


Counsel for the State Bar Office of the Chief Trial Counsel Enforcement John T. Kelley, SBN 193646 1149 S. Hill St. Los Angeles, CA 90015 213/765-1000	Case number(s) 01-0-02948 02-0-10913 02-0-11801 02-0-12941 02-0-15516 (unfiled inv.)	(for Court's use) PUBLIC MATTER FILED OCT 01 2003 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel for Respondent In Pro Per	kwiktag® 031 975 375 	
In the Matter of Nancy J. Billings Bar # 182479 A Member of the State Bar of California (Respondent)	Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 7, 1996 (date)
- (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 and order consist of 21 pages.
- (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) 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.
- (7) 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:
2004-6
 (hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth under "Partial Waiver of Costs"
 - costs entirely waived

Note: All information required by this form and any additional information which cannot be provided in the space provided, shall be set forth in the text component of this stipulation under specific headings, i.e. "Facts," "Dismissals," "Conclusions of Law."

In the Matter of
Nancy J. Billings
A Member of the State Bar

Case Number(s):
01-0-02948-PEM et. al.

NOLO CONTENDERE PLEA TO STIPULATION AS TO FACTS, CONCLUSIONS OF LAW AND DISPOSITION

Bus. & Prof. Code §6085.5 Disciplinary Charges; Pleas to Allegations

There are three kinds of pleas to the allegations of a notice of disciplinary charges or other pleading which initiates a disciplinary proceeding against a member:

- (a) Admission of culpability.
- (b) Denial of culpability.

(c) **Nolo contendere**, subject to the approval of the State Bar Court. The court shall ascertain whether the member completely understands that a plea of nolo contendere shall be considered the same as an admission of culpability and that, upon a plea of nolo contendere, the court shall find the member culpable. The legal effect of such a plea shall be the same as that of an admission of culpability for all purposes, except that the plea and any admissions required by the court during any inquiry it makes as to the voluntariness of, or the factual basis for, the pleas, may not be used against the member as an admission in any civil suit based upon or growing out of the act upon which the disciplinary proceeding is based. (Added by Stats. 1996, ch. 1104.) (emphasis supplied)

RULE 133, Rules of Procedure of the State Bar of California STIPULATIONS AS TO FACTS, CONCLUSIONS OF LAW AND DISPOSITION

(a) A proposed stipulation as to facts, conclusions of law, and disposition shall set forth each of the following: . . .

(5) a statement that respondent either

(i) admits the facts set forth in the stipulation are true and that he or she is culpable of violations of the specified statutes and/or Rules of Professional Conduct or

(ii) pleads nolo contendere to those facts and violations. If the respondent pleads nolo contendere, the stipulation shall include each of the following:

(a) an acknowledgment that the respondent completely understands that the plea of nolo contendere shall be considered the same as an admission of the stipulated facts and of his or her culpability of the statutes and/or Rules of Professional Conduct specified in the stipulation; and

(b) if requested by the Court, a statement by the deputy trial counsel that the factual stipulations are supported by evidence obtained in the State Bar investigation of the matter. (emphasis supplied)

I, the Respondent in this matter, have read the applicable provisions of Bus. & Prof. Code §6085.5 and rule 133(a)(5) of the Rules of Procedure of the State Bar of California. I plead nolo contendere to the charges set forth in this stipulation and I completely understand that my plea shall be considered the same as an admission of culpability except as stated in Business and Professions Code section 6085.5(c).

7-25-03 Nancy Billings Nancy Billings
Date Signature Print name

(Nolo Contendere Plea form approved by SBC Executive Committee 10/22/97)

B. Aggravating Circumstances [for definition, see Standards for Attorney Scandals 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 _____

(b) date prior discipline effective _____

(c) Rules of Professional Conduct/ State Bar Act violations: _____

(d) degree of prior discipline _____

(e) If Respondent has two or more incidents of prior discipline, use space provided below or under "Prior Discipline".

(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.

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 to 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 shall be suspended from the practice of law for a period of two 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 to _____ [payee(s)] (or the Client Security Fund, if appropriate), in the amount of _____, plus 10% per annum accruing from _____, and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel
 - iii. and until Respondent does the following: _____
- B. The above-referenced suspension shall be stayed.

2. Probation.

Respondent shall be placed on probation for a period of three years which shall commence upon the effective date of the Supreme Court order herein. (See rule 953, California Rules of Court.)

3. Actual Suspension.

- A. Respondent shall be actually suspended from the practice of law in the State of California for a period of eighteen months
- 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 to _____ [payee(s)] (or the Client Security Fund, if appropriate), in the amount of _____, plus 10% per annum accruing from _____, and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel
 - 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 shall 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 shall comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent shall report to the Membership Records Office of the State Bar and to the Probation Unit, 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) Respondent shall submit written quarterly reports to the Probation Unit on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, respondent shall 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. The first report would cover less than 30 days, that report shall 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.

- (5) Respondent shall be assigned a probation monitor. Respondent shall 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 shall furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Probation Unit. Respondent shall cooperate fully with the probation monitor.
- (6) Subject to assertion of applicable privileges, Respondent shall answer fully, promptly and truthfully any inquiries of the Probation Unit of the Office of the Chief Trial Counsel 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.
- (7) Within one (1) year of the effective date of the discipline herein, respondent shall provide to the Probation Unit 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.
- (8) Respondent shall comply with all conditions of probation imposed in the underlying criminal matter and shall so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Probation Unit.
- (9) The following conditions are attached hereto and incorporated:
 - Substance Abuse Conditions Law Office Management Conditions
 - Medical Conditions Financial Conditions
- (10) Other conditions negotiated by the parties:
 - Multistate Professional Responsibility Examination: Respondent shall provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Probation Unit of the Office of the Chief Trial Counsel 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 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.
 - No MPRE recommended.
 - Rule 955, California Rules of Court: Respondent shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 30 and 40 days, respectively, from the effective date of the Supreme Court order herein.
 - Conditional Rule 955, California Rules of Court: If Respondent remains actually suspended for 90 days or more, he/she shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 120 and 130 days, respectively, from the effective date of the Supreme Court order herein.
 - Credit for Interim Suspension [conviction referral cases only]: Respondent shall be credited for the period of his/her interim suspension toward the stipulated period of actual suspension.

ATTACHMENT TO STIPULATION RE FACTS, CONCLUSIONS OF LAW AND
DISPOSITION

IN THE MATTER OF: NANCY J. BILLINGS, SBN 182479

CASE NUMBER(S): 01-O-02948, 02-O-10913, 02-O-11801, 02-O-12941, 02-
O-15516 [Unfiled Investigation]

FACTS AND CONCLUSIONS OF LAW

Respondent, Nancy J. Billings, pleads nolo contendere to the following facts and violations of the specified statutes and/or Rules of Professional Conduct:

ALL COUNTS

1. Respondent was admitted to the practice of law in the State of California on June 7, 1996, was a member at all times pertinent to the facts described below, and is currently a member of the State Bar of California.

COUNT ONE

Case No. 01-O-02948

California Business and Professions Code Section 6068(l)

[Failure to Comply with Conditions of Agreement in Lieu of Discipline]

2. In or about October 2001, Respondent executed and entered into a Stipulation as to Facts and Agreement in Lieu of Discipline Pursuant to Business and Professions Code Sections 6068(l) and 6092.5(i) (hereinafter the "Agreement") with the State Bar of California ("State Bar"). Respondent signed the Agreement on or about October 16, 2001. The State Bar signed the Agreement on or about October 22, 2001.

3. In the Agreement, Respondent stipulated to a violation of Business and Professions Code § 6103 with regard to Respondent's failure to pay court ordered sanctions in the amount of \$523.00.

4. Respondent agreed to be subject to the Agreement for a period of one (1) year.

5. Respondent agreed to comply with the provisions of the State Bar Act and Rules of Professional Conduct of the State Bar of California during the effective period of the Agreement.

6. Respondent agreed to provide the Probation Unit written quarterly reports each January 10, April 10, July 10 and October 10 of each year or part thereof during which the Agreement is in effect, certifying under penalty of perjury that he has complied with all provisions of the State Bar Act and the Rules of Professional Conduct during the preceding calendar quarter or part thereof covered by the report and to file a final report covering the remaining portion of the effective period of the Agreement.

7. Respondent also agreed to provide restitution to Maria Chan in the amount of \$523.00 plus interest to be paid in monthly instalments of \$50.

8. Respondent also agreed to include in each quarterly report satisfactory evidence of all

restitution payments made by her during that reporting period.

9. Respondent failed to provide the Probation Unit her quarterly reports due no later than April 10, 2002 and July 10, 2002.

10. Respondent failed to provide the Probation Unit evidence of her restitution payments for the months of February through July 2002.

LEGAL CONCLUSION

11. By not providing her April quarterly report and evidence of restitution payments from February through June 2002, Respondent failed to comply with the conditions of the Agreement. By the foregoing conduct, Respondent willfully violated California Business and Professions Code section 6068(1).

COUNT TWO

Case No. 01-O-02948

Business and Professions Code, section 6103

[Failure to Obey a Court Order]

12. On or about August 10, 1998, Respondent filed a complaint on behalf of Doug Olson and Luella Trinidad entitled *Doug Olson, Luella Trinidad v. Maria Olson Chan* against Maria Chan, Case No. RIC 316097, Superior Court of the County of Riverside.

13. On or about August 25, 2000, attorney Renee D. Garcia who represented Chan filed a Notice and Motion to Terminate the Action and Request for Sanctions against Respondent and Respondent's clients for failure to respond to discovery requests.

14. On or about September 22, 2000, Chan's motion came on for hearing before the court.

15. On February 21, 2001, the Court issued an order that Respondent pay sanctions in the amount of \$523.00 to Chan.

16. Respondent had notice of the order to pay sanctions but failed to comply with said order.

LEGAL CONCLUSION

17. By failing to comply with the order to pay sanctions, Respondent willfully violated Business and Professions Code § 6103.

COUNT THREE

Case No. 02-O-10913

Rules of Professional Conduct, rule 4-100(B)(3)

[Failure to Render Accounts of Client Funds]

18. On or about September 15, 1998, Joan L. Wolf hired Respondent on a contingency basis to represent her in prosecuting a claim involving, but not limited to, discrimination, sexual harassment and false imprisonment.

19. On or about September 15, 1998, Wolf and Respondent executed a retainer agreement

memorializing the terms of representation.

20. On or about September 15, 1998, Wolf paid Respondent \$1000 for costs.

21. In or about November 2000, Respondent informed Wolf that she required an additional \$1500 for interviewing witnesses and compiling their statements.

22. On or about November 15, 2000, Wolf paid Respondent an additional \$1500 for interviewing witnesses and compiling their statements.

23. By September 2001, Wolf had contacted several witnesses involved in her case and learned that none had been contacted by Respondent or anyone on behalf of Respondent.

24. On or about September 28, 2001, Wolf's representative, Mark Lansing, faxed a letter on Wolf's behalf to Respondent requesting that she provide an accounting for the \$2500 fee Wolf paid.

25. Lansing faxed the request to Respondent at her then current fax number of 909/781-7234 as indicated on Respondent's letterhead.

26. Respondent received Lansing's faxed request.

27. To date, Respondent has failed to provide Wolf an accounting for the \$2500 Wolf paid.

LEGAL CONCLUSION

28. By not responding to Wolf's request for an accounting, Respondent failed to render appropriate accounts to a client regarding all funds of the client coming into Respondent's possession in wilful violation of Rules of Professional Conduct, rule 4-100(B)(3).

COUNT FOUR

Case No. 02-O-10913

Business and Professions Code, section 6068(m)

[Failure to Respond to Client Inquiries]

29. The allegations of paragraphs 18 through 27 are incorporated by reference.

30. After not having heard from Respondent for over seven months, Wolf began calling Respondent in July 2001.

31. During July 2001, Wolf telephoned Respondent's office six times, leaving a message on Respondent's answering machine twice and leaving a message with Respondent's secretary four times.

32. Each time Wolf telephoned Respondent she left a message stating that she wanted an update on the status of her case.

33. Respondent failed to return any of Wolf's July 2001 telephone calls.

34. On or about August 3, 2001, Wolf wrote Respondent asking her to provide her plan of action in Wolf's matter.

35. Wolf sent her August 3, 2001, letter to Respondent at her then current membership records address.

36. Respondent received Wolf's August 3, 2001, letter.

37. Respondent failed to respond to Wolf's letter dated August 3, 2001.

38. On or about September 24, 2001, Wolf telephoned Respondent's office and left a message on Respondent's voice mail asking for information about her case.

39. Respondent failed to Respondent to Wolf's call of September 24, 2001.

LEGAL CONCLUSION

40. By not returning any of Wolf's July 2001 telephone calls, by not responding to Wolf's August 3, 2001, letter, and by not returning Wolf's September 24, 2001, call, Respondent failed to respond promptly to reasonable status inquiries of a client in wilful violation of Business and Professions Code, section 6068(m).

COUNT FIVE

Case No. 02-O-10913

Business and Professions Code, section 6068(m)

[Failure to Inform Client of Significant Development]

41. The allegations of paragraphs 29 through 39 are incorporated by reference.

42. On or about March 6, 2001, Respondent attended a trial status conference in Wolf's matter in which the court set a mandatory settlement conference for October 1, 2001.

43. Although Respondent had notice of the mandatory settlement conference scheduled for October 1, 2001, Respondent failed to notify Wolf of the mandatory settlement conference.

44. On or about September 28, 2001, Wolf retained attorney Mark Lansing for the sole purpose of re-establishing contact with Respondent.

45. Lansing could not reach Respondent and subsequently contacted opposing counsel who informed him that a mandatory settlement conference was scheduled for October 1, 2001.

46. Until Lansing reached opposing counsel on September 28, 2001, Wolf did not know that a mandatory settlement conference had been scheduled.

47. On or about October 30, 2001, Respondent attended a summary judgment hearing filed by defendants Dr. Allen Jay and the State of California.

48. The court granted defendants' motion for summary judgment and awarded costs to the defendants.

49. On or about October 30, 2001, the court mailed notice of its ruling to Respondent.

50. On or about November 8, 2001, opposing counsel served Respondent at her membership records address a copy of the proposed judgment granting summary judgment and awarding costs to the defendants.

51. Despite having notice of the adverse summary judgment ruling and award of costs, Respondent failed to inform Wolf of these developments.

52. On or about January 15, 2002, opposing counsel served Respondent at her membership records address a copy of an order awarding \$66,034.50 in attorney fees against Wolf and \$1,827.20 in costs against Wolf. Respondent received notice of this order.

53. Despite having notice of the order awarding fees and costs in the amount of \$67,861.70 against Wolf, Respondent failed to inform Wolf of this development.

LEGAL CONCLUSION

54. By not informing Wolf of the mandatory settlement conference, the adverse summary judgment ruling and the award of \$67,861.70 in fees and costs against Wolf, Respondent 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).

COUNT SIX

Case No. 02-O-10913

Business and Professions Code, section 6068(m)

[Failure to Respond to Client Inquiries]

55. The allegations of paragraphs 41 through 53 are incorporated by reference.

56. On or about December 16, 2001, Wolf sent a certified letter to Respondent at her then current membership records address requesting Respondent to provide her copies of the results of the arbitration conducted in her matter.

57. The certified letter was signed for on or about December 31, 2001.

58. Respondent received Wolf's certified letter of December 16, 2001.

59. Respondent failed to respond to Wolf's certified letter and failed to provide the requested documentation.

60. On or about April 19, 2002, Wolf sent a certified letter to Respondent at her then current membership records address requesting Respondent to provide her with all documents Respondent received from the court.

61. The certified letter was signed for on or about April 25, 2002.

62. Respondent received Wolf's certified letter of April 19, 2002.

63. Respondent failed to respond to Wolf's certified letter and failed to provide the requested documentation.

LEGAL CONCLUSION

64. By not responding to Wolf's certified letters or providing documentation as Wolf requested, Respondent failed to respond promptly to reasonable status inquiries of a client in wilful violation of Business and Professions Code, section 6068(m).

COUNT SEVEN

Case No. 02-O-10913

Business and Professions Code, section 6068(i)

[Failure to Cooperate in State Bar investigation]

65. The allegations of paragraphs 55 through 63 above are incorporated by reference.

66. On or about February 21, 2002, the State Bar opened an investigation, case number 02-O-10913, pursuant to a complaint filed by Joan L. Wolf.

67. On or about March 7, 2002, State Bar Investigator Craig von Freymann wrote to Respondent regarding the Wolf matter. The investigator's letter was placed in a sealed

envelope correctly addressed to Respondent at her State Bar of California membership records address. The letter requested that Respondent provide a written response to the complaint in the Wolf matter.

68. The letter was not returned as undeliverable or for any other reason.

69. On or about March 20, 2002, Respondent contacted Investigator von Freymann and requested a thirty day extension until April 22, 2002, to provide a response.

70. On or about April 22, 2002, Respondent requested an additional extension to provide a response which was denied.

71. Thereafter, Respondent failed to provide a written response to the complaint in the Wolf matter to the Investigator.

LEGAL CONCLUSION

72. By not providing a written response to the allegations in the Wolf matter or otherwise cooperating in the investigation, Respondent failed to cooperate in a disciplinary investigation in wilful violation of Business & Professions Code § 6068(i).

COUNT EIGHT

Case No. 02-O-11801

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

[Failure to Perform with Competence]

73. On or about February 4, 2000, Patricia A. Clark retained Respondent to represent her in an age discrimination and wrongful termination claim against a former employer.

74. On or about February 4, 2000, Clark and Respondent executed a retainer agreement in which Clark agreed to pay Respondent on a contingency fee basis.

75. On or about November 29, 1999, Clark paid Respondent \$2000 as an advance for costs.

76. Respondent filed a complaint on behalf of Clark entitled *Patricia Clark v. Jacor, et.al.*, Case No. 00CC02425 in the Orange County Superior Court.

77. In or about March 2000, the case was removed to federal court and assigned case number SACV 00-304-GLT (EEx), in the United States District Court, Central District of California.

78. Before the discovery cutoff date had elapsed in Clark's matter, Respondent failed to interview main witnesses involved in Clark's matter.

79. Before the discovery cutoff date had elapsed in Clark's matter, Respondent failed to either schedule or complete the deposition of critical adverse witnesses involved in Clark's matter.

80. Clark's deposition was initially taken in or about October 2000 but was continued to January 2001 in order to afford her an opportunity to produce additional documents requested by opposing counsel.

81. Clark provided Respondent the requested documents after the deposition in October 2000, but Respondent failed to provide them to opposing counsel prior to Clark's continued deposition in January 2001.

82. Opposing counsel had to cancel Clark's January deposition and continue it to April 2001.

83. On or about September 11, 2000, the court in Clark's matter issued a Trial Preparation Order which the court served on Respondent.

84. The Trial Preparation Order placed Respondent on notice of the court's requirements that all parties participate in a settlement conference and that all parties strictly comply with Local Rule 9 regarding the completion of a joint pre-trial conference order.

85. Respondent received the Trial Preparation Order.

86. On or about March 23, 2001, opposing counsel sent a letter to Respondent by facsimile and regular mail reminding Respondent of the local rule requirements to participate in a settlement conference and the requirement to meet and confer in preparation for the pre-trial conference.

87. Respondent failed to participate in a meet and confer with opposing counsel in preparation for the pre-trial conference.

88. On or about April 3, 2001, opposing counsel sent a letter to Respondent by facsimile and regular mail reminding Respondent of the local rule requirement to meet and confer in preparation for the pre-trial conference.

89. On or about April 18, 2001, opposing counsel sent a letter to Respondent by facsimile and regular mail reminding Respondent of the local rule requirement that she arrange a settlement conference and prepare a pretrial conference order.

90. On or about May 8, 2001, opposing counsel sent a letter to Respondent by facsimile and Federal Express reminding Respondent of the urgent need to participate in a settlement conference and prepare a memorandum of contentions of fact and law as well as a joint exhibit list.

91. Respondent received opposing counsel's letters.

92. Respondent failed to arrange or participate in a settlement conference in Clark's matter.

93. Respondent failed to file a pretrial conference order in Clark's matter.

94. Respondent failed to file a memorandum of contentions of fact and law in Clark's matter.

95. Respondent failed to file an exhibit list in Clark's matter.

96. On or about June 1, 2001, the court issued and served on Respondent an order to show cause why the case should not be dismissed and provided Respondent fifteen days to respond.

97. Respondent received the court's order to show cause.

98. Respondent failed to respond to the order to show cause.

99. On or about June 19, 2001, the court issued and served on Respondent another order clarifying the earlier order to show cause and provided Respondent an additional fifteen days to respond.

100. Respondent received the court's order.

101. Respondent failed to respond to the court's order.

102. On or about August 9, 2001, the court dismissed Clark's matter.

LEGAL CONCLUSION

103. By failing to interview witnesses, take necessary depositions, provide requested discovery, participate in a settlement conference, file a pretrial conference order, exhibit list, and memorandum of contentions of fact and law resulting in the dismissal of Clark's case, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation

of Rules of Professional Conduct, rule 3-110(A).

COUNT NINE

Case No. 02-O-11801

Business and Professions Code, section 6068(m)

[Failure to Respond to Client Inquiries]

104. The allegations of paragraphs 73 through 102 are incorporated by reference.

105. On or about May 29, 2001, Clark sent Respondent a letter to her then current facsimile number asking her to provide information regarding the taking of certain depositions in her case.

106. On or about July 16, 2001, Clark faxed Respondent a letter to her then current facsimile number asking for a status update on her case.

107. Respondent received both letters but did not respond to Clark's requests for information.

108. Clark telephoned Respondent's office and reached office staff who scheduled a telephonic conference with Respondent for August 6, 2001, at 3p.m.

109. Respondent failed to telephone Clark on August 6, 2001.

110. On or about August 7 and August 8, 2001, Clark telephoned Respondent's office and left messages for Respondent to contact her.

111. Respondent failed to return Clark's calls.

112. On or about August 10, 2001, Clark faxed Respondent a letter to her then current facsimile number requesting a status update on her case.

113. Respondent received Clark's letter but failed to respond.

114. Clark later called Respondent's office and was able to schedule a meeting with Respondent for August 30, 2001, at Respondent's office.

115. Respondent failed to meet with Clark on August 30, 2001.

116. That same day, Clark left a message on Respondent's office door asking Respondent to schedule another meeting.

117. Although she received Clark's message, Respondent failed to respond to Clark's request.

LEGAL CONCLUSION

118. By failing to respond to Clark's numerous telephone messages and faxed letters requesting information on her case, Respondent failed to respond promptly to reasonable status inquiries of a client, in a matter in which Respondent had agreed to provide legal services in wilful violation of Business and Professions Code, section 6068(m).

COUNT TEN

Case No. 02-O-11801

Business and Professions Code, section 6068(m)

[Failure to Inform Client of Significant Development]

119. The allegations of paragraphs 104 through 117 are incorporated by reference.

120. On or about September 28, 2001, Clark tried to call Respondent at her office but her voice mailbox was full and would not accept additional messages.
121. On or about October 1, 2001, Clark tried to call Respondent at her office but her voice mailbox was full and would not accept additional messages.
122. On or about October 1, 2001, Clark sent Respondent a certified letter to her then current mailing address requesting Respondent to communicate with her and provide an update on the status of her case.
123. The certified letter was signed for on or about October 3, 2001.
124. Respondent telephoned Clark in October after she received Clark's certified letter.
125. Respondent told Clark that she had filed a motion but did not tell Clark what the motion was about.
126. Respondent failed to inform Clark that her matter had been dismissed.
127. On or about November 16, 2001, Clark faxed Respondent a letter to her then current facsimile number asking for a status update on her case.
128. Respondent received Clark's letter of November 16, 2001, but failed to respond.
129. On or about December 6, 2001, Clark called Respondent's office and left a message for Respondent asking for an update on the status of the case.
130. On or about December 6, 2001, Clark faxed Respondent a letter to her then current facsimile number requesting a status update on her case.
131. On or about December 18, 2001, Respondent met with Clark and informed Clark that she was filing another motion to reconsider the denial of her previous motion. At that time Respondent allowed Clark to review her case file.
132. Respondent failed to tell Clark what the new motion was about or that her matter had already been dismissed.
133. On or about December 19, 2001, Respondent filed a motion to set aside the dismissal of Clark's matter.
134. On or about January 24, 2002, the court denied Respondent's motion to set aside the dismissal.
135. On or about February 4, 2002, Clark faxed Respondent a letter to her then current facsimile number requesting a status update on her case.
136. Respondent received Clark's letter of February 4, 2002, but failed to respond.
137. On or about February 25, 2002, Clark faxed Respondent a letter to her then current facsimile number requesting a status update on her case.
138. Respondent received Clark's letter of February 25, 2002, but failed to respond.
139. On or about March 4, 2002, Clark faxed Respondent a letter to her then current facsimile number requesting a status update on her case.
140. On or about March 18, 2002, Respondent faxed a letter to Clark advising her that the court denied the motion to set aside the dismissal of Clark's case. Respondent also advised Clark that she was too ill to continue representing Clark.
141. At no time did Respondent inform Clark of her appellate rights as a result of the dismissal and subsequent denial to set aside.

LEGAL CONCLUSION

142. By waiting several months before informing Clark that her matter had been dismissed, and failing to timely advise Clark of her appellate rights, Respondent 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).

COUNT ELEVEN

Case No. 02-O-11801

Rules of Professional Conduct, rule 3-700(D)(1)

[Failure to Release File]

143. The allegations of paragraphs 119 through 141 above are incorporated by reference.

144. On or about March 20, 2002, after Respondent informed Clark that she was too ill to continue representing Clark, Clark faxed Respondent a letter to her then current facsimile number requesting her file from Respondent.

145. Respondent received Clark's letter of March 20, 2002, but failed to respond.

146. On or about March 26, 2002, Clark faxed Respondent a letter to her then current facsimile number requesting her file from Respondent.

147. Respondent received Clark's letter of March 26, 2002, but failed to respond.

148. On or about April 8, 2002, Clark drove to Respondent's home in order to obtain her file.

149. Respondent's daughter permitted Clark to retrieve her file which was located in a box in Respondent's automobile.

LEGAL CONCLUSION

150. By failing to promptly release Clark's file to her upon request after termination, Respondent wilfully violated Rules of Professional Conduct, rule 3-700(D)(1).

COUNT TWELVE

Case No. 02-O-11801

Business and Professions Code, section 6068(i)

[Failure to Cooperate in State Bar Investigation]

151. The allegations of paragraphs 143 through 150 above are incorporated by reference.

152. On or about April 11, 2002, the State Bar opened an investigation, case number 02-O-11801, pursuant to a complaint filed by Patricia A. Clark.

153. On or about May 1, 2002, State Bar Investigator Craig von Freymann wrote to Respondent regarding the Clark matter. The investigator's letter was placed in a sealed envelope correctly addressed to Respondent at her State Bar of California membership records address.

154. The letter requested that Respondent provide a written response to the complaint in the Clark matter.

155. The letter was not returned as undeliverable or for any other reason.

156. On or about May 23, 2002, State Bar Investigator Craig von Freymann wrote to Respondent regarding the Clark matter. The investigator's letter was placed in a sealed envelope correctly addressed to Respondent at her State Bar of California membership records address.

157. The letter requested that Respondent provide a written response to the complaint in the Clark matter.

158. The letter was not returned as undeliverable or for any other reason.

159. To date, Respondent failed to respond to either letter sent to her by the State Bar

Investigator.

LEGAL CONCLUSION

160. By not providing a written response to the allegations in the Clark matter or otherwise cooperating in the investigation, Respondent failed to cooperate in a disciplinary investigation in wilful violation of Business & Professions Code § 6068(i).

COUNT THIRTEEN

Case No. 02-O-12941

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

[Failure to Perform with Competence]

161. On or before July 1999, Elizabeth Castro retained the law firm of Lynch & Wenzel to represent her in a personal injury matter arising from an automobile accident.

162. On or about July 23, 1999, the firm filed a complaint on behalf of Castro entitled *Carlos Miller, et. al. v. Robert Allen Walker, et.al.*, Case No. RIC330734 in the Riverside County Superior Court.

163. Respondent and Ann C. Bobchick were both attorneys with the law firm of Lynch & Wenzel.

164. On or before March 2000, Respondent and Bobchick left the law firm of Lynch & Wenzel to form their own law firm of Billings & Bobchick.

165. On or about March 10, 2000 Respondent filed a substitution of attorney naming Billings & Bobchick as attorney of record in Castro's matter.

166. On or about January 30, 2001, the court held a status conference in Castro's matter which Respondent attended.

167. At the January 30, 2001, hearing, the court scheduled a continued status conference for March 29, 2001, for which Respondent waived notice.

168. Respondent failed to appear at the March 29, 2001, status conference.

169. On or about June 4, 2001, Respondent attended the court's hearing on its order to show cause why sanctions should not be imposed due to Respondent's failure to appear at the March 29, 2001, status conference.

170. At the OSC hearing which Respondent attended, the court scheduled a status conference for August 14, 2001.

171. On or about June 4, 2001, the court served on Respondent notice of the August 14, 2001, status conference.

172. Respondent received the court's notice of the August 14, 2001, status conference.

173. Respondent failed to appear at the status conference on August 14, 2001.

174. On or about November 29, 2001, the court held a status conference in Castro's matter which Respondent attended.

175. At the November 29, 2001, hearing which Respondent attended, the court scheduled a continued status conference for February 26, 2002.

176. On or about November 29, 2001, Respondent filed a Court Default Judgment in Castro's matter.

177. On or about December 3, 2001, the court rejected the Court Default Judgment Respondent filed due to a missing signature.

178. On or about December 3, 2001, the court served on Respondent notice of the rejected

Court Default Judgment.

179. Respondent received the court's notice of the rejected Court Default Judgment.

180. Respondent failed to appear at the status conference on February 26, 2002.

181. On or about February 26, 2002, the court issued an order to show cause why sanctions should not be imposed and the case dismissed due to Respondent's failure to appear at the February 26, 2002, status conference. The court scheduled a hearing for the OSC on April 9, 2002.

182. On or about February 28, 2002, the court served on Respondent the order to show cause and notice of hearing for April 9, 2002.

183. Respondent received the court's order and notice of hearing.

184. Respondent failed to attend the April 9, 2002, OSC hearing.

185. On or about April 9, 2002, the court dismissed Castro's matter.

LEGAL CONCLUSION

186. By failing to attend court hearings resulting in the dismissal of Castro's complaint, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

COUNT FOURTEEN

Case No.02-O-12941

Business and Professions Code, section 6068(m)

[Failure to Inform Client of Significant Development]

187. Respondent wilfully violated Business and Professions Code, section 6068(m), by failing to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, as follows:

188. The allegations of paragraphs 161 through 185 above are incorporated by reference.

189. On or about April 9, 2002, the court served on Respondent notice of the dismissal of Castro's matter.

190. Respondent received the court's notice of dismissal.

191. At no time did Respondent inform Castro that the court dismissed her case.

LEGAL CONCLUSION

192. By not informing Castro that her matter had been dismissed, Respondent 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).

COUNT FIFTEEN

Case No.02-O-12941

Business and Professions Code, section 6068(m)

[Failure to Respond to Client Inquiries]

193. The allegations of paragraphs 187 through 191 are incorporated by reference.

194. Between January 2002 through April 2002, Castro left numerous messages on Respondent's voice mail requesting information on her case.

195. Respondent received Castro's voice mail messages but failed to respond to any of them.

LEGAL CONCLUSION

196. By failing to respond to Castro's numerous telephone messages, Respondent failed to respond promptly to reasonable status inquiries of a client, in a matter in which Respondent had agreed to provide legal services in wilful violation of Business and Professions Code, section 6068(m).

COUNT SIXTEEN

Case No.02-O-12941

Business and Professions Code, section 6068(i)

[Failure to Cooperate in State Bar Investigation]

197. The allegations of paragraphs 193 through 195 are incorporated by reference.

198. On or about May 20, 2002, the State Bar opened an investigation, case number 02-O-12941, pursuant to a complaint filed by Elizabeth Castro.

199. On or about June 27, State Bar Investigator Thomas Tran wrote to Respondent regarding the Castro matter. The investigator's letter was placed in a sealed envelope correctly addressed to Respondent at her State Bar of California membership records address.

200. The letter requested that Respondent provide a written response to the complaint in the Castro matter.

201. The letter was not returned as undeliverable.

202. On or about July 15, 2002, State Bar Investigator Thomas Tran wrote to Respondent regarding the Castro matter. The investigator's letter was placed in a sealed envelope correctly addressed to Respondent at her State Bar of California membership records address.

203. The letter requested that Respondent provide a written response to the complaint in the Castro matter.

204. The letter was not returned as undeliverable.

205. To date, Respondent failed to respond to either letter sent to her by the State Bar Investigator.

LEGAL CONCLUSION

206. By not providing a written response to the allegations in the Castro matter or otherwise cooperating in the investigation, Respondent failed to cooperate in a disciplinary investigation in wilful violation of Business & Professions Code § 6068(i).

COUNT SEVENTEEN

Case No.02-O-15516 [Unfiled Investigation]

Business and Professions Code, section 6068(m)

[Failure to Inform Client of Significant Development]

207. On or after March 23, 2000, Respondent represented Joan L. Wolf in a personal injury matter stemming from exposure to negligent exposure to x-rays, in *Joan L. Wolf v. State of California*, et. al, case no. RIC340767 in the Superior Court of California, County of Riverside.

208. In or about August Respondent informed Wolf that she did not have time to work on Wolf's case and that Wolf should hire new counsel.

209. Despite informing Wolf to retain new counsel, Respondent continued work on Wolf's matter and made an appearance on or about December 21, 2000, to oppose a demurrer and made an appearance on or about May 1, 2001, when Wolf's matter was dismissed for failing to file an amended

complaint.

210. At no time did Respondent inform Wolf that her matter had been dismissed.

211. At no time did Respondent file a substitution of attorney.

LEGAL CONCLUSION

212. By not informing Wolf of the dismissal of her matter, Respondent 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).

PENDING PROCEEDINGS

The disclosure date referred to on page one, paragraph A.(6) was July 22, 2003.

ADDITIONAL FACTORS CONSIDERED

Respondent filed appeals at her own expense to the summary judgment order and award of fees and costs in Wolf's matter which were denied.

Subsequent to the dismissal of Castro's matter she hired new counsel. Respondent cooperated with Castro's new attorney in order to vacate the dismissal of Castro's matter and address an issue involving publication of service.

At the time of the misconduct Respondent was in a partnership with another attorney. Respondent was placed on bed rest due to a difficult pregnancy between January through June 2000. After returning from her medical leave, Respondent learned that her law partner had neglected to properly handle approximately fifty cases. Shortly thereafter Respondent's law partner suffered from a nervous breakdown eventually leading to a dissolution of the firm.

Respondent then opened her own office but could not afford any support staff. In December 2000, Respondent's law office computer crashed destroying Respondent's accounting and file management systems.

From August 2000, through February 2001, Respondent contended with several family medical issues. Respondent's mother suffered from cardiac problems requiring repeated hospitalizations. Respondent's brother-in-law, with whom she was close, suffered repeated heart-attacks. During this time Respondent's infant daughter developed gastro and neurological conditions necessitating repeated hospitalizations and doctor visits.

In February 2001, Respondent was involved in a serious head-on vehicle collision. Respondent sustained injuries to her neck and back and was unable to work for at least three months. After returning to work, Respondent's condition worsened and she developed cardiac and respiratory problems. By October 2001, Respondent developed asthma which required medical treatment. Respondent was not prescribed appropriate asthma medication which caused reduced oxygen flow which resulted in episodes of dizziness. As a result, Respondent fell down a flight of stairs and broke her wrist. The cast Respondent wore impeded her ability to type and carry files. In March 2002, Respondent developed pneumonia and was hospitalized.

In May 2002, Respondent's husband left her creating additional emotional stress and unforeseen financial burdens.

Since July 2002 and until February 2003, Respondent repeatedly suffered from incidents of pneumonia and reduced cardiac output.

LAW OFFICE MANAGEMENT CONDITIONS

Prior to applying for relief from actual suspension or within two years of the effective date of the discipline herein, Respondent shall develop a law office management/organization plan, which must be approved by the Probation Unit. This plan must include procedures to send periodic reports to clients; the documentation of telephone messages received and sent; file maintenance; the meeting of deadlines; the establishment of procedures to withdraw as attorney, whether of record or not, when clients cannot be contacted or located; and, for the training and supervision of support personnel.

AUTHORITIES SUPPORTING LEVEL OF DISCIPLINE

In Re Boyne (1993) 2 Cal. State Bar Ct. Rptr. 389. In several client matters Boyne failed to perform in five matters, failed to communicate in seven matters, failed to refund unearned fees in three matters, improperly withdrew in four matters, failed to return a file in two matters, failed to obey a court order to pay sanctions, failed to cooperate in four matters, and entered into a business transaction in one matter. Boyne entered the business transaction in 1985 but his failures to perform occurred within a two-year period from 1988-1990. Boyne had no priors in over 23 years of practice and had extensive community service. In aggravation, Boyne showed indifference, committed multiple acts of wrongdoing and significantly harmed his clients. Boyne received a two-year actual suspension.

In re Bach (1991) 1 Cal. State Bar Ct. Rptr. 631. Bach improperly withdrew in two client matters and failed to perform in one matter and failed to respond to client inquiries in another. Bach's misconduct harmed his clients and constituted multiple acts. Bach also showed no appreciation for the severity of his misconduct. Bach had one prior which received minimum weight in aggravation because the current misconduct preceded the misconduct in the prior. In mitigation, Bach performed significant pro bono work. Bach received a nine-month actual suspension.

Bledsoe v. State Bar (1991) 52 Cal.3d 1074. This case involved four client matters. Bledsoe was found culpable of failing to perform in four client matters, failing to communicate in three client matters, failing to refund unearned fees in two client matters, improperly withdrawing in one matter, and failing to cooperate in two client matters. Bledsoe's misconduct occurred over a period of five years and was not considered a pattern. In aggravation, Bledsoe did not initially participate in the proceedings. In mitigation, Bledsoe had no priors over 17 years of practice. Bledsoe received a two-year actual suspension.

Hawes v. State Bar (1990) 51 Cal.3d 587. Hawes abandoned six cases, failed to refund unearned fees in three matters, failed to return a client file, failed to pay court-ordered sanctions and failed to cooperate with the State Bar. Hawes received mitigation since there was no harm to clients and he had manic depression. Hawes received a two-year actual suspension.

Pineda v. State Bar (1989) 49 Cal.3d 753. Pineda abandoned seven client matters, retained unearned fees, and misappropriated a portion of a settlement retained for medical liens. Pineda was given mitigation for his cooperation and his expressions of remorse and determination to rehabilitate himself. Pineda received a two-year actual suspension.

7-25-03
Date

Nancy Billings
Respondent's signature

Nancy J. Billings
print name

Date

Respondent's Counsel's signature

print name

25 Jul 03
Date

John T. Kelley
Deputy Trial Counsel's signature

John T. Kelley
print name

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.

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 953(a), California Rules of Court.)

9/25/03
Date

[Signature]
Judge of the State Bar Court

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

I am a Case Administrator of the State Bar Court. 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 October 1, 2003, 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:

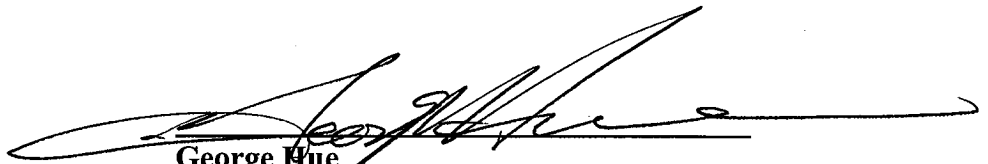
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**NANCY J BILLINGS
P O BOX 668
ORANGEVALE CA 95662**

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

JOHN KELLEY, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **October 1, 2003.**


George Hue
Case Administrator
State Bar Court