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State Bar Court of California Hearing Department Los Angeles REPROVAL		
Counsel for the State Bar Joshua D. Mendelsohn Senior Trial Counsel 845 S. Figueroa St. Los Angeles, CA 90017 (213) 765-1000 Bar # 228888	Case Number(s): 18-C-10507	For Court use only <div style="text-align: center;"> FILED <i>E.A.</i> JAN 09 2019 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
In Pro Per Respondent Valmiki Alejandro Reyes 2272 Colorado Blvd, # 1140 Los Angeles, CA 90041 (213) 814-2316 Bar # 259451	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING PUBLIC REPROVAL <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: VALMIKI ALEJANDRO REYES Bar # 259451 A Member of the State Bar of California (Respondent)		

PUBLIC MATTER

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 2, 2008**.
- (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 **14** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."



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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- It is ordered that 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.
 - Case ineligible for costs (private reproof).
 - It is ordered that 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. One-half of the costs must be paid with Respondent's membership fees for each of the following years: The two billing cycles following the effective date of discipline.
- 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.
- (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:

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- (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.
 - (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 Respondent's misconduct.
 - (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.
 - (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.

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- (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 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 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 subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Pre-Trial Stipulation. See page 11.

D. Discipline:

Discipline – Reproval

Respondent is **Publicly** reproved. Pursuant to the provisions of rule 5.127(A) of the Rules of Procedure of the State Bar, this reproval will be effective when this stipulation becomes final. Furthermore, pursuant to rule 9.19(a) of the California Rules of Court and rule 5.128 of the Rules of Procedure, the court finds that the protection of the public and the interests of Respondent will be served by the following conditions being attached to this reproval. Failure to comply with any condition attached to this reproval may constitute cause for a separate disciplinary proceeding for willful breach of rule 1-110 of the State Bar Rules of Professional Conduct. Respondent is ordered to comply with the following conditions attached to this reproval for **one year** (Reproval Conditions Period) following the effective date of the reproval.

- (1) **Review Rules of Professional Conduct:** Within 30 days after the effective date of the 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 Repeal Conditions:** Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all conditions of Respondent's repeal.
- (3) **Maintain Valid Official Membership Address and Other Required Contact Information:** Within 30 days after the effective date of the 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 30 days after the effective date of the 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 45 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 Repeal Conditions 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/Appeal Before and Cooperate with State Bar Court:** During Respondent's Repeal Conditions Period, the State Bar Court retains jurisdiction over Respondent to address issues concerning compliance with repeal 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 Repeal Conditions Period. 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 Repeal Conditions Period and no later than the last day of the Repeal Conditions 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 the Repeal Conditions Period has ended. 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 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.
- (8) **State Bar Ethics School Not Recommended:** It is not recommended that Respondent be ordered to attend the State Bar Ethics School because
- (9) **State Bar Client Trust Accounting School:** Within one year after the effective date of the 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.
- (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 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.
- (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 Repeal Conditions Period, 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.
- (12) **Minimum Continuing Legal Education (MCLE):** Within _____ after the effective date of the 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

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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.

- (13) **Other:** Respondent must also comply with the following additional reprobation conditions:
- (14) **Multistate Professional Responsibility Examination Within One Year:** It is further ordered that Respondent be ordered to 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 order imposing discipline in this matter 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).)
- (15) **The following conditions are attached hereto and incorporated:**
- Financial Conditions
 - Medical Conditions
 - Substance Abuse Conditions

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Substance Abuse Conditions

- a. **Abstinence:** Respondent must abstain from using alcoholic beverages and must not use or possess any illegal drugs or illegal drug paraphernalia. In each quarterly and final report, Respondent must report compliance with this condition.
- b. **Abstinence Program Meetings:** Respondent must attend a minimum of **four meetings per month** of an abstinence-based self-help group approved by the Office of Probation. Programs that are not abstinence-based and allow the participant to continue consuming alcohol are not acceptable. Respondent must contact the Office of Probation and obtain written approval for the program Respondent wishes to select prior to receiving credit for compliance with this condition for attending meetings of such group. Respondent must provide to the Office of Probation satisfactory proof of attendance at such group meetings with each quarterly and final report; however, in providing such proof, Respondent may not sign as the verifier of such attendance.
- c. **Laboratory Testing:** Within 45 days after the effective date of the **SELECT ONE** order imposing discipline in this matter, Respondent must select a licensed medical laboratory or laboratories acceptable to the Office of Probation and having the capability to provide observed testing of Respondent as specified below. Respondent must provide a copy of this condition and of the Office of Probation Lab Test Information Sheet to each and every laboratory Respondent uses to perform any portion of the testing required to comply with this probation condition. In the event that Respondent subsequently is informed or learns that any laboratory, previously approved by the Office of Probation to conduct the testing set forth below, is no longer willing or able to perform such testing in the manner set forth below, Respondent must (1) notify the Office of Probation in writing of that fact within 72 hours after acquiring such information, and (2) select a new licensed medical laboratory, acceptable to the Office of Probation and capable of providing observed testing of Respondent as specified below, sufficiently promptly that Respondent will be able to continue to comply timely with the testing requirements set forth below.

After the expiration of the first 60 days of Respondent's probation/reproval, Respondent must be tested monthly, at Respondent's expense, during the first five (5) days of each remaining calendar month of Respondent's probation/reproval conditions period to show that Respondent has abstained from the use of alcohol and drugs. This testing will include an ethyl glucuronide (EtG) test and a ten-panel drug test (or equivalent tests accepted and approved in advance by the Office of Probation) and for drugs and other substances specified by the Office of Probation, including but not necessarily limited to alcohol, amphetamines, methamphetamines, barbiturates, benzodiazepines, cocaine metabolite, opiates, oxycodone, marijuana, methadone, and propoxyphene. These tests must be performed by the laboratory pursuant to United States Department of Transportation guidelines, and all testing must be observed. Respondent must comply with all laboratory requirements regarding specimen collection and the integrity of specimens.

In addition to the monthly testing, the Office of Probation may require Respondent to undergo up to additional tests per month, as described above, during the period of Respondent's probation/reproval conditions period, at times selected by the Office of Probation on a random basis. During the period of probation/reproval conditions period, Respondent must maintain with the Office of Probation a current telephone number and email address at which Respondent can be reached. Such tests are to be performed by the laboratory no later than eight (8) hours after the Office of Probation's email and telephone call to Respondent that the Office of Probation requires such additional testing.

For each test, Respondent must instruct the laboratory to provide a screening report directly to the Office of Probation, at Respondent's expense, that contains an analysis of the above tests, shows that each tested

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sample was properly obtained, and demonstrates that the above testing requirements were satisfied. Failure to provide, or revocation of, such instruction for a particular required test may be deemed a failure to comply with this condition. Each screening report must be provided directly to the Office of Probation at or before the time that its results are disclosed to Respondent and within ten (10) days after the time that the tested sample is provided to the laboratory. Each report must record the date and time of the testing, list all of the substances for which Respondent was tested, and show the individual results for each such substance. An overall synopsis, e.g., "negative," with no specific breakdown, is not sufficient. In the event a previously selected and approved laboratory fails to provide the Office of Probation with test results or screening reports meeting the above requirements within two weeks of testing, the Office of Probation may require Respondent to choose a different licensed medical laboratory, approved by the Office of Probation, for future testing.

- d. **Medical Waivers:** Within 45 days after the effective date of the SELECT ONE order imposing discipline in this matter, Respondent must provide the Office of Probation with an authorization to disclose and obtain medical information (medical waiver) and access to all of Respondent's medical records related to Respondent's substance abuse problem for the period . Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, the Office of Chief Trial Counsel, and the State Bar Court who are directly involved with maintaining, enforcing, or adjudicating this probation/reproval condition.

- e. **Other:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: VALMIKI ALEJANDRO REYES

CASE NUMBER: 18-C-10507

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. 18-C-10507 (Conviction Proceedings)

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:

1. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.

2. On December 20, 2017, the Los Angeles City Attorney's Office filed a criminal complaint against respondent in Los Angeles County Superior Court case no. 7MN07144, charging respondent with one count each of a violation of Vehicle Code section 23152(a) [Driving Under the Influence of Alcohol, with a Prior Conviction], a misdemeanor; and Vehicle Code section 23152(b) [Driving Under the Influence of Alcohol with Blood Alcohol Concentration of .08% or More with a Prior Conviction], a misdemeanor. The complaint further alleged that respondent had a prior conviction from October 6, 2009, for violation of Vehicle Code section 23103 [Reckless Driving Involving Alcohol], a misdemeanor.

3. On May 10, 2018, the court entered respondent's plea of nolo contendere to the count of violation of Vehicle Code section 23152(b) [Driving Under the Influence of Alcohol with Blood Alcohol Concentration of .08% or More with a Prior Conviction], a misdemeanor, and based thereon, the court found respondent guilty of that count. Pursuant to a plea agreement, the court dismissed the remaining count in the furtherance of justice.

4. At the time of the entry of the plea, the court ordered respondent to serve 96 hours in county jail, with credit for one day, execution of jail sentence stayed until June 4, 2018. Further, respondent was placed on summary probation for a period of 60 months, required to have an ignition interlock device installed on his vehicle, as ordered by the DMV, ordered to pay a fine of \$450, plus fees and costs, ordered to successfully complete an 18 month licensed second-offender alcohol and other drug education and counseling program, and ordered to enroll in the program within 21 days of sentencing.

5. On August 2, 2018, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department finds that the facts and circumstances surrounding the offense for which respondent was convicted involved moral turpitude or other misconduct warranting discipline.

FACTS:

6. On December 8, 2017, at approximately 8:53 p.m., respondent drove to a sobriety checkpoint at Sunset Boulevard and Coronado Avenue in Los Angeles. Respondent was the sole occupant of his vehicle. Los Angeles Police Department Officer Ryan Shaffer identified himself and advised respondent that he had entered a sobriety checkpoint.

7. Officer Shaffer asked respondent if respondent had consumed any alcohol that evening. Respondent stated "no."

8. At this time, respondent's eyes were red and glassy, his speech was slurred and his breath smelled of alcohol.

9. Officer Shaffer requested that respondent exit his vehicle and again asked if respondent had consumed any alcohol that evening. Respondent stated he consumed two Modelo beers with coworkers that day after work.

10. Officer Shaffer advised respondent that he was going to conduct a Standardized Field Sobriety Test, to which respondent did not object. Officer Shaffer administered a Modified Romberg Balance Test and a Walk and Turn Test. Respondent displayed signs of intoxication in both tests.

11. Officer Shaffer asked respondent to provide a preliminary alcohol screening (PAS) sample. Respondent declined to provide a PAS sample and was arrested for DUI.

12. Respondent was transferred to Metropolitan Detention Center Jail for booking and a blood draw, the results of which indicated respondent had a .09% blood alcohol concentration.

CONCLUSIONS OF LAW:

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

MITIGATING CIRCUMSTANCES:

Pretrial Stipulation: By entering into this stipulation, respondent has acknowledged his 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 Spaitth* (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).)

Standard 2.16 provides that “suspension or reproof is the presumed sanction for final conviction of a misdemeanor not involving moral turpitude but involving other misconduct warranting discipline.” In the present matter, the facts and circumstances surrounding respondent’s conviction do not involve moral turpitude, but do involve other conduct warranting discipline. (*In re Kelley* (1990) 52 Cal.3d 487, 497 [A second and subsequent conviction for driving under the influence did not involve moral turpitude, but constituted other misconduct warranting discipline].)

In the present matter, respondent was convicted of Driving with a Blood Alcohol Level of .08% or More, with a Prior Conviction. Respondent was not on probation at the time of his 2017 arrest or 2018 conviction. There are no circumstances in aggravation. Respondent is entitled to mitigation for acknowledging his misconduct and entering into this pretrial stipulation, thereby obviating the need for trial and saving State Bar time and resources. Considering the nature of the misconduct and the mitigation, a public reproof is appropriate to protect the public, the courts, and the legal profession, maintain the highest professional standards, and preserve public confidence in the legal profession.

This level of discipline is also consistent with case law. In *In re Kelley*, an attorney was convicted twice of driving under the influence within a 31-month period. (*Id.* at 499.) On her first arrest, the attorney had driven her car into an embankment and was arrested at the scene. While still on probation from her first conviction, she was again stopped by a police officer and eventually arrested for DUI after failing a field sobriety test. The court found that the attorney’s conduct did not involve moral turpitude, but rather constituted other misconduct warranting disciplinary action. Noting there had been no specific harm caused to the public or the courts, as well as the attorney’s significant mitigating evidence, the court ordered the attorney publicly reproofed and directed her to participate in the State Bar’s program on alcohol abuse.

In light of the foregoing, a level of discipline consisting of a public reproof will best serve the goals of protection of the public, the courts, and the legal profession.

COSTS OF DISCIPLINARY PROCEEDINGS.


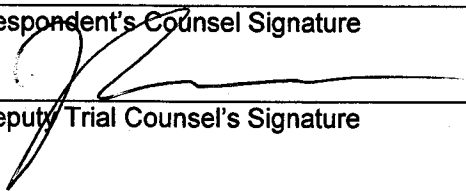
Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of December 11, 2018, the discipline costs in this matter are \$7,598 . Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

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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>12/12/18</u> Date	<u></u> Respondent's Signature	<u>Valmiki Alejandro Reyes</u> Print Name
<u>12/13/18</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>Joshua Mendelsohn</u> Print Name

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REPROVAL ORDER

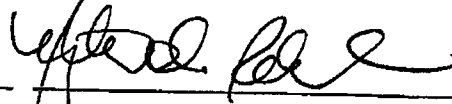
Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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 Rules Proc. of State Bar, rule 5.58(E) & (F).) 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.

January 9, 2019
Date



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 January 9, 2019, 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:

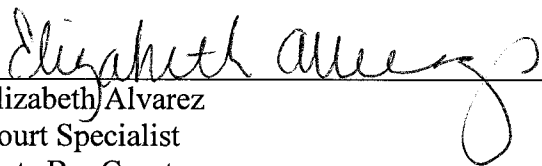
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

VALMIKI A. REYES
2272 COLORADO BLVD
1140
LOS ANGELES, CA 90041 - 1143

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

Joshua D. Mendelsohn, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 9, 2019.


Elizabeth Alvarez
Court Specialist
State Bar Court