

(Do not write above this line.)

State Bar Court of California  
Hearing Department  
Los Angeles

<p>Counsel For The State Bar</p> <p><b>Eli D. Morgenstern</b> 1149 South Hill Street Los Angeles, California 90015-2299 telephone: (213) 765-1334</p> <p>Bar # 190560</p>	<p>Case Number (s) 05-O-03459, 05-O-03943, 05-O-04624, 05-O-04785</p>	<p>(for Court's use)</p> <p><b>FILED</b></p> <p>SEP 13 2007 <i>Ysc</i></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p><b>PUBLIC MATTER</b></p>
<p>In Pro Per Respondent</p> <p><b>Katrina A. Barajas</b> 12213 Howard Street Whittier, California telephone: (626) 393-8608</p> <p>Bar # 222016</p>	<p>Submitted to: <b>Assigned Judge</b></p>	
<p>In the Matter Of: <b>Katrina A. Barajas</b></p> <p>Bar # 222016</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>ACTUAL SUSPENSION</b></p> <p><input checked="" type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

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

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted **December 4, 2002**.
- (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."



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- (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 284, Rules of Procedure.
  - costs to be paid in equal amounts prior to February 1 for the following membership years: **three (3) billing cycles following the effective date of the Supreme Court Order.**  
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
  - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
  - costs entirely waived

**B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.**

- (1)  **Prior record of discipline** [see standard 1.2(f)]
- (a)  State Bar Court case # of prior case **04-O-15096, 04-O-15098, 04-O-15103, 04-O-15361, 05-O-01061**
  - (b)  Date prior discipline effective **May 24, 2005**
  - (c)  Rules of Professional Conduct/ State Bar Act violations: **RPC 3-700(D)(2); RPC 3-110(A)**
  - (d)  Degree of prior discipline **Private Reprimand**
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below.
- (2)  **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3)  **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.
- (4)  **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6)  **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7)  **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8)  **No aggravating circumstances** are involved.

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004; 12/13/2006.)

Actual Suspension

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standard 1.2(e)]. 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 deemed serious.
- (2)  **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3)  **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4)  **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5)  **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6)  **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7)  **Good Faith:** Respondent acted in good faith.
- (8)  **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical 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 Respondent no longer suffers from such difficulties or disabilities.
- (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 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**

**D. Discipline:**

(1)  **Stayed Suspension:**

(a)  Respondent must be suspended from the practice of law for a period of **five (5) years**.

- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) 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 **five (5) years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3)  **Actual Suspension:**

(a)  Respondent must be actually suspended from the practice of law in the State of California for a period of **one (1) year**.

- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), 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 learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2)  During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3)  Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4)  Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.

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

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

- (6)  Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7)  Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8)  Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: **See page 17.**
- (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 checked="" type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input type="checkbox"/> Financial Conditions                        |

**F. Other Conditions Negotiated by the Parties:**

- (1)  **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason: **See page 17.**
- (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.

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- (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:**

In the Matter of  
Katrina A. Barajas

Case number(s):  
05-O-03459,05-O-03943,05-O-04624,05-O-04785

A Member of the State Bar

### Law Office Management Conditions

- a.  Within        days/        months/        years of the effective date of the discipline herein, Respondent must develop a law office management/organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.
- b.  Within        days/        months/**one (1)** years of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than **twelve (12)** hours of Minimum Continuing Legal Education (MCLE) approved courses in law office management, attorney client relations and/or general legal ethics. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)
- c.  Within 30 days of the effective date of the discipline, Respondent must join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for **one** year(s). Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California in the first report required.

Thereafter, Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California by the March 10 Quarterly Report for the following four years.

85285

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

IN THE MATTER OF:       KATRINA A. BARAJAS

CASE NUMBER(S):        05-O-03459, 05-O-03943, 05-O-04624, and 05-O-04785

**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. 05-O-03459**

**Facts**

1. On March 8, 2005, a criminal complaint was filed in a matter titled *People v Rosendo Haro*, Los Angeles Superior Court Case No. 5JM01979 ("*People v. Haro*"), alleging that Rosendo Haro ("Haro") violated Vehicle Code sections 23152(a), 23152(b), 20002(a) and 14601.1(a),

2. On March 18, 2005, Haro called Respondent's office and spoke with Elsa Berens ("Berens"), a woman who worked in Respondent's office, to discuss hiring Respondent to represent him in *People v. Haro*. On March 18, 2005, Haro employed Respondent and agreed to pay her \$1,200 in advance fees to represent him. Thereafter, Haro paid Respondent \$1,200 in three installments.

3. On March 24, 2005, Respondent appeared for Haro's Arraignment in *People v. Haro*. The Court set a Pretrial Hearing for April 8, 2005.

4. On April 8, 2005, Respondent appeared for a Pretrial Hearing in *People v. Haro*. Haro did not appear because of car problems, but called Respondent's office and explained his failure to appear. Respondent informed the Court that Haro was having car problems and the Pretrial Hearing was continued to April 11, 2005.

5. Respondent did not notify Haro that the Pretrial Hearing had been continued to April 11, 2005.



6. On April 11, 2005, neither Respondent nor Haro appeared for the Pretrial Hearing in *People v. Haro* and the Court issued a bench warrant for Haro's arrest in the amount of \$30,000.

7. On April 15, 2005, Respondent was unavailable and requested that another attorney, Kari Morris ("Morris"), appear with Haro to seek to set aside the bench warrant in *People v. Haro*. The Superior Court recalled the bench warrant and set a Pretrial Hearing for May 2, 2005. Haro told Morris that he was not available on May 2, 2005, which Morris noted in her memorandum to Respondent concerning the April 15, 2005 appearance.

8. On May 2, 2005, Respondent appeared for a Pretrial Hearing in *People v. Haro*. The Superior Court issued a bench warrant for Haro for \$30,000 when he failed to appear and Respondent failed to explain why he was unavailable. Respondent had not read Morris' memo and thus did not know why Haro was unavailable.

9. Respondent did not notify Haro that a bench warrant had been issued for his arrest nor did she take any action to set aside the bench warrant.

10. On May 19, 2005, Haro was arrested on the bench warrant and for possession of drugs.

11. On or about May 19, 2005, Haro's wife called Respondent's office and informed Berens that Haro had been arrested. Berens told Haro's wife that Haro had to enter into a new agreement to have Respondent represent him regarding the possession of drugs. Haro's wife told Berens that Haro did not want Respondent to represent him regarding the possession of drugs, but wanted Respondent to complete her representation of him regarding *People v. Haro*. Berens told Haro's wife that Respondent would follow up on the status of *People v. Haro*.

12. Respondent did not follow up on the status of *People v. Haro* or communicate with Haro after Haro's wife called Respondent's office on or about May 19, 2005.

13. On May 23, 2005, Haro appeared on *People v. Haro*. Respondent did not appear, was relieved as counsel, and the Office of the Public Defender was appointed to represent Haro in all pending matters.

14. By failing to take any effective action after May 2, 2005 regarding *People v. Haro*, Respondent effectively withdrew from employment by Haro without notice to him

### Legal Conclusions

By failing to inform Haro that the Pretrial Hearing was set for April 11, 2005, and that a bench warrant had been issued for his arrest on May 2, 2005, Respondent wilfully failed to keep

a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in wilful violation of Business and Professions Code section 6068(m).

By withdrawing from employment by Haro effective May 2, 2005 without notice to Haro, Respondent wilfully failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to her client, in wilful violation of rule 3-700(A)(2) of the Rules of Professional Conduct.

Case No. 05-O-03943

Facts

1. On May 21, 2004, Jose Garibay ("Garibay") employed Respondent to represent him regarding a bench warrant that had been issued by the Superior Court of California, County of Los Angeles, on October 31, 2005, in the matter titled *People v Jose Garibay*, Case No. 95M02709 ("*People v. Garibay*"). Garibay paid Respondent \$800 in advanced fees to appear with him before the Court on May 24, 2004.

2. On May 24, 2004, Garibay appeared before the Superior Court regarding the bench warrant issued in *People v. Garibay*. Garibay represented himself when Respondent failed to appear as previously agreed. The Superior Court recalled the bench warrant when Garibay paid the \$1,218 that he had failed to pay by October 25, 1995.

3. Between on or about May 24, 2004 and on or about August 6, 2004, Garibay and/or his assistant, Irca, called Respondent's office on six to ten occasions and left messages each time on Respondent's voice message system or with Elsa Berens ("Berens"), a woman who worked in Respondent's office, demanding a refund of his unearned advanced fees.

4. Respondent did not respond to the messages left between on or about May 24, 2004 and on or about August 6, 2004, or otherwise communicate with Garibay or Irca.

5. On or about August 6, 2004, Garibay mailed a certified letter to Respondent demanding a refund of the \$800 in advanced fees because Respondent failed to appear at the May 24, 2004 hearing. Respondent received the letter.

6. On or about September 15, 2004, Respondent mailed a letter to Garibay that referenced an enclosed check in the amount of \$800. However, the envelope did not contain a check when Garibay received it.

7. Between on or about September 15, 2004 and on in or about December 2004, Garibay

and/or Irca called Respondent's office on four or five occasions and left messages each time on Respondent's voice message system or with Berens informing Respondent that no check had been received and demanding a refund of Garibay's unearned advanced fees.

8. Respondent did not respond to the messages left between on or about September 15, 2004 and on or about December 2004, or otherwise communicate with Garibay or Irca.

9. In or about February 2005, Garibay hired a collection agency to obtain a refund of Garibay's unearned advanced fees from Respondent. Respondent was contacted by the collection agency, which demanded that Respondent refund Garibay's unearned advanced fees.

10. Respondent did not communicate with Garibay or Irca regarding the attempts by the collection agency to obtain a refund of the unearned advance fees, or refund the unearned advance fees to Garibay or the collection agency.

11. On or about August 22, 2005, the State Bar opened an investigation, Case No. 05-O-03943, pursuant to a complaint filed by Garibay (the "Garibay matter").

12. On or about December 6, 2005, a State Bar Investigator ("Investigator") mailed a letter to Respondent regarding the Garibay matter. The Investigator's letter requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Garibay matter, including but not limited to Respondent's failure to perform and refund unearned advance fees. Respondent received the letter.

13. On or about December 27, 2005, Respondent mailed a check for \$830 to Garibay. Garibay received the check.

### **Legal Conclusions**

By failing to appear with Garibay before the Superior Court on the bench warrant on May 24, 2004, Respondent intentionally, recklessly, or repeatedly failing to perform legal services with competence, in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

By failing to refund the \$800 in unearned advance fees paid by Garibay from on or about May 24, 2004, to on or about December 27, 2005, despite repeated requests to do so, Respondent failed to promptly refund an unearned advanced fee in wilful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

Case No. 05-O-04624

Facts

1. On or about April 6, 2005, Sonia Ortega ("Ortega") hired Respondent to represent her in a dissolution of marriage and child support matter. Ortega agreed to pay Respondent \$4,000 in advanced fees, and gave Elsa Berens ("Berens"), a woman who worked in Respondent's office, a check for \$2,000 in advance fees on April 6, 2005. Ortega made four payments for advance fees of \$500 each to Respondent's office on May 14, 2005, June 8, 2005, July 15, 2005, and August 19, 2005.

2. On or about April 21, 2005, Respondent filed a petition of dissolution and declaration re uniform child custody on behalf of Ortega in a matter titled *Sonia Ortega Pleitz v. Victor Manuel Pleitz*, Los Angeles Superior Court Case No. LD044700 ("*Pleitz v. Pleitz*"). A status conference was set for September 8, 2005.

3. On September 8, 2005, Respondent was unavailable for the status conference in *Pleitz v. Pleitz* and hired attorney Dory Raheb ("Raheb") to appear with Ortega. During the status conference, the Court referred the matter to mediation. Raheb was unable to stay for the mediation and the matter was continued to December 13, 2005.

4. After the hearing, Ortega went to Respondent's office, spoke with Berens terminated Respondent's services, and demanded a refund of her unearned advance fees. Berens told Ortega that Respondent would refund the unearned advance fees in eight days.

5. Respondent did not refund the unearned advance fees in eight days or otherwise communicate with Ortega.

6. When Respondent did not refund the unearned advance fees in eight days, Ortega called Respondent's office on or about September 16, 2005, and spoke with Berens. Berens told Ortega that Respondent would refund the unearned advance fees in one month.

7. Respondent did not refund the unearned advance fees in one month or otherwise communicate with Ortega.

8. When Respondent did not refund the unearned advance fees in one month, Ortega called Respondent's office and left a message demanding that Respondent refund the unearned advance fees.

9. In or about October 2005, Respondent called Ortega and left a message for her informing her that Respondent would refund the unearned advance fees by November 3, 2005.

10. Respondent did not refund the unearned advance fees by November 3, 2005.

11. On or about October 4, 2005, the State Bar opened an investigation, Case No. 05-O-04624, pursuant to a complaint filed by Ortega (the "Ortega matter").

12. On or about December 1, 2005, a State Bar Investigator ("Investigator") mailed a letter to Respondent regarding the Ortega matter. The Investigator's letter requested that Respondent respond in writing to specified allegations of misconducted being investigated by the State Bar in the Ortega matter, including Respondent's failure to refund unearned advance fees. Respondent received the letter.

13. Respondent did not respond to the December 1, 2005 letter or otherwise communicate with the Investigator.

14. On or about January 12, 2006, the Investigator called Respondent to inquire why Respondent had failed to respond to the letter dated December 1, 2005. Respondent told the Investigator that she thought that she had provided a written response and would send one once she returned to her office. She also told the Investigator that she intended to send a refund to Ortega and would send one to her once she returned to her office.

15. On or about January 12, 2006, Respondent mailed a letter to Ortega providing an accounting that claimed that she earned \$1,660.58 in fees and enclosed a check for \$2,339.42 to refund unearned advanced fees. Ortega received the letter and check.

16. On June 5, 2006, in a matter titled *Sonia Ortega v. Katrina Barajas*, Los Angeles Superior Court Small Claims No. 06V01428, judgment was entered in favor of Ortega in the amount of \$750 in principal and \$60 in costs, for a total of \$810. Respondent was served with the Judgment and Notice of Entry of Judgment. To date, Respondent has not paid the judgment.

### **Legal Conclusions**

By failing to refund the \$2,339.42 in unearned advance fees from September 8, 2005 to or about January 12, 2006 despite repeated requests to do so, and by failing to pay the judgment entered in the small claims matter, Respondent failed to promptly refund an unearned advance fee in wilful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

### **Case No.05-O-04785**

1. On February 17, 2005, a criminal complaint was filed in a matter titled *People v Carlos Monzon*, Los Angeles Superior Court Case No. 5MT01345 ("*People v. Monzon*"), alleging that Carlos Monzon ("Monzon") violated Vehicle Code sections 23152(a), 20002(a) and

16028(a). Monzon's arraignment was set for March 9, 2005.

2. On or about February 19, 2005, Monzon hired Respondent to represent him regarding *People v. Monzon*, including the administrative hearing before the Department of Motor Vehicles, Licensing Operations Division ("DMV"). Monzon paid Respondent \$1,400 in advance fees to represent him.

3. On March 10, 2005, Respondent and Monzon appeared for the arraignment in *People v. Monzon*. The Court set a Pretrial Hearing for April 6, 2005.

4. On April 6, 2005, Respondent and Monzon appeared for the Pretrial Hearing and Monzon pled guilty.

5. On April 28, 2006, the DMV held an administrative hearing regarding the suspension of Monzon's driver's license for violating Vehicle Code section 23152(a). Respondent failed to appear for the hearing. Monzon did not appear because Respondent told Monzon that she would handle it. The DMV found against Monzon and suspended Monzon's driver's license for one year.

### **Legal Conclusion**

By failing to appear at the DMV administrative hearing on April 28, 2005, Respondent failed to perform legal services with competence, in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(7), was August 1, 2007.

### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed her that as of August 1, 2007, the costs in this matter are \$4,185. 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.

If Respondent fails to pay any installment within the time provided herein or as may be modified by the State Bar Court pursuant to section 6086.10, subdivision (c), the remaining balance of the costs is due and payable immediately and enforceable both as provided in

Business and Professions Code section 6140.7 and as a money judgment unless relief has been granted under the Rules of Procedure of the State Bar of California. (Rules Proc. of State Bar, rule 286.)

#### **OTHER FACTORS IN CONSIDERATION.**

On December 4, 2002, Respondent was admitted to the State Bar of California. In December 2002, Respondent was 25 years old, living at home, and did not have a job in the legal profession. After gaining admission to the Bar, Respondent began searching for employment in the legal profession.

In or about January 2003, Respondent's mother discovered an advertisement on the internet that stated that attorney Robert Holzinger ("Holzinger"), Bar No. 200278, was going on vacation and needed to hire an attorney to help him with his cases while he was away from the office. The advertisement specifically stated that young and new attorneys were particularly welcome.

Unknown to Respondent at the time that her mother discovered the advertisement, disciplinary charges were pending against Holzinger. Ultimately, on March 12, 2004, pursuant to Order S121458, the Supreme Court ordered that Holzinger be suspended from the practice of law for two years and until he complied with Standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct, that execution of the suspension be stayed, and that he be actually suspended for six months. Holzinger's suspension commenced on April 11, 2004, and he never again obtained active status as a member of the State Bar. On April 8, 2005, pursuant to Supreme Court Order S130676, Holzinger received an additional 90 days suspension to run consecutive to the actual suspension imposed in Supreme Court Order S121458. On May 31, 2006, pursuant to Supreme Court Order S142139, the Supreme Court ordered that Holzinger be disbarred from the practice of law.

In February 2003, Respondent visited Holzinger's office, which was located at that time at 6454 Van Nuys Blvd., #211, Van Nuys, California 9401 ("the Van Nuys office"), and was interviewed by Holzinger. Respondent did not hear from Holzinger again until April 2003. In the interim she continued to look for employment without success.

In April 2003, Elsa Berens ("Berens"), who introduced herself as Holzinger's office manager, telephoned Respondent and arranged a second interview. In April 2003, Respondent met with Berens at the Van Nuys office. Holzinger was not present at the interview. At the interview, Berens stated that Respondent's duties would consist of making routine court appearances in mostly criminal law cases, but occasional other types of cases as well, and that Holzinger would provide her with all the instruction that she would need.

Berens also stated to Respondent that while Respondent made the appearances, Berens would be responsible for the day-to-day administration of the office, including all of the financial aspects of running a law firm, *i.e.* paying the rent and other overhead, advertising, taking phone calls from existing clients, and signing new clients.

Berens said that Respondent would receive \$100 for a first appearance on a case and \$50 per appearance thereafter. Because of her naivete and excitement at the prospect of obtaining employment, Respondent did not realize that the arrangement was inappropriate. Respondent accepted Berens offer and began working at the Van Nuys office on April 15, 2003. The office staff consisted of Berens and a secretary.

For the first few months, Respondent received instruction from Holzinger as promised, made one or two court appearances per day, and was paid bi-monthly.

By August 2003, Respondent stopped meeting in person with Holzinger, but would call him if she needed his assistance. By August 2003, Respondent was told that Holzinger would not be returning to the office; and Respondent did not inquire why because she perceived things to be going well. Respondent would not learn of Holzinger's pending disciplinary matters before the State Bar for another two years.

By August 2003, Respondent not only made appearances on behalf of Holzinger for his clients, but Berens was also signing up new clients under Respondent's retainer. Moreover, by no later than the Spring of 2004, Respondent opened up a general account at Bank of America. Berens' husband was a signatory on the account.

By the start of 2004, Respondent began experiencing problems with Berens. Berens was scheduling 5 or 6 court appearances per day for Respondent in different court houses and often in various counties throughout the state. Respondent advised Berens that she was unable to make so many appearances in one day; nevertheless, Berens continued to overload Respondent's calendar and sign new clients. Berens also stopped paying Respondent on a regular basis and claimed that there was not enough money to regularly pay Respondent.

Respondent now understands that the arrangement with Berens was improper. She understands that she was in charge of the operation of the Van Nuys office, and could have, and should have fired Berens at her will.

However, at the time, Respondent did not know how to take control of the office, felt overwhelmed by the number of cases and dependent upon Berens to maintain the operation of the Van Nuys office and to make refunds to the increasing number of unhappy clients.

Berens was also able to convince Respondent that with her help Respondent would soon



operate a successful practice. Again, Respondent admits that she was naive in trusting Berens and uninformed as to the appropriate manner of running a practice.

Berens took advantage of Respondent's naivete and kept signing up new clients and overloading Respondent's calendar.

On May 3, 2005, Respondent was privately reprovod for misconduct consisting of failing to appear in court and failing to return unearned fees in five client matters. The misconduct occurred at the Van Nuys office between March 2004 and January 2005.

Respondent finally realized that as long as she continued to work out of the Van Nuys office with Berens she would continue to receive Bar complaints from clients. Respondent realized that from her discussions with her clients that Berens was providing the clients with inaccurate information and causing them to have unreasonable expectations concerning the outcome of their cases.

Respondent closed the Van Nuys office in or about April 2006, and opened up a new office. Since April 2006, Respondent has operated a law office on her own. Pursuant to the terms of the May 3, 2005 private reprovod, Respondent was ordered to develop a law office management plan approved by the Office of Probation, which she did, and now utilizes.

Since moving out of the Van Nuys office, Respondent has successfully represented a clients charged with a variety of misdemeanor and felony offenses, including attempted murder.

Nevertheless, Respondent has represented to the State Bar that she intends to cease practicing law. She plans on moving to Nevada and starting a new career.

#### **AUTHORITIES SUPPORTING DISCIPLINE.**

The misconduct committed herein occurred during the same, approximately two year time period as the misconduct for which Respondent was privately reprovod on May 3, 2005. Therefore, pursuant to *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 618-619, in determining the appropriate level of discipline, the stipulated misconduct herein, as well as the stipulated misconduct in the May 3, 2005 stipulation, should be considered in totality as if all the charged misconduct had been brought in one case.

The stipulations indicate that Respondent's actions or failures to act affected nine clients. The misconduct occurred between May 2004 and April 2006, while she was working at the Van Nuys office with Berens.

*Silva-Vidor v. State Bar* (1989) 49 Cal. 3d 1071 is instructive as to the appropriate level of discipline. In *Silva-Vidor*, the attorney stipulated to misconduct affecting 14 clients, involving numerous instances in which she abandoned clients, failed to provide competent legal services, failed to refund or account for unearned fees and misappropriated \$760 in client funds. Most of the attorney's misconduct took place in a two year period and demonstrated a common pattern of wilful misconduct. During this time period, the attorney was beset with a series of emotional problems, beginning with severe depression, an unstable relationship with her drug-abusing husband, the break-up of her marriage after her husband was diagnosed with a brain tumor, and one automobile and two slip-and-fall accidents resulting in serious injury to the attorney, adding to her depression. The attorney also had a difficulty pregnancy which required bed rest for the final four months and her daughter was born with cerebral palsy. The attorney cooperated fully with the State Bar, stipulating to facts and discipline in her disciplinary proceeding, and offered remorse and restitution to her former clients. The Supreme Court found that the evidence demonstrated personal difficulties for which her inattention to her practice was not condoned, but understood. The Court imposed a five year suspension, stayed, with a five year probation and one year actual suspension.

#### **STATE BAR ETHICS SCHOOL EXCLUSION.**

It is not recommended that Respondent attend State Bar Ethics School since she attended Ethics School within the last two years in connection with Case Numbers 04-O-15096, 04-O-15098, 04-O-15103, 04-O-15361, and 05-O-01061.

#### **MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION EXCLUSION.**

It is recommended that Respondent not be required to take the Multistate Professional Responsibility Examination because she was ordered to take and pass the examination, which she did, in connection with Case Numbers 04-O-15096, 04-O-15098, 04-O-15103, 04-O-15361, and 05-O-01061.

#### **FINANCIAL CONDITIONS, RESTITUTION.**

Within one year of the effective date of the discipline in this matter, Respondent must make restitution to Sonia Ortega, or the Client Security Fund if it has paid, in the principal amount of \$810, plus interest at the rate of 10% per annum from June 5, 2006, and furnish satisfactory evidence of restitution to the Office of Probation. Respondent shall include in each quarterly report required herein satisfactory evidence of all restitution payments made by her during that reporting period.

Respondent shall pay restitution to Sonia Ortega, or the Client Security Fund if it has paid, in the principal amount of \$810 plus interest at the rate of 10% per annum from June 5, 2006, pursuant to the following payment schedule:

Respondent shall make minimum monthly payments of eighty dollars (\$80), commencing within thirty (30) days from the effective date of discipline. Each payment will be due on or before the fifteenth day of every month, until restitution has been made in full. With each quarterly report, Respondent shall furnish satisfactory evidence of monthly restitution payments to the Office of Probation. Respondent shall make any necessary balloon payment, to complete restitution in full, no later than sixty (60) days prior to the expiration of probation and shall provide satisfactory proof to the Office of Probation within ten (10) days of said balloon payment.

Upon Respondent's failure to timely make any installment payment of restitution, the unpaid balance is due and payable immediately unless relief is granted under the Rules of Procedure of the State Bar of California.



(Do not write above this line.)

In the Matter Of  <b>KATRINA A. BARAJAS</b>	Case Number(s):  <b>05-O-03459; 05-O-03943, 05-O-04624, 05-O-04785</b>
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**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.

**Please see attached for the modifications of this stipulation**

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 135(b), 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.)**

9/13/07  
Date

  
Judge of the State Bar Court

**In the Matter of: KATRINA A. BARAJAS,  
Case Nos. 05-O-03459; 05-O-03943; 05-O-04624; 05-O-04785**

**Modifications of Stipulation**

1. On page 2, at paragraph A.(8), delete “three (3) billing cycles following the effective date of the Supreme Court Order”, and in its place insert “2009, 2010 and 2011”. In addition, the following language should be inserted:

It is further recommended that if Katrina Barajas fails to pay any installment of disciplinary costs within the time provided herein or as may be modified by the State Bar Court pursuant to section 6086.10, subdivision (c), the remaining balance of the costs is due and payable immediately unless relief has been granted under the Rules of Procedure of the State Bar of California (Rules Proc. of State Bar, rule 286). The payment of costs is enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

2. On page 5, at paragraphs E.(8) and F.(1), “page 17” should be “page 18”.
3. On page 7, paragraph c., “March 10” should be “April 10”.

**CERTIFICATE OF SERVICE**  
**[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]**

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on September 13, 2007, I deposited a true copy of the following document(s):

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

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

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

**KATRINA A. BARAJAS  
K BARAJAS & ASSOCIATES  
12213 HOWARD ST  
WHITTIER, CA 90601**

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

**ELI MORGENSTERN, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **September 13, 2007**.



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**Tammy R. Cleaver**  
Case Administrator  
State Bar Court