

**PUBLIC MATTER  
FILED**

MAY 25 2004

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

**THE STATE BAR COURT**

**HEARING DEPARTMENT - LOS ANGELES**

In the Matter of  
**JULIANNE KANE COCHRANE,**  
Member No. 143971,  
A Member of the State Bar.

Case No. 02-O-14460-RAH  
[03-O-01365; 03-O-01366  
03-O-01439] and  
03-O-02612 [03-O-02724  
03-O-02994; 03-O-03183  
03-O-03527] (Cons.)

**DECISION INCLUDING DISBARMENT  
RECOMMENDATION AND ORDER OF  
INVOLUNTARY INACTIVE  
ENROLLMENT**

**INTRODUCTION**

The Office of the Chief Trial Counsel of the State Bar of California ("OCTC") was represented by William F. Stralka. Respondent Julianne Kane Cochrane did not appear in person or through counsel.

After considering the matter, the Court recommends that Respondent be disbarred.

**SIGNIFICANT PROCEDURAL HISTORY**

**Case Nos. 02-O-14460, et al**

The Notice of Disciplinary Charges ("NDC") was filed on October 10, 2003, and was properly served on Respondent on that same date at her official membership records address by certified mail, return receipt requested, as provided in Business and Professions Code section<sup>1</sup> 6002.1(c) ("official address"). Service was deemed complete as of the time of mailing. (*Lydon v. State Bar* (1988) 45 Cal.3d 1181, 1186.) The return receipt, executed by "Dee Wilson,"

<sup>1</sup>All future references to "section" are to the Business and Professions Code.



1 indicates delivery on October 20, 2003.

2 On October 20, 2003, Respondent was properly served at her official address with a  
3 notice advising her, among other things, that a status conference would be held on November 7,  
4 2003. Respondent did not appear at the status conference. An order filed on November 7, 2003,  
5 advised Respondent that a default motion was pending.

6 Respondent did not file a responsive pleading to the NDC. On November 5, 2003, a  
7 motion for entry of default was filed and properly served on Respondent at her official address by  
8 certified mail, return receipt requested. The motion advised her that minimum discipline of  
9 disbarment would be sought if she were found culpable. She did not respond to the motion.

10 On November 25, 2003, the Court entered Respondent's default and enrolled her inactive,  
11 effective three days after service of the order. The order was properly served on her at her  
12 official address on that same date by certified mail, return receipt requested. The United States  
13 Postal Service ("USPS") returned it to the State Bar Court with the notation "unclaimed" and  
14 bearing a sticker with a new address.

15 On December 5, 2003, OCTC filed and served on Respondent at her official and an  
16 alternate address, its pretrial statement, request for waiver of hearing and brief regarding  
17 culpability and level of discipline as well as a motion to dismiss without prejudice counts 16 and  
18 17 of the NDC. The Court granted the motion and deemed the matter submitted by order filed on  
19 December 9, 2003.

20 **Case Nos. 03-O-02612, et al**

21 The NDC was filed on December 11, 2003, and was properly served on Respondent on  
22 that same date at her official address and an alternate address by certified mail, return receipt  
23 requested, as provided by section 6002.1(c) Service was deemed complete as of the time of  
24 mailing. (*Lydon v. State Bar* (1988) 45 Cal.3d 1181, 1186.) The NDC sent to the official  
25 address was returned by the USPS. The copy sent to the alternate address was returned with the  
26 notation "unclaimed."

27 On December 23, 2003, and again on January 6, 2004, Respondent was properly served at  
28 her official and alternate addresses with a notice advising her, among other things, that a status

1 conference would be held on January 14, 2004. Respondent did not appear at the status  
2 conference. An order filed on January 20, 2004, advised respondent that a default motion was  
3 pending.

4 Respondent did not file a responsive pleading to the NDC. On January 7, 2004, a motion  
5 for entry of default was filed and properly served on Respondent at her official address by  
6 certified mail, return receipt requested. The motion advised her that minimum discipline of  
7 disbarment would be sought if she was found culpable. She did not respond to the motion.

8 On February 2, 2004, the Court entered Respondent's default and enrolled her inactive  
9 effective three days after service of the order. The order was properly served on her at her  
10 official address on that same date by certified mail, return receipt requested, and by regular mail  
11 at the alternate address. The USPS returned the certified copy marked "unclaimed". The  
12 envelope bore a sticker setting forth a new address.<sup>2</sup>

13 On February 3, 2004, OCTC filed and served on Respondent at her official and an  
14 alternate address, its request for waiver of hearing and brief regarding culpability and level of  
15 discipline.

16 On February 5, 2004, the Court filed an order taking the matter under submission.

17 **As to Both Matters**

18 OCTC's attempts to contact Respondent by mail and telephone were fruitless.

19 By order filed on March 4, 2004, the Court, on its own motion, vacated the submission  
20 dates of the captioned matters; consolidated them for purposes of decision; and deemed them  
21 submitted on March 4, 2004.

22 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

23 The Court's findings are based on the allegations contained in the NDCs as they are  
24 deemed admitted and no further proof is required to establish the truth of those allegations.

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25  
26 <sup>2</sup>The return receipt was also returned. It bore the letters "SBC" straddling the spaces entitled  
27 "received by" and "signature." No date for delivery was indicated. Since the certified mail  
28 envelope containing the notice of entry of default was returned unclaimed, it is apparent that she  
did not receive the certified mail copy of this document regardless of the return receipt being  
returned.

1 (Section 6088; Rule 200(d)(1)(A), Rules Proc. of State Bar.) The findings are also based on any  
2 evidence admitted.

3 **Jurisdiction**

4 Respondent was admitted to the practice of law in California on December 11, 1989, and  
5 has been a member of the State Bar at all times since.

6 **Case No. 02-O-14460 - The Sjolin Matter - Counts 1 - 3**

7 **Facts**

8 On March 1, 2000, Edith A. Sjolin retained Respondent to represent her in a personal  
9 injury matter arising from a November 7, 1999, automobile accident. On that date, Sjolin signed  
10 a contingency fee agreement and authorization to release medical records to Respondent.

11 On March 21, 2000, Kim Sanden, a claims adjuster for Mercury Casualty Company, sent  
12 Sjolin a letter advising that the investigation of the November 1999 accident was incomplete and,  
13 as a result, Mercury was not in a position to resolve liability or settle the claim. The information  
14 still needed was a status report on Sjolin's injuries and treatment, signed medical and wage  
15 authorizations and proof of liability insurance in effect on the date of the accident.

16 On March 30, 2000, at Respondent's request, Sjolin signed two representation letters. On  
17 that same date, Respondent sent Sanden one of the letters, advising that she would be  
18 representing Sjolin in the matter.

19 On May 20, 2000, Respondent received a check for \$100 from Allstate Insurance,  
20 Sjolin's insurer, for Sjolin's deductible. On May 25, 2000, Respondent sent the check and the  
21 correspondence from Allstate to Sjolin and told her that she could cash the check.

22 On August 30, 2000, Robert H. Rydland, Vice President and General Counsel of the  
23 Evangelical Lutheran Church in America Board of Pensions, sent Respondent a letter advising  
24 her that Sjolin was a member of the Board of Pensions' medical and dental plan and that the plan  
25 contained a subrogation clause. The letter also noted that Sjolin had executed the subrogation  
26 agreement, a copy of which was enclosed with the letter. Rydland further advised that the Board  
27 of Pensions had incurred \$3698.20 in medical expenses for Sjolin for which the Board of  
28 Pensions retained a lien on any recovery. Rydland also asked that Respondent inform the Board

1 of Pensions about the current status of Sjolín's case.

2 On November 6, 2000, Respondent filed the matter entitled *Sjolín v. Reilly McRoy*,  
3 Orange County Superior Court case no. 00NL19090. On February 8, 2001, Respondent sent  
4 Sjolín a letter asking her to sign the enclosed release of all claims regarding the settlement of this  
5 lawsuit for the \$15,000 policy limit. Respondent also indicated that she would contact the  
6 medical providers to attempt to reduce the liens. On March 12, 2001, Sjolín executed the  
7 release.

8 On March 14, 2001, Mercury issued a settlement check to Respondent and Sjolín. On  
9 that same date, Mercury wrote to Sjolín informing her that the settlement check had been sent to  
10 Respondent.

11 By letter sent on March 26, 2001, Respondent informed Sjolín that Fullerton Physical  
12 Therapy was willing to accept a lien for its services. Respondent stated that either Sjolín's health  
13 care provider and/or her co-insurance med pay would cover the costs which Sjolín could recover  
14 in an uninsured motorist action.

15 On March 28, 2001, Sjolín endorsed the settlement check and Respondent deposited it in  
16 her client trust account, number 0650010280, at Union Bank of California ("CTA"). Respondent  
17 told Sjolín that she would pursue an uninsured motorist claim.

18 On April 23, 2001, Sjolín sent Respondent a letter asking if she had begun distributing  
19 the settlement funds. She also attached copies of the last 12 physical therapy bills being  
20 questioned by Allstate and her two letters in response. This letter was placed in a sealed  
21 envelope correctly addressed to Respondent at her official address and was properly mailed by  
22 first-class mail, postage prepaid. It was not returned as undeliverable.

23 On June 27, 2001, Sjolín sent a letter to Respondent stating that the bills were still  
24 coming to her; asking if any of her medical bills had been paid; and whether she had heard  
25 anything from Allstate regarding the uninsured motorist claim. Sjolín included the originals of  
26 billings, evidence of payments made and the balance she owed. Her letter also noted that the last  
27 time she spoke with Respondent was over a month before. This letter was placed in a sealed  
28 envelope correctly addressed to Respondent at her official address and was properly mailed by

1 first-class mail, postage prepaid. It was not returned as undeliverable.

2 On July 17, 2001, Respondent wrote herself a check from the CTA in the amount of  
3 \$3957.38 with Sjolín's name in the "notes" section of the check.

4 On July 23, 2001, Respondent filed a request for dismissal of the *Sjolín* litigation. On  
5 July 30, 2001, Respondent sent a letter to Mercury stating that she had enclosed a conformed  
6 copy of the request for dismissal.

7 On August 27, 2001, Sjolín sent Respondent a letter stating that she had not received a  
8 response to her June 27 letter and that she had not heard from Respondent for several months.  
9 Sjolín stated that Respondent had not paid any of her bills and asked Respondent to call her to  
10 explain what was holding up the payments. Sjolín attached a copy of the June 27 letter and  
11 additional bills she had received thereafter. This letter was placed in a sealed envelope correctly  
12 addressed to Respondent at her official address and was properly mailed by first-class mail,  
13 postage prepaid. It was not returned as undeliverable.

14 On September 10, 2001, Sjolín sent Respondent a letter asking whether her medical bills  
15 had been paid and, if so, to provide her with a breakdown of the settlement funds. Sjolín  
16 attached copies of her June 27 and August 17 letters requesting communication from  
17 Respondent. This letter was placed in a sealed envelope correctly addressed to Respondent at her  
18 official address and was properly mailed by first-class mail, postage prepaid. It was not returned  
19 as undeliverable.

20 On October 24, 2001, Sjolín telephoned Respondent inquiring about whether her medical  
21 bills had been paid. She spoke to "Debbie" in Respondent's office and asked that Respondent  
22 either call her or write to her to respond to her questions.

23 On October 25, 2001, Respondent sent Sjolín a letter stating that she could not disburse  
24 any money to the medical providers until there was a determination as to whether the uninsured  
25 motorist coverage would pay the medical bills. Respondent said that she had again asked  
26 Allstate to contact her about that issue.

27 In November 2001, Sjolín telephoned Respondent's office and left a message asking  
28 about Allstate's reply to her October 25, 2001, letter. Respondent did not answer the letter.

1 On April 4, 2002, Sjolín received a notice from a collection agency, Collection  
2 Consultants of California ("CCC"), about her medical bills resulting from the November 1999  
3 accident.

4 On April 9, 2002, Sjolín sent CCC a letter, with a copy to Respondent, asking that all  
5 communications be directed to Respondent's office, Sjolín put a note on the copy that was sent to  
6 Respondent asking whether Respondent had heard from Allstate.

7 On August 16, 2002, Sjolín sent Respondent a letter asking Respondent to call her and  
8 noting that the last communication she had from Respondent was on October 25, 2001. This  
9 letter was placed in a sealed envelope correctly addressed to Respondent at her official address  
10 and was properly mailed by first-class mail, postage prepaid. It was not returned as  
11 undeliverable.

12 On August 23, 2002, Sjolín sent Respondent a letter stating that she wanted the  
13 November 1999 claim settled. She stated that she was still being contacted about unpaid medical  
14 bills and again noted that the last communication she had from Respondent was on October 25,  
15 2001. This letter was placed in a sealed envelope correctly addressed to Respondent at her  
16 official address and was properly mailed by first-class mail, postage prepaid. It was not returned  
17 as undeliverable.

18 On August 30, 2002, Sjolín sent Respondent a letter stating that she wanted the  
19 November 1999 claim settled. This letter was placed in a sealed envelope correctly addressed to  
20 Respondent at her official address and was properly mailed by first-class mail, postage prepaid.  
21 It was not returned as undeliverable.

22 On September 10, 2002, Sjolín sent Respondent a letter asking her to settle the November  
23 1999 claim "now" and to pay all of the past-due medical bills. This letter was placed in a sealed  
24 envelope correctly addressed to Respondent at her official address and was properly mailed by  
25 first-class mail, postage prepaid. It was not returned as undeliverable.

26 As of September 10, 2002, Sjolín had not heard from Respondent since October 25, 2001.  
27 She also paid all of her medical bills herself. Respondent made no further disbursements out of  
28 her account to Sjolín or to the medical providers.

On September 13, 2001, the State Bar opened an investigation on case no. 02-O-14460 pursuant to a complaint filed by Sjolín regarding allegations of misconduct by Respondent in this matter. On September 25 and on October 16, 2002, a State Bar investigator sent respondent a letter requesting that Respondent answer in writing specific allegations of misconduct regarding the Sjolín complaint. The letters were addressed to Respondent's official membership records address and sent by first-class mail, postage prepaid. It was not returned to the State Bar as undeliverable or for any other reason. Respondent did not answer the letters or otherwise communicate with the investigator.

### **Legal Conclusions**

#### **Count 1 - RPC 4-100(B)(3) (Failure to Account)**

Rule 4-100(B)(3) of the Rules of Professional Conduct ("RPC") requires, in relevant part, that an attorney maintain complete records of all client funds, securities or other property coming into the attorney's or law firm's possession and render appropriate accounts to the clients regarding them. The attorney is to preserve such records for no less than five years after final appropriate distribution of the funds or property.

By not providing Sjolín with an accounting of the settlement funds, Respondent wilfully violated RPC 4-100(B)(3).

#### **Count 2 - RPC 4-100(B)(4) (Failure to Promptly Pay)**

RPC 4-100(B)(4) requires that an attorney promptly pay or deliver, as requested by the client, any funds, securities or other properties in the possession of the attorney which the client is entitled to receive.

By not paying Sjolín's funds to her medical providers as she requested, Respondent failed to promptly pay funds, as requested by the client, which the client is entitled to receive and wilfully violated RPC 4-100(B)(4).

#### **Count 3 - Section 6068(i) (Failure to Participate in a Disciplinary Investigation)**

Section 6068(i) requires an attorney to participate and cooperate in any disciplinary investigation or other disciplinary or regulatory proceeding pending against him- or herself.

By not responding to the State Bar's September 25 and October 16, 2002, letters,



Respondent did not participate in the investigation of the allegations of misconduct regarding the Sjolín case in wilful violation of 6068(i).

**Case No. 03-O-01365 - The Rollheiser, Sr., Matter - Counts 4 - 9**

**Facts**

On January 1, 2001, Robert Rollheiser, Sr. ("Rollheiser, Sr."), retained Respondent to represent him in a breach of contract claim against Oakwood Homes arising from a contract entered into by Rollheiser, Sr., dba RSR International, Oakwood, The Karsten Company and Andy Karsten on April 13, 2000. The retainer was on a contingent-fee basis. Rollheiser, Sr., paid \$500 for court filing fees.

On April 30, 2001, Rollheiser, Sr., faxed a letter to Respondent reminding him that Respondent had said that the lawsuit needed to be filed before May 1, 2001, and to file it now since the other parties had not answered Respondent's calls. The letter also asked Respondent to keep Rollheiser, Sr., up to date.

On August 24, 2001, Rollheiser, Sr., faxed Respondent a letter stating that he had spoken with Oakwood and had been told that it is their policy not to deal with any complaint unless it has been filed. Oakwood allegedly said that if the facts were as Rollheiser, Sr., said, a settlement could be reached fairly quickly.

On October 19, 2001, Respondent filed a complaint entitled *Rollheiser dba RSR International v. Oakwood Homes Corp.*, Orange County Superior Court case no. 01NL18743, alleging a breach of contract and seeking damages of \$4584 plus interest and attorney fees.

Subsequently, Respondent filed a first amended complaint and attended mandatory status conferences on July 10 and August 14, 2002. A mandatory status conference held on October 2, 2004, which another attorney attended on respondent's behalf, was continued to December 4, 2002. Nelson waived notice of the continuance. Respondent did not attend the December 4 mandatory status conference.

In the meantime, on November 19, 2002, Oakwood informed the necessary parties about its bankruptcy. On December 4, 2002, Oakwood filed a notice of bankruptcy.

On November 22, 2002, Rollheiser, Sr., sent respondent a fax stating that she no longer

1 represented him and that he would pick up his and his son's files the following week.

2 Respondent did not answer Rollheiser, Sr.'s, fax. Previously, Rollheiser, Sr., made numerous  
3 telephone calls to Respondent's office and left messages asking that respondent call him. He  
4 also sent four faxes between April 30, 2001, and November 22, 2002. Respondent did not reply  
5 to the telephone messages or faxes. Rollheiser, Sr., was unable to contact respondent to retrieve  
6 his file. Respondent did not send him his file.

7 In filing the complaint in the litigation, Respondent expended \$86 of his client's funds for  
8 the filing fee. She never refunded the unused portion of the \$500 he had paid her for costs.

9 On April 3, 2003, the State Bar opened an investigation on case no. 03-O-01365 pursuant  
10 to a complaint regarding allegations of misconduct by Respondent in this matter. On April 15  
11 and May 1, 2003, a State Bar investigator sent Respondent a letter requesting that Respondent  
12 answer in writing specific allegations of misconduct regarding the Rollheiser, Sr., matter. The  
13 letter was addressed to Respondent's official membership records address and sent by first-class  
14 mail, postage prepaid. It was not returned to the State Bar as undeliverable or for any other  
15 reason. Respondent did not answer the letter or otherwise communicate with the investigator.

#### 16 **Legal Conclusions**

#### 17 **Count 4 - RPC 3-110(A) (Failing to Perform Competently)**

18 RPC 3-110(A) prohibits an attorney from intentionally, recklessly or repeatedly failing to  
19 perform legal services competently.

20 There is not clear and convincing evidence that Respondent intentionally, recklessly or  
21 repeatedly did not perform competently in wilful violation of RPC 3-110(A). The prosecution  
22 urges that Respondent abandoned the Rollheiser, Sr., matter after filing the complaint and first  
23 amended complaint; that she effectively withdrew from representing Rollheiser, Sr., and did not  
24 inform him that she stopped working on the case, or that she was withdrawing from  
25 representation or that he should retain new counsel. However, the facts alleged do not support  
26 these conclusions. Respondent did attend two mandatory status conferences before she was fired  
27 by her client. The facts do not indicate other action that Respondent should have taken prior to  
28 that time. Also, there is no indication that Respondent knew about the December 4, 2002, status

1 conference, assuming *arguendo* that she had not filed a substitution of attorney form with the  
2 court by then.

3 **Count 5 - Section 6068(m) (Failure to Communicate)**

4 Section 6068(m) requires an attorney to respond promptly to reasonable status inquiries  
5 of clients and to keep clients reasonably informed of significant developments in matters with  
6 regard to which the attorney has agreed to provide legal services.

7 By not responding to his client's various telephone messages and faxes, Respondent did  
8 not respond promptly to Rollheiser, Sr.'s, reasonable status inquiries in wilful violation of section  
9 6068(m).

10 **Count 6 - RPC 3-700(A)(2) (Improper Withdrawal from Representation)**

11 RPC 3-700(A)(2) prohibits an attorney from withdrawing from employment until he or  
12 she has taken reasonable steps to avoid reasonably foreseeable prejudice to the rights of a client,  
13 including giving due notice to the client, allowing time for employment of other counsel,  
14 complying with RPC 3-700(D) and with other applicable laws and rules.

15 For the reasons set forth in the legal conclusions for count four above, there is not clear  
16 and convincing evidence that Respondent effectively withdrew from employment or that she  
17 failed to take reasonable steps to avoid reasonably foreseeable prejudice to the client in wilful  
18 violation of RPC 3-700(A)(2).

19 **Count 7 - RPC 3-700(D)(1) (Failure to Return Client Papers or Property)**

20 RPC 3-700(D)(1) requires an attorney whose employment has been terminated to  
21 promptly release to the client, at the client's request, all client papers and property, subject to any  
22 protective order or non-disclosure agreement. This includes correspondence, pleadings,  
23 deposition transcripts, exhibits, physical evidence, expert's reports and other items reasonably  
24 necessary to the client's representation, whether the client has paid for them or not.

25 There is not clear and convincing evidence that Respondent wilfully violated RPC 3-  
26 700(D)(1). There are no allegations that Respondent attempted to retrieve his file or the efforts  
27 Rollheiser, Sr., made to contact her to make arrangements to do so.

28 ///

1 **Count 8 - RPC 4-100(B)(4) (Failure to Promptly Pay)**

2 By not returning the balance of the costs Rollheiser, Sr., paid her, Respondent failed to  
3 promptly pay funds, as requested by the client, which the client is entitled to receive and wilfully  
4 violated RPC 4-100(B)(4).

5 **Count 9 - Section 6068(i) (Failure to Participate in a Disciplinary Investigation)**

6 By not responding to the April 15 and May 1, 2003, letters from the State Bar,  
7 Respondent did not participate in the investigation of the allegations of misconduct regarding the  
8 Rollheiser, Sr., case in wilful violation of 6068(i).

9 **Case No. 03-O-01366 - The Rollheiser, Jr., Matter - Counts 10 - 15**

10 **Facts**

11 In January 2001, Robert Rollheiser, Jr. ("Rollheiser, Jr."), retained respondent with regard  
12 to annulling his marriage.

13 On January 29, 2001, Respondent sent to Rollheiser, Sr., his client's father, a letter asking  
14 him to sign a retainer agreement indicating that he had his son's power of attorney to execute the  
15 fee agreement.<sup>3</sup> The letter stated that once Respondent had all of the necessary documents,  
16 Respondent would file them with the court and serve Rollheiser, Jr.'s, spouse.

17 On February 1, 2001, Rollheiser, Sr., signed the retainer agreement and paid Respondent  
18 \$500 toward fees. He paid an additional \$600 in August 2001.

19 On July 20, 2001, Respondent filed the Rollheiser, Jr., petition for nullity of marriage in  
20 Orange County Superior Court, case no. 01D006823. Thereafter, she did no further work on the  
21 case. She abandoned her client. She did not notify him or his father that she was stopping work  
22 on the annulment or that he should obtain new counsel. She did not take any other steps to avoid  
23 foreseeable prejudice to the rights of her client.

24 On January 20, 2002, Rollheiser, Jr., sent Respondent a letter explaining that he was  
25 about to be deployed and needed to get his affairs in order. He asked her to finalize the  
26 annulment as soon as possible. This letter was placed in a sealed envelope correctly addressed to  
27

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28 <sup>3</sup>Rollheiser, Jr., was serving in the United States Army.

1 Respondent at her official address and was properly mailed by first-class mail, postage prepaid.  
2 It was not returned as undeliverable.

3 On August 23, 2002, Rollheiser, Sr., sent Respondent a fax asking her to give his son's  
4 commanding officer the name of the judge handling his son's case and to explain to the  
5 commanding officer why the judge was holding things up.

6 On December 5, 2002, Rollheiser, Sr., faxed Respondent a letter asking that he be able to  
7 pick up his son's file on December 6, 2002.

8 On January 23, 2003, Rollheiser, Sr., hired another attorney, John Balent, to complete the  
9 annulment proceeding for his son and, the next day, paid him a \$1000 retainer fee.

10 Between January 24 and February 18, 2003, Rollheiser, Sr., went to Respondent's office  
11 on two occasions but was unable to contact Respondent either time.

12 On February 21, 2003, Rollheiser, Jr., signed a military power of attorney form  
13 appointing his father as his attorney-in-fact.

14 On March 13, 2003, Balent gave Rollheiser, Sr., a detailed accounting of services  
15 provided and fees earned unsuccessfully trying to complete the matter with Respondent. Balent  
16 tried to obtain Rollheiser, Jr.'s, file. Respondent would not agree to give him the file and would  
17 not meet with him or return his calls.

18 In August 2003, the JAG Corps at Fort Carson, Colorado, tried to reach Respondent to  
19 get the matter resolved or to obtain Rollheiser, Jr.'s, file. Respondent did not take the calls or  
20 return them or the file.

21 Respondent never refunded any portion of the \$1100 the Rollheisers paid her as fees.

22 On April 3, 2003, the State Bar opened an investigation on case no. 03-O-01366 pursuant  
23 to a complaint regarding allegations of misconduct by Respondent in this matter. On April 15  
24 and May 1, 2003, a State Bar investigator sent respondent a letter requesting that Respondent  
25 answer in writing specific allegations of misconduct regarding the Rollheiser, Jr., complaint. The  
26 letters were addressed to Respondent's official membership records address and sent by first-  
27 class mail, postage prepaid. They were not returned to the State Bar as undeliverable or for any  
28 other reason. Respondent did not answer the letters or otherwise communicate with the

investigator.

## **Legal Conclusions**

### **Count 10 - RPC 3-110(A) (Failing to Perform Competently)**

By stopping work on the annulment, Respondent intentionally, recklessly or repeatedly did not perform competently in wilful violation of RPC 3-110(A).

### **Count 11 - RPC 3-700(A)(2) (Improper Withdrawal from Representation)**

By stopping work on the case after filing the petition, Respondent effectively withdrew from employment. She did not tell the client that she was withdrawing from employment and took no steps to avoid reasonably foreseeable prejudice to the client, including delay in the completion of the annulment. By not informing the client of her intent to withdraw from employment, Respondent failed to take reasonable steps to avoid reasonably foreseeable prejudice to the client in wilful violation of RPC 3-700(A)(2).

### **Count 12 - Section 6068(m) (Failure to Communicate)**

By not responding to communications from Balent or the JAG Corps, Respondent did not respond promptly to her client's reasonable status inquiries in wilful violation of section 6068(m).

### **Count 13 - RPC 3-700(D)(1) (Failure to Return Client Papers or Property)**

By not returning Rollheiser, Jr.'s, file to his father, Balent or the JAG Corps as requested, Respondent wilfully violated RPC 3-700(D)(1).

### **Count 14 - RPC 3-700(D)(2) (Failure to Return Unearned Fees)**

RPC 3-700(D)(2) requires an attorney whose employment has terminated to promptly return any part of a fee paid in advance that has not been earned. This rule does not apply to true retainer fees paid solely for the purpose of ensuring the availability of an attorney to handle a matter.

By not refunding the unearned portion of the \$1100 paid to her regarding the annulment, Respondent did not return an advanced, unearned fee in wilful violation of RPC 3-700(D)(2).

### **Count 15 - Section 6068(i) (Failure to Participate in a Disciplinary Investigation)**

By not responding to the April 15 and May 1, 2003, letters from the State Bar, Respondent did not participate in the investigation of the allegations of misconduct regarding the Rollheiser,

1 Jr., case in wilful violation of 6068(i).

2 **Case No. 03-O-01439 - The Corona Matter - Count 18<sup>4</sup>**

3 **Facts**

4 On April 7, 2003, the State Bar opened an investigation on case no. 03-O-01439 pursuant  
5 to a complaint regarding allegations of misconduct by respondent for alleged nonpayment of a  
6 medical lien in the *Corona v. Guevara* matter. On April 15 and May 1, 2003, a State Bar  
7 investigator sent Respondent a letter requesting that Respondent answer in writing specific  
8 allegations of misconduct regarding this matter. The letters were addressed to Respondent's  
9 official membership records address and sent by first-class mail, postage prepaid. They were not  
10 returned to the State Bar as undeliverable or for any other reason. Respondent did not answer the  
11 letters or otherwise communicate with the investigator.

12 **Legal Conclusions**

13 **Count 18 - Section 6068(i) (Failure to Participate in a Disciplinary Investigation)**

14 By not responding to the April 15 and May 1, 2003, letters from the State Bar,  
15 Respondent did not participate in the investigation of the allegations of misconduct regarding the  
16 *Corona v. Guevara* matter in wilful violation of 6068(i).

17 **Case No. 03-O-02612 - The Tate Matter - Counts 1 - 5**

18 **Facts**

19 On May 10, 2001, Lisa W. Tate retained Respondent to represent her in dissolving her  
20 marriage. On May 21, 2001, Tate paid Respondent \$2000 in advanced fees for her services.

21 On May 23, 2001, Respondent filed the petition for dissolution of marriage in *Lisa Tate v.*  
22 *Ronald Tate*, Los Angeles Superior Court case no. KD050596.

23 Between July 23 and September 2001, Tate paid Respondent an additional \$200 for her  
24 services.

25 On March 5, 2003, Ronald Tate's counsel sent Respondent a settlement proposal and  
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27 <sup>4</sup>Counts 16 and 17 were dismissed without prejudice at OCTC's request by order filed  
28 December 9, 2003.

1 offered to prepare the judgment as soon as he heard back from Respondent.

2 Between March 5 and 12, 2003, Tate met with Respondent to discuss the settlement  
3 proposal. Tate and Respondent agreed that would submit a counter-proposal and then contact  
4 Tate or send her a copy of the counter-proposal. Respondent did not make the counter-proposal  
5 to the other side nor did she contact Tate.

6 On April 2, 2003, Tate faxed a letter and documents to Respondent. She again faxed a  
7 letter and documents on April 3, 2003. Tate sought Respondent's advice. Although Respondent  
8 received the letters, she did not respond to them or otherwise communicate with Tate.

9 After not receiving any communications from Respondent since March 2003, on April  
10 28, 2003, Tate faxed a letter to Respondent at her fax number asking about the status of her case.  
11 She also asked that her son's tuition be paid from the community property funds and asked  
12 Respondent if she had sent the counter-proposal to opposing counsel. Although Respondent  
13 received this letter, she did not respond to it or otherwise communicate with Tate.

14 On June 3, 2003, opposing counsel filed an order to show cause for the release of the  
15 community property funds in Tate's case. On June 8, 2003, Respondent signed a stipulation for  
16 the release of the funds. Respondent did not communicate with Tate that she took this action.

17 In early June 2003, Tate went to Respondent's office to find out the status of her case.  
18 Although no one was there at the time, the office did not appear to be abandoned.

19 On June 16 and 23, 2003, Tate sent letters to Respondent at her official address. In these  
20 letters, she discussed Respondent's failure to respond to her faxes and telephone calls in the last  
21 two months and Tate's lack of information about the status of the counter-proposal. Tate  
22 informed Respondent that, if she could not handle the case, respondent should let her know, give  
23 her a recommendation of another attorney and a date on which to pick up her file. Although  
24 Respondent received the letters, she did not respond to them or otherwise communicate with  
25 Tate.

26 In June 2003, Tate called the opposing counsel in her case. He had not yet received a  
27 response to the settlement proposal.

28 On June 23, 2003, the order to release community property was approved and filed in



1 court, unbeknownst to Tate.

2 On July 3, 2003, Tate employed new counsel, Robyn A. Deppe to represent her in the  
3 dissolution of marriage. Deppe called Respondent's office several times and left her messages.  
4 Although Respondent received the messages, she did not return Deppe's calls or otherwise  
5 communicate with her.

6 On July 10, 2003, Deppe sent a letter to Respondent at her official address. She enclosed  
7 a substitution of attorney form and asked Respondent to sign it and to provide a complete copy of  
8 Tate's file. Although Respondent received Deppe's letter, she did not execute the substitution  
9 form, provide Tate's file or otherwise communicate with Deppe.

10 On July 17, 2003, Deppe called Respondent's office and found that the number had been  
11 disconnected and that there was a forwarding number to an answering service. Deppe left a  
12 message with the answering service. Although Respondent received the message, she did not  
13 return the call or otherwise communicate with Deppe.

14 Respondent never returned Tate's file or tell her or Deppe how and where they could  
15 obtain it.

16 On August 5, 2003, the court approved a declaration signed by Tate to substitute Deppe  
17 into the dissolution of marriage action due to Respondent's abandonment of the case. Around  
18 this time, Deppe received about \$10,000 from the release of community funds.

19 On July 2, 2003, the State Bar opened an investigation on case no. 03-O-02612 pursuant  
20 to a complaint regarding allegations of misconduct by Respondent in this matter. On July 28 and  
21 August 15, 2003, a State Bar investigator sent Respondent a letter requesting that Respondent  
22 answer in writing specific allegations of misconduct regarding the Tate complaint. The letter  
23 was addressed to Respondent's official membership records address and sent by first-class mail,  
24 postage prepaid. It was not returned to the State Bar as undeliverable or for any other reason.  
25 Respondent did not answer the letter or otherwise communicate with the investigator.

## 26 **Legal Conclusions**

### 27 **Count 1 - RPC 3-110(A) (Failing to Perform Competently)**

28 By not submitting the counter-proposal to opposing counsel and by stipulating to the

1 release of community funds without her client's approval, Respondent intentionally, recklessly or  
2 repeatedly did not perform competently in wilful violation of RPC 3-110(A).

3 **Count 2 - Section 6068(m) (Failure to Communicate)**

4 By not responding to Tate's or Deppe's telephone calls or letters, Respondent did not  
5 respond promptly to her client's reasonable status inquiries or keep her reasonably informed of  
6 significant developments in wilful violation of section 6068(m).

7 **Count 3 - RPC 3-700(A)(2) (Improper Withdrawal from Representation)**

8 By not submitting the counter-proposal to opposing counsel and by not communicating  
9 with her client or subsequent counsel since March 2003, Respondent effectively withdrew from  
10 employment. She did not tell the client that she was withdrawing from employment. By not  
11 informing the client of her intent to withdraw from employment, respondent failed to take  
12 reasonable steps to avoid reasonably foreseeable prejudice to the client in wilful violation of RPC  
13 3-700(A)(2).

14 **Count 4 - RPC 3-700(D)(1) (Failure to Return Client Papers or Property)**

15 By not returning Tate's file, Respondent wilfully violated RPC 3-700(D)(1).

16 **Count 5 - Section 6068(i) (Failure to Participate in a Disciplinary Investigation)**

17 By not responding to the July 28 and August 15, 2003, letters from the State Bar,  
18 Respondent did not participate in the investigation of the allegations of misconduct regarding the  
19 Tate case in wilful violation of 6068(i).

20 **Case No. 03-O-02724 - The Huvler Matter - Counts 6 - 10**

21 **Facts**

22 On September 28, 2002, James E. Huvler retained Respondent to represent him in  
23 obtaining a dissolution of marriage. On that date, he paid Respondent \$2500 in advanced fees  
24 for her services.

25 On October 9, 2002, Respondent filed the petition for dissolution of marriage. (*Huvler v.*  
26 *Huvler*, Orange County Superior Court case no. 02D009898.)

27 From February through April 2003, Respondent repeatedly told Huvler every time he  
28 called that she would let him he know if she heard anything regarding the status of his case.

1 From May through June 2003, Respondent did not respond to Huvler's telephone calls  
2 which he made about every other day. During that same time, he went to her office about six  
3 times but the office was always closed. Although Huvler left his business card at Huvler's office,  
4 she did not contact him.

5 On June 2, 2003, Huvler employed new counsel, Bill Ferraro, to take over his dissolution  
6 case. On June 4, 2003, Ferraro sent Respondent a substitution of attorney form both by regular  
7 and by certified mail at her official address. On June 6, 2003, Ferraro called Respondent's office  
8 and left her a voice mail. About two weeks later, the certified copy of the letter Ferraro sent  
9 Respondent was returned by the USPS as unclaimed. The copy sent by regular mail was not  
10 returned as undeliverable or for any other reason. Although Respondent received this letter and  
11 the voice mail message, she did not respond to either communication, execute the substitution of  
12 attorney form or otherwise communicate with Ferraro.

13 On July 14, 2003, at the court's suggestion, Ferraro filed the substitution of attorney form  
14 with a request to grant the substitution without Respondent's signature. The substitution was  
15 approved on July 29, 2003, and Ferraro was able to file an at-issue memorandum to obtain a  
16 future trial date.

17 Although Huvler last spoke to Respondent in April 2003, Respondent had not actually  
18 performed any services for him since October 2002. Respondent did not perform services of any  
19 value to Huvler. She did not refund to him any unearned fees.

20 On July 22, 2003, the State Bar opened an investigation on case no. 03-O-02724  
21 pursuant to a complaint filed by Huvler regarding allegations of misconduct by Respondent in  
22 this matter. On July 28 and August 15, 2003, a State Bar investigator sent Respondent letters  
23 requesting that Respondent answer in writing specific allegations of misconduct regarding the  
24 Huvler complaint. The letters were addressed to Respondent's official membership records  
25 address and sent by first-class mail, postage prepaid. Neither was returned to the State Bar as  
26 undeliverable or for any other reason. Respondent did not answer the letter or otherwise  
27 communicate with the investigator.

28 ///

1 **Legal Conclusions**

2 **Count 6 - RPC 3-110(A) (Failing to Perform Competently)**

3 By not performing any services since October 2002 on Huvler's case or responding to his  
4 new counsel's communications, Respondent intentionally, recklessly or repeatedly failed to  
5 perform legal services competently in wilful violation of RPC 3-110(A).

6 **Count 7 - Section 6068(m) (Failure to Communicate)**

7 By not responding to Huvler's communications regarding the status of his case,  
8 Respondent did not respond promptly to his reasonable status inquiries in wilful violation of  
9 section 6068(m).

10 **Count 8 - RPC 3-700(A)(2) (Improper Withdrawal from Representation)**

11 It is alleged that, by not informing Huvler where or how she could be reached before the  
12 office closed, Respondent constructively terminated her employment with Huvler, thereby not  
13 informing him of her intent to withdraw from representing him or otherwise taking steps to avoid  
14 reasonably foreseeable harm to him. Such a factual allegation was not made. Although it is  
15 alleged that the office was always closed when Huvler went there, that does not mean that the  
16 office permanently was closed. Reasonable doubts are resolved in favor of Respondent. There is  
17 not clear and convincing evidence of a wilful violation of RPC 3-700(A)(2).

18 **Count 9 - RPC 3-700(D)(2) (Failure to Return Unearned Fees)**

19 By not refunding to Huvler any part of the \$2500 he paid as advanced fees, Respondent  
20 did not return an advanced, unearned fee in wilful violation of RPC 3-700(D)(2).

21 **Count 10 - Section 6068(i) (Failure to Participate in a Disciplinary Investigation)**

22 By not responding to the State Bar's letters dated July 28 and August 15, 2003,  
23 Respondent did not participate in the investigation of the allegations of misconduct regarding the  
24 Huvler case in wilful violation of 6068(i).

25 **Case No. 03-O-02944 - The Riedel Matter - Counts 11 - 16**

26 **Facts**

27 On March 19, 2003, Todd Riedel retained Respondent to represent him in the settlement  
28 of a paternity action. (*Riedel v. Anderson*, Orange County Superior Court case no. 03P000365.)

1 He paid Respondent \$2500 in advanced fees on that same date.

2 Between April and June 2003, Riedel called Respondent's office message machine and  
3 left about two to four messages each week for Respondent to contact him. She received the  
4 messages but did not contact him or otherwise communicate with him.

5 On June 30, 2003, Respondent did not appear at an order to show cause hearing which, as  
6 a result, was continued to July 22, 2003. After this failure to appear, Riedel called Respondent's  
7 message service and left a message asking for a refund of the funds he had paid her. Although  
8 she received the message, she did not respond to it or otherwise communicate with Riedel.  
9 Moreover, Riedel was ordered to pay \$700 to opposing counsel due to Respondent's failure to  
10 appear.

11 On July 2, 2003, Respondent retained new counsel, Randall Hite, to represent him in the  
12 paternity matter. Hite then faxed Respondent a letter of representation and a substitution of  
13 attorney form to sign and return to him by fax. Hite also requested that Respondent provide  
14 Riedel's file at the earliest opportunity since the OSC hearing was set for July 22, 2003. Hite  
15 also noted that Riedel had requested from Respondent a refund of the fee he had paid her. Hite  
16 also called Respondent's office several times and left messages asking her to execute the  
17 substitution of attorney form. He also faxed the form several times to Respondent. Although  
18 Respondent received the messages and faxes, she did not execute the form, refund any funds to  
19 Riedel, provide Riedel's file or otherwise communicate with Hite and Riedel as to where and  
20 how they could obtain the file.

21 In July 2003, Hite subsequently made an oral application to the court and obtained  
22 approval to substitute into Riedel's case based on Respondent's failure to respond. On July 22,  
23 2003, Hite filed a stipulation for judgment on Riedel's behalf.

24 Respondent did not provide any services of value to Riedel. She did not earn any of the  
25 advanced fees he paid her nor did she refund any of those fees.

26 On August 7, 2003, the State Bar opened an investigation on case no. 03-O-02994  
27 pursuant to a complaint filed by Riedel regarding allegations of misconduct by Respondent in  
28 this matter. On August 19 and September 3, 2003, a State Bar investigator sent Respondent

1 letters requesting that Respondent answer in writing specific allegations of misconduct regarding  
2 the Riedel complaint. The letters were addressed to Respondent's official membership records  
3 address and sent by first-class mail, postage prepaid. It was not returned to the State Bar as  
4 undeliverable or for any other reason. Respondent did not answer the letters or otherwise  
5 communicate with the investigator.

6 **Legal Conclusions**

7 **Count 11 - RPC 3-110(A) (Failing to Perform Competently)**

8 By not appearing at the OSC hearing and by not executing the substitution of attorney  
9 form, Respondent intentionally, recklessly or repeatedly did not perform competently in wilful  
10 violation of RPC 3-110(A).

11 **Count 12 - Section 6068(m) (Failure to Communicate)**

12 By not responding to Riedel's and Hite's repeated attempts to contact her about the  
13 paternity case, Respondent did not respond promptly to their reasonable status inquiries in wilful  
14 violation of section 6068(m).

15 **Count 13 - RPC 3-700(D)(1) (Failure to Return Client Papers or Property)**

16 By not providing Riedel's file to his client or subsequent attorney as requested,  
17 Respondent wilfully violated RPC 3-700(D)(1).

18 **Count 14 - RPC 3-700(A)(2) (Improper Withdrawal from Representation)**

19 By not appearing at the OSC hearing and by not responding to Riedel's and Hite's  
20 repeated attempts to contact her, Respondent effectively withdrew from employment. She did  
21 not tell the client that she was withdrawing from employment. Respondent's withdrawal  
22 prejudiced the client by requiring the continuance of the OSC hearing and by having to obtain  
23 other counsel. By not informing the client of his intent to withdraw from employment,  
24 Respondent failed to take reasonable steps to avoid reasonably foreseeable prejudice to the client  
25 in wilful violation of RPC 3-700(A)(2).

26 **Count 15 - RPC 3-700(D)(2) (Failure to Return Unearned Fees)**

27 By not refunding any part of the \$2500 Riedel paid her in fees, Respondent did not return  
28 an advanced, unearned fee in wilful violation of RPC 3-700(D)(2).

1 **Count 16 - Section 6068(i) (Failure to Participate in a Disciplinary Investigation)**

2 By not responding to the August 19 and September 3, 2003, letter from the State Bar,  
3 Respondent did not participate in the investigation of the allegations of misconduct regarding the  
4 Riedel case in wilful violation of 6068(i).

5 **Case No. 03-O-03183 - The Krieger Matter - Counts 17 - 20**

6 **Facts**

7 In June 2002, James E. Krieger retained Respondent to represent him in a child support  
8 matter through the Los Angeles County Court Trustee ("LACCT"). Paternity and child support  
9 actions had previously been filed. (*Saudia Heredia v. James McQuoid*, Los Angeles Superior  
10 Court case nos. BL034111-F and D236811.) In July 2002, Krieger paid Respondent \$2000 for  
11 her services.

12 On January 9, 2003, Respondent sent a letter to the Washington Department of Social  
13 Services, Division of Child Support ("DSS"), stating that she was filing an order to show cause  
14 ("OSC") to change venue to Washington, where Krieger resided, and that she was expecting a  
15 hearing date to be assigned shortly. Every time Krieger spoke with Respondent thereafter, she  
16 told him that she was waiting for a court date.

17 In March 2003, Krieger's wife contacted Respondent who told her that she had rejected a  
18 court date for the OSC. Because there were many issues in the case, Respondent instead  
19 arranged a meeting with an LACCT clerk on April 23, 2003, before appearing before a judge.  
20 Respondent did not advise Krieger of the outcome of that meeting. Subsequently, Krieger and  
21 his wife left messages on Respondent's answering machine inquiring about the status of the case.

22 During the last week of April 2003, Respondent informed Krieger that the matter was  
23 being reevaluated by the LACCT and that another meeting would be held on June 9, 2003.

24 Respondent did not advise Krieger about the outcome of the June 9 meeting. During June  
25 2003, Krieger and his spouse left many messages on Respondent's answering machine inquiring  
26 about the status of the case. Although Respondent received the messages, she did not answer  
27 them or otherwise communicate with Krieger or his wife. Further, Krieger never received any  
28 proof of any appointments made with the LACCT clerk.

1 In July 2003, Krieger called Respondent's office and discovered that her telephone had  
2 been disconnected and that the forwarding number was an answering service. He and his wife  
3 called the new telephone number and left messages for Respondent to contact them. Although  
4 Respondent received the messages, she did not answer them or otherwise communicate with  
5 Krieger or his wife.

6 On July 13, 2003, Krieger sent Respondent a certified letter to her official address  
7 reminding her of her failure to communicate and asking her to contact him as to the status of the  
8 case. He also informed her that he might have to retain other counsel to complete the case.  
9 Although Respondent received the letter, she did not answer it or otherwise communicate with  
10 Krieger.

11 On July 22, 2003, Krieger contacted the LACCT and was told there was no record of  
12 contact from any attorney regarding his case. He also was told that, if an attorney of record on  
13 the case, he would not be allowed to speak with a family support officer. He verified this  
14 information with a telephone call on that same date to the Legal Assistance Hotline.

15 Respondent did not perform the legal services for which Krieger retained her.

16 On July 28, 2003, Michael Aronoff, a Washington attorney who had referred Krieger to  
17 Respondent, wrote to her asking that she contact him or Krieger as to the status of Krieger's case.  
18 Although Respondent received the letter, she did not answer it or otherwise communicate with  
19 Aronoff or Krieger.

20 On August 19, 2003, the State Bar opened an investigation on case no. 03-O-03183  
21 pursuant to a complaint filed by Krieger regarding allegations of misconduct by Respondent in  
22 this matter. On August 20 and September 4, 2003, a State Bar investigator sent Respondent a  
23 letter requesting that Respondent answer in writing specific allegations of misconduct regarding  
24 the Krieger complaint. The letter was addressed to Respondent's official membership records  
25 address and sent by first-class mail, postage prepaid. It was not returned to the State Bar as  
26 undeliverable or for any other reason. Respondent did not answer the letter or otherwise  
27 communicate with the investigator.

28 ///



1 **Legal Conclusions**

2 **Count 17 - RPC 3-110(A) (Failing to Perform Competently)**

3 By not performing any services for Krieger, Respondent intentionally, recklessly or  
4 repeatedly did not perform competently in wilful violation of RPC 3-110(A).

5 **Count 18 - Section 6068(m) (Failure to Communicate)**

6 By repeatedly not addressing the status inquiries of Krieger, his spouse or Aronoff,  
7 Respondent did not respond promptly to reasonable status inquiries in wilful violation of section  
8 6068(m).

9 **Count 19 - RPC 3-700(A)(2) (Improper Withdrawal from Representation)**

10 It is alleged that Respondent effectively withdrew from employment in wilful violation of  
11 RPC 3-700(A)(2) by not communicating with Krieger after representing that she had a meeting  
12 with the LASCCT clerk on June 9. However, Respondent's failure to communicate has already  
13 been found to be in violation of section 6068(m). Accordingly, there is not clear and convincing  
14 evidence that Respondent wilfully violated RPC 3-700(A)(2).

15 **Count 20 - Section 6068(i) (Failure to Participate in a Disciplinary Investigation)**

16 By not responding to the State Bar's letters, Respondent did not participate in the  
17 investigation of the allegations of misconduct regarding the Krieger case in wilful violation of  
18 6068(i).

19 **Case No. 03-O-03527 - The Weiser Matter - Counts 21 - 23**

20 **Facts**

21 On April 16, 2002, Eric W. Weiser retained Respondent to represent him in a paternity  
22 action. (*Weiser v. Stephanie Nastelli*, Los Angeles Superior Court case no. VF004409.) He paid  
23 Respondent \$5000 for her services.

24 On September 17, 2002, Respondent filed a stipulation terminating the paternity case.

25 On September 30, 2002, Respondent sent Weiser a statement showing a credit balance of  
26 \$1739 in her general account. She did not refund the balance to Weiser.

27 In November 2002, Respondent and Weiser discussed the possibility that they could go  
28 back to court if any changes were to be made to the stipulated settlement of the paternity action.

1 In July 2003, Weiser needed to contact Respondent because he wanted to modify  
2 visitation in the paternity case. On July 18, 2003, Weiser called Respondent's office and  
3 received a message stating that Respondent had moved and giving a new telephone number.  
4 Weiser called the new telephone number but it was disconnected. After finding a new address  
5 for her, Weiser drove to the new location but was advised by the building's receptionist that that  
6 address was only for an answering service and that Respondent came in once a week to retrieve  
7 messages. Weiser left a message for Respondent to contact him. Weiser then called the  
8 answering service daily for the next seven days to see if Respondent had received his messages.  
9 The answering service told him that she had received the messages.

10 On July 30, 2003, Weiser again went to Respondent's new location and hand-delivered a  
11 letter addressed to Respondent. He then called the answering service daily for the next three days  
12 and left messages for Respondent to contact him. The receptionist informed Weiser that  
13 Respondent had received the messages and the letter. Respondent did not answer Weiser's calls  
14 or letter or otherwise communicate with him.

15 Respondent never returned the \$1739 credit balance to Weiser.

16 On September 9, 2003, the State Bar opened an investigation on case no. 03-O-03527  
17 pursuant to a complaint filed by Weiser regarding allegations of misconduct by Respondent in  
18 this matter.

19 On September 11 and 26, 2003, a State Bar investigator sent Respondent a letter  
20 requesting that Respondent answer in writing specific allegations of misconduct regarding the  
21 Weiser complaint. The letter was addressed to Respondent's official membership records  
22 address and sent by first-class mail, postage prepaid. It was not returned to the State Bar as  
23 undeliverable or for any other reason. Respondent did not answer the letter or otherwise  
24 communicate with the investigator.

## 25 Legal Conclusions

### 26 Count 21 - Section 6068(m) (Failure to Communicate)

27 By not answering Weiser's calls and letter, Respondent did not respond promptly to  
28 Weiser's reasonable status inquiries in wilful violation of section 6068(m).

1 **Count 22 - RPC 3-700(D)(2) (Failure to Return Unearned Fees)**

2 By not refunding the credit balance of \$1739 to Weiser, Respondent did not return an  
3 advanced, unearned fee in wilful violation of RPC 3-700(D)(2).

4 **Count 23 - Section 6068(i) (Failure to Participate in a Disciplinary Investigation)**

5 By not answering the State Bar's letters, Respondent did not participate in the  
6 investigation of the allegations of misconduct regarding the Weiser case in wilful violation of  
7 6068(i).

8 **LEVEL OF DISCIPLINE**

9 **Aggravating Circumstances**

10 Respondent has one prior record of discipline. (Standard 1.2(b)(i), Standards for  
11 Attorney Sanctions for Professional Misconduct ("standards").) Effective October 11, 2003,  
12 Respondent was suspended for one year, stayed, and placed on two years probation on  
13 conditions, including restitution. She stipulated that, in one client matter, her failure to perform  
14 in a dissolution for nine months led to her being discharged by the client. She did not return or  
15 account for unearned fees, return the file to the client or cooperate with the disciplinary  
16 investigation. In another matter, she did not cooperate with the disciplinary investigation.  
17 (Supreme Court order no. S116618, filed September 11, 2003 (State Bar Court case no. 01-O-  
18 01126).)

19 Respondent's misconduct evidences a pattern of misconduct (abandonment of clients;  
20 failure to cooperate in a disciplinary investigation). It is noted that this is the same type of  
21 misconduct as in her prior instance of discipline and that there is some overlap of the time of the  
22 misconduct in the prior and the instant cases. (Standard 1.2(b)(ii).)

23 Respondent's misconduct caused client harm and harm to the administration of justice.  
24 (Standard 1.2(e)(iv). Sjolín had to pay her medical bills herself. Rollheiser, Jr., obtained new  
25 counsel, sought assistance from the JAG Corps and suffered a delay in the completion of his  
26 annulment. Tate and Huvler had to obtain new counsel and had to participate in court  
27 proceedings to substitute Respondent out as attorney of record. Reidel was ordered to pay \$700  
28 to opposing counsel for Respondent's failure to appear at the OSC. The OSC hearing was

1 continued. He also had to obtain new counsel and suffered a delay in his proceedings.

2 Respondent repeatedly misled Krieger as to the status of his case.

3 Respondent displayed a lack of candor and cooperation the State Bar during disciplinary  
4 investigation or proceedings. (Standard 1.2(b)(vi).) He did not participate in the proceedings  
5 prior to the entry of default.

### 6 **Mitigating Circumstances**

7 Respondent did not participate in these proceedings and she bears the burden of  
8 establishing mitigation by clear and convincing evidence. The Court, therefore, has been  
9 provided no basis for finding mitigating circumstances .

### 10 **Discussion**

11 The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect  
12 the public, to preserve public confidence in the profession, and to maintain the highest possible  
13 professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; *Cooper v.*  
14 *State Bar* (1987) 43 Cal.3d 1016, 1025; standard 1.3.)

15 Standard 1.6 provides that the appropriate sanction for the misconduct found must be  
16 balanced with any mitigating or aggravating circumstances, with due regard for the purposes of  
17 imposing discipline. If two or more acts of professional misconduct are found in a single  
18 disciplinary proceeding, the sanction imposed shall be the most severe of the applicable sanctions.  
19 (Standard 1.6(a).) The standards, however, are guidelines from which the Court may deviate in  
20 fashioning the most appropriate discipline considering all the proven facts and circumstances of a  
21 given matter. (*In re Young* (1989) 49 Cal.3d 257, 267 (fn. 11); *Howard v. State Bar* (1990) 51  
22 Cal.3d 215.) They are "not mandatory 'sentences' imposed in a blind or mechanical manner." (*Gary*  
23 *v. State Bar* (1988) 44 Cal.3d 820, 828.)

24 In the instant case, the recommended level of discipline ranges from reproof to disbarment.  
25 (Standards 2.2(b), 2.4(a), 2.6(a) and 2.10.) The most severe sanction is prescribed by standard 2.4(a)  
26 which suggests disbarment for culpability of a pattern of wilfully failing to perform services  
27 demonstrating the attorney's abandonment of the causes for which he or she was retained.

28 OCTC recommends disbarment in each of the consolidated matters. After considering the

1 serious misconduct and balancing the aggravating and the absence of mitigating circumstances, the  
2 Court recommends that Respondent be disbarred. This is the Court's recommendation whether or  
3 not Respondent's prior instance of misconduct is considered as part of the pattern of misconduct  
4 presented in the instant case.

5 Cases involving a pattern of misconduct similar to Respondent's, even where the attorney  
6 has no prior record of discipline, generally result in the attorney's disbarment. (*In re Billings* (1990)  
7 50 Cal.3d 358 [15 matters of partial or complete abandonment of clients; disbarment]; *Coombs v.*  
8 *State Bar* (1989) 49 Cal.3d 679 [13 matters of failure to perform services; disbarment]; *In the Matter*  
9 *of Collins* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1 [14 matters involving systematic failures  
10 to competently perform and client abandonment; disbarment].)

11 When disbarment is not imposed for a pattern of misconduct similar to Respondent's, the  
12 attorney provided significant mitigation beyond merely having a discipline-free practice. (*Pineda*  
13 *v. State Bar*, 49 Cal. 3d 753 (1989) 49. Cal.3d 753 [Although attorney failed to competently perform  
14 and abandoned clients in seven matters, disbarment was not called for in view of mitigating factors,  
15 including the attorney's cooperation with the State Bar throughout the disciplinary proceedings, his  
16 demonstrated remorse and determination to rehabilitate himself, and his concurrent family  
17 problems]; *Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071 [Ethical violations in 14 matters  
18 demonstrating a pattern of misconduct involving client abandonment did not warrant disbarment in  
19 light of fact that attorney fully cooperated with the State Bar in the proceedings, attorney was  
20 experiencing severe financial and emotional problems during period of misconduct, and attorney  
21 thereafter substantially improved her condition through counseling]; *Frazer v. State Bar* (1987) 43  
22 Cal.3d 564 [Disbarment not recommended where attorney failed to perform competently and  
23 abandoned clients in 14 matters due to evidence of attorney's financial problems, depression,  
24 agoraphobia and rehabilitation therefrom].)

25 The present case is devoid of any mitigation and offers no justification for a discipline  
26 recommendation short of disbarment. The Court has no reason to believe that respondent could or  
27 would conform her behavior to the ethical rules, particularly in light of her failure to participate  
28 herein.

1 It would undermine the integrity of the disciplinary system and damage public confidence  
2 in the legal profession if respondent were not disbarred for her misconduct. If she desires to practice  
3 law again, she will bear the heavy burden of demonstrating by the most clear and convincing  
4 evidence her rehabilitation and fitness to practice. Accordingly, the Court recommends disbarment.

5 **DISCIPLINE RECOMMENDATION**

6 IT IS HEREBY RECOMMENDED that Respondent **JULIANNE KANE COCHRANE** be  
7  
8 DISBARRED from the practice of law in the State of California and that her name be stricken from  
9 the rolls of attorneys in this state.

10 It is also recommended that the Supreme Court order Respondent to comply with rule 955,  
11 paragraph (a), of the California Rules of Court within 30 calendar days of the effective date of the  
12 Supreme Court order in the present proceeding, and to file the affidavit provided for in paragraph  
13 (c) within 40 days of the effective date of the order showing her compliance with said order.

14 **COSTS**

15  
16 The Court recommends that costs be awarded to the State Bar pursuant to Business and  
17 Professions Code section 6086.10, and that those costs be payable in accordance with section 6140.7.

18 **ORDER REGARDING INACTIVE ENROLLMENT**

19  
20 It is ordered that Respondent be transferred to involuntary inactive enrollment status pursuant  
21 to section 6007(c)(4). The inactive enrollment shall become effective three days from the date of  
22 service of this order and shall terminate upon the effective date of the Supreme Court's order  
23 imposing discipline herein or as otherwise ordered by the Supreme Court pursuant to its plenary  
24 jurisdiction.

25  
26  
27 Dated: May 24 2004

28  
  
\_\_\_\_\_  
RICHARD A. HONN  
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 Los Angeles, on May 25, 2004, I deposited a true copy of the following document(s):

**DECISION INCLUDING DISBARMENT RECOMMENDATION AND  
ORDER OF INVOLUNTARY INACTIVE ENROLLMENT, filed May 25, 2004**

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:

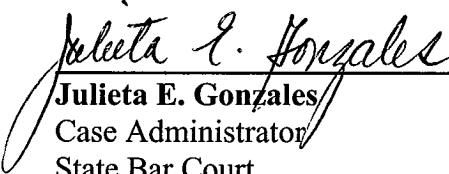
**JULIANNE K COCHRANE ATTORNEY AT LAW  
743 S BREA BLVD #12  
BREA, CA 92821**

**JULIANNE K COCHRANE ATTORNEY AT LAW (Courtesy copy)  
401 S CHATHAM CIR APT F  
ANAHEIM, CA 92806**

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

**William F. Stralka, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **May 25, 2004**.

  
**Julieta E. Gonzales**  
Case Administrator  
State Bar Court