

**ORIGINAL**

(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel for the State Bar Christina Mitchell Deputy Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017 (213) 765-1077 Bar # 245120	Case Number(s): 16-O-12638; 18-H-10840	For Court use only <div style="text-align: center;"> FILED <i>E.A.</i> NOV 28 2018 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
In Pro Per Respondent Alexander Wailes Wallace 4047 Long Beach Blvd Long Beach, CA 90807 (562) 972-4072 Bar # 78479	PUBLIC MATTER	
In the Matter of: ALEXANDER WAILES WALLACE Bar # 78479 A Member of the State Bar of California (Respondent)	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 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 entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **19** 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."

- (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. It is recommended that (check one option only):
- Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against a member who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.
 - Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. **SELECT ONE** of the costs must be paid with Respondent's membership fees for each of the following years:

If Respondent fails to pay any installment as described above, or as may be modified in writing by the State Bar or the State Bar Court, the remaining balance will be 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: **State Bar Court case number 16-O-10049, see page 14 and Exhibit 1, 12 pages.**
 - (b) Date prior discipline effective: **December 1, 2016**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Former rule 3-700(D)(1), Rules of Professional Conduct.**
 - (d) Degree of prior discipline: **Private Reproval with public disclosure**
 - (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.

(Do not write above this line.)

- (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.
- (7) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice. **See page 15.**
- (9) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of Respondent's misconduct. **See page 15.**
- (10) **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of Respondent's 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 15.**
- (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 [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 Respondent's 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 Respondent's 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 Respondent.
- (7) **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.

- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct, Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by Respondent, 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 Respondent's control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in Respondent's 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 Respondent's misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Pro Bono Work and Community Service, see page 15.

Emotional and Physical Difficulties, see pages 15 - 16.

Pretrial Stipulation, see page 16.

D. Recommended Discipline:

- (1) **Actual Suspension:**

Respondent is suspended from the practice of law for **one year**, the execution of that suspension is stayed, and Respondent is placed on probation for **two years** with the following conditions.

- Respondent must be suspended from the practice of law for the first **90 days** of the period of Respondent's probation.

- (2) **Actual Suspension "And Until" Rehabilitation:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum of the first _____ of Respondent's probation and until Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

- (3) **Actual Suspension "And Until" Restitution (Single Payee) and Rehabilitation:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum of the first _____ of Respondent's probation, and Respondent will remain suspended until both of the following requirements are satisfied:
 - a. Respondent makes restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____ (or reimburses the Client Security Fund to the extent of any payment from the Fund to such payee, in accordance with Business and Professions Code section 6140.5) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles; and
 - b. Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(4) **Actual Suspension "And Until" Restitution (Multiple Payees) and Rehabilitation:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum of the first _____ of Respondent's probation, and Respondent will remain suspended until both of the following requirements are satisfied:
 - a. Respondent must make restitution, including the principal amount plus 10 percent interest per year (and furnish satisfactory proof of such restitution to the Office of Probation), to each of the following payees (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5):

<i>Payee</i>	<i>Principal Amount</i>	<i>Interest Accrues From</i>

- b. Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(5) **Actual Suspension "And Until" Restitution (Single Payee) with Conditional Std. 1.2(c)(1) Requirement:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum for the first _____ of Respondent's probation, and Respondent will remain suspended until the following requirements are satisfied:
 - a. Respondent makes restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____ (or reimburses the Client Security Fund to the extent of any payment from the

(Do not write above this line.)

Fund to such payee, in accordance with Business and Professions Code section 6140.5) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles; and,

- b. If Respondent remains suspended for two years or longer, Respondent must provide proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(6) **Actual Suspension "And Until" Restitution (Multiple Payees) with Conditional Std. 1.2(c)(1) Requirement:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum for the first _____ of Respondent's probation, and Respondent will remain suspended until the following requirements are satisfied:
 - a. Respondent must make restitution, including the principal amount plus 10 percent interest per year (and furnish satisfactory proof of such restitution to the Office of Probation), to each of the following payees (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5):

<i>Payee</i>	<i>Principal Amount</i>	<i>Interest Accrues From</i>

- b. If Respondent remains suspended for two years or longer, Respondent must provide proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(7) **Actual Suspension with Credit for Interim Suspension:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent is suspended from the practice of law for the first _____ of probation (with credit given for the period of interim suspension which commenced on _____).

E. Additional Conditions of Probation:

- (1) **Review Rules of Professional Conduct:** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must (1) read the California Rules of Professional Conduct (Rules of Professional Conduct) and Business and Professions Code sections 6067, 6068, and 6103 through 6126, and (2) provide a declaration, under penalty of perjury, attesting to Respondent's

compliance with this requirement, to the State Bar's Office of Probation in Los Angeles (Office of Probation) with Respondent's first quarterly report.

- (2) **Comply with State Bar Act, Rules of Professional Conduct, and Probation Conditions:** Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all conditions of Respondent's probation.
- (3) **Maintain Valid Official Membership Address and Other Required Contact Information:** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must make certain that the State Bar Attorney Regulation and Consumer Resources Office (ARCR) has Respondent's current office address, email address, and telephone number. If Respondent does not maintain an office, Respondent must provide the mailing address, email address, and telephone number to be used for State Bar purposes. Respondent must report, in writing, any change in the above information to ARCR, within ten (10) days after such change, in the manner required by that office.
- (4) **Meet and Cooperate with Office of Probation:** Within 15 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must schedule a meeting with Respondent's assigned probation case specialist to discuss the terms and conditions of Respondent's discipline and, within 30 days after the effective date of the court's order, must participate in such meeting. Unless otherwise instructed by the Office of Probation, Respondent may meet with the probation case specialist in person or by telephone. During the probation period, Respondent must promptly meet with representatives of the Office of Probation as requested by it and, subject to the assertion of applicable privileges, must fully, promptly, and truthfully answer any inquiries by it and provide to it any other information requested by it.
- (5) **State Bar Court Retains Jurisdiction/Appear Before and Cooperate with State Bar Court:** During Respondent's probation period, the State Bar Court retains jurisdiction over Respondent to address issues concerning compliance with probation conditions. During this period, Respondent must appear before the State Bar Court as required by the court or by the Office of Probation after written notice mailed to Respondent's official membership address, as provided above. Subject to the assertion of applicable privileges, Respondent must fully, promptly, and truthfully answer any inquiries by the court and must provide any other information the court requests.
- (6) **Quarterly and Final Reports:**
 - a. **Deadlines for Reports.** Respondent must submit written quarterly reports to the Office of Probation no later than each January 10 (covering October 1 through December 31 of the prior year), April 10 (covering January 1 through March 31), July 10 (covering April 1 through June 30), and October 10 (covering July 1 through September 30) within the period of probation. If the first report would cover less than 30 days, that report must be submitted on the next quarter date and cover the extended deadline. In addition to all quarterly reports, Respondent must submit a final report no earlier than ten (10) days before the last day of the probation period and no later than the last day of the probation period.
 - b. **Contents of Reports.** Respondent must answer, under penalty of perjury, all inquiries contained in the quarterly report form provided by the Office of Probation, including stating whether Respondent has complied with the State Bar Act and the Rules of Professional Conduct during the applicable quarter or period. All reports must be: (1) submitted on the form provided by the Office of Probation; (2) signed and dated after the completion of the period for which the report is being submitted (except for the final report); (3) filled out completely and signed under penalty of perjury; and (4) submitted to the Office of Probation on or before each report's due date.
 - c. **Submission of Reports.** All reports must be submitted by: (1) fax or email to the Office of Probation; (2) personal delivery to the Office of Probation; (3) certified mail, return receipt requested, to the Office of Probation (postmarked on or before the due date); or (4) other tracked-service provider, such as Federal Express or United Parcel Service, etc. (physically delivered to such provider on or before the due date).

d. Proof of Compliance. Respondent is directed to maintain proof of Respondent's compliance with the above requirements for each such report for a minimum of one year after either the period of probation or the period of Respondent's actual suspension has ended, whichever is longer. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

- (7) **State Bar Ethics School:** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending this session. If Respondent provides satisfactory evidence of completion of the Ethics School after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (8) **State Bar Ethics School Not Recommended:** It is not recommended that Respondent be ordered to attend the State Bar Ethics School because **Respondent attended Ethics School on April 4, 2017, and passed the test given at the end of the session. (See rule 5.135(A), Rules Proc. of State Bar [attendance at Ethics School not required where the attorney completed Ethics School within the prior two years].)**
- (9) **State Bar Client Trust Accounting School:** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Client Trust Accounting School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending this session. If Respondent provides satisfactory evidence of completion of the Client Trust Accounting School after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (10) **Minimum Continuing Legal Education (MCLE) Courses – California Legal Ethics [Alternative to State Bar Ethics School for Out-of-State Residents]:** Because Respondent resides outside of California, within _____ after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must either submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session or, in the alternative, complete _____ hours of California Minimum Continuing Legal Education-approved participatory activity in California legal ethics and provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for this activity. If Respondent provides satisfactory evidence of completion of the Ethics School or the hours of legal education described above, completed after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (11) **Criminal Probation:** Respondent must comply with all probation conditions imposed in the underlying criminal matter and must report such compliance under penalty of perjury in all quarterly and final reports submitted to the Office of Probation covering any portion of the period of the criminal probation. In each quarterly and final report, if Respondent has an assigned criminal probation officer, Respondent must provide the name and current contact information for that criminal probation officer. If the criminal probation was successfully completed during the period covered by a quarterly or final report, that fact must be reported by Respondent in such report and satisfactory evidence of such fact must be provided with it. If, at any time before or during the period of probation, Respondent's criminal probation is revoked, Respondent is sanctioned by the criminal court, or Respondent's status is otherwise changed due to any alleged violation of the criminal probation conditions by Respondent, Respondent must submit the criminal court records regarding any such action with Respondent's next quarterly or final report.

(Do not write above this line.)

- (12) **Minimum Continuing Legal Education (MCLE):** Within _____ after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must complete _____ hour(s) of California Minimum Continuing Legal Education-approved participatory activity in **SELECT ONE** _____ and must provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for this activity. If Respondent provides satisfactory evidence of completion of the hours of legal education described above, completed after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (13) **Other:** Respondent must also comply with the following additional conditions of probation:
- (14) **Proof of Compliance with Rule 9.20 Obligations:** Respondent is directed to maintain, for a minimum of one year after commencement of probation, proof of compliance with the Supreme Court's order that Respondent comply with the requirements of California Rules of Court, rule 9.20, subdivisions (a) and (c). Such proof must include: the names and addresses of all individuals and entities to whom Respondent sent notification pursuant to rule 9.20; a copy of each notification letter sent to each recipient; the original receipt or postal authority tracking document for each notification sent; the originals of all returned receipts and notifications of non-delivery; and a copy of the completed compliance affidavit filed by Respondent with the State Bar Court. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.
- (15) **The following conditions are attached hereto and incorporated:**
- Financial Conditions Medical Conditions
- Substance Abuse Conditions

The period of probation will commence on the effective date of the Supreme Court order imposing discipline in this matter. At the expiration of the probation period, if Respondent has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

F. Other Requirements Negotiated by the Parties (Not Probation Conditions):

- (1) **Multistate Professional Responsibility Examination Within One Year or During Period of Actual Suspension:** Respondent must take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners within one year after the effective date of the Supreme Court order imposing discipline in this matter or during the period of Respondent's actual suspension, whichever is longer, and to provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).) If Respondent provides satisfactory evidence of the taking and passage of the above examination after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this requirement.
- (2) **Multistate Professional Responsibility Examination Requirement Not Recommended:** It is not recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination because _____
- (3) **California Rules of Court, Rule 9.20:** Respondent must comply with the requirements of California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter. Failure to do so may result in disbarment or suspension.

For purposes of compliance with rule 9.20(a), the operative date for identification of “clients being represented in pending matters” and others to be notified is the filing date of the Supreme Court order, not any later “effective” date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney’s failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

- (4) **California Rules of Court, Rule 9.20 – Conditional Requirement:** If Respondent remains suspended for 90 days or longer, Respondent must comply with the requirements of California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter. Failure to do so may result in disbarment or suspension.

For purposes of compliance with rule 9.20(a), the operative date for identification of “clients being represented in pending matters” and others to be notified is the filing date of the Supreme Court order, not any later “effective” date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney’s failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

- (5) **California Rules of Court, Rule 9.20, Requirement Not Recommended:** It is not recommended that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, because
- (6) **Other Requirements:** It is further recommended that Respondent be ordered to comply with the following additional requirements:

As stated in section D(1) supra, Respondent is suspended from the practice of law for one year, the execution of that suspension is stayed, and Respondent is placed on probation for two years with the following condition: Respondent must be suspended from the practice of law for the first 90 days of the period of Respondent’s probation.

Additionally, Respondent must remain suspended and until he:

- 1. Takes and passes the Multistate Professional Responsibility Exam and provides satisfactory proof to the Office of Probation, as ordered by the State Bar Court in his prior discipline (case number 16-O-10049); and**
- 2. Provides satisfactory proof to the Office of Probation that he has returned the client file to Beatrice Ramirez.**

If Respondent provides satisfactory evidence of the taking and passage of the MPRE before the effective date of the Supreme Court’s order in this matter. Respondent will nonetheless receive credit for such evidence toward Respondent’s duty to comply with this requirement.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: ALEXANDER WAILES WALLACE

CASE NUMBERS: 16-O-12638 and 18-H-10840

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that the facts and circumstances surrounding the offense for which he was convicted involved other misconduct warranting discipline.

Case No. 16-O-12638 (Complainant: Rebecca Ferguson)

1. In 2006, respondent was hired by Rebecca Ferguson, and seven of her siblings to assist with the removal of another sibling, Isabel Gonzalez, as the conservator of their mother, Noemi Gonzalez, and to have Ms. Ferguson and her brother Alfonso Gonzalez appointed as co-conservators. Respondent owed a fiduciary duty to each of the sibling-clients.
2. From the inception of his representation of the clients, a potential conflict of interest existed in representing both co-conservators and the remaining siblings based on the potential disagreement between the co-conservators regarding the appropriate care of the conservatee and finances related to the disposition of the conservatorship as each of the siblings was a beneficiary of the estate of Noemi Gonzalez ("Estate"). At no time did respondent obtain his clients' informed written consent.
3. On March 30, 2010, the petition to appoint Ms. Ferguson and Mr. Gonzalez as co-conservators was granted. At that time, the court requested the co-conservators and respondent file an accounting on behalf of the conservatorship. Noemi Gonzalez passed away on December 12, 2010, and on December 21, 2010, the court set an Order to Show Cause (OSC) for March 29, 2011 regarding the final accounting of the conservatorship.
4. On December 21, 2010, an actual conflict of interest arose between respondent's clients regarding reimbursement from the Estate for expenses incurred during the conservatorship, including Mr. Gonzalez's request for reimbursement of approximately \$74,000 from the Estate, to the detriment of the other sibling-clients. Despite being aware of the actual conflict, at no time did respondent did obtain his clients' informed written consent or otherwise inform them regarding the actual conflict of interest.
5. From December 21, 2010 to June 2017, respondent repeatedly advocated on behalf of Mr. Gonzalez and his wife, arguing to the court and his other clients that the Gonzalezes were owed \$74,000 from the Estate for their expenses and care of Noemi Gonzalez during the years she was in their care.
6. The court ordered respondent to appear in court if an accounting had not been filed on the following dates: March 29, 2011, May 24, 2011, August 30, 2011, October 18, 2011, February 14, 2012 April 3, 2012 and November 15, 2012. Respondent had notice of each of the hearings. The respondent did not file an accounting prior to any of the hearing dates. Respondent failed to appear in court at each of the seven noticed hearings.

7. On December 20, 2011, respondent informed the court that his clients were not cooperating with his efforts to compile the accounting. The court ordered respondent to file an accounting to the best of his ability if the co-conservators were not cooperating. Respondent filed the First and Final Accounting ("Accounting") on May 29, 2012, more than two years after first being ordered to file the accounting.

8. The Accounting and each subsequent version sought \$74,000 from the Estate to be paid to co-conservator Gonzalez and his wife for their expenses during the conservatorship. The money was to be paid from the Estate and therefore had a direct impact on the share each sibling would receive as beneficiaries of the Estate.

9. The Accounting filed by respondent contained numerous deficiencies. The court continued the matter nine times from July 19, 2012, until February 26, 2014, to give respondent an opportunity to correct the deficiencies in the filing, which respondent failed to do.

10. Due to the delays in respondent's performance, on February 26, 2014, the court moved the case into probate. In January 2015, the court appointed a Public Administrator as Administrator of the Estate to file a final accounting of the Conservatorship and finalize the Estate for Probate.

11. On April 14, 2015, respondent filed a supplemental pleading to address the deficiencies in the Accounting. The filing contained further deficiencies. Respondent attempted to cure the deficiencies by filing a second supplemental accounting in June 2015. On August 19, 2015, the court denied the supplemental Accountings.

12. On January 5, 2017, the Public Administrator filed a Final Accounting.

13. In April 2017, respondent filed objections to the Final Accounting on behalf of Mr. and Mrs. Gonzalez.

14. On May 24, 2017, the court denied respondent's Objections and approved the Public Administrator's Accounting.

15. The Accounting of the conservatorship prepared by respondent was never approved by the court. In July 2017, the Probate Estate of Noemi Gonzalez was finalized and distributed by the Public Administrator.

16. On August 19, 2015, one of the siblings represented by respondent, Ms. Beatrice Ramirez, personally handed Mr. Wallace a termination letter, which also contained her request for her file. To date, respondent has not returned the file to Ms. Ramirez.

CONCLUSIONS OF LAW

17. By virtue of his repeated failure to attend required court appearances, his failure to file a court approved Accounting, and his failure to successfully cure the deficiencies in the Accounting, respondent repeatedly failed to perform legal services with competence, in willful violation of former rule 3-110(A) of the Rules of Professional Conduct.

18. By failing to obtain his clients' informed written consent of the potential adverse interests in representing the co-conservators and siblings, respondent willfully violated former rule 3-310(C)(1) of the Rules of Professional Conduct.

19. By failing to inform his clients there was an actual conflict in representing the co-conservators and other siblings in the preparation and filing of the Accounting for the conservatorship, and failing to obtain written consent from each of his clients, respondent willfully violated former rule 3-310(C)(2) of the Rules of Professional Conduct.

20. By advocating for the financial benefit of Mr. Gonzalez to the detriment of Ms. Ferguson and the other siblings, respondent breached his fiduciary duty to his clients, in willful violation of Business & Professions Code section 6068(a).

21. By failing to appear at four court appearances as ordered by the court, respondent willfully violated Business & Professions Code section 6103.

22. By failing to return the client file to Ms. Ramirez upon her request, respondent willfully violated former rule 3-700(D)(1) of the Rules of Professional Conduct.

Case No. 18-H-10840 (State Bar Investigation)

23. On or about November 10, 2016, respondent entered into a Stipulation re Facts, Conclusions of Law and Disposition with the State Bar of California in State Bar Court case number 16-O-10049. Respondent stipulated to a private reproof with public disclosure for failing to promptly return a client file in violation of former Rule 3-700(D)(1) of the Rules of Professional Conduct.

24. The following conditions were attached to respondent's private reproof:

- a. Respondent was ordered to contact his probation deputy and schedule a required meeting by December 31, 2016;
- b. Respondent was required to submit written Quarterly Reports to the Office of Probation during the one year period of his probation. The reports were to be filed by January 10, April 10, July 10, and October 10, 2017;
- c. Respondent was to file his Final Report by December 1, 2017; and
- d. Respondent was required to take and pass the MPRE by December 1, 2017.

25. On November 22, 2016, Probation Deputy Ivy Cheung sent respondent a courtesy letter, via email, outlining the conditions of his reproof.

26. On January 10, 2017, respondent called Probation Deputy Cheung and told her he would be filing his first Quarterly Report via fax or email. Probation Deputy Cheung reminded respondent that he did not schedule an initial meeting with her by December 31, 2016. They scheduled the meeting for January 13, 2017.

27. On January 10, 2017, respondent filed a non-compliant Quarterly Report. In his report, respondent stated he missed the December 31, 2016 deadline to contact his Probation Deputy, and stated "otherwise I believe I am in compliance."

28. On January 10, 2017, Probation Deputy Cheung noted the Quarterly Report submitted by respondent was not compliant because of his equivocal statement "I believe I am in compliance." On January 13, 2017, respondent was unprepared for his scheduled meeting with Probation Deputy Cheung.

29. On January 19, 2017, Probation Deputy Cheung and respondent had their required meeting via telephone. Probation Deputy Cheung informed respondent his Quarterly Report was non-compliant and they discussed the rest of the conditions of his reprobation. Respondent stated he would resubmit his Quarterly Report.

30. On January 19, 2017, respondent submitted a declaration explaining his equivocation in his January 10 Quarterly Report. Respondent did not submit an updated Quarterly Report at that time.

31. On January 25, 2017, Probation Deputy Cheung emailed respondent regarding his failure to resubmit his January 10, 2017 Quarterly Report. Respondent did not respond to the email. Probation Deputy Cheung contacted respondent again on March 3, 2017, regarding his failure to resubmit the January 10, 2017 Quarterly Report.

32. On March 8, 2017, respondent submitted a late, but otherwise compliant, January 10, 2017, Quarterly Report.

33. On October 12, Probation Deputy Cheung contacted respondent regarding his record of completion for Ethics School and confirmation that he had taken and passed the MPRE. Respondent faxed proof of his attendance at Ethics School on December 1, 2017. He stated he did not know the result of his MPRE exam. Correspondence with the Office of Admissions confirmed respondent took the MPRE in August 2017. Respondent received a score of 62, below the passing score of 86.

34. Respondent failed to file a timely Final Report. The Final Report was due on December 1, 2017, and was filed on December 10, 2017.

35. On November 10, 2018, respondent took the MPRE, the results of which are still pending.

CONCLUSION OF LAW:

36. By failing to timely schedule his initial meeting with the assigned probation deputy, provide passage of the MPRE to the Office of Probation by December 1, 2017, file the January 10, 2017 Quarterly Report and Final Report due by December 1, 2017, respondent willfully violated former rule 1-110 of the Rules of Professional Conduct.

AGGRAVATING CIRCUMSTANCES.

Prior Discipline: Respondent has one prior record of discipline, State Bar Court case number 16-O-10049. Exhibit 1 is a true and correct copy of the prior discipline, and the parties have stipulated to the authenticity of the document. Respondent was previously disciplined for failure to return a client file. The discipline, while not serious, was recent, as respondent failed to return the client file in February 2015. In the prior disciplinary matter, a State Bar investigator sent respondent a letter inquiring into his failure to return the file on February 23, 2016, and the Notice of Disciplinary Charges (NDC) was filed on July 20, 2016. As of July 20, 2016, respondent was on notice of the potential for discipline from the State Bar. In his prior discipline, respondent received mitigation for emotional difficulties regarding a series of circumstances which were beyond his control and which occurred during the period of the underlying misconduct. In 2013, respondent's mother passed away. Then, in July 2014, respondent's uncle, with whom respondent had a close relationship, passed away. Both of these deaths affected respondent's health during the prior period of misconduct. Additionally, respondent served as a caregiver for a close friend who suffered from a chronic illness.

Significant Harm: The nearly seven-year delay in the distribution of the proceeds from the Estate to her heirs constitutes significant harm. (*See In the Matter of Dahlz* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269, 283, [finding that a delay of more than five years constitutes significant harm].) Further significant harm was felt by respondent's clients, the beneficiaries of the estate of Mrs. Gonzalez. Each beneficiary was denied the use of approximately \$28,000 for the nearly seven years between Mrs. Gonzalez's death and the distribution of her estate. (*In the Matter of Lilley* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 476, 487, [holding harm to an administrator and the beneficiary of an estate is an aggravating factor]; *In the Matter of Layton* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 366, 380, [finding the beneficiaries were harmed in that they were deprived for an unwarranted period of time of the use of the money and/or property that was eventually distributed to them].)

Additionally, there was significant harm to the administration of justice due to respondent's repeated failures to appear and his failure to perform. Respondent's delays and failures to appear resulted in substantial additional work, as the court was required to appoint the Public Administrator to handle the probate matter and complete the accounting of the estate. (*See In the Matter of Maloney & Virsik* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774, 792 [respondent's pleadings claiming opposing party was dismissing case when it was not dismissing the case harmed the administration of justice by requiring the courts to do substantial additional work and incurring additional expenses to the other party].)

Indifference: Respondent failed take any subsequent steps to pass the MPRE between August 2017 and November 10, 2018, which demonstrates indifference. (*See In the Matter of Meyer* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697, 702 [respondent's failure to belatedly file his probation reports once he was aware of these proceeding establishes indifference toward rectification of or atonement for the consequences of his or her misconduct]; *see also In the Matter of Carr* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 244, 253-254 [failure to amend probation reports despite probation department's advice that respondent's interpretation of the probation conditions was incorrect].)

Multiple Acts: Respondent's misconduct involves multiple acts of professional misconduct including failure to perform, conflicts of interest, and failure to obey multiple court orders. (*In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 647 [three instances of misconduct although not a pattern are sufficient to support a finding that an attorney engaged in multiple acts of misconduct].)

MITIGATING CIRCUMSTANCES

Pro Bono Work and Community Service: Respondent is entitled to mitigating credit for providing evidence of his ongoing pro bono work in the last two years. Respondent has donated approximately 500 to 1000 hours annually assisting indigent families with their legal issues, including unlawful detainers and family law matters, on a pro bono basis. (*See Calvert v. State Bar* (1991) 54 Cal.3d 765, 785 [pro bono work and community service warrant mitigation credit].)

Extreme Emotional Difficulties or Physical Disabilities: While unsupported by expert testimony, respondent is entitled to limited mitigation for emotional and physical difficulties he experienced during the same time frame as the underlying misconduct. Respondent was the primary caregiver for his mother from 2007 through her death in 2013. In 2014, respondent's uncle, with whom respondent was extremely close, passed away. Respondent also acted as caregiver to a close friend

suffering from chronic illness during that same time. At the same time, respondent has had medical issues of his own for the past five years. The death of respondent's mother and uncle, his care giving of a close friend, and respondent's own medical issues which contributed to a portion of respondent's misconduct warrants mitigation. (See *In the Matter of Ward* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47; *In the Matter of Frazier* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676, 701-702 [depression due to stress of son's emotional turmoil considered in mitigation].)

Pretrial Stipulation: By entering into this stipulation, respondent has acknowledged his misconduct and is entitled to mitigation for 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].)

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; hereinafter "Standards.") 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, Standard 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. (Standard 1.1.) "Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure." (Standard 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. (Standards 1.7(b)-(c).) Standard 1.7(a) requires that where a respondent "commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed."

The most severe sanction applicable to respondent's misconduct is found in Standard 2.12(a), which applies to respondent's breach of fiduciary duty and failure to comply with court orders. Standard 2.12(a) provides that "*disbarment or actual suspension* is the presumed sanction for disobedience or violation of a court order related to the member's practice of law, the attorney's oath, or the duties required of an attorney under Business & Professions Code section 6068 (a)(b)(d)(e)(f) or (h)." [Emphasis added.]

To determine the appropriate level of discipline, consideration must be given to the aggravating and mitigating circumstances. In the instant matter, respondent's misconduct extended over nearly seven years, wherein he repeatedly failed to attend required court appearances, failed to file an accounting that was approved by the court and advocated on behalf on one client's financial interests over the others.

Discipline within the standard is appropriate. Significant aggravating factors are present in this matter. Respondent is culpable of multiple acts of misconduct, which caused significant harm to his client. Respondent also demonstrated indifference to his failure to pass the MRPE, as well as lack of insight into his misconduct. Finally, respondent has a prior record of discipline. However, a large portion of respondent's conduct regarding the Estate predates his prior discipline, as it occurred between 2010 and 2015. Under *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 619, the aggravating weight of a prior discipline is generally diminished if the misconduct underlying it occurred during the same period. While there is an overlap in time for much of respondent's current and prior misconduct, which would warrant diminished aggravating weight for his prior record of discipline, respondent also engaged in misconduct after he was apprised of the wrongfulness of his prior misconduct. For example, respondent continued to advocate on behalf of Alfonso Gonzalez in 2017 and has still failed to return a file to his former client, an ongoing violation, the same type of misconduct for which he was previously disciplined. Therefore, although a partial *Sklar* analysis applies, the weight of his prior record of discipline is not diminished and is accorded full aggravating weight.

In mitigation, respondent presented evidence of his continued pro bono activities, his serious physical and emotion difficulties that occurred at the time of the majority of his misconduct, and entered into this stipulation prior to the trial. The Court should consider the totality of the current and prior misconduct "to determine what the discipline would have been had all the charged misconduct in this period been brought as one case." (*Sklar*, at p. 619.)

Given all of the above, respondent's misconduct is serious, occurred over a lengthy period of time and caused significant harm, and therefore for 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, a one-year stayed suspension and a two-year probation, including a 90-day actual suspension and until respondent passes the MPRE and returns the client file to Ms. Ramirez is appropriate.

Case law supports this level of discipline. In *In the Matter of Riordan* (Review Dept. 2007) 5 Cal State Bar Ct. Rptr. 41, the court imposed discipline of six months stayed suspension with a one-year probation. Riordan was found culpable of failing to perform legal services competently, to obey court orders and to timely report judicial sanctions. (*Id.* at 41.) The Review Department imposed a sanction at the lower end of the Standards (which at the time required discipline ranging from stayed suspension to disbarment) due to mitigating factors of respondent's 17-years of practice with no prior discipline, good character and cooperation in the proceedings, in addition to the lack of harm. (*Id.* at 53.) Here, respondent's misconduct is more serious than the misconduct in *Riordan*, because respondent's conduct transpired over 7 years and is ongoing, and is aggravated by his multiple acts of misconduct, the significant harm caused to his clients, his indifference to his reproof conditions, and his lack of insight into his misconduct. Therefore, a more significant period of actual suspension is warranted in the instant matter.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of November 13, 2018, the discipline costs in this matter are \$3,857. 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.

(Do not write above this line.)

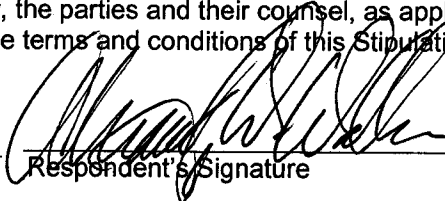
In the Matter of: ALEXANDER WAILES WALLACE	Case Number(s): 16-O-12638; 18-H-10840
--	---

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.

11/13/18

Date



Respondent's Signature

ALEXANDER WAILES WALLACE

Print Name

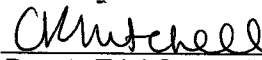
Date

Respondent's Counsel Signature

Print Name

11/13/18

Date



Deputy Trial Counsel's Signature

CHRISTINA MITCHELL

Print Name

(Do not write above this line.)

In the Matter of: ALEXANDER WAILES WALLACE	Case Number(s): 16-O-12638; 18-H-10840
---	---

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.
1. On page 10 of the Stipulation, in the section entitled "Other Requirements," numbered paragraph "1." is deleted in its entirety;
 2. On page 10 of the Stipulation, in the section entitled "Other Requirements," the following language is inserted below numbered paragraph "2.":

If Respondent remains suspended for two years or longer, Respondent must provide proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

As an additional condition of probation, Respondent is required to take and pass the Multistate Professional Responsibility Examination and provide satisfactory proof to the Office of Probation within 90 days after the effective date of the Supreme Court order imposing discipline in this matter, as ordered by the State Bar Court in his prior discipline (case number 16-O-10049).

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 Rules Proc. of State Bar, rule 5.58(E) & (F).) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after the filed date of the Supreme Court order.** (See Cal. Rules of Court, rule 9.18(a).)

November 27, 2018

Date

Yvette D. Roland

YVETTE D. ROLAND
Judge of the State Bar Court

(Do not write above this line.)

NOT FOR PUBLICATION

**State Bar Court of California
Hearing Department
Los Angeles
REPROVAL**

<p>Counsel For The State Bar</p> <p>Alex Hackert Deputy Trial Counsel 845 S. Figueroa St. Los Angeles, CA 90017 213-765-1498</p> <p>Bar # 267342</p>	<p>Case Number(s): 16-O-10049-YDR</p>	<p>For Court use only</p> <p>FILED</p> <p>NOV 10 2016</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Alexander Wailes Wallace 4047 Long Beach Blvd. Long Beach, CA 90807 562-972-4072</p> <p>Bar # 78479</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>PRIVATE REPROVAL</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: ALEXANDER WAILES WALLACE</p> <p>Bar # 78479</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 **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 entirely 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."

BS 11.4.16

(Do not write above this line.)

- (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):
- Costs are added to membership fee for calendar year following effective date of discipline (public reproof).
 - Case ineligible for costs (private reproof).
 - 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.
- (9) The parties understand that:
- (a) A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
 - (b) A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
 - (c) A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

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

- (1) **Prior record of discipline**
- (a) State Bar Court case # of prior case
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."

(Effective April 1, 2016)

Reproof

(Do not write above this line.)

- (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.
- (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.
- (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 investigation 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.

(Do not write above this line.)

- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

No Prior Record of Discipline, see page 8.

Pretrial Stipulation, see page 8.

Pro Bono Work and Community Service, see page 8.

Family Problems/Emotional Difficulties, see page 8.

D. Discipline:

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

E. Conditions Attached to Reproof:

- (1) Respondent must comply with the conditions attached to the reproof for a period of one year.

(Do not write above this line.)

- (2) During the condition period attached to the reprobation, 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 reprobation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the reprobation conditions period, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the condition period attached to the reprobation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of the reprobation during the preceding calendar quarter. Respondent must also state in each report whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 (thirty) days, that report must be submitted on the next following quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the condition period and no later than the last day of the condition period.

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of reprobation with the probation monitor to establish a manner and schedule of compliance. During the reprobation conditions period, Respondent must furnish 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 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 conditions attached to the reprobation.
- (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.
- 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) Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year of the effective date of the reprobation.

No MPRE recommended. Reason:

- (11) The following conditions are attached hereto and incorporated:

(Effective April 1, 2016)

Reprobation

(Do not write above this line.)

Substance Abuse Conditions

Law Office Management Conditions

Medical Conditions

Financial Conditions

F. Other Conditions Negotiated by the Parties:

None.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: ALEXANDER WAILES WALLACE

CASE NUMBER: 16-O-10049-YDR

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. 16-O-10049 (Complainants: Glenn Labs and Dean Labs)

FACTS:

1. Respondent has represented brothers Dean Labs and Glenn Labs, as well as some of their relatives, in various legal matters over several years. As of 2005, respondent no longer represented Dean Labs, Glenn Labs, or any of their family members in any pending legal matters.

2. On May 20, 2015, Dean Labs and Glenn Labs went to respondent's office to ask for the return of each of their client files. When they found that respondent was not in his office at that time, they sent respondent a letter by fax the same day, requesting the release of their client files. They asked that respondent contact them within 10 business days. Respondent received this letter. Respondent did not turn over the files as requested.

3. Dean Labs and Glenn Labs contacted respondent again around August 2015 to request their client files. Still, respondent did not turn over the files.

4. On February 3, 2016, a State Bar investigator sent respondent an investigative letter requesting a response to Dean Labs' and Glenn Labs' allegations that respondent had not returned their client files. In a phone call with the investigator on March 7, 2016, respondent stated that he would return the files, some of portions of which were in storage. On March 17, 2016, respondent sent an e-mail to the investigator stating that he was going to work on gathering the files in the next week.

5. In a follow up call to respondent on April 12, 2016, respondent told the investigator that he was still working on returning the files.

6. The investigator sent additional letters to respondent on May 17, 2016 and June 3, 2016 to inquire about the status of the client files. Respondent did not respond to these letters.

7. In October 2016, respondent began assembling the files to be turned over to Glenn Labs' and Dean Labs' new attorney. As of November 1, 2016, all of the materials comprising Glenn Labs' and Dean Labs' client files had been sent to their new attorney.

CONCLUSIONS OF LAW:

8. By failing to promptly return Glenn Labs' client file, after respondent's representation had been terminated and as requested by Glenn Labs on May 20, 2015, respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(1).

9. By failing to promptly return Dean Labs' client file, after respondent's representation had been terminated and as requested by Dean Labs on May 20, 2015, respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(1).

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

No Prior Record of Discipline: At the time of the misconduct, respondent had no record of prior discipline over 38 years in practice. The Review Department has found an attorney with 24 years of practice without discipline to be entitled to "significant" mitigation. (*In the Matter of Elkins* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160, 167.)

Pretrial Stipulation: By entering into this stipulation, after the filing of charges, but before trial, 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].)

Pro Bono Work and Community Service: At the start of his career respondent volunteered for the Legal Aid Foundation of Los Angeles, providing pro bono services to indigent and low-income clients. While respondent is no longer associated with this organization, he has continued to provide pro bono services in matters such as unlawful detainers and family law cases. During the course of his career, respondent has also done volunteer work for organizations including the National Council on Alcoholism and Other Drug Dependencies, the Miller Children's & Women's Hospital Long Beach Children's Dental Health Clinic and Erase the Past Tattoo Removal Program for gang tattoo removal, the Public Corporation for the Arts of the City of Long Beach, the California State University Long Beach Fine Arts Affiliates, the State of California Gang Violence Advisory Committee, a local church and a local women's choir group. Respondent's pro bono work and community service is worth "considerable weight" in mitigation. (*In the Matter of Respondent K* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 335, 359.)

Family Problems/Emotional Difficulties. Respondent is entitled to mitigation for emotional difficulties regarding a series of circumstances which were beyond his control and which occurred during the period of the underlying misconduct. In 2013, respondent's mother passed away. Then, in July 2014, respondent's uncle, with whom respondent had a close relationship, passed away. Both of these deaths affected respondent's health during the period of misconduct. Over the past five years respondent took on the role as a caregiver for a close friend who suffers from a chronic illness. In the midst of this, respondent has been dealing with his own urgent health issues. (See *In the Matter of Kaplan* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 509, 519 and *Read v. State Bar* (1990) 53 Cal.3d 394, 424-425 [domestic and health difficulties may be considered as mitigating circumstances].)

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).)

Under Standard 2.7(c) the presumed sanction for a performance, communication or withdrawal violation that is limited in scope and time is a suspension or reproof, depending upon the extent of the misconduct and the degree of harm to the client.

Here, respondent ignored his two clients’ requests for the return of their client files. Respondent then failed to address this issue once the State Bar became involved in the matter. Respondent did not return the client files until after the instant Notice of Disciplinary Charges was filed. Since this misconduct is relatively minor, and considering respondent’s significant mitigation for 37 years in practice without prior discipline, family and emotional difficulties, and for his community service and pro bono work, the recommended level of discipline is a private reproof.

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

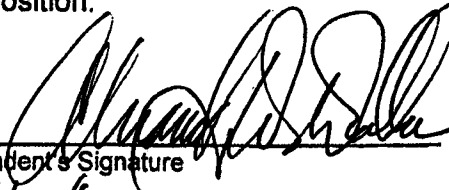
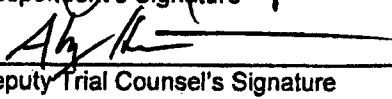
Respondent may not receive MCLE credit for completion of State Bar Ethics School and/or any other educational course(s) to be ordered as a condition of reproof or suspension. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of ALEXANDER WAILES WALLACE	Case number(s): 16-O-10049-YDR
---	--

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 Fact, Conclusions of Law and Disposition.

Date <u>11/7/2016</u>	Respondent's Signature 	<u>Alexander Wailes Wallace</u> Print Name
Date <u>11/7/16</u>	Deputy Trial Counsel's Signature 	<u>Alex Hackert</u> Print Name

(Do not write above this line.)

In the Matter of: ALEXANDER WAILES WALLACE	Case Number(s): 16-O-10049-YDR
--	--

REPROVAL ORDER


Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED AND THE REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- All court dates in the Hearing Department are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

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

11/8/16
Date



DONALD F. MILES
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 November 10, 2016, I deposited a true copy of the following document(s):

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

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

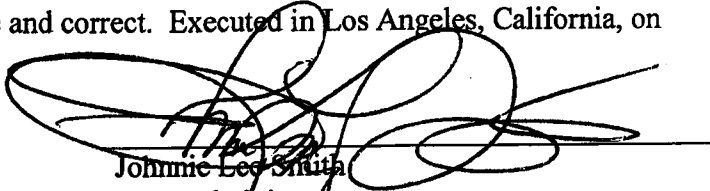
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**ALEXANDER WAILES WALLACE
LAW OFFICE OF ALEXANDER W. WALLACE
4047 LONG BEACH BLVD
LONG BEACH, CA 90807**

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

ALEX HACKERT, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 10, 2016.


Johnnie Lee Smith
Case Administrator
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 November 20, 2018
State Bar Court, State Bar of California,
Los Angeles

By 
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 Los Angeles, on November 28, 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:

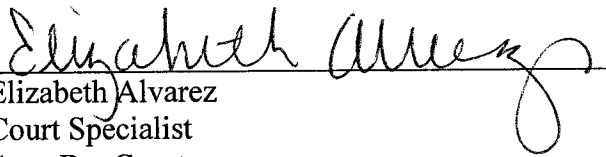
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ALEXANDER WAILES WALLACE
LAW OFFICE OF ALEXANDER W.
WALLACE
4047 LONG BEACH BLVD
LONG BEACH, CA 90807

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

Christina R. Mitchell, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 28, 2018.


Elizabeth Alvarez
Court Specialist
State Bar Court