



ORIGINAL

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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Timothy G. Byer Deputy Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017-2515 (213) 765-1325 Bar # 172472	Case Number(s): 17-O-00231, 17-O-00766	For Court use only PUBLIC MATTER FILED  MAY 21 2018 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
Counsel For Respondent Nicholas Melzer 400 South Hope Street, 8th Floor Los Angeles, CA 90071 (213) 896-2496 Bar # 246356	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: NOELLE LYNN McCABE Bar # 253349 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 7, 2007**.
- (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 **12** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".



- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: **2019, 2020, 2021**. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.

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

- (1) **Prior record of discipline**
- (a) State Bar Court case # of prior case
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.
- (6) **Uncharged Violations:** Respondent's conduct 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.

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- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See page 9
- (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. **See page 9**
- (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.

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- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

No Prior Discipline. See page 9
Good Character. See page 9

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of **one year**.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:
- (b) The above-referenced suspension is stayed.
- (2) **Probation:**
- Respondent must be placed on probation for a period of **two years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)
- (3) **Actual Suspension:**
- (a) Respondent must be actually suspended from the practice of law in the State of California for a period of **60 days**.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

E. Additional Conditions of Probation:

- (1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and present learning and ability in the general law, pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
 - No Ethics School recommended. Reason: _____
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) The following conditions are attached hereto and incorporated:

- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) **Other Conditions:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: NOELLE LYNN McCABE

CASE NUMBERS: 17-O-00231, 17-O-00766

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 17-O-00231 (Complainant: Danielle Mesa)

FACTS:

1. On September 23, 2016, Danielle Mesa employed respondent to substitute into her pending divorce matter in Orange County Superior Court case number 15D004941, entitled *Mesa v. Mesa*, and gave respondent her file of pleadings. Respondent began negotiations with Mesa's adversary.
2. On November 2, 2016, after discussing proposed settlement terms with respondent, Mesa sent respondent an email in which she asked respondent whether respondent had forwarded the proposed settlement terms to opposing counsel. Respondent, without consulting her records, erroneously and grossly negligently confirmed to Mesa that she had done so.
3. On five occasions between December 1, 2016, and December 21, 2016, Mesa contacted respondent, by telephone and in writing, to inquire about the status of the settlement proposal. Respondent did not respond to any of Mesa's inquiries.
4. After their discussion concerning a proposed settlement of her divorce matter, respondent performed no further legal services on Mesa's behalf, constructively withdrawing from Mesa's employment. At the time respondent withdrew from Mesa's representation, respondent took no reasonable steps to avoid reasonably foreseeable prejudice to Mesa.
5. On December 22, 2016, frustrated by the lack of response from respondent, Mesa contacted opposing counsel and learned that respondent had not forwarded the settlement proposal to opposing counsel.
6. On December 22, 2016, Mesa terminated respondent's representation and retrieved her file materials from respondent's office.
7. The State Bar investigator's letters to respondent at her membership records address dated March 20, 2017 and April 17, 2017 were returned to the State Bar by the postal service as "unknown, unable to forward," as respondent had moved her office without updating her membership records address within 30 days of the change.

CONCLUSIONS OF LAW:

8. By not forwarding Mesa's settlement proposal to her opposing counsel, or by performing an further legal services on Mesa's behalf following their discussion concerning the proposed settlement terms, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

9. By not responding to Mesa's five written and telephonic inquiries to respondent requesting the status of her settlement offer to opposing counsel, respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).

10. By performing no further legal services on Mesa's behalf following their discussion concerning proposed settlement terms, respondent constructively withdrew from Mesa's employment without taking reasonable steps to avoid reasonably foreseeable prejudice to Mesa, in willful violation of Rules of Professional conduct, rule 3-700(A)(2).

11. By sending Mesa an email on November 2, 2016 in which respondent falsely claimed to have sent a settlement offer on Mesa's behalf to opposing counsel, respondent made a grossly negligent misrepresentation to Mesa, an act involving moral turpitude, dishonesty or corruption in wilful violation of Business and Professions Code, section 6106.

12. By not notifying the State Bar of the change in her office address within 30 days of the change, respondent failed to maintain on the official membership records of the State Bar a current office address and telephone number or, if no office is maintained, the address to be used for State Bar purposes, in willful violation of Business and Professions Code, section 6068(j).

Case No. 17-O-00766 (Complainant: Buu Han)

FACTS:

13. On April 15, 2016, Buu Han employed respondent to substitute into his pending divorce matter in Orange County Superior Court case number 10D008489, entitled *Han v. Nguyen-Han*. Respondent began work on Han's behalf.

14. After making a court appearance for Han on November 3, 2016, respondent provided no further legal services on Han's behalf, constructively withdrawing from Han's representation.

15. At the time respondent withdrew from Han's representation, respondent took no reasonable steps to avoid reasonably foreseeable prejudice to Han.

16. On six occasions between December 2, 2016, and December 22, 2016, Han contacted respondent, by telephone and in writing, to inquire about the status of his case. Respondent did not respond to any of Han's inquiries. During this period, Han's opposing counsel filed a motion requesting that Han be ordered to pay his ex-wife's attorney's fees, and the motion was granted.

CONCLUSIONS OF LAW:

17. By performing no further services on Han's behalf after appearing at Han's hearing on November 3, 2016, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

18. By not responding to Han's six written and telephonic inquiries to respondent requesting the status of his case, respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).

19. By performing no further legal services on Han's behalf after the appearance in court on November 3, 2016, respondent constructively withdrew from Han's employment without taking reasonable steps to avoid reasonably foreseeable prejudice to Han, in willful violation of Rules of Professional conduct, rule 3-700(A)(2).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent has committed 17 separate acts of misconduct, 11 of which are failures to respond to the written and telephonic inquiries by Mesa and Han.

MITIGATING CIRCUMSTANCES.

Remorse and Recognition of Wrongdoing (Std. 1.6(g)): Respondent spontaneously volunteered to, and did, repay Buu Han for the \$13,144.50 in attorneys' fees Han was ordered to pay to his ex-spouse, after respondent abandoned his representation. This is significant also due to the fact that the attorneys' fees obligation was awarded by the court based upon the disparity in income levels between Han and his ex-wife, and therefore not directly attributable to respondent's misconduct. (*In the Matter of Jensen* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 283, 291 [where the attorney received credit for his remorse and recognition of wrongdoing demonstrated by voluntary enrollment in and attendance at parenting courses beyond those ordered as a condition of his criminal probation].)

No Prior Discipline: Respondent is entitled to mitigation for having practiced law for nine years without a prior record of discipline prior to the instant misconduct. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.) (see also *Hawes v. State Bar* (1990) 51 Cal.3d 587, 596.)

Good Character: Respondent's extraordinary good character exhibited in her altruism, empathy, self-control, conscientiousness, and initiative, are attested to by five witnesses from the general and legal communities, including a preschool director, two attorneys, a former client, and a public school Director of Secondary Education. All of these witnesses are aware of the full extent of respondent's misconduct. (*In the Matter of Davis* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576,591 -592 [where significant weight was given to the testimony of two attorneys and fire chief who knew attorney well and had broad knowledge of his good character, work habits, and professional skills].)

Pretrial Stipulation: By entering into this stipulation, respondent has acknowledged misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant resources

and time. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability]; *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

AUTHORITIES SUPPORTING DISCIPLINE.

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

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

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

In this matter, respondent admits to committing 17 acts of professional misconduct. 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 2.11, which applies to respondent’s violation of Business and Professions Code, section 6106. Standard 2.11 calls for disbarment or actual suspension, with the “degree of sanction depend[ent] on the magnitude of the misconduct; the extent to which the misconduct harmed or misled the victim, which may include the adjudicator; the impact on the administration of justice, if any; and the extent to which the misconduct related to the member’s practice of law.”

Respondent’s grossly negligent misrepresentation involved the transmission of a settlement offer, which respondent falsely claimed to have forwarded to opposing counsel. It was related to her legal practice, and it misled but did not harm Mesa, who successfully handled her own dissolution negotiations thereafter. The “degree of magnitude” of the misrepresentation is low per 2.11.

Respondent's mitigating circumstances include the significant showing of remorse reflected in respondent's repayment to Han of the attorneys' fees Han became required to pay to his adversary, in addition to respondent's nine years of practice without discipline, and evidence of extraordinary good character from a wide range of witnesses in the legal and non-legal communities with full knowledge of her misconduct. Balancing mitigation and aggravation leads to the conclusion that the 60 days of actual suspension is the appropriate level of discipline.

60 days of actual suspension is also supported by case law. In *In the Matter of Regan* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844, the attorney pursued an appeal in which he misrepresented to the Court of Appeal that he did so with his clients' authority, and concealed the fact that he had been terminated, failed to respond to his clients' reasonable status requests, and failed to return his clients' files upon their request. In mitigation, the attorney had 17 years of practice without prior discipline. In aggravation, respondent committed multiple acts of misconduct, significantly harmed his clients, engaged in bad faith tactics and demonstrated a lack of insight. The attorney was disciplined with 75 days of actual suspension and compliance with [the then-applicable version of] Rule of Court 9.20.

The misconduct in *Regan* was similar to the instant case, although the misrepresentation here is grossly negligent rather than intentional. Respondent here has approximately half of the length of discipline-free practice as in *Regan*, fewer factors in aggravation and additional factors in mitigation not present in *Regan*. In contrast to *Regan*, this resolution also includes a lesser period of actual suspension and does not include compliance with Rule 9.20.

One year of stayed suspension and two years of probation, with probation conditions including 60 days of actual suspension, is within the standards, supported by case law, and is appropriate to protect the public.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed her that as of May 14, 2016, the discipline costs in this matter are \$6,666. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MINIMUM CONTINUING LEGAL EDUCATION ("MCLE") CREDIT

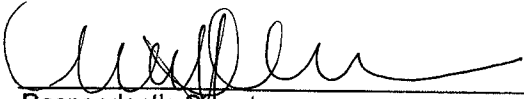

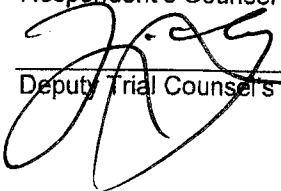
Respondent may not receive MCLE credit for completion of State Bar Ethics School ordered as a condition of suspension. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: NOELLE LYNN McCABE	Case number(s): 17-O-00231, 17-O-00766
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

<u>5/17/18</u> Date	 Respondent's Signature	<u>Noelle L. McCabe</u> Print Name
<u>5/15/18</u> Date	 Respondent's Counsel Signature	<u>Nicholas Melzer</u> Print Name
<u>5.17.18</u> Date	 Deputy Trial Counsel's Signature	<u>Timothy G. Byer</u> Print Name

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In the Matter of: NOELLE LYNN McCABE	Case Number(s): 17-O-00231, 17-O-00766
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ACTUAL SUSPENSION ORDER

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

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
 - The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
 - All Hearing dates are vacated.
1. On page 8 of the stipulation, numbered paragraph 8, "or by performing an further legal services" is deleted, and in its place is inserted "or by performing any further legal services"; and
 2. On page 9 of the stipulation, in the paragraph entitled "Good Character," "Respondent's extraordinary good character exhibited in her altruism, empathy, self-control, conscientiousness, and initiative, are attested to by five witnesses" is deleted, and in its place is inserted "Respondent's extraordinary good character exhibited in her altruism, empathy, self-control, conscientiousness, and initiative, is attested to by five witnesses".

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.)**

May 21, 2018
Date

Cynthia Valenzuela
CYNTHIA VALENZUELA
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 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 May 21, 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:

NICHOLAS B. MELZER
HOLLAND & KNIGHT LLP
400 S HOPE ST FL 8
LOS ANGELES, CA 90071 - 2809

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

TIMOTHY G. BYER, Enforcement, Los Angeles

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



Marc Krause
Court Specialist
State Bar Court