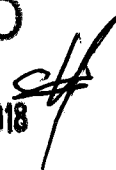




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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>San Francisco</b> <b>ACTUAL SUSPENSION</b>		
Counsel for the State Bar  <b>Peter Allen Klivans</b> <b>Deputy Trial Counsel</b> <b>180 Howard Street</b> <b>San Francisco, CA 94105</b> <b>(415) 538-2447</b>  Bar # 236673	Case Number(s): <b>18-N-11793-PEM</b> <b>18-O-11827</b> <b>18-O-13828</b>	For Court use only  <b>PUBLIC MATTER</b>  <b>FILED</b> <b>SEP 24 2018</b>  <b>STATE BAR COURT CLERK'S OFFICE</b> <b>SAN FRANCISCO</b>
Counsel For Respondent  <b>Peter Edward Brixie</b> <b>410 12th St.</b> <b>Sacramento, CA 95814</b> <b>(916) 658-1880</b>  Bar # 124186	Submitted to: <b>Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b> <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: <b>DAPHNE LORI MACKLIN</b>  Bar # 117189  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 10, 1984**.
- (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 **20** 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. One-third of the costs must be paid with Respondent's membership fees for each of the following years: 2019, 2020, and 2021.
- 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: **15-O-13786-LMA, 15-O-14055, 15-O-14613, 16-O-10164**  
**A true and correct copy of the prior record of discipline is attached hereto as exhibit 1. See page 16.**
  - (b)  Date prior discipline effective: **December 8, 2017.**
  - (c)  Rules of Professional Conduct/ State Bar Act violations: **Rules of Professional Conduct, rules 3-110(A), 3-700(A)(1); Business and Professions Code sections 6068(a), 6068(i), 6068(m), 6103, 6106.**
  - (d)  Degree of prior discipline: **90-day Actual Suspension and other conditions.**
  - (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.

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- (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. **See page 17.**
- (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. **See page 17.**
- (12)  **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13)  **Restitution:** Respondent failed to make restitution. **See page 17.**
- (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.

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- (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:**

**Extreme Emotional Difficulties, see page 17.**

**D. Recommended Discipline:**

- (1)  **Actual 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 must be suspended from the practice of law for the first \_\_\_\_\_ 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.

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- 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 **three years**, the execution of that suspension is stayed, and Respondent is placed on probation for **three years** with the following conditions.

- Respondent must be suspended from the practice of law for a minimum of the first **two years** 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>Nathaniel Saunders</b>	<b>\$750 (see p. 11)</b>	<b>April 11, 2013</b>
<b>Robert Solla</b>	<b>\$5,691.66 (see p. 11)</b>	<b>July 25, 2014</b>
<b>Michael Coffman</b>	<b>\$1,000</b>	<b>September 1, 2014</b>

- 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



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 completed State Bar Ethics School on May 8, 2018, pursuant to her prior discipline.**
- (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.
- (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



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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: **See page 11.**
- (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 **Respondent took and passed the Multistate Professional Responsibility Examination on March 24, 2018, pursuant to her prior discipline.**
- (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,

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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:

(Do not write above this line.)

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Attachment language (if any):

**As other conditions of probation, respondent must comply with the following.**

**With respect to the restitution requirements under section D(4) above:**

**Respondent paid restitution of \$350.00 on July 4, 2018 and of \$400.00 on August 24, 2018 to Nathaniel Saunders. Respondent must also pay the interest that has accrued since April 11, 2013.**

**Robert Solla received \$5,691.66 from the Client Security Fund on July 27, 2018. Respondent must reimburse the Client Security Fund in accordance with Business and Professions Code section 6140.5.**

**Medical Conditions:**

**Respondent, at respondent's expense, shall obtain psychiatric or psychological treatment from a duly licensed psychiatrist, clinical psychologist, clinical social worker, or licensed marriage and family therapist (LMFT) under the supervision of a psychologist, no less than two (2) times per month. Respondent shall commence treatment within thirty (30) days of the execution date of this agreement (or continue treatment already ongoing). Respondent shall furnish to the Office of Probation Unit, State Bar of California, at the time quarterly reports are required to be filed by the respondent with the Office of Probation, a written statement from the treating psychiatrist, clinical psychologist, clinical social worker, or licensed marriage and family therapist (LMFT) (if the latter, also signed by the supervising psychologist) that respondent is complying with this condition.**

**Upon a determination by the treating psychiatrist, clinical psychologist, clinical social worker, or licensed marriage and family therapist (LMFT) under the supervision of a psychologist that respondent is no longer in need of treatment two (2) times per month, respondent shall provide, to the Office of Probation, State Bar of California, a written statement from the treating psychiatrist, clinical psychologist, clinical social worker, or licensed marriage and family therapist (LMFT) (if the latter, also signed by the supervising psychologist) verifying the change in number of treatment sessions per month. Upon acceptance by the Office of Probation, State Bar of California, the reduction in treatment will be permitted.**

**Respondent shall execute and provide the Office of Probation, State Bar of California, upon its request, with any medical waivers which shall provide access to respondent's medical records relevant to verifying respondent's compliance with this condition of probation; failure to provide and/or revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation, State Bar of California, under this paragraph, shall be confidential and shall not be disclosed except to personnel of the Office of Probation, State Bar of California, and the State Bar Court, who are involved in maintaining and/or enforcing the terms and conditions of this agreement.**

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

IN THE MATTER OF:

DAPHNE L. MACKLIN

CASE NUMBER:

18-N-11793-PEM, 18-O-11827, 18-O-13828

**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.

FACTS (common to Case Nos. 18-N-11793-PEM, 18-O-11827):

1. On June 22, 2017, respondent entered into Stipulation re: Facts, Conclusions of Law, and Disposition (“Stipulation”) with the State Bar in case nos. 15-O-13786-LMA, 15-O-14055, 15-O-14613, and 16-O-10164. The Stipulation was approved by the State Bar Court on July 11, 2017.
2. On November 8, 2017, the Supreme Court filed its Order in Case No. S244070 (“Discipline Order”), which ordered that the respondent be suspended from the practice of law for a period of one year, execution of that period of suspension be stayed, and that respondent be placed on probation for three years subject to conditions including the following:
  - a. Respondent be actually suspended for the first 90 days of probation;
  - b. Respondent must comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on July 11, 2017;
  - c. Respondent must take and pass the MPRE within one year of the effective date; and
  - d. Respondent must comply with California Rules of Court, rule 9.20, 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 Order.
3. The Discipline Order became effective on December 8, 2017.

FACTS (Case No. 18-N-11793-PEM):

4. Pursuant to the Discipline Order and rule 9.20, respondent was required to meet the requirements of 9.20(a) within 30 days of the effective date, and to file proof of compliance pursuant to 9.20(c) within 40 days of the effective date, *i.e.*, by January 7, 2018 and January 17, 2018, respectively.
5. On December 14, 2017, the Office of Probation sent a reminder letter as a courtesy to respondent detailing certain requirements and related deadlines, including the need to comply with rule 9.20.

6. On February 8, 2018 the Office of Probation sent respondent a letter concerning respondent's failure to file a rule 9.20 compliance declaration by January 17, 2018.
7. On April 12, 2018, the Office of Probation sent respondent an e-mail reiterating that she had failed to file a rule 9.20 compliance declaration.
8. On July 23, 2018 respondent filed a rule 9.20 compliance declaration.
9. Respondent failed to file a timely rule 9.20 compliance declaration.

CONCLUSIONS OF LAW (Case No. 18-N-11793-PEM):

10. By failing to file a declaration of compliance with California Rules of Court, rule 9.20 in conformity with the requirements of rule 9.20(c) with the clerk of the State Bar Court by January 17, 2018, as required by Supreme Court Order filed in Case no. S244070, respondent willfully violated California Rules of Court, rule 9.20.

FACTS (Case No. 18-O-11827-PEM):

11. Pursuant to the Stipulation, respondent was required to contact the Office of Probation within 30 days of the effective date of discipline of December 8, 2017, *i.e.*, by January 7, 2018, to schedule a meeting.
12. Pursuant to the Stipulation, respondent was required to make restitution payments to Robert Solla for \$2,025 plus interest, in monthly payments of \$50, for fees paid by Mr. Solla on July 25, 2014.
13. Pursuant to the Stipulation, respondent was required to submit proof of restitution payments to Robert Solla with her quarterly reports to the Office of Probation.
14. Pursuant to the Stipulation, respondent was required to make restitution payments to Nathaniel Saunders for \$750 plus interest, in monthly payments of \$50, for fees paid by Mr. Saunders on April 11, 2013.
15. Pursuant to the Stipulation, respondent was required to submit proof of restitution payments to Nathaniel Saunders with her quarterly reports to the Office of Probation.
16. Pursuant to the Stipulation, respondent was required to initiate fee arbitration with Robert Solla for fees of \$3,666.66 paid half on August 1, 2014 and half on October 13, 2014 within 30 days of the effective date of discipline of December 8, 2017, *i.e.*, by January 7, 2018.
17. Pursuant to the Stipulation, respondent was required to submit proof of the initiation of fee arbitration with Robert Solla within 45 days of the effective date of discipline of December 8, 2017, *i.e.*, by January 22, 2018.

18. Pursuant to the Stipulation, respondent was required to file a medical information authorization form upon the request of the Office of Probation.
19. Pursuant to the Stipulation, respondent was required to obtain psychiatric or psychological treatment from a duly licensed psychiatrist, clinical psychologist or clinical social worker, no less than two (2) times per month.
20. Pursuant to the Stipulation, respondent was required to file proof of compliance with mental health conditions with her quarterly reports to the Office of Probation.
21. On December 14, 2017, the Office of Probation sent a reminder letter as a courtesy to respondent detailing the above requirements and related deadlines, as well as other conditions of probation. The letter also requested that respondent file a medical information authorization form by January 7, 2018.
22. On February 8, 2018 the Office of Probation sent respondent a letter concerning her non-compliance with her probation conditions.
23. On February 21, 2018, respondent sent the following documents to the Office of Probation which were stamped by the Office of Probation as follows:

Document	Probation Office Stamps
Authorization to Obtain and Disclose Medical Information	"Not Compliant" "Not timely"
Check dated February 12, 2018 to Robert Solla for \$100	"Not Compliant" "Only front of check"
Check dated February 12, 2018 to Nathaniel Saunders for \$100	"Not Compliant" "Only front of check"
February 21, 2018 Notice of Client's Right to Fee Arbitration, for client Robert Solla	"Not Compliant" "Not the conformed filing"
February 21, 2018 Notice of Client's Right to Fee Arbitration, for client Nathaniel Saunders	"Not Compliant" "Not the conformed filing"

24. On April 10, 2018, respondent filed her first required quarterly report. The report was not compliant with the conditions of her probation because it did not contain a mental health report confirming "psychiatric or psychological treatment from a duly licensed psychiatrist, clinical psychologist, or clinical social worker." Rather, respondent stated that a report from a marriage and familiar therapist ("LMFT") would be sent. An LMFT is not a "psychiatrist, clinical psychologist, or clinical social worker" under California law.
25. In the April 10, 2018 quarterly report, respondent stated, "An effort to arrange for fee arbitration has been started." Respondent failed to provide proof of compliance as required under the conditions of probation.
26. On April 12, 2018, the Probation Officer e-mailed respondent to inform her that her mental health report was non-compliant because it was from an LMFT. A similar e-mail was sent to

respondent on April 20, 2018 after a faxed report from respondent's LMFT was received on April 13, 2018.

27. On July 4, 2018, respondent provided an undated arbitration request cover letter and arbitration fee check dated July 4, 2018. A Request for Arbitration of a Fee Dispute form dated July 5, 2018 was also provided. Only the front of the check and a copy of the form were provided; Respondent failed to provide any evidence that either was ever sent or filed.
28. On July 4, 2018, respondent provided a copy of the front of a check for \$350 to Mr. Saunders; Respondent failed to provide any evidence that the check was, sent, received, or cashed.
29. On July 4, 2018, respondent provided copies of envelopes stamped "return to sender" for the February 12, 2018 check for \$100 to Mr. Solla and for the February 12, 2018 check for \$100 to Mr. Saunders. Respondent failed to provide any evidence that the checks were received or cashed.
30. On August 10, 2018, the Office of Probation sent respondent correspondence detailing her continuing non-compliance with many of the conditions of her prior discipline.
31. On August 14, 2018, the Court modified the conditions of probation to allow respondent to obtain mental health treatment from a Licensed Marriage and Family Therapist (LMFT) under the supervision of a psychologist.
32. On August 27, 2018, respondent provided a copy of the front of a check for \$400 to Mr. Saunders. Respondent failed to provide any evidence that the check was, sent, received, or cashed.

#### CONCLUSIONS OF LAW (Case No. 18-O-11827-PEM):

33. By failing to comply with the following conditions attached to respondent's disciplinary probation in State Bar Case nos. 15-O-13786-LMA, *et al.* as follows, respondent willfully violated Business and Professions Code, section 6068(k):
  - a. By failing to contact the Office of Probation within 30 days of the effective date of discipline of December 8, 2017, *i.e.*, by January 7, 2018, to schedule a meeting, and by not scheduling the meeting until February 5, 2018;
  - b. By failing to make restitution payments to Robert Solla for \$2,025 plus interest, in monthly payments of \$50, for fees paid by Mr. Solla on July 25, 2014;
  - c. By failing to submit proof of restitution payments to Robert Solla with her quarterly reports to the Office of Probation;
  - d. By failing to make restitution payments to Nathaniel Saunders for \$750 plus interest, in monthly payments of \$50, for fees paid by Mr. Saunders on April 11, 2013;
  - e. By failing to submit proof of restitution payments to Nathaniel Saunders with her quarterly reports to the Office of Probation;
  - f. By failing to initiate fee arbitration with Robert Solla, for fees of \$3,666.66 paid on August 1, 2014 and October 13, 2014, within 30 days of the effective date of discipline, *i.e.*, by January 7, 2018;

- g. By failing to submit proof of the initiation of fee arbitration with Robert Solla within 45 days of the effective date of discipline, *i.e.*, by January 22, 2018;
- h. By failing to timely file a medical information authorization form by January 7, 2018 pursuant to the request of the Office of Probation;
- i. By failing to obtain psychiatric or psychological treatment from a duly licensed psychiatrist, clinical psychologist or clinical social worker, no less than two (2) times per month;
- j. By failing to file proof of compliance with mental health conditions with her quarterly reports to the Office of Probation.

FACTS (Case. No. 18-O-13828):

- 34. In April 2014, Michael Coffman retained respondent to provide legal services relating to his divorce proceedings, case no. 11FL06277 in the Sacramento County Superior Court.
- 35. In April 2014, Mr. Coffman paid respondent \$1,000.
- 36. From August 2014 through May 2018, respondent failed to return Mr. Coffman's e-mails and phone calls and failed to provide any legal services.
- 37. Respondent's legal services for Mr. Coffman were so deficient so as to be worthless. Therefore, respondent earned none of the \$1,000.

CONCLUSIONS OF LAW (Case. No. 18-O-13828):

- 38. By failing to provide legal services relating to Mr. Coffman's divorce proceedings, respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).
- 39. By receiving advanced fees of \$1,000 from Mr. Coffman for legal services relating to his divorce proceedings but failing to perform any legal services of value to Mr. Coffman, respondent earned none of the advanced fees paid and failed to refund promptly any part of the fees in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).
- 40. By failing to respond to Mr. Coffman's e-mails and telephone calls after August 2014, respondent failed to respond to client inquiries, in willful violation of Business and Professions Code section 6068(m).

**AGGRAVATING CIRCUMSTANCES**

**Prior Record of Discipline (Std 1.5(a)):** Respondent has one prior record of discipline resulting from case nos. 15-O-13786-LMA, 15-O-14055, 15-O-14613, and 16-O-10164. Respondent was suspended from the practice of law in California for one year, execution of that period of suspension stayed, placed on probation for three years, and ordered to comply with the requirements of rule 9.20. Respondent was also placed on actual suspension for the first 90 days of her probation. A true and correct copy of the prior record of discipline is attached hereto as Exhibit 1.



**Multiple Acts of Wrongdoing (Std 1.5(b)):** Failure to comply with multiple probation conditions constitutes multiple acts of misconduct. (*In re Carver* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 348, 355.) Here, respondent failed to timely schedule the meeting with the Probation Officer, failed to timely file her medical release form, failed to make restitution, failed to obtain compliant mental health treatment, failed to timely initiate fee arbitration, and failed to provide compliant quarterly reports and proof of compliance with conditions. She has also failed to comply with rule 9.20. Furthermore, respondent failed to perform, failed to return unearned fees, and failed to communicate with Mr. Coffman. Therefore, respondent committed multiple acts of misconduct.

**Significant Harm (Std 1.5(j)):** Respondent's failure to initiate fee arbitration with Mr. Solla has harmed Mr. Solla by delaying his potential recovery. Respondent has also failed to refund the \$1,000 to Mr. Coffman. (*In re Reiss* (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206, 217 (finding that failure to refund unearned fees is significant harm to clients).) Although respondent refunded \$750 to Mr. Saunders, Mr. Saunders has suffered harm by not receiving interest he is due.

**Failure to Make Restitution (Std 1.5(m)):** Although respondent attempted to send restitution payments to Mr. Solla, the payments were neither timely nor effected. Failure to make restitution is an aggravating factor. (*In re Conner* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93, 106.)

## MITIGATING CIRCUMSTANCES

**Extreme Emotional Difficulties:** Respondent's probation requires psychiatric or psychological treatment for mental health issues relating to an abusive home life and subsequent mental health crisis. Respondent was previously diagnosed with post-traumatic stress disorder and depression. These circumstances constituted a mitigating factor in the original discipline proceedings. Respondent has sought and been receiving mental health treatment for these difficulties and this constitutes mitigation. (*In re Frazier* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676, 702.) Moreover, respondent initially violated her prior discipline conditions by obtaining treatment from a Licensed Marriage and Family Therapist (LMFT) rather than a psychologist or psychiatrist. However, respondent moved the Court for a modification to her probation, and submitted supporting declarations. On August 14, 2018 the Court granted the motion, ordering that respondent may seek treatment from an LMFT under the supervision of a psychologist, which respondent has done.

## 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 Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the

standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

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

Where a member commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed. (*In re Thomson* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966, 977.) Under standard 2.14, actual suspension should be imposed for respondent’s failure to comply with the conditions of her probation. Under rule 9.20, disbarment or suspension should be imposed for respondent’s failure to comply with rule 9.20. Because there are two or more acts, the most severe sanction called for by rule 9.20 is the appropriate sanction for respondent.

Rule 9.20 itself states the range of discipline appropriate for a violation of the rule: “...A suspended member’s willful failure to comply with the provisions of this rule is a cause for disbarment or suspension and for revocation of any pending probation. Additionally, such failure may be punished as a contempt or a crime.” The fact that the legislature considers non-compliance with rule 9.20 a potential crime, as well as an act of professional misconduct, confirms the serious nature of 9.20 violations.

As a preliminary matter, “[D]isbarment is generally the appropriate sanction for a willful violation of Cal. Rules of Court, rule 955 [now rule 9.20].” (*Bercovich v. State Bar* (1990) 50 Cal. 3d 116, 132.) To avoid the most serious discipline, there must be very significant mitigating factors. (*Shapiro v. State Bar* (1990) 51 Cal. 3d 251.) In *Shapiro*, the attorney had failed to file properly his affidavit of compliance with rule 955. (*Id.* at 255.) A separate disciplinary proceeding for a failure to perform was also prosecuted. (*Id.* at 256.) Taking into account significant mitigation, including that the attorney had suffered significant personal problems from which he was recovering, as well as that the separate disciplinary proceeding was within the same narrow time frame as the proceedings which had resulted in the 955 violation, the Supreme Court ordered a one year actual suspension. (*Id.* at 261.) Here, respondent was investigated for a parallel disciplinary matter, the Coffman matter, which occurred during the same period as her original misconduct that resulted in respondent’s prior discipline. Furthermore, respondent has made efforts to comply with her 9.20 and probation conditions, although the efforts have been untimely and non-compliant. Finally, respondent has suffered from extreme emotional difficulties, but pursuant to her prior disciplinary conditions, she has sought and is continuing to undergo mental health treatment. Accordingly, a two year actual suspension rather than disbarment is the appropriate level of discipline. Because respondent may not practice law again, even after her suspension, until she has shown proof of rehabilitation, the public, legal system, and profession will be sufficiently protected.

## **COSTS OF DISCIPLINARY PROCEEDINGS**


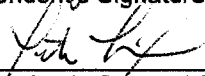

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of August 30, 2018, the discipline costs in this matter are \$7,654. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of: DAPHNE LORI MACKLIN	Case Number(s): 18-N-11793-PEM 18-O-11827 18-O-13828
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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>9/6/2018</u> Date	<u></u> Respondent's Signature	<u>Daphne Lori Macklin</u> Print Name
<u>9/6/2018</u> Date	<u></u> Respondent's Counsel Signature	<u>Peter Brixie</u> Print Name
<u>9/11/18</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>Peter Klivans</u> Print Name

(Do not write above this line.)

In the Matter of: DAPHNE LORI MACKLIN	Case Number(s): 18-N-11793 18-O-11827 18-O-13828
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### ACTUAL SUSPENSION ORDER

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

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

On page 2 of the stipulation, paragraph A.(8), in the option marked with an "X", "2019, 2020, and 2021" is deleted, and in its place is inserted "2020, 2021, and 2022."

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).)**

Date

Sept. 24, 2018

  
LUCY ARMENDARIZ  
Judge of the State Bar Court

S244070

**IN THE SUPREME COURT OF CALIFORNIA** SUPREME COURT

En Banc

**FILED**

NOV 08 2017

In re DAPHNE LORI MACKLIN on Discipline

Jorge Navarrete Clerk

The court orders that Daphne Lori Macklin, State Bar Number 117189, is suspended from the practice of law in California for one year, execution of that period of suspension is stayed, and she is placed on probation for three years subject to the following conditions:

Deputy

1. Daphne Lori Macklin is suspended from the practice of law for the first 90 days of probation;
2. Daphne Lori Macklin must comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on July 11, 2017; and
3. At the expiration of the period of probation, if Daphne Lori Macklin has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

Daphne Lori Macklin must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

Daphne Lori Macklin must also comply with California Rules of Court, rule 9.20, 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 this order. Failure to do so may result in disbarment or suspension.

Costs are 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-third of the costs must be paid with her membership fees for each of the years 2018, 2019, and 2020. If Daphne Lori Macklin 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.

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

Witness my hand and the seal of the Court this

day of NOV 08 2017 20

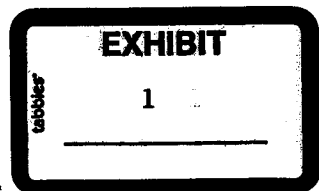
By:  Deputy

**CANTIL-SAKAUYE**

Chief Justice

kwiktag®

026 803 835



State Bar Court Nos. 15-O-13786/15-O-14055/15-O-14613/16-O-10164

S238404

**IN THE SUPREME COURT OF CALIFORNIA**

**En Banc**

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In re DAPHNE LORI MACKLIN on Discipline.

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The matter is remanded to the State Bar Court for consideration of the petition to vacate default. (California Rules of Court, rule 9.17.)

**SUPREME COURT  
FILED**

APR 19 2017

Jorge Navarrete Clerk

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Deputy

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

Witness my hand and the seal of the Court this

19 day of Apr. 20 17  
Month

By:   
Deputy

**CANTIL-SAKAUYE**

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Chief Justice

kwiktae •

(Do not write above this line.)

<b>State Bar Court of California Hearing Department San Francisco ACTUAL SUSPENSION</b>		
<b>Counsel For The State Bar</b>  Laura Huggins Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2537  Bar # 294148	<b>Case Number(s):</b> 15-O-13786-LMA 15-O-14055 15-O-14613 16-O-10164	<b>For Court use only</b>  <b>PUBLIC MATTER</b>  <b>FILED</b> <i>MS</i>  JUL 11 2017  STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<b>Counsel For Respondent</b>  Megan Zavieh Zavieh Law 12460 Crabapple Road, Suite 202-272 Alpharetta, GA 30004 (404) 465-6110  Bar #206446  Peter Brixie Attorney at Law 410 12 <sup>th</sup> Street Sacramento, CA 95814 (916) 658-1880  Bar # 124186	<b>Submitted to: Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
<b>In the Matter of:</b> DAPHNE LORI MACKLIN  Bar # 117189  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 10, 1984.
- (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.



(Do not write above this line.)

- (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 23 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: **Three billing cycles immediately following the effective date of the Supreme Court order in this matter.** (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.

(Do not write above this line.)

- (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. See Attachment to Stipulation, at page 17.
- (12)  **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13)  **Restitution:** Respondent failed to make restitution.
- (14)  **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standards 1.2(i) & 1.6]. Facts supporting mitigating circumstances are required.**

- (1)  **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not likely to recur.
- (2)  **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3)  **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4)  **Remorse:** Respondent promptly took objective steps demonstrating spontaneous remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5)  **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.

(Do not write above this line.)

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

**Additional mitigating circumstances:**

**No Prior Record of Discipline - See Attachment to Stipulation, at page 18.**  
**Pretrial Stipulation - See Attachment to Stipulation, at page 18.**  
**Family Difficulties - See Attachment to Stipulation, at page 18.**

**D. Discipline:**

- (1)  **Stayed Suspension:**
- (a)  Respondent must be suspended from the practice of law for a period of **one (1) year**.
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.
- ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii.  and until Respondent does the following:
- (b)  The above-referenced suspension is stayed.
- (2)  **Probation:**

Respondent must be placed on probation for a period of **three (3) years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(Do not write above this line.)

(3)  **Actual Suspension:**

- (a)  Respondent must be actually suspended from the practice of law in the State of California for a period of ninety (90) 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

(Do not write above this line.)

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 checked="" 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: Mental Health Conditions - See Attachment to Stipulation, at pages 20-21. Fee Arbitration Conditions - See Attachment to Stipulation, at pages 21-22.**

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In the Matter of: <b>DAPHNE LORI MACKLIN</b>	Case Number(s): <b>15-O-13786-LMA, 15-O-14055, 15-O-14613, 16-O-10164</b>
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### Financial Conditions

#### a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
<b>Robert Solla</b>	<b>\$2,025</b>	<b>July 25, 2014</b>
<b>Nathaniel Saunders</b>	<b>\$750</b>	<b>April 11, 2013</b>

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than 120 days prior to the expiration of probation, notwithstanding section (b) of the Financial Conditions.

#### b. Installment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency
<b>Robert Solla</b>	<b>\$50</b>	<b>monthly</b>
<b>Nathaniel Saunders</b>	<b>\$50</b>	<b>monthly</b>

- 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.

#### c. Client Funds Certificate

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

(Do not write above this line.)

b. Respondent has kept and maintained the following:

- i. A written ledger for each client on whose behalf funds are held that sets forth:
    1. the name of such client;
    2. the date, amount and source of all funds received on behalf of such client;
    3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
    4. the current balance for such client.
  - ii. a written journal for each client trust fund account that sets forth:
    1. the name of such account;
    2. the date, amount and client affected by each debit and credit; and,
    3. the current balance in such account.
  - iii. all bank statements and cancelled checks for each client trust account; and,
  - iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.
- c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:
- i. each item of security and property held;
  - ii. the person on whose behalf the security or property is held;
  - iii. the date of receipt of the security or property;
  - iv. the date of distribution of the security or property; and,
  - v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.

3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

- Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

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

IN THE MATTER OF:                    DAPHNE LORI MACKLIN

CASE NUMBERS:                    15-O-13786-LMA, 15-O-14055, 15-O-14613, 16-O-10164.

**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 Rules of Professional Conduct.

**Case No. 15-O-13786 (Complainant: Robert Solla)**

**FACTS:**

1. On February 26, 2014, Robert and Aurea Solla ("the Sollas") obtained a monetary judgment against Dispatch Transportation, LLC in small claims court. On July 25, 2014, Robert Solla hired respondent to help him collect the judgment. On that same date, the parties signed a fee agreement and respondent received a flat fee of \$2,025. In July of 2015, respondent stopped returning Robert Solla's phone calls and ceased all communications with the Sollas. Over a period of nearly three years, respondent performed no services of value and has yet to return the \$2,025 flat fee.

2. On July 10, 2013, the Sollas were involved in an auto collision. On August 1, 2014, the Sollas signed a fee agreement where respondent agreed to handle the Sollas' personal injury and property damage claims arising from the auto collision for a flat fee of \$5,500. The Sollas were required to pay the flat fee in the following three installments: the first installment was due at the signing of the fee agreement in the amount of \$1,833.33; the second installment was due on October 1, 2014, in the amount of \$1,833.33; and the third installment was due on January 1, 2015, in the amount of \$1,833.34. The Sollas paid the first and second installments.

3. On August 12, 2014, respondent filed a civil complaint in *Robert Solla v. Quenta Givens*, in Sacramento County Superior Court case number 34-2014-00167533 ("*Solla v. Givens*").

4. On April 24, 2015, opposing counsel, Stephen Baker ("Mr. Baker"), served discovery on respondent in *Solla v. Givens*. Specifically, Mr. Baker propounded Form Interrogatories, Special Interrogatories, and Request for Production of Documents, which respondent received shortly thereafter.

5. On June 4, 2015, Mr. Baker sent respondent a letter and email stating that, although he had not received a discovery response, he would grant respondent an additional ten days to provide the necessary disclosures. The letter also informed respondent that further inaction on her part could result in sanctions. Respondent received these communications but never responded.

6. On September 8, 2015, Mr. Baker telephoned respondent concerning the outstanding discovery and to discuss trial and settlement conference dates. Respondent told Mr. Baker that she was unable to speak at length but would call back the following day. On September 9, 2015, after



respondent failed to call, Mr. Baker telephoned respondent and left her a voicemail. Respondent never returned Mr. Baker's calls.

7. On September 9, 2015, Mr. Baker sent respondent an email stating that they needed to work together to select trial dates and to schedule a settlement conference as well as address the outstanding discovery requests. Mr. Baker told respondent that if he did not hear from her he would file a motion to compel.

8. On September 30, 2015, a Long Cause Civil Trial Assignment was set for hearing on February 23, 2016, in *Solla v. Givens*.

9. On October 14, 2015, Mr. Baker filed a Motion to Compel Plaintiff's Responses to Interrogatories and Request for Production of Documents and Request for Sanctions ("Motion to Compel") in *Solla v. Givens*. The Motion to Compel requested sanctions in the amount of \$740 to reimburse Mr. Baker for the time he spent preparing and appearing in court on the motion. Mr. Baker served respondent with a copy of the Motion to Compel, which respondent received, but respondent failed to respond.

10. On November 13, 2015, the Honorable David Brown granted Mr. Baker's Motion to Compel in *Solla v. Givens*. However, the court declined to award sanctions. Respondent was ordered to provide discovery on or before November 23, 2015. Respondent received notice of the court's order.

11. On December 4, 2015, Robert Solla and Aurea Solla failed to appear at their respective depositions, which had been previously scheduled by Mr. Baker. Respondent was also absent. On that date, Mr. Baker telephoned respondent and asked her if she and her clients were going to attend. Respondent stated that she was not going to make an appearance at either Robert's or Aurea's depositions. At this time, the Sollas were unaware that they were to be deposed by Mr. Baker. Respondent never informed the Sollas of the noticed depositions, and never informed them that she spoke with Mr. Baker about their failure to attend deposition. Mr. Baker provided respondent with proper notice of the Sollas' depositions and respondent never objected to the depositions taking place on December 4, 2015.

12. On December 8, 2015, Mr. Baker filed a Notice of Motion to Strike Complaint for Failure to Obey Order Compelling Answers to Written Discovery and Failure to Appear at Depositions ("Motion to Strike") in *Solla v. Givens*. The Motion to Strike was based on respondent's failure to comply with a court order to provide discovery on or before November 23, 2015, and the Sollas' failure to appear at deposition on December 4, 2015. Mr. Baker requested sanctions in the amount of \$900 for reasonable expenses and attorney's fees that he incurred preparing the Motion to Strike. Respondent was served with a copy of the Motion to Strike, which respondent received, but failed to respond.

13. On January 14, 2016, the Honorable Steven Rodda denied the Motion to Strike without prejudice, including the request for sanctions, and ordered respondent to provide written discovery on or before January 24, 2016, in *Solla v. Givens*. The court also vacated the mandatory settlement conference date of January 20, 2016, as well as the trial date of February 23, 2016. The court served a copy of the order on respondent, which respondent received.

14. Between November 6, 2014, and June 16, 2015, respondent received emails, letters, and a courtesy phone call from the State Bar regarding her Minimum Continuing Legal Education ("MCLE") requirements, including four communications that alerted respondent to her non-compliance. On or

about July 10, 2015, respondent received mailed notice that her suspension went into effect on July 1, 2015.

15. Respondent did not inform the Solla that, between July 1, 2015, and January 31, 2016, she was on administrative inactive status due to Minimum Continuing Legal Education ("MCLE") non-compliance and was therefore unable represent the Solla in accordance with the fee agreements dated July 25, 2014 and August 1, 2014.

16. Respondent failed to respond to State Bar letters dated August 20, 2015, September 4, 2015, and January 20, 2016, which were sent to respondent's official State Bar membership records address and were actually received by respondent, requesting a written response to the allegations of misconduct in State Bar case number 15-O-13786.

17. Respondent's address as maintained on the State Bar's official membership record pursuant to Business and Professions Code section 6002.1 has remained the same since September 4, 2012.

18. In late March of 2013, and prior to respondent's misconduct, respondent and her then significant other were involved in a physical altercation. Respondent immediately moved out of her home and spent the next three months living with friends. Subsequent to March 2013, respondent decompensated and progressively lost the ability to manage her law practice. As a result, respondent failed to respond to clients, the courts, and the State Bar. In September 2016, respondent sought psychotherapy at the urging of close friends and was diagnosed with post-traumatic stress disorder and depression.

#### CONCLUSIONS OF LAW:

19. By failing to: (1) respond to the opposing party's discovery requests, (2) respond to the opposing party's motion to compel discovery, motion to impose sanctions, and motion to strike, (3) failing to initiate discovery, (4) failing to take any steps to further the client's lawsuit once it was filed, and (5) failing to take any steps to obtain compensation for the client after the lawsuit was filed, in *Robert Solla v. Quenta Givens*, Sacramento County Superior Court case number 34-2014-00167533, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

20. On August 1, 2014, Robert Solla hired respondent to perform legal services, and thereafter, respondent appeared as counsel of record for the client in *Robert Solla v. Quenta Givens*, Sacramento County Superior Court case number 34-2014-00167533. Respondent took no further action on behalf of the client after August 12, 2014, and effectively withdrew from the employment. At that time, respondent did not obtain the permission of the court to withdraw from the client's representation in the case before that court when the rules of the court required that she do so, and respondent withdrew from employment in a proceeding before a tribunal without its permission, in willful violation of the Rules of Professional Conduct, rule 3-700(A)(1).

21. Respondent failed to respond promptly to approximately 30 telephonic reasonable status inquiries made by respondent's client, Robert Solla, between in or about August 2014, and the end of October 2015, that respondent received, in a matter in which respondent had agreed to provide legal services, in willful violation of Business and Professions Code section 6068(m).

22. By failing to inform respondent's client, Robert Solla, of the following: (1) that the opposing party served discovery on or about April 24, 2015, (2) that respondent was placed on inactive status on or about July 1, 2015, (3) that on or about September 30, 2015, the court scheduled a trial date in Mr. Solla's case, (4) that the opposing party filed a motion to compel discovery on or about October 14, 2015, (5) that respondent had not opposed the motion to compel, (6) that the court granted the motion to compel on or about November 13, 2015, (7) that the opposing party scheduled depositions for Robert Solla and Aurea Solla on December 4, 2015, (8) that the opposing party filed a motion to strike the complaint on December 8, 2015, (9) that on or about January 14, 2016, the court again ordered respondent to provide discovery, and (10) that respondent stopped pursuing the case after August 12, 2014, respondent failed to keep respondent's client reasonably informed of significant developments in a matter in which respondent agreed to provide legal services, in willful violation of Business and Professions Code section 6068(m).

23. On September 8, 2015, and December 3, 2015, respondent held herself out as entitled to practice law, and on December 3, 2015, actually practiced law when respondent was not an active member of the State Bar, by representing her client, Robert Solla, during the course of telephone conversations with opposing counsel in *Robert Solla v. Quenta Givens*, Sacramento County Superior Court case number 34-2014-00167533, in violation Business and Professions Code sections 6125 and 6126, and thereby willfully violated Business and Professions Code section 6068(a).

24. On September 8, 2015, and December 3, 2015, respondent held herself out as entitled to practice law, and on December 3, 2015, actually practiced law, when respondent was grossly negligent in not knowing that respondent was not an active member of the State Bar by representing her client, Robert Solla, during the course of telephone conversations with opposing counsel in *Robert Solla v. Quenta Givens*, Sacramento County Superior Court case number 34-2014-00167533, and thereby committed acts involving moral turpitude, dishonesty, or corruption, in willful violation of Business and Professions Code section 6106.

25. Respondent failed to cooperate and participate in a disciplinary investigation pending against respondent by failing to respond to the State Bar's letters of August 20, 2015, September 4, 2015, and January 20, 2016, which respondent received, that requested respondent's response to the allegations of misconduct being investigated in case number 15-O-13786, in willful violation of Business and Professions Code section 6068(i).

Case No. 15-O-14055 (Complainant: Delva McFarland)

FACTS:

26. Delva McFarland ("McFarland") hired respondent in September 2014 to handle a personal injury case involving a car collision. McFarland signed a fee agreement and paid respondent \$150. According to the signed but undated fee agreement, McFarland agreed to pay respondent \$750 for initial representation services and an additional 25% of any recovery.

27. On September 8, 2014, respondent filed a civil complaint in *Delva McFarland v. Jose Garcia Alvarez*, Sacramento County Superior Court case number 14-2014-00168650 ("*McFarland v. Alvarez*").

28. After the civil complaint was filed, respondent stopped answering McFarland's phone calls. By October 2014, respondent stopped returning McFarland's voicemails. For a period of time thereafter, McFarland called respondent on a weekly basis but her attempts to reach respondent were

unsuccessful. Respondent has not contacted McFarland or performed any work in *McFarland v. Alvarez* since September 8, 2014.

29. Between November 6, 2014, and June 16, 2015, respondent received emails, letters, and a courtesy phone call from the State Bar regarding her Minimum Continuing Legal Education ("MCLE") requirements, including four communications that alerted respondent to her non-compliance. On or about July 10, 2015, respondent received mailed notice that her suspension went into effect on July 1, 2015.

30. Respondent did not inform McFarland that, between July 1, 2015 and January 31, 2016, respondent was placed on ineligible status due to MCLE non-compliance.

31. On August 27, 2015, and September 14, 2015, in State Bar case number 15-O-14055, the State Bar sent respondent letters advising her that McFarland was having difficulty reaching respondent and that McFarland had filed a State Bar complaint against her. The letters directed respondent to provide a written response to the allegations that respondent abandoned her client and failed to perform. Respondent received the State Bar's letters, which were sent to respondent's official State Bar membership records address, but never responded.

32. On May 31, 2016, McFarland's new attorney, Hector Gancedo ("Mr. Gancedo"), filed a Notice of Motion and Motion for Substitution of Attorney for Plaintiff and Declaration in Support in *McFarland v. Alvarez*. Mr. Gancedo filed the motion because he was unable to obtain a signed Substitution of Attorney form from respondent. Mr. Gancedo's declaration established that his numerous attempts to contact respondent were unsuccessful because respondent refused to answer her phone and her voicemail was full. Mr. Gancedo's efforts to email respondent were also futile.

33. On July 8, 2016, Mr. Gancedo was substituted in as Attorney of Record for McFarland when the Honorable Raymond Cadei granted Mr. Gancedo's Motion for Substitution of Attorney for Plaintiff in *McFarland v. Alvarez*.

34. Respondent's address as maintained on the State Bar's official membership record pursuant to Business and Professions Code section 6002.1 has remained the same since September 4, 2012.

35. In late March of 2013, and prior to respondent's misconduct, respondent and her then significant other were involved in a physical altercation. Respondent immediately moved out of her home and spent the next three months living with friends. Subsequent to March 2013, respondent decompensated and progressively lost the ability to manage her law practice. As a result, respondent failed to respond to clients, the courts, and the State Bar. In September 2016, respondent sought psychotherapy at the urging of close friends and was diagnosed with post-traumatic stress disorder and depression.

#### CONCLUSIONS OF LAW:

36. By failing to take any steps after September 8, 2014 to further Delva McFarland's civil case and failing to take any action to obtain compensation in *Delva McFarland v. Jose Garcia Alvarez*, Sacramento County Superior Court case number 14-2014-00168650, respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct rule 3-110(A).

37. By failing to respond to Mr. Gancedo's telephone calls, voicemails, and emails requesting that respondent sign a Substitution of Attorney form in *Delva McFarland v. Jose Garcia Alvarez*, Sacramento County Superior Court case number 14-2014-00168650, respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

38. In or about September 2014, Delva McFarland employed respondent to perform legal services, and thereafter, respondent appeared as counsel of record in *Delva McFarland v. Jose Garcia Alvarez*, Sacramento County Superior Court case number 14-2014-00168650. By taking no further action on behalf of McFarland after September 8, 2014, respondent effectively withdrew from the employment. At that time, respondent did not obtain the permission of the court to withdraw from McFarland's representation in the case when the rules of the court required that she do so, and respondent withdrew from employment in a proceeding before a tribunal without its permission, in willful violation of the rules of Professional Conduct, rule 3-700(A)(1).

39. Respondent failed to respond promptly to multiple weekly telephonic, reasonable status inquiries made by respondent's client, Delva McFarland, between September 2014 and May 2016, that respondent received in a matter which respondent had agreed to provide legal services, in willful violation of Business and Professions Code section 6068(m).

40. By failing to inform respondent's client, Delva McFarland, that respondent stopped working on her case after September 8, 2014, and that respondent was placed on inactive status on July 1, 2015, respondent failed to keep her client reasonably informed of significant developments in a matter in which respondent agreed to provide legal services, in willful violation of Business and Professions Code section 6068(m).

41. Respondent failed to cooperate and participate in a disciplinary investigation pending against respondent by failing to respond to the State Bar's letters of August 27, 2015 and September 14, 2015, which respondent received, that requested respondent's response to the allegations of misconduct being investigated in case number 15-O-14055, in willful violation of Business and Professions Code section 6068(i).

Case No. 16-O-10164 (Complainant: Nathaniel Saunders)

FACTS:

42. On or about March 3, 2013, Nathaniel Saunders ("Saunders") hired respondent to pursue an invasion of privacy claim against Progressive Insurance.

43. On April 11, 2013, Saunders wrote respondent a check in the amount of \$750 in exchange for respondent's legal services. The parties signed a written fee agreement. Saunders and respondent agreed not to file a civil suit right away because Saunders was involved in separate and pending litigation that could affect his claims against Progressive Insurance. Respondent told Saunders that once the pending litigation was fully resolved, she would file a complaint against Progressive Insurance alleging the privacy breach.

44. In January 2014, Saunders gave respondent permission to move forward with the Progressive lawsuit. On April 5, 2014, approximately one month prior to the expiration of the statute of limitations, respondent withdrew from the case. Respondent gave Saunders a draft complaint, which was

incomplete, and told him to find another lawyer. Saunders was unable to obtain a new lawyer and never filed in pro per.

45. On January 25, 2016, and March 9, 2016, the State Bar sent respondent letters requesting a written response to the allegations in State Bar case number 16-O-10164. Respondent received the State Bar's letters, which were sent to her State Bar official membership records address, but never responded.

46. Respondent's address as maintained on the State Bar's official membership record pursuant to Business and Professions Code section 6002.1 has remained the same since September 4, 2012.

47. In late March of 2013, and prior to respondent's misconduct, respondent and her then significant other were involved in a physical altercation. Respondent immediately moved out of her home and spent the next three months living with friends. Subsequent to March 2013, respondent decompensated and progressively lost the ability to manage her law practice. As a result, respondent failed to respond to clients, the courts, and the State Bar. In September 2016, respondent sought psychotherapy at the urging of close friends and was diagnosed with post-traumatic stress disorder and depression.

#### CONCLUSIONS OF LAW:

48. Respondent failed to cooperate and participate in a disciplinary investigation pending against respondent by failing to respond to the State Bar's letters of January 25, 2016 and March 9, 2016, which respondent received, that requested respondent's response to the allegations of misconduct being investigated in case number 16-O-10164, in willful violation of Business and Professions Code section 6068(i).

#### Case No. 15-O-14613 (Complainant: Thomas Zeff)

#### FACTS:

49. Between November 6, 2014, and June 16, 2015, respondent received emails, letters, and a courtesy phone call from the State Bar regarding her Minimum Continuing Legal Education ("MCLE") requirements, including four communications that alerted respondent to her non-compliance. On or about July 10, 2015, respondent received mailed notice confirming that her suspension went into effect on July 1, 2015.

50. Between July 1, 2015 and January 31, 2016, respondent was placed on ineligible status due to MCLE non-compliance.

51. Prior to May 22, 2015, respondent became legal counsel for defendant William Coker ("Mr. Coker") in *People v. William Coker*, Stanislaus County Superior Court case number 1468109.

52. On May 22, 2015, respondent telephoned Stanislaus County Deputy District Attorney Tanja Titre ("DDA Titre"), the prosecutor assigned to Mr. Coker's matter, and stated that she intended to withdraw as counsel of record.

53. On May 29, 2015, respondent made a court appearance in *People v. William Coker* and reiterated to DDA Titre that she intended to withdraw as Mr. Coker's attorney.

54. On June 17, 2015, respondent made a court appearance in *People v. William Coker* and asked the court for permission to withdraw as counsel of record. The hearing was continued so that respondent could serve Mr. Coker, who was incarcerated in a different county, with notice of the withdrawal.

55. On July 8, 2015, respondent made a court appearance in *People v. William Coker* and informed the court that she was still trying to withdraw as Mr. Coker's attorney but had not served her client with notice of the withdrawal. On that date, respondent filed a Notice of Motion to Withdraw as Attorney of Record. The hearing was continued to August 5, 2015, for further proceedings.

56. On August 5, 2015, respondent failed to appear at the hearing on her motion to withdraw. DDA Titre tried calling respondent's law office. On that same date, respondent sent the assigned judge, the Honorable Thomas Zeff ("Judge Zeff"), an email apologizing for her absence in court that morning. Respondent stated that her transportation was unreliable but had she appeared in court, she would have advised Judge Zeff that her client, Mr. Coker, wanted to keep respondent as counsel. Respondent indicated that she was engaged in plea negotiations to resolve Mr. Coker's matter and asked that his case be placed on calendar for a status conference on August 28, 2015. Respondent also stated that she intended to submit an Application to Transfer Prisoner and a proposed Order for Transfer, and that the judicial clerk would receive the documents the following day. The court rescheduled the case for a hearing on August 13, 2015.

57. On August 13, 2015, respondent failed to appear in court on her own motion to withdraw. The Application to Transfer Prisoner and proposed Order for Transfer were never submitted on Mr. Coker's behalf.

58. On August 18, 2015, Judge Zeff issued and filed an Order to Show Cause ("OSC") alleging that respondent failed to appear on August 13, 2015, in *People v. William Coker*, Stanislaus County Superior Court case number 1468109. The OSC ordered respondent to appear on September 10, 2015, to address the allegation.

59. On September 10, 2015, respondent failed to appear at the OSC hearing. On this date, the court learned that respondent was suspended from the practice of law and a public defender was appointed to represent Mr. Coker.

60. On September 30, 2015, and October 19, 2015, the State Bar sent respondent letters requesting a written response to the allegations in State Bar case number 15-O-14613, which were sent to respondent's official State Bar membership records address and respondent actually received. Respondent never responded to the State Bar's letters.

61. Respondent's address as maintained on the State Bar's official membership record pursuant to Business and Professions Code section 6002.1 has remained the same since September 4, 2012.

62. In late March of 2013, and prior to respondent's misconduct, respondent and her then significant other were involved in a physical altercation. Respondent immediately moved out of her home and spent the next three months living with friends. Subsequent to March 2013, respondent decompensated and progressively lost the ability to manage her law practice. As a result, respondent failed to respond to clients, the courts, and the State Bar. In September 2016, respondent sought psychotherapy at the urging of close friends and was diagnosed with post-traumatic stress disorder and depression.

## CONCLUSIONS OF LAW:

63. Respondent both held herself out as entitled to practice law and actually practiced law when respondent was not an active member of the State Bar during the course of representing the defendant in a criminal case entitled *People v. William Coker*, Stanislaus County Superior Court case number 1468109, by: (1) appearing in court and filing a Notice of Motion to Withdraw as Attorney of Record on July 8, 2015, and (2) sending a letter to the court concerning matters at issue in the criminal case on August 5, 2015, all in willful violation of Business and Professions Code sections 6125 and 6126, and thereby in willful violation of Business and Professions Code section 6068(a).

64. Respondent both held herself out as entitled to practice law and actually practiced law when respondent was grossly negligent in not knowing that respondent was not an active member of the State Bar during the course of a criminal case entitled *People v. William Coker*, Stanislaus County Superior Court case number 1468109, by: (1) appearing in court and filing a Notice of Motion to Withdraw as Attorney of Record on July 8, 2015, and (2) sending a letter to the court concerning matters at issue in the criminal case on August 5, 2015, and thereby committed acts involving moral turpitude, dishonesty, or corruption in willful violation of Business and Professions Code section 6106.

65. Prior to May 22, 2015, William Coker employed respondent to perform legal services, and thereafter, respondent appeared as counsel of record for the client in *People v. William Coker*, Stanislaus County Superior Court case number 1468109. After August 5, 2015, respondent took no further action on behalf of the client and effectively withdrew from the employment. At that time, respondent did not obtain the permission of the court to withdraw from the client's representation in the case before that court when the rules of the court required that she do so, and respondent withdrew from employment in a proceeding before a tribunal without its permission, in willful violation of the Rules of Professional Conduct, rule 3-700(A)(1).

66. Respondent disobeyed or violated an order of the court requiring respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear by failing to comply with the order filed on August 18, 2015, in *People v. William Coker*, Stanislaus County Superior Court case number 1468109, requiring respondent to personally appear in court on September 10, 2015, to show cause why she should not be sanctioned for her failure to appear in court on August 13, 2015, in willful violation of Business and Professions Code section 6103.

67. Respondent failed to cooperate and participate in a disciplinary investigation pending against respondent by failing to respond to the State Bar's letters of September 30, 2015, and October 19, 2015, which respondent received, that requested respondent's response to the allegations of misconduct being investigated in State Bar case number 15-O-14613, in willful violation of Business and Professions Code section 6068(i).

## AGGRAVATING CIRCUMSTANCES.

**Multiple Acts of Wrongdoing (Std. 1.5(b)):** Respondent committed twenty acts of misconduct in four client matters, including client abandonment and the unauthorized practice of law. Respondent ignored her clients' numerous and repeated status inquiries, and wilfully blinded herself to the State Bar's investigation into her misconduct.



## MITIGATING CIRCUMSTANCES.

**No Prior Record of Discipline:** Respondent practiced law for approximately 29 years without prior discipline. Respondent's many years in practice with no prior discipline is entitled to significant weight in mitigation. (See *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41 [attorney's many years in practice with no prior discipline considered mitigating even when misconduct at issue was serious]; *Friedman v. State Bar* (1990) 50 Cal.3d 235, 242 [20 years in the practice of law without discipline is afforded significant weight in mitigation].)

**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 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].)

**Family Difficulties:** Respondent submitted a declaration and character letters attesting that respondent's misconduct resulted from the effects of an abusive home life and subsequent mental health crisis. In late March of 2013, respondent and her then significant other were involved in a physical altercation. Respondent immediately moved out of her home and spent the next three months living with friends. In September 2016, respondent sought psychotherapy at the urging of close friends and was diagnosed with post-traumatic stress disorder and depression. The psychologist opined that respondent was unable to perform the functions of her employment or care for herself. The psychologist recommended that respondent seek medical assistance for her health, including psychotropic medication. (See *In the Matter of Deireling* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 552, 560-561 [despite the absence of complete rehabilitation, mitigation for emotional difficulties was afforded to attorney who demonstrated steady progress towards rehabilitation].)

## 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 committed twenty 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 provides that:

Disbarment or actual suspension is the presumed sanction for an act of moral turpitude, dishonesty, fraud, corruption, intentional or grossly negligent misrepresentation, or concealment of a material fact. The degree of sanction depends on the magnitude of the misconduct; the extent 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.

Analyzed under the standards, respondent should be actually suspended from the practice of law for a period of 90 days. Respondent's misconduct was significant in magnitude and was related to the practice of law. Respondent's actions affected four clients, delayed one criminal prosecution and two civil proceedings, and showed a lack of regard for atonement and rectification. Although no clients were seriously harmed, respondent's abdication of her responsibilities resulted in three clients contacting the State Bar because respondent stopped returning their calls. When clients tried to obtain new counsel to preserve their cases, respondent failed to sign substitution of attorney forms in a timely manner.

An actual suspension of 90 days furthers the primary purposes of discipline, i.e., protection of the public, maintenance of the highest professional standards, and preservation of public confidence in the legal profession. This level of discipline also takes into consideration the aggravating and mitigating factors in respondent's matter. While respondent's matter is aggravated by her multiple acts of misconduct, respondent is entitled to significant mitigation for her many years in practice without prior discipline and some mitigation for family difficulties. Respondent is also afforded mitigation for entering into a pre-trial stipulation, which demonstrated a recognition of wrongdoing and also saved the State Bar significant resources. On balance, respondent's factors in mitigation outweigh the sole factor in aggravation. In addition, respondent's family difficulties appear to explain the nature and duration of her misconduct. Respondent practiced law for approximately 29 years without prior discipline, which lends support to the proposition that respondent's decline in family circumstances contributed to her misconduct.

An actual suspension of 90 days' is also consistent with case law involving performance issues and the unlicensed practice of law.

In *In the Matter of Nees* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 459, the attorney was hired by an incarcerated client to handle an appeal. The attorney failed to respond to reasonable status inquiries, failed to provide competent legal services, lied about the status of the appeal, failed to return the client file, and failed to return unearned advanced fees. (*Id.* at p. 463.) In aggravation, the attorney committed multiple acts of misconduct over a significant period and significantly harmed a client. (*Id.*) The attorney's mitigation was given little weight. (*Id.*) The Review Department recommended that the attorney be suspended from the practice of law for two years, stayed, on the condition that he be actually suspended for six months. In support of its recommendation, the Review Department noted, "Decisions of the Supreme Court and our court involving abandonment of a client's case with no prior record of the attorney's misconduct have typically resulted in discipline ranging from no actual suspension to 90 days of actual suspension." (*Id.* at p. 465-466.)

In *In the Matter of Johnston* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 585, the court imposed a 60-day actual suspension for an attorney who held himself out as entitled to practice law in a single instance while suspended for non-payment of membership fees. In addition, the attorney repeatedly failed to communicate with a client and lied to her about the services he had performed on her behalf and the status of her case, which had been dismissed due to his failure to timely serve the complaint. (*Id.* at p. 589.) When the State Bar commenced its investigation, the attorney did not respond to the investigator's two letters. (*Id.*) The court found as an aggravating factor significant harm to the client, who lost her cause of action due to the attorney's reckless incompetence. (*Id.*) The court also found additional aggravation because the attorney did not appear at his disciplinary proceeding, resulting in his default. (*Id.*) The court also considered the attorney's 12 years without prior discipline to be an "important" mitigating factor. (*Id.*)

#### DISMISSALS.

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
15-O-13786	Three	Rules of Professional Conduct, rule 3-700(A)(2)
15-O-14055	Eleven	Rules of Professional Conduct, rule 3-700(A)(2)

#### COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of June 6, 2017, the discipline costs in this matter are \$8,819. 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.

#### MENTAL HEALTH CONDITIONS.

Respondent, at respondent's expense, shall obtain psychiatric or psychological treatment from a duly licensed psychiatrist, clinical psychologist or clinical social worker, no less than two (2) times per month. Respondent shall commence treatment within forty five (45) days of the execution date of this agreement. Respondent shall furnish to the Office of Probation Unit, State Bar of California, at the time quarterly reports are required to be filed by the respondent with the Office of Probation, a written

statement from the treating psychiatrist, clinical psychologist or clinical social worker, that respondent is complying with this condition.

Upon a determination by the treating psychiatrist, clinical psychologist or clinical social worker that respondent is no longer in need of treatment two (2) times per month, respondent shall provide, to the Office of Probation, State Bar of California, a written statement from the treating psychiatrist, clinical psychologist or clinical social worker verifying the change in number of treatment sessions per month. Upon acceptance by the Office of Probation, State Bar of California, the reduction in treatment will be permitted.

Respondent shall execute and provide the Office of Probation, State Bar of California, upon its request, with any medical waivers which shall provide access to respondent's medical records relevant to verifying respondent's compliance with this condition of probation; failure to provide and/or revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation, State Bar of California, under this paragraph, shall be confidential and shall not be disclosed except to personnel of the Office of Probation, State Bar of California, and the State Bar Court, who are involved in maintaining and/or enforcing the terms and conditions of this agreement.

#### **FEE ARBITRATION CONDITIONS.**

##### **A. Respondent's Duty to Initiate and Participate in Fee Arbitration**

Respondent must initiate fee arbitration with the State Bar of California's Mandatory Fee Arbitration Program within thirty (30) days from the effective date of this matter, including making any payment(s) and filing fees required to start the process. The fee arbitration will be for the \$3,666.66 in fees that Robert Solla paid respondent in two installments of \$1,833.33 on August 1, 2014, and October 13, 2014. Respondent must not request more fees than have already been paid by, or on behalf of, Robert Solla.

Respondent must provide the Office of Probation with a copy of the conformed filing within forty-five (45) days from the effective date of this matter. Respondent must immediately provide the Office of Probation with any information requested regarding the fee arbitration to verify Respondent's compliance.

Respondent must fully and promptly participate in the fee arbitration as directed by the State Bar Mandatory Fee Arbitration Program. Respondent will not be permitted to raise the statute of limitations as a defense to the fee arbitration. Respondent understands and agrees that the Office of Probation may contact the Mandatory Fee Arbitration Program for information.

Respondent must accept binding arbitration on the arbitration request form. If the arbitration proceeds as non-binding, however, respondent must abide by the arbitration award and forego the right to file an action seeking a trial de novo in court to vacate the award.

##### **B. Respondent's Duty to Comply with the Arbitration Award**

Within fifteen (15) days after issuance of any arbitration award or judgment or agreement reflected in a stipulated award issued pursuant to a fee arbitration matter, respondent must provide a copy of said award, judgment or stipulated award to the Office of Probation.

Respondent must abide by any award, judgment or stipulated award of any such fee arbitrator and agrees to provide proof thereof to the Office of Probation within thirty (30) days after compliance with any such award, judgment or stipulated award. If the award, judgment or stipulated award does not set forth

a deadline for any payment, respondent is to make full payment within thirty (30) days of the issuance of any such award, judgment or stipulated award. Respondent must provide proof thereof to the Office of Probation within thirty (30) days after payment.

To the extent that respondent has paid any fee arbitration award, judgment or stipulated award prior to the effective date of this matter, respondent will be given credit for such payment(s) provided satisfactory proof of such payment(s) is or has been provided to the Office of Probation.

**C. Fee Arbitration Conditions can be Satisfied by Respondent's Full Payment to Robert Solla**

The Fee Arbitration Conditions can also be satisfied by respondent's full payment of \$3,666.66 in fees that Robert Solla paid respondent in two installments of \$1,833.33 on August 1, 2014, and October 13, 2014, plus interest of 10% per annum on each installment payment from the date each installment was paid, within thirty (30) days from the effective date of this matter. Satisfactory proof of payment must be received by the Office of Probation within forty-five (45) days from the effective date of this matter.

If the Client Security Fund ("CSF") has reimbursed Robert Solla for all or any portion of the principal amount(s), respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs. To the extent the CSF has paid only principal amounts, respondent will still be liable for interest payments to Robert Solla. Any restitution to the CSF is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d). Respondent must pay all restitution to Robert Solla before making payment to CSF. Satisfactory proof of payment(s) to CSF must be received by the Office of Probation within thirty (30) days of any payment.

**D. Effect of Respondent's Failure to Comply with Fee Arbitration Conditions**

Respondent understands that failure to strictly comply with these conditions regarding fee arbitration may result in this Court imposing additional discipline (with attendant costs) and conditions upon respondent, including ordering respondent to pay back the full amount of \$3,666.66 that Robert Solla paid to respondent in two installments of \$1,833.33 on August 1, 2014, and October 13, 2014, plus interest of 10% per annum on each installment payment from the date each installment was paid.

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

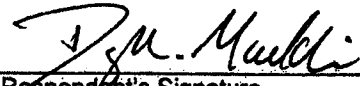
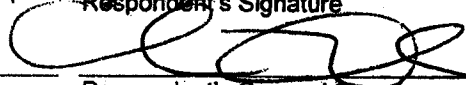
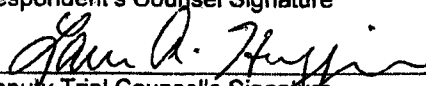
Pursuant to rule 3201, respondent may not receive MCLE credit for completion of ethics courses ordered as a condition of her probation. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: <b>DAPHNE LORI MACKLIN</b>	Case number(s): <b>15-O-13786-LMA, 15-O-14055, 15-O-14613, 16-O-10164</b>
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### SIGNATURE OF THE PARTIES

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

<u>6/22/2017</u>	<u></u>	<u>Daphne Macklin</u>
Date	Respondent's Signature	Print Name
<u>6/20/17</u>	<u></u>	<u>Megan Zavieh</u>
Date	Respondent's Counsel Signature	Print Name
<u>6/21/17</u>	<u></u>	<u>Laura Huggins</u>
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of: DAPHNE LORI MACKLIN	Case Number(s): 15-O-13786-LMA, 15-O-14055, 15-O-14613, 16-O-10164
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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.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)

Date

July 11, 2017

  
PAT E. MCELROY  
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 San Francisco, on July 11, 2017, I deposited a true copy of the following document(s):

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

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

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

MEGAN E. ZAVIEH  
12460 CRABAPPLE RD STE 202-272  
ALPHARETTA, GA 30004

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

Laura A. Huggins, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on July 11, 2017.

  
\_\_\_\_\_  
Vincent Au  
Case Administrator  
State Bar Court



**FILED**

SEP 28 2016

**STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO**

STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO

In the Matter of	)	Case Nos.: <b>15-O-13786-LMA</b>
	)	(15-O-14055; 15-O-14613;
<b>DAPHNE LORI MACKLIN,</b>	)	16-O-10164)
	)	
<b>Member No. 117189,</b>	)	<b>DECISION AND ORDER OF</b>
	)	<b>INVOLUNTARY INACTIVE</b>
<b>A Member of the State Bar.</b>	)	<b>ENROLLMENT</b>

In this matter, respondent Daphne Lori Macklin (Respondent) was charged with twenty counts of misconduct deriving from four correlated matters. Respondent failed to participate either in person or through counsel, and her default was entered. The Office of Chief Trial Counsel of the State Bar of California (State Bar) filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.<sup>1</sup>

Rule 5.85 provides the procedure to follow when an attorney fails to participate in a disciplinary proceeding after receiving adequate notice and opportunity. The rule provides that if an attorney's default is entered for failing to respond to the notice of disciplinary charges (NDC), and the attorney fails to have the default set aside or vacated within 90 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.<sup>2</sup>

<sup>1</sup> Unless otherwise indicated, all references to rules are to this source.

<sup>2</sup> If the court determines that any due process requirements are not satisfied, including adequate notice to the attorney, it must deny the petition for disbarment and take other appropriate action to ensure that the matter is promptly resolved. (Rule 5.85(F)(2).)

In the instant case, the court concludes that the requirements of rule 5.85 have been satisfied, and therefore, grants the petition and recommends that Respondent be disbarred from the practice of law.

### **FINDINGS AND CONCLUSIONS**

Respondent was admitted to practice law in this state on December 10, 1984, and has been a member since then.

#### **Procedural Requirements Have Been Satisfied**

On March 21, 2016, the State Bar properly filed and served an NDC, in case Nos. 15-O-13786 (15-O-14055; 15-O-14613; 16-O-10164), on Respondent by certified mail, return receipt requested, at her membership records address.

The NDC notified Respondent that her failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) The NDC was not returned to the State Bar by the U.S. Postal Service as undeliverable.

In addition, reasonable diligence was used to notify Respondent of this proceeding. The State Bar made several attempts to contact Respondent without success. These efforts included calling Respondent at her membership records telephone number and possible alternative telephone numbers, conducting a LexisNexis search for additional contact information, and sending an email to Respondent at her membership records email address.

Respondent failed to file a response to the NDC. On April 19, 2016, the State Bar filed and properly served a motion for entry of Respondent's default. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the deputy trial counsel declaring the additional steps taken to provide notice to Respondent. (Rule 5.80.) The motion also notified Respondent that if she did not timely move to set aside her default, the court would recommend her disbarment. Respondent did not file a response to the

motion, and her default was entered on May 5, 2016. The order entering the default was served on Respondent at her membership records address by certified mail, return receipt requested. The court also ordered Respondent's involuntary inactive enrollment as a member of the State Bar under Business and Professions Code section 6007, subdivision (e), effective three days after service of the order, and she has remained inactively enrolled since that time.

Respondent did not seek to have her default set aside or vacated. (Rule 5.83(C)(1) [attorney has 90 days to file motion to set aside default].) On August 9, 2016, the State Bar filed the petition for disbarment. As required by rule 5.85(A), the State Bar reported in the petition that: (1) it had contact with Respondent after her default was entered, but has not communicated with her since May 26, 2016;<sup>3</sup> (2) Respondent has no other disciplinary matters pending; (3) Respondent has no prior record of discipline; and (4) the Client Security Fund has not made any payments resulting from Respondent's conduct. Respondent did not respond to the petition for disbarment or move to set aside or vacate the default. The case was submitted for decision on September 7, 2016.

#### **The Admitted Factual Allegations Warrant the Imposition of Discipline**

Upon entry of Respondent's default, the factual allegations in the NDC are deemed admitted and no further proof is required to establish the truth of such facts. (Rule 5.82.) As set forth below in greater detail, the factual allegations in the NDC support the conclusion that Respondent is culpable as charged and, therefore, violated a statute, rule, or court order that would warrant the imposition of discipline. (Rule 5.85(F)(1)(d).)

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<sup>3</sup> On May 25, 2016, the State Bar received a telephone call from Respondent. Respondent stated she was looking for an attorney to represent her. On May 26, 2016, Respondent and the State Bar spoke again. Respondent was advised that her default had been entered and that she would need to file a motion to set aside the default. Respondent was also told that she was on inactive status and could not practice law.

**Case Number 15-O-13786 – The Solla Matter**

Count One – Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (failure to perform legal services with competence) by failing to initiate discovery and failing to respond to the opposing party's discovery requests, motions to compel discovery, and motion for sanctions and to strike.

Count Two – Respondent willfully violated rule 3-700(A)(1) of the Rules of Professional Conduct (withdrawal from employment without court permission) by effectively withdrawing from representation without the court's permission.

Count Three – Respondent willfully violated rule 3-700(A)(2) of the Rules of Professional Conduct (improper withdrawal) by terminating her employment without notice to her client.

Count Four – Respondent willfully violated Business and Professions Code section 6068, subdivision (m) (failure to respond to client inquiries) by failing to promptly respond to numerous reasonable client status inquiries.

Count Five – Respondent willfully violated Business and Professions Code section 6068, subdivision (m) (failure to communicate significant developments), by failing to inform her client that: (1) the opposing party served discovery; (2) Respondent was placed on inactive enrollment; (3) a trial date had been scheduled; (4) the opposing party filed a motion to compel discovery that Respondent did not oppose; (5) the motion to compel discovery was granted; (6) the opposing party scheduled depositions for Respondent's client and his wife; (7) the opposing party filed a motion to strike the complaint; (8) the court made a further order compelling discovery; and (9) Respondent stopped pursuing the case after on or about October 29, 2014.

Count Six – Respondent willfully violated Business and Professions Code section 6068, subdivision (a) (failure to comply with all laws – unauthorized practice) by holding herself out as entitled to practice law and actually practicing law when she was not an active member of the State Bar, in willful violation of Business and Professions Code sections 6125 and 6126.

Count Seven – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude) by holding herself out as entitled to practice law and actually practicing law when she was not an active member of the State Bar.

Count Eight – Respondent willfully violated Business and Professions Code section 6068, subdivision (i) (failure to cooperate with a disciplinary investigation) by failing to respond to the allegations in a disciplinary investigation after being contacted by the State Bar.

**Case Number 15-O-14055 – The McFarland Matter**

Count Nine – Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (failure to perform legal services with competence) by failing to file a case management statement as ordered by the court and failing to appear at a court conference.

Count Ten – Respondent willfully violated rule 3-700(A)(1) of the Rules of Professional Conduct (withdrawal from employment without court permission) by effectively withdrawing from representation without the court's permission.

Count Eleven – Respondent willfully violated rule 3-700(A)(2) of the Rules of Professional Conduct (improper withdrawal) by terminating her employment without notice to her client.

Count Twelve – Respondent willfully violated Business and Professions Code section 6068, subdivision (m) (failure to respond to client inquiries) by failing to promptly respond to numerous reasonable client status inquiries.

Count Thirteen – Respondent willfully violated Business and Professions Code section 6068, subdivision (m) (failure to communicate significant developments), by failing to inform her client that Respondent stopped working on the client’s case in or about October 2014.

Count Fourteen – Respondent willfully violated Business and Professions Code section 6068, subdivision (i) (failure to cooperate with a disciplinary investigation) by failing to respond to the allegations in a disciplinary investigation after being contacted by the State Bar.

**Case Number 16-O-10164 – The State Bar Investigation Matter**

Count Fifteen – Respondent willfully violated Business and Professions Code section 6068, subdivision (i) (failure to cooperate with a disciplinary investigation) by failing to respond to the allegations in a disciplinary investigation after being contacted by the State Bar.

**Case Number 15-O-14613 – The Coker Matter**

Count Sixteen – Respondent willfully violated Business and Professions Code section 6068, subdivision (a) (failure to comply with all laws – unauthorized practice) by holding herself out as entitled to practice law when she was not an active member of the State Bar, in willful violation of Business and Professions Code sections 6125 and 6126.

Count Seventeen – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude) by holding herself out as entitled to practice law and actually practicing law when she was not an active member of the State Bar.

Count Eighteen – Respondent willfully violated rule 3-700(A)(1) of the Rules of Professional Conduct (withdrawal from employment without court permission) by effectively withdrawing from representation without the court’s permission.

Count Nineteen – Respondent willfully violated Business and Professions Code section 6103 (failure to obey a court order) by failing to comply with an August 18, 2015 order in *People v. Coker*, Stanislaus County Superior Court case No. 1468109.

Count Twenty – Respondent willfully violated Business and Professions Code section 6068, subdivision (i) (failure to cooperate with a disciplinary investigation) by failing to respond to the allegations in a disciplinary investigation after being contacted by the State Bar.

**Disbarment is Recommended**

Based on the above, the court concludes that the requirements of rule 5.85(F) have been satisfied, and Respondent's disbarment is recommended. In particular:

- (1) the NDC was properly served on Respondent under rule 5.25;
- (2) Respondent had adequate notice of the proceedings prior to the entry of her default;
- (3) the default was properly entered under rule 5.80; and
- (4) the factual allegations in the NDC deemed admitted by the entry of the default support a finding that Respondent violated a statute, rule, or court order that would warrant the imposition of discipline.

Despite adequate notice and opportunity, Respondent failed to participate in this disciplinary proceeding. As set forth in the Rules of Procedure of the State Bar, the court recommends disbarment.

**RECOMMENDATIONS**

**Disbarment**

The court recommends that respondent Daphne Lori Macklin be disbarred from the practice of law in the State of California and that her name be stricken from the roll of attorneys.

**California Rules of Court, Rule 9.20**

The court also recommends that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, and to 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 in this proceeding.

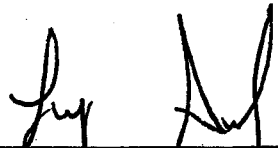
**Costs**

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

**ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Daphne Lori Macklin, State Bar number 117189, be involuntarily enrolled as an inactive member of the State Bar of California, effective three calendar days after the service of this decision and order. (Rule 5.111(D).)

Dated: September 28, 2016

  
\_\_\_\_\_  
LUCY ARMENDARIZ  
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 San Francisco, on September 28, 2016, I deposited a true copy of the following document(s):

**DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

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

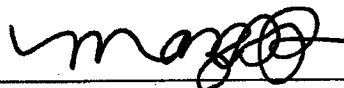
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

DAPHNE LORI MACKLIN  
PO BOX 661702  
SACRAMENTO, CA 95866

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

DONALD R. STEEDMAN, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on September 28, 2016.



---

Mazie Yip  
Case Administrator  
State Bar Court

1 MEGAN ZAVIEH (SBN 206446)  
2 12460 Crabapple Road, Suite 202-272  
3 Alpharetta, GA 30004  
4 Ph: (404) 465-6110  
5 Fx: (800) 741-1976  
6 *megan@zaviehlaw.com*

7 Counsel for Respondent  
8 DAPHNE MACKLIN

**PUBLIC MATTER**

**FILED**

**MAY 16 2017**

STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO

9 STATE BAR COURT  
10 HEARING DEPARTMENT - SAN FRANCISCO

11  
12  
13  
14 In the matter of:  
15 DAPHNE MACKLIN,  
16 No. 117189,  
17 A Member of the State Bar.

Case No. 15-O-13786 [15-O-14055;  
15-O-14613; 16-O-10164]

ANSWER TO THE STATE BAR'S  
NOTICE OF DISCIPLINARY CHARGES

1 PRELIMINARY STATEMENT

2 The charges alleged in the State Bar's Notice of Disciplinary Charges  
3 ("NDC") against Respondent Daphne Macklin stem from a period of time during  
4 which Ms. Macklin was incapacitated by depression and post-traumatic stress  
5 disorder. Her condition led her to be unable to care for herself or meet her  
6 professional obligations.

7 ANSWER

8 Respondent hereby answers the State Bar's NDC and admits, denies, and  
9 alleges as follows:

10 1. Respondent admits that she "was admitted to the practice of law in  
11 the State of California on December 10, 1984, was a member at all times pertinent  
12 to these charges, and is currently a member of the State Bar of California."

13 COUNT ONE

14 Case No. 15-O-13786

15 Rules of Professional Conduct, Rule 3-110(A)

16 [Failure to Perform with Competence]

17 2. Respondent admits that she was employed by Robert Solla to  
18 perform legal services and admits that in Mr. Solla's matter, discovery  
19 commenced but was not completed by Respondent. Respondent denies the  
20 balance of the allegations contained in Paragraph 2.

21 COUNT TWO

22 Case No. 15-O-13786

23 Rules of Professional Conduct, Rule 3-700(A)(1)

24 [Failure to Obtain Court Permission to Withdraw]

25 3. Respondent admits that she was employed by Robert Solla to  
26 perform legal services and admits that she did not complete discovery in his  
27 matter as planned. Respondent denies the balance of the allegations contained in  
28 Paragraph 3.



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COUNT SEVEN

Case No. 15-O-13786

Business & Professions Code § 6106

[Moral Turpitude]

8. Respondent denies that she committed any act of moral turpitude and otherwise denies the balance of the allegations contained in Paragraph 8.

COUNT EIGHT

Case No. 15-O-13786

Business & Professions Code § 6068(i)  
[Failure to Cooperate in State Bar Investigation]

9. Respondent does not recall receiving the alleged letters from the State Bar and on that basis admits that she failed to respond thereto. Respondent denies the balance of the allegations contained in Paragraph 9.

COUNT NINE

Case No. 15-O-14055

Rules of Professional Conduct, Rule 3-110(A)

[Failure to Perform with Competence]

10. Respondent admits that she was employed by Delva McFarland to perform legal services. Respondent denies the balance of the allegations contained in Paragraph 10.

COUNT TEN

Case No. 15-O-14055

Rules of Professional Conduct, Rule 3-700(A)(1)  
[Failure to Obtain Court Permission to Withdraw]

11. Respondent admits that she was employed by Delva McFarland to perform legal services. Respondent denies the balance of the allegations contained in Paragraph 11.





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COUNT NINETEEN

Case No. 15-O-14613

Business & Professions Code § 6103

[Failure to Obey a Court Order]

20. Respondent denies the allegations contained in Paragraph 20.

COUNT TWENTY

Case No. 15-O-14613

Business & Professions Code § 6068(i)

[Failure to Cooperate in State Bar Investigation]

21. Respondent does not recall receiving the alleged letters from the State Bar and on that basis admits that she failed to respond thereto. Respondent denies the balance of the allegations contained in Paragraph 21.

Dated: January 3, 2017



Megan Zavieh

Counsel for Respondent Daphne Macklin



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VERIFICATION

I, Daphne Lori Macklin, declare that I am the Respondent in the captioned matter. I have read the foregoing Respondent's Response to Notice of Disciplinary Charges and know the contents thereof. The content of the foregoing documents is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe it to be true.

Executed on December 23, 2016 at Sacramento

County, California.

I declare under penalty of perjury that the foregoing is true and correct.

  
\_\_\_\_\_  
Daphne Lori Macklin

## PROOF OF SERVICE

I, Megan Zavieh, declare as follows:

I am over the age of eighteen years and not a party to this action.

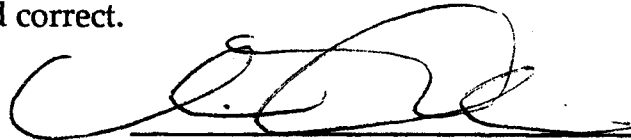
On May 15, 2017, I served a true and correct copy of the within document(s):

Answer to the State Bar's Notice of Disciplinary Charges

- by **PERSONAL DELIVERY**. I personally delivered the document(s) listed above, addressed as set forth below.
- by **FEDERAL EXPRESS** by depositing the document(s) listed above in a sealed package, with delivery charges fully prepaid, into the Federal Express delivery system, addressed as stated above, at Roswell, Georgia.
- by **UNITED STATES FIRST CLASS MAIL** by depositing the document(s) listed above in a sealed package, with postage fully prepaid, into the United State Postal Service system, addressed as stated above, at Roswell, Georgia.

Donald Steedman  
The State Bar of California  
Office of the Chief Trial Counsel  
180 Howard Street  
San Francisco, CA 94105

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.



Megan Zavieh

PUBLIC MATTER

FILED

MAR 21 2016

STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO

1 STATE BAR OF CALIFORNIA  
2 OFFICE OF CHIEF TRIAL COUNSEL  
3 JAYNE KIM, No. 174614  
4 CHIEF TRIAL COUNSEL  
5 GREGORY P. DRESSER, No. 136532  
6 ASSISTANT CHIEF TRIAL COUNSEL  
7 DONALD R. STEEDMAN, No. 104927  
8 SUPERVISING SENIOR TRIAL COUNSEL  
9 180 Howard Street  
10 San Francisco, California 94105-1639  
11 Telephone: (415) 538-2000

STATE BAR COURT

HEARING DEPARTMENT - SAN FRANCISCO

11 In the Matter of: ) Case No. 15-O-13786 [15-O-14055;  
12 DAPHNE MACKLIN, ) 15-O-14613; 16-O-10164]  
13 No. 117189, ) NOTICE OF DISCIPLINARY CHARGES  
14 A Member of the State Bar )

**NOTICE - FAILURE TO RESPOND!**

16 IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE  
17 WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT  
18 THE STATE BAR COURT TRIAL:

- 19 (1) YOUR DEFAULT WILL BE ENTERED;
- 20 (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU  
21 WILL NOT BE PERMITTED TO PRACTICE LAW;
- 22 (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN  
23 THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION  
24 AND THE DEFAULT IS SET ASIDE, AND;
- 25 (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.  
26 SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE  
27 OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN  
28 ORDER RECOMMENDING YOUR DISBARMENT WITHOUT  
FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,  
RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

//

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1 The State Bar of California alleges:

2 JURISDICTION

3 1. Daphne Macklin (“respondent”) was admitted to the practice of law in the State of  
4 California on December 10, 1984, was a member at all times pertinent to these charges, and is  
5 currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 15-O-13786  
8 Rules of Professional Conduct, rule 3-110(A)  
9 [Failure to Perform with Competence]

10 2. On or about August 1, 2014, Robert Solla employed respondent to perform legal  
11 services, namely to represent Mr. Sola in a lawsuit against Quenta Givens, which respondent  
12 intentionally, recklessly, and repeatedly failed to perform with competence, in willful violation  
13 of Rules of Professional Conduct, rule 3-110(A), by: (1) failing to respond to the opposing  
14 party’s discovery requests, (2) failing to respond to the opposing party’s motions to compel  
15 discovery and motion for sanctions and to strike, (3) failing to initiate discovery, (4) failing to  
16 diligently prosecute the lawsuit once it was filed, and (5) failing to diligently attempt to obtain  
17 compensation for the client after the lawsuit was filed.

18 COUNT TWO

19 Case No. 15-O-13786  
20 Rules of Professional Conduct, rule 3-700(A)(1)  
21 [Failure to Obtain Court Permission to withdraw]

22 3. On or about August 1, 2014, Robert Solla employed respondent to perform legal  
23 services, and thereafter, respondent appeared as counsel of record for the client in *Solla v.*  
24 *Givens*, case number 34-2014-00167533-CU-PA-GDS, Sacramento County Superior Court.  
25 Respondent took no further action on behalf of the client after on or about October 29, 2014, and  
26 effectively withdrew from the employment. At that time, respondent did not obtain the  
27 permission of the court to withdraw from the client’s representation in the case before that court

1 when the rules of the court required that he do so, and respondent withdrew from employment in  
2 a proceeding before a tribunal without its permission, in willful violation of the Rules of  
3 Professional Conduct, rule 3-700(A)(1).

4 COUNT THREE

5 Case No. 15-O-13786  
6 Rules of Professional Conduct, rule 3-700(A)(2)  
7 [Improper Withdrawal from Employment]

8 4. Respondent failed, upon termination of employment, to take reasonable steps to avoid  
9 reasonably foreseeable prejudice to respondent's client, Robert Sola in a lawsuit entitled *Sola v.*

10 *Givens*, by:

11 (1) constructively terminating respondent's employment on or about October 29, 2014,  
12 by failing to take any action on the client's behalf after on or about October 29, 2014, and  
13 thereafter failing to inform the client that respondent was withdrawing from employment, in  
14 willful violation of Rules of Professional Conduct, rule 3-700(A)(2); and

15 (2) failing to inform the client that respondent's law license had been placed on inactive  
16 status on or about July 1, 2015, and respondent would therefore perform no further services, all  
17 in wilful violation of Rules of Professional Conduct, rule 3-700(A)(2).

18 COUNT FOUR

19 Case No. 15-O-13786  
20 Business and Professions Code, section 6068(m)  
21 [Failure to Respond to Client Inquiries]

22 5. Respondent failed to respond promptly to about 30 telephonic, reasonable status  
23 inquiries made by respondent's client, Robert Solla, between in or about August, 2014 and the  
24 end of October 2015, that respondent received, in a matter in which respondent had agreed to  
25 provide legal services, in willful violation of Business and Professions Code, section 6068(m).  
26 Respondent received but failed to promptly respond to additional reasonable status inquiries in  
27 the form of email and text messages sent by Elana Norlie on behalf of Mr. Solla between on ora

1 about April 11, 2014, and on or about May 2, 2014, in further willful violation of Business and  
2 Professions Code, section 6068(m).

3 COUNT FIVE

4 Case No. 15-O-13786  
5 Business and Professions Code, section 6068(m)  
6 [Failure to Inform Client of Significant Development]

7 6. Respondent failed to keep respondent's client, Robert Solla, reasonably informed of  
8 significant developments in a matter in which respondent had agreed to provide legal services, in  
9 willful violation of Business and Professions Code, section 6068(m), by failing to inform the  
10 client of the following: (1) that the opposing party served discovery on or about April 24, 2015;  
11 (2) that respondent was placed on inactive status on or about July 1, 2015; (3) that on or about  
12 September 30, 2015, the court scheduled a trial date in Mr. Solla's case; (4) that the opposing  
13 party filed a motion to compel discovery on or about October 1, 2015; (5) that respondent had  
14 not opposed the motion; (6) that the court granted the motion on or about November 13, 2015;  
15 (7) that the opposing party had scheduled depositions for Mr. Solla and Mr. Solla's wife on or  
16 about December 3, 2015; (8) that the opposing party had filed a motion to strike the complaint to  
17 take place on or about December 8, 2015; (9) that on or about January 14, 2016 the court had  
18 made a further order compelling discovery; and (10) that respondent had stopped pursuing the  
19 case after on or about October 29, 2014.

20 COUNT SIX

21 Case No. 15-O-13786  
22 Business and Professions Code, section 6068(a)  
23 [Failure to Comply With Laws – Unauthorized Practice of Law]

24 7. On or about September 8 and December 3, 2015, respondent held herself out as  
25 entitled to practice law and, on December 3, 2015, actually practiced law when respondent was  
26 not an active member of the State Bar, by representing her client, Robert Sola, during the course  
27 of telephone conversations with her opposing counsel in *Solla v. Givens*, case number 34-2014-  
28 00167533-CU-PA-GDS, Sacramento County Superior Court, in violation of Business and

1 Professions Code, sections 6125 and 6126, and thereby willfully violated Business and  
2 Professions Code, section 6068(a).

3  
4 COUNT SEVEN

5 Case No. 15-O-13786  
6 Business and Professions Code, section 6106  
7 [Moral Turpitude]

8 8. On or about September 8 and December 3, 2015, respondent held herself out as  
9 entitled to practice law and, on December 3, 2015, actually practiced law when respondent knew,  
10 or was grossly negligent in not knowing, that respondent was not an active member of the State  
11 Bar by representing her client, Robert Sola, during the course of telephone conversations with  
12 her opposing counsel in *Solla v. Givens*, case number 34-2014-00167533-CU-PA-GDS,  
13 Sacramento County Superior Court, and thereby committed acts involving moral turpitude,  
14 dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

15 COUNT EIGHT

16 Case No. 15-O-13786  
17 Business and Professions Code, section 6068(i)  
18 [Failure to Cooperate in State Bar Investigation]

19 9. Respondent failed to cooperate and participate in a disciplinary investigation pending  
20 against respondent by failing to respond to the State Bar's letters of August 20, 2015, September  
21 4, 2015, and January 20, 2016, which respondent received, that requested respondent's response  
22 to the allegations of misconduct being investigated in case number 15-O-13786, in willful  
23 violation of Business and Professions Code, section 6068(i).

24 COUNT NINE

25 Case No. 15-O-14055  
26 Rules of Professional Conduct, rule 3-110(A)  
27 [Failure to Perform with Competence]

28 10. On or about September 10, 2014, Delva McFarland employed respondent to perform  
legal services, namely to represent Ms. McFarland in a lawsuit against Jose Garcia Alvarez,

1 which respondent intentionally, recklessly, and repeatedly failed to perform with competence, in  
2 willful violation of Rules of Professional Conduct, rule 3-110(A), by: (1) failing to file a case  
3 management statement as ordered by the court on or about December 23, 2014; (2) failing to  
4 appear at the April 10, 2015 court conference; (3) failing to diligently prosecute the lawsuit once  
5 it was filed; and (4) failing to diligently take action to obtain compensation for the client.

6  
7 COUNT TEN

8 Case No. 15-O-14055  
9 Rules of Professional Conduct, rule 3-700(A)(1)  
[Failure to Obtain Court Permission to withdraw]

10 11. In or about September, 2014, Delva McFarland employed respondent to perform  
11 legal services, and thereafter, respondent appeared as counsel of record for the client in *Delva*  
12 *McFarland v. Jose Garcia Alvarez*, case number 34-2014-00168650, Sacramento County  
13 Superior Court. Respondent took no further action on behalf of the client after on or about  
14 September 9, 2014, and effectively withdrew from the employment. At that time, respondent did  
15 not obtain the permission of the court to withdraw from the client's representation in the case  
16 before that court when the rules of the court required that he do so, and respondent withdrew  
17 from employment in a proceeding before a tribunal without its permission, in willful violation of  
18 the Rules of Professional Conduct, rule 3-700(A)(1).

19 COUNT ELEVEN

20 Case No. 15-O-14055  
21 Rules of Professional Conduct, rule 3-700(A)(2)  
[Improper Withdrawal from Employment]

22 12. Respondent failed, upon termination of employment, to take reasonable steps to  
23 avoid reasonably foreseeable prejudice to respondent's client, Delva McFarland, in a lawsuit  
24 entitled *McFarland v. Alvarez*, case number 34-2014-00168650, Sacramento County Superior  
25 Court, by:  
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1 (1) constructively terminating respondent's employment on or about October 1, 2014, by  
2 failing to take any action on the client's behalf after on or about October 1, 2014, and thereafter  
3 failing to inform the client that respondent was withdrawing from employment, in willful  
4 violation of Rules of Professional Conduct, rule 3-700(A)(2); and

5 (2) failing to inform the client that respondent had been placed on inactive status on or  
6 about July 1, 2015, and that respondent would therefore perform no further services, all in wilful  
7 violation of Rules of Professional Conduct, rule 3-700(A)(2).

8  
9 COUNT TWELVE

10 Case No. 15-O-14055  
11 Business and Professions Code, section 6068(m)  
[Failure to Respond to Client Inquiries]

12 13. Respondent failed to respond promptly to multiple weekly telephonic, reasonable  
13 status inquiries made by respondent's client, Delva McFarland, between in or about September,  
14 2014 and approximately May, 2015, that respondent received in a matter in which respondent  
15 had agreed to provide legal services, in willful violation of Business and Professions Code,  
16 section 6068(m). Respondent received but failed to promptly respond to additional reasonable  
17 status inquiries in the form of text messages sent by Elana Norlie on behalf of Ms. McFarland  
18 between on or about April 11, 2014, and April 23, 2014, in further willful violation of Business  
19 and Professions Code, section 6068(m).

20 COUNT THIRTEEN

21 Case No. 15-O-14055  
22 Business and Professions Code, section 6068(m)  
[Failure to Inform Client of Significant Development]

23  
24 14. Respondent failed to keep respondent's client, Delva McFarland, reasonably  
25 informed of significant developments in a matter in which respondent had agreed to provide  
26 legal services, in willful violation of Business and Professions Code, section 6068(m), by failing  
27 to inform the client of the following: (1) that respondent stopped working on the case after on or

1 about October 1, 2014 and (2) that respondent was placed on inactive status on or about July 1,  
2 2015.

3 COUNT FOURTEEN

4 Case No. 15-O-14055  
5 Business and Professions Code, section 6068(i)  
6 [Failure to Cooperate in State Bar Investigation]

7 15. Respondent failed to cooperate and participate in a disciplinary investigation pending  
8 against respondent by failing to respond to the State Bar's letters of August 27, 2015, and  
9 September 14, 2015, which respondent received, that requested respondent's response to the  
10 allegations of misconduct being investigated in case number 15-O-14055, in willful violation of  
11 Business and Professions Code, section 6068(i).

12 COUNT FIFTEEN

13 Case No. 16-O-10164  
14 Business and Professions Code, section 6068(i)  
15 [Failure to Cooperate in State Bar Investigation]

16 16. Respondent failed to cooperate and participate in a disciplinary investigation pending  
17 against respondent by failing to respond to the State Bar's letters of January 25, 2016, and March  
18 9, 2016, which respondent received, that requested respondent's response to the allegations of  
19 misconduct being investigated in case number 16-O-10164, in willful violation of Business and  
20 Professions Code, section 6068(i).

21 COUNT SIXTEEN

22 Case No. 15-O-14613  
23 Business and Professions Code, section 6068(a)  
24 [Failure to Comply With Laws – Unauthorized Practice of Law]

25 17. Respondent both held herself out as entitled to practice law and on actually practiced  
26 law when respondent was not an active member of the State Bar during the course of  
27 representing the defendant in a criminal case entitled *People v. William Anthony Coker*, case  
28 number 1468109, Stanislaus County Superior Court, by: (1) on July 8, 2015, filing a motion to  
withdraw as counsel and (2) on August 5, 2015, sending a letter to the court concerning matters

1 at issue the criminal case; all in violation of Business and Professions Code, sections 6125 and  
2 6126, and thereby willfully violated Business and Professions Code, section 6068(a).

3 COUNT SEVENTEEN

4 Case No. 15-O-14613  
5 Business and Professions Code, section 6106  
6 [Moral Turpitude]

7 18. Respondent both held herself out as entitled to practice law and actually practiced  
8 law when respondent knew, or was grossly negligent in not knowing, that respondent was not an  
9 active member of the State Bar during the course of representing the defendant in a criminal case  
10 entitled *People v. William Anthony Coker*, case number 1468109, Stanislaus County Superior  
11 Court, by: (1) on July 8, 2015, filing a motion to withdraw as counsel and (2) on August 5, 2015,  
12 sending a letter to the court concerning matters at issue the criminal case; and thereby committed  
13 acts involving moral turpitude, dishonesty or corruption in willful violation of Business and  
14 Professions Code, section 6106.

15 COUNT EIGHTEEN

16 Case No. 15-O-14613  
17 Rules of Professional Conduct, rule 3-700(A)(1)  
18 [Failure to Obtain Court Permission to withdraw]

19 19. Prior to on or about July 8, 2015, William Anthony Coker employed respondent to  
20 perform legal services, and thereafter, respondent appeared as counsel of record for the client in  
21 *People v. William Anthony Coker*, case number 1468109, Stanislaus County Superior Court.  
22 Respondent took no further action on behalf of the client after on or about August 5, 2014, and  
23 effectively withdrew from the employment. At that time, respondent did not obtain the  
24 permission of the court to withdraw from the client's representation in the case before that court  
25 when the rules of the court required that he do so, and respondent withdrew from employment in  
26 a proceeding before a tribunal without its permission, in willful violation of the Rules of  
27 Professional Conduct, rule 3-700(A)(1).  
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COUNT NINETEEN

Case No. 15-O-14613  
Business and Professions Code, section 6103  
[Failure to Obey a Court Order]

20. Respondent disobeyed or violated an order of the court requiring respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear by failing to comply with the order filed on August 18, 2015 in *People v. William Anthony Coker*, case number 1468109, Stanislaus County Superior Court, requiring respondent to personally appear in court on September 7, 2015, to show cause why she should not be sanctioned for her failure to appear in court on August 13, 2015, all in willful violation of Business and Professions Code, section 6103.

COUNT TWENTY

Case No. 15-O-14613  
Business and Professions Code, section 6068(i)  
[Failure to Cooperate in State Bar Investigation]

21. Respondent failed to cooperate and participate in a disciplinary investigation pending against respondent by failing to respond to the State Bar's letters of September 30, 2015 and October 19, 2015, which respondent received, that requested respondent's response to the allegations of misconduct being investigated in case number 15-O-14613, in willful violation of Business and Professions Code, section 6068(i).

NOTICE - INACTIVE ENROLLMENT!

**YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE RECOMMENDED BY THE COURT.**

NOTICE - COST ASSESSMENT!

**IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING**

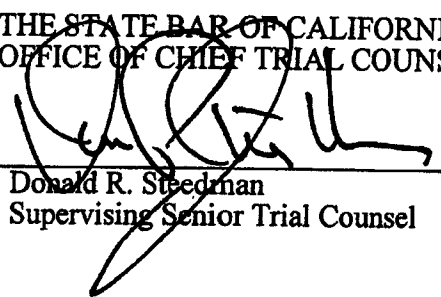
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**AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6086.10.**

Respectfully submitted,

THE STATE BAR OF CALIFORNIA  
OFFICE OF CHIEF TRIAL COUNSEL

DATED: March 21, 2016

By:   
Donald R. Steedman  
Supervising Senior Trial Counsel

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**DECLARATION OF SERVICE BY CERTIFIED AND REGULAR MAIL**

**DAPHNE MACKLIN**

**CASE NO.: 15-O-13786 [15-O-14055; 15-O-14613; 16-O-10164]**

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that I am not a party to the within action; that I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service; that in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day; that I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit; and that in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of San Francisco, on the date shown below, a true copy of the within

**NOTICE OF DISCIPLINARY CHARGES**

in a sealed envelope placed for collection and mailing as *certified mail*, return receipt requested, and in an additional sealed envelope as *regular mail*, at San Francisco, on the date shown below, addressed to:

**Article No. 9414 7266 9904 2042 4852 53**

**Daphne Lori Macklin  
PO Box 661702  
Sacramento, CA 95866**

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

N/A

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Francisco, California, on the date shown below.

DATED: March 21, 2016

Signed:



Dawn Williams  
Declarant



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 July 10, 2018

State Bar Court, State Bar of California,  
Los Angeles

By \_\_\_\_\_  
Clerk

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**DECLARATION OF SERVICE BY MAIL**

**RE: MACKLIN**  
**CASE NO.: 18-N-11793-PEM; 18-O-11827; 18-O-13828 (Inv)**

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that I am not a party to the within action; that I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service; that in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day; that I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit. That in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of San Francisco, on the date shown below, a true copy of the within

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

in a sealed envelope placed for collection and mailing at San Francisco, on the date shown below, addressed to:

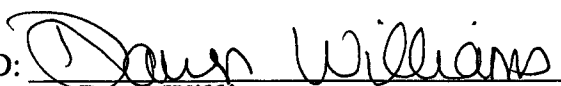
**Peter Edward Brixie**  
**410 12th St.**  
**Sacramento, CA 95814-1404**

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

**N/A**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Francisco, California, on the date shown below.

DATED: September 11, 2018

SIGNED:   
Dawn Williams  
Declarant



**CERTIFICATE OF SERVICE**

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

I am a Court Specialist of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on September 24, 2018, I deposited a true copy of the following document(s):

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

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

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

PETER E. BRIXIE  
410 12TH ST  
SACRAMENTO, CA 95814 - 1404

by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

by overnight mail at , California, addressed as follows:


by fax transmission, at fax number . No error was reported by the fax machine that I used.

By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Peter A. Klivans, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on September 24, 2018.

  
George Hue  
Court Specialist  
State Bar Court