER OF INACTIVE ENROLLMENT:
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

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 **14-O-01596**
 - (b) Date prior discipline effective **February 21, 2015**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Business and Professions Code section 6106**
 - (d) Degree of prior discipline **one year stayed suspension, two years of probation, with conditions including a 30 day actual suspension**
 - (e) If respondent has two or more incidents of prior discipline, use space provided below:
See attachment page 7.
- (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) **Lack of Candor/Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing.
- (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.
- (11) **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

**Additional mitigating circumstances:
Pretrial Stipulation. See attachment page 7.**

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D. Discipline: Disbarment.

E. Additional Requirements:

- (1) **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.
- (2) **Restitution:** Respondent must make restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____. If the Client Security Fund has reimbursed _____ for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than _____ days from the effective date of the Supreme Court order in this case.
- (3) **Other:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: BERYL DROEGEMUELLER

CASE NUMBERS: 16-N-16784

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 16-N-16784

FACTS:

1. On June 21, 2016, the California Supreme Court filed Order number S222830 (State Bar case no. 16-PM-10320)(hereinafter "9.20 Order"). The 9.20 Order included a requirement that respondent comply with rule 9.20, California Rules of Court (hereinafter "rule 9.20") and perform the acts specified in subdivisions (a) and (c) of rule 9.20 within thirty and forty calendar days, respectively, after the date of the 9.20 Order.
2. On June 21, 2016, the Clerk of the Supreme Court of the State of California properly served upon respondent a copy of the 9.20 Order. Respondent received the 9.20 Order.
3. The 9.20 Order became effective on July 21, 2016.
4. Pursuant to the 9.20 Order, respondent was to comply with subdivision (a) of rule 9.20 no later than August 20, 2016, and was to comply with subdivision (c) of rule 9.20 no later than August 30, 2016.
5. On July 1, 2016, a Probation Deputy from the Office of Probation of the State Bar of California advised respondent by letter of his obligation to comply with the conditions of probation and rule 9.20. The Probation Deputy specifically advised respondent of his duty to provide his rule 9.20 affidavit, which was required by rule 9.20, subdivision (c), by August 30, 2016. Respondent received the letter.
6. On September 8, 2016, a Probation Deputy advised respondent by letter of his obligation to comply with the conditions of probation. The Probation Deputy included a copy of the July 1, 2016 letter. Respondent received the letter. On this same date, a Probation Deputy advised respondent by letter that his 9.20 declaration had not been received and had been due on August 30, 2016. Respondent received this letter.
7. To date, respondent has not filed his rule 9.20 affidavit.

CONCLUSIONS OF LAW:

8. By failing to file a declaration of compliance with rule 9.20 of the California Rules of Court in conformity with the requirements of rule 9.20(c) with the clerk of the State Bar Court by August 30, 2016 as required by Supreme Court order number S222830, respondent willfully violated rule 9.20 of the California Rules of Court.

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): Respondent has two prior records of discipline:

Effective February 21, 2015, in case no. 14-O-01596 (S222830), respondent stipulated to a violation of Business and Professions Code section 6106. On January 31, 2013, respondent reported under penalty of perjury to the State Bar that he was in compliance with his Minimum Continuing Legal Education ("MCLE") requirements when he knew that he was not in compliance with his MCLE requirements for the compliance period February 1, 2010 through January 31, 2013. Discipline was imposed as to respondent consisted of a one year stayed suspension, two years' probation within conditions including a 30 day actual suspension. In mitigation, respondent had no prior discipline over 35 years of practice and respondent entered into a pre-filing stipulation. There was no aggravation.

Effective July 21, 2016, in case no. 16-PM-10320 (S222830), respondent's probation was revoked for violating his probation conditions in case no. 14-O-01596 under Business and Professions Code section 6093(b), because respondent failed to file three quarterly reports due July 20, 2015, October 10, 2015 and January 10, 2016, and failed to timely schedule his initial meeting with the Office of Probation as ordered by the Supreme Court. The Court lifted the previous stay of execution of suspension and imposed a one year actual suspension and until respondent provides proof of completion of Ethics School with credit for the period of being ordered on inactive status since March 21, 2016. If respondent remained suspended for two years or more as a result of not completing Ethics School, respondent would remain suspended until he provides proof of his rehabilitation and fitness to practice law. Respondent was also ordered to comply with Rule 9.20. In aggravation, respondent engaged in multiple acts of misconduct, showed indifference, and failed to participate in the State Bar disciplinary proceedings. There was no mitigation.

MITIGATING CIRCUMSTANCES.

Prefiling Filing: Respondent has entered into a full stipulation prior to filing a notice of disciplinary charges, which preserves State Bar time and resources, and entitles respondent to mitigation. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [mitigating credit for entering into a stipulation as to facts and culpability].) Respondent has also acknowledge his misconduct by entering into a pre-filing stipulation.

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.) 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 Silvertown* (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 case, rule 9.20 itself suggests the range of discipline appropriate for a violation of the rule. Rule 9.20 supports disbarment, with subsection (d) stating, “... A suspended member’s willful failure to comply with the provisions of this rule is a cause for disbarment or suspension and for revocation of any pending probation. Additionally, such failure may be punished as a contempt or a crime.” The fact that non-compliance with rule 9.20 is considered a potential crime, as well as an act of professional misconduct, confirms the serious nature of rule 9.20 violations. Despite the reminders from the Office of Probation, respondent’s rule 9.20 affidavit was never filed. Accordingly, discipline at the high end of the range suggested by rule 9.20 is appropriate and respondent should be disbarred.

Case law on violations of rule 9.20 support disbarment. (See *Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131 [“disbarment is generally appropriate sanction for a wilful violation of rule 955 [now Rule 9.20]”]; also cited in *In the Matter of Grueneich* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 439, 422 and *In the Matter of Babero* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 322, 332.) In *In the Matter of Esau* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 131, 133, the Review Department found that an attorney’s willful violation of a court order requiring compliance with rule 9.20 was sufficient grounds for disbarment where the evidence in mitigation was not compelling.

Additionally, standard 1.8(b)1 provides that if respondent has a record of two or more prior records of discipline, disbarment is appropriate if actual suspension was ordered in any one of the prior disciplinary matters unless the most compelling mitigating circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct.

Respondent has two prior disciplines. Respondent received a one year actual suspension in his most recent prior record of discipline. (Std. 1.8(b); see *Barnum v. State Bar* (1990) 52 Cal. 3d 104, 112-113.) While disbarment is not mandatory under the standard, even where compelling mitigating circumstances do not clearly predominate (See *Conroy v. State Bar* (1991) 53 Cal. 3d 495, 506-507), given the severity of respondent’s conduct and the prior record of discipline in aggravation, the aggravation outweighs the mitigation consisting of the prefiling stipulation. Therefore, discipline consisting of disbarment will

serve to protect the public, the courts, and the legal profession, maintain the highest professional standards and preserve public confidence in the legal profession.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of December 1, 2016 the prosecution costs in this matter are \$2,610.00. 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.

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In the Matter of:
Beryl Droegemueller

Case Number(s):
16-N-16784

DISBARMENT 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 2 of the Stipulation, at paragraph B.(1)(d), "two years of probation" is deleted, and in its place is inserted "one year of probation".
 - On page 7 of the Stipulation, under "Prior Record of Discipline," line 6, "two years' probation" is deleted, and in its place is inserted "one year of probation".
 - In the caption on page 10 of the Stipulation, "Droegemuller" is deleted, and in its place is inserted "Droegemueller".

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.)**

Respondent _____ is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3) calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Date

1/9/17



Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on January 9, 2017, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE
ENROLLMENT

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

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

BERYL DEAN DROEGEMUELLER
2836 HUTCHISON ST
VISTA, CA 92084

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

NINA SARRAF-YAZDI, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 9, 2017.



Mazie Yip
Case Administrator
State Bar Court