


PUBLIC MATTER

ORIGINAL

(Do not write above this line.)

State Bar Court of California		
Hearing Department <input checked="" type="checkbox"/> Los Angeles		<input type="checkbox"/> San Francisco
Counsel for the State Bar THE STATE BAR OF CALIFORNIA ERIN MCKEOWN JOYCE DEPUTY TRIAL COUNSEL 1149 South Hill Street Los Angeles, CA 90015-2299 (213)765-1356 Bar # 149946	Case number(s) 04-0-11205 04-0-11764 04-0-11766 04-0-11769 04-0-12319 04-0-13052 04-0-15005 04-0-15264 kwiktag® 022 605 422 	(for Court's use) FILED OCT 25 2005 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
<input checked="" type="checkbox"/> Counsel for Respondent <input type="checkbox"/> In Pro Per, Respondent Susan Margolis Margolis & Margolis 2000 Riverside Drive Los Angeles, CA 90039 Bar # 104629	Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge	
In the Matter of Patricia Mireles Bar # 171342 A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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

A. Parties' Acknowledgments:

- Respondent is a member of the State Bar of California, admitted June 3, 1994
(date)
- 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.
- 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 20 pages.
- A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- 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.

(Do not write above this line.)

(8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):

- until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
- costs to be paid in equal amounts prior to February 1 for the following membership years:
2007, and 2008, 2009, 2010 (SLM) (APW) (E)
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
- costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
- costs entirely waived

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

(1) Prior record of discipline [see standard 1.2(f)]

(a) State Bar Court case # of prior case 98-0-3385

(b) Date prior discipline effective November 5, 2000

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

3-110(A)

(d) Degree of prior discipline 30 day actual suspension, 1 year stayed suspension, 18 months probation with conditions.

(e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "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.

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- (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 with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.

(Do not write above this line.)

- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances are involved.**

Additional mitigating circumstances:

D. Discipline:

(1) **Stayed Suspension:**

- (a) Respondent must be suspended from the practice of law for a period of eighteen (18) 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 as set forth in the Financial Conditions form attached to this stipulation.
- III. and until Respondent does the following: _____

(b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of two (2) years, which will commence upon the effective date of the Supreme Court order in this matter.
(See rule 953, Calif. Rules of Ct.)

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(3) **Actual Suspension:**

(a) Respondent must be actually suspended from the practice of law in the State of California for a period of sixty (60) days

- I. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- II. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- III. and until Respondent does the following: _____

E. Additional Conditions of Probation:

- (1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.

(Do not write above this line.)

- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: _____
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) The following conditions are attached hereto and incorporated:
- | | |
|---|--|
| <input type="checkbox"/> Substance Abuse Conditions | <input checked="" type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.
- No MPRE recommended. Reason: _____
- (2) **Rule 955, California Rules of Court:** Respondent must comply with the requirements of rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 955, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension: _____
- (5) **Other Conditions:**
- See attached Stipulation attachment.

(Do not write above this line.)

In the Matter of Patricia Mireles	Case Number(s): 04-0-11205; 04-0-11764; 04-0-11766; 04-0-11769; 04-0-12319; 04-0-13052; 04-0-15005; and 04-0-15264
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Law Office Management Conditions

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

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

In the Matter of Patricia Mireles

Case Nos. 04-O-11205, 04-O-11764, 04-O-11766, 04-O-11769, 04-O-12319, 04-O-13052, 04-O-15005 and 04-O-15264

FACTS AND CONCLUSIONS OF LAW

Case No. 04-O-11205 Violation of Business and Professions Code section 6068(a) – Failure to Support Laws - Unauthorized Practice

Respondent failed to timely comply with State Bar of California Minimum Continuing Legal Education ("MCLE") requirements. Accordingly, between June 11, 2003 and September 8, 2003, the State Bar Office of Certification notified Respondent on several occasions that she was not in compliance with her MCLE requirements and that she needed to ensure that all outstanding MCLE fees be paid and that her completed compliance card be received by September 15, 2003. Respondent was further notified that she would be placed on administrative inactive status should she fail to comply with the MCLE requirements by the deadline.

On September 16, 2003, the State Bar Office of Certification placed Respondent on administrative inactive status due to MCLE non-compliance.

On September 22, 2003, the State Bar Office of Certification sent Respondent an MCLE Non-Compliance Notice of Enrollment on Not Entitled Status, effective September 16, 2003. The September 22, 2003 Notice indicated that Respondent was not eligible to practice law as of September 16, 2003 and that she would not be eligible to practice until she had submitted a Non-compliance fee of \$75.00 and a Reinstatement fee of \$200.00.

On September 24, 2003, Respondent filed a pleading and two (2) days later, on September 26, 2003, made a court appearance in a Los Angeles Superior Court case while she was not eligible to practice law. At the time she filed the pleading and made the appearance, Respondent had received in her office notice of her not entitled status.

It was not until October 10, 2003 that Respondent issued a check for \$275.00 payable to the State Bar, to bring her back into active status with the State Bar. This check was negotiated on October 22, 2003.

Respondent remained suspended from September 16, 2003 until she paid the MCLE fees and was reinstated to active status on October 12, 2003.

By filing the pleading on September 24, 2003 and appearing in court on September 26, 2003, Respondent practiced law when she was not an active member of the State Bar and thereby failed to support the laws of the State of California in violation of Business and Professions Code section 6068(a).

**Attachment to Stipulation re
Facts, Conclusions of Law and Disposition**

**Cases Nos. 04-O-11764 and 04-O-11769 Violation of Rule of Professional Conduct
3-110(A) – Failure to Perform with Competence**

On December 30, 2003, Lisa Beaver retained Respondent with an initial down payment of \$1,000.00 to represent her boyfriend, Darryl Williams, in connection with a restraining order filed against him in an action entitled *Dora L. Baker v. Darryl R. Williams*, filed in San Bernardino County Superior Court, Victorville District, case number VFL 028591, filed on December 18, 2003. At the time Williams was incarcerated.

The retainer agreement signed by Beaver on behalf of Williams and a representative of Respondent's office provided for a fixed fee of \$2,000.00 and detailed the services to be performed as follows:

- i. Meet with client and ascertain the facts to oppose the temporary restraining order under the Domestic Violence (sic)
- ii. Prepare a response to the Domestic Violence (sic)
- iii. Appear at the hearing for the Temporary Restraining Order
- iv. Open and maintain a file for a period of 5 years after the completion/termination of the services
- v. Meet with client after the hearing to determine the options for custody and visitation.

The retainer agreement specified a second payment of \$1,000.00 was due by January 13, 2004 and that: "Upon execution of this Agreement, all fees are considered due and payable in advance of the services to be performed." The retainer agreement further provided that:

This agreement will not take effect, and we will have no obligation to commence legal services, until you return this agreement signed and pay either the entire Services fee called for in paragraph 2 or the initial payment amount, (sic) called for in Paragraph 4 above.

On January 2, 2004, Respondent's staff sent a letter to Williams regarding the additional \$1,000.00 payment due on January 13, 2004 and added that: "Our office will represent you, contingent upon the payments being made as agreed."

Neither Williams nor Beaver made the second required payment of \$1,000.00 by January 13, 2004.

On January 20, 2004, the TRO hearing for which Respondent was hired took place. Respondent did not attend the hearing and prepared no opposition on Williams' behalf.

On January 20, 2004, Respondent's staff sent a letter to Williams and Beaver informing them that Respondent would no longer represent Williams since he failed to keep the payment arrangements as promised and failed to keep Respondent informed as required by the retainer agreement. In the January 20, 2004 letter, Respondent's staff notified Williams and Beaver that

**Attachment to Stipulation re
Facts, Conclusions of Law and Disposition**

Respondent "will not undertake to proceed with the services unless [they] remedy the breach under [the] agreement, by contacting [Respondent's office] within 10 days of receipt of this letter, to resolve the matter."

Neither Williams nor Beaver responded to the January 20, 2004 letter by paying the outstanding attorney's fees.

Between January and March 2004, Beaver and Williams repeatedly represented that they would pay the additional \$1,000.00 in attorney's fees to Respondent. However, they did not do so. During that time, Respondent and her staff told Beaver and Williams that Respondent would take no further action unless the outstanding fees were paid.

By failing to prepare the opposition to the TRO and failing to attend the January 20, 2004 hearing in Williams' matter, Respondent acted in wilful violation of Rule of Professional Conduct 3-110(A).

**Case No. 04-O-11766 Violation of Rule of Professional Conduct 4-100(B)(3) – Failure
to Promptly Provide an Accounting**

On November 11, 2003, Rocio Lastres retained Respondent to represent her in a TRO and OSC Re: Child Visitation and Support proceeding entitled *Rocio Lastres vs. Francisco Fierro*, filed on June 18, 2003 in San Bernardino County Superior Court, case number SBFSS73553.

At the time she employed Respondent's law firm, Lastres signed a retainer agreement that provided that for a fee of \$4,300.00 Respondent's law firm would handle a temporary restraining order and an Order to Show Cause re: Child Visitation and Support. That day, November 11, 2003, Lastres paid Respondent \$2,000.00. At the time of retention, Respondent told Lastres that the \$4,300.00 should cover the legal services needed to complete Lastres' TRO and OSC matter.

On November 13, 2003, Respondent represented Lastres at the Order to Show Cause hearing re custody and visitation. The Court appointed Dr. Suiter to evaluate the parties, and Lastres's spouse Francisco Fierro was granted visitation. The hearing was then continued to January 29, 2004.

On November 19, 2003, Lastres paid an additional \$300.00 to Respondent.

On December 14, 2003, Respondent's staff sent a letter to Lastres indicating that Respondent's associate, Robert Hultgrien, had been assigned to Lastres's matter and further advising Lastres that: "Our office will represent you, contingent upon your payments being made as agreed."

On December 14, 2003, Hultgrien sent a letter to the opposing counsel, attorney Carlos Cabrera, regarding the evaluation by Dr. Suiter.

On December 23, 2003, Lastres paid an additional \$1,000.00 to Respondent.

**Attachment to Stipulation re
Facts, Conclusions of Law and Disposition**

On January 6, 2004, Dr. Suiter sent a letter to the Court regarding the cancellation of the psychological assessment scheduled for January 5, 2004 based on Fierro's inability to make the initial payment.

On January 27, 2004, Lastres paid an additional \$500.00 to Respondent.

On January 28, 2004, Hultgrien met with Lastres regarding the hearing on January 29, 2004. Hultgrien told Lastres that they still needed to file an Order to Show Cause ("OSC") for support, and advised Lastres that she would have to pay additional monies to Respondent's firm after the next hearing.

On January 29, 2004, Lastres paid the final \$500.00 to Respondent as part of the agreement. With this payment Lastres paid the entire \$4,300.00 retainer.

On January 29, 2004, Hultgrien represented Lastres at the OSC hearing re custody and visitation. The hearing was continued to March 2, 2004 due to Cabrera's failure to appear.

On February 18, 2004, Cabrera sent a letter to Hultgrien regarding child custody and visitation issues.

On March 1, 2004, Hultgrien had an extended telephone conference with Lastres regarding the hearing scheduled for March 2, 2004.

That day, March 1, 2004, Respondent's office administrator, Christopher Lee, sent a letter to Lastres indicating that her original retainer was exhausted, and that an additional \$1,000.00 payment was due immediately. The letter stated that Lastres should contact Respondent's staff regarding making the additional payment.

On March 2, 2004, Hultgrien and Lastres attended the OSC Hearing re custody and visitation. The parties stipulated to child custody and visitation on that date and the matter went off calendar.

The following day, March 3, 2004, Hultgrien had a one hour consultation with Lastres. After Hultgrien explained to Lastres what documentation she needed to file with the court, Lastres stated that she would call back in a few days to decide whether to continue with Respondent for the remainder of the process or to find another attorney.

On March 25, 2004, Hultgrien sent a letter to Lastres requesting that Lastres call Respondent's office to advise him of her decision regarding whether she wanted to continue being represented by Respondent. He sent Lastres a substitution of attorney form to sign with his letter.

On March 29, 2004, Lastres called Respondent's office regarding the March 25, 2004 letter. Hultgrien advised Lastres that her fee payments had been used for the previous court appearances. Hultgrien also told Lastres that she needed to sign and return the substitution of attorney form he enclosed. Respondent's office did not provide an accounting to Lastres even after she

**Attachment to Stipulation re
Facts, Conclusions of Law and Disposition**

complained to Respondent's associate about the charges, and after Respondent determined not to perform any further services for Lastres because she refused to pay more money.

On May 1, 2004, Hultgrien sent a letter to Lastres indicating that Respondent's firm would no longer represent her due to the fact that she failed to keep the payment arrangements as outlined in the retainer agreement. The letter stated that Respondent's firm would reconsider if Lastres contacted them within ten (10) days to set an appointment. Respondent's office did not provide an accounting or notice of right to arbitrate to Lastres with the letter.

It was not until October 26, 2004, that Respondent sent a four (4) page itemized accounting to Lastres indicating that Respondent's fees and costs totaled \$6,203.25, and provided Lastres with a notice of right to arbitrate the fee dispute. This was after Respondent was contacted by the State Bar to provide the required accounting requested by her client.

By failing to promptly provide an accounting to Lastres, Respondent acted in wilful violation of Rule of Professional Conduct 4-100(B)(3).

**Case No. 04-O-12319 Rule of Professional Conduct 3-110(A) – Failure to Perform
with Competence**

On December 20, 2003, Luis Romo retained Respondent to represent him with respect to two bench warrants which had issued in two criminal cases. The first case was entitled *People vs. Luis Gabriel Romo*, filed on July 5, 2000 in Riverside County Superior Court, Indio Branch, case number INM 105508, charging Romo with driving under the influence, wherein a bench warrant was issued against Romo on July 25, 2000 (the "DUI matter"). The second case was entitled *People v. Luis G. Romo*, filed on December 11, 2001 in Los Angeles County Superior Court, Airport Courthouse, Case No. 1WL04306-01, charging Romo with driving with a suspended licence, wherein a bench warrant was issued on January 23, 2002 (the "suspended licence matter"). The day he retained Respondent, Romo met with Hultgrien, who told him the firm would not appear to recall the warrants until all fees were paid. Hultgrien also told Romo that he anticipated that only three appearances would be needed to recall the warrants and to resolve both criminal cases.

That day Romo signed a retainer agreement providing for a fixed fee of \$3,500.00. The agreement detailed the scope of services including the following:

- i. Collect factual information with supporting documents for the [DUI/Suspended Licence/Probation Violation] case
- ii. Represent Client up to a plea agreement or to the preliminary trial. This retainer allows for three appearances. Additional appearances will be charged in accordance with the attached fee schedule
- iii. Open a Client file and maintain file during pendency of the case and for a period of five (5) years, (sic) after the termination of the case
- iv. Meet to consult and advise Client on the results of the investigation, the analysis of the investigation and counsel the Client regarding rights, Obligations and Consequences of the analysis, and the alternative options,

**Attachment to Stipulation re
Facts, Conclusions of Law and Disposition**

- if any.
- v. Negotiate with the District attorney (sic) to reach a plea agreement
 - vi. Interview client, (sic) and witnesses to the incident and complete the investigation of the facts and possible affirmative defenses.
 - vii. Appear at necessary hearings, however should the hearings exceed 3, the Client shall be responsible for immediate payment of any additional hearing prior to such hearings, which include motions to withdraw.

The retainer agreement further provided for payments of \$500.00 to be made on January 10, 2004, January 24, 2004, February 7, 2004 and February 24, 2004, and acknowledged that Romo made an initial payment of \$1,500.00.

On January 5, 2004, Romo paid Respondent the amount of \$500.00.

On January 18, 2004, Romo paid Respondent the amount of \$500.00.

On February 7, 2004, Romo paid Respondent the amount of \$500.00.

On February 18, 2004, Romo paid Respondent the amount of \$500.00 in two payments. With these last payments Romo made all of the required payments to Respondent.

On February 18 or 19, 2004, Respondent's secretary called attorney Mario Rodriguez to request that he make a special appearance for Romo on Respondent's behalf in the DUI action and he agreed to do so.

On February 20, 2004, attorney Mario Rodriguez made a special appearance and entered a plea of not guilty to all counts on Romo's behalf in the DUI matter in Indio. Romo was present in court. Attorney Rodriguez appeared before Judge Erwood and successfully had the bench warrant recalled. Rodriguez also sent a fax to Respondent notifying her of the outcome. A pre-trial hearing was set for March 3, 2004. Rodriguez notified Respondent of the pre-trial hearing date.

On February 23, 2004, Hultgrien visited the wrong court with respect to Romo's suspended license matter and therefore made no appearance on behalf of Romo. Nevertheless, Respondent determined that Hultgrien's visit to the wrong court on February 23, 2004 constituted one of the three appearances specified in the retainer agreement with Romo.

On February 25, 2004, Hultgrien appeared in the correct court with respect to Romo's suspended license matter in an unsuccessful attempt to have the bench warrant recalled.

On February 25, 2004, Hultgrien sent a letter to Romo indicating that on February 23, 2004 he appeared to recall Romo's warrant from Los Angeles, but that Romo had provided him with the wrong information about the court in which his case was pending. Hultgrien stated in his letter that on February 25, 2004, he attempted to recall Romo's warrant, however the Court ordered that Romo surrender to the Court. Hultgrien added: "Please contact me if you wish to surrender, in order to make arrangements for the appearance and payment. If you no longer want to retain our

**Attachment to Stipulation re
Facts, Conclusions of Law and Disposition**

firm, (sic) for the additional appearance, please notify us in writing." Respondent's office still requested an additional \$750.00 to continue work on Romo's legal matters.

On March 3, 2004, Deputy Public Defender Cathy Schwartz represented Romo at the pre-trial hearing in the DUI matter in Indio. Respondent did not appear or have other counsel appear for Romo. Romo did not appear despite having notice. The Public Defender represented Romo, since no one from Respondent's office appeared. The hearing was continued at the request of the defense to March 17, 2004. However, notice of the continued hearing date was not given to Respondent.

Respondent failed to investigate the outcome of the March 3, 2004 hearing and did not learn of the continued hearing date of March 17, 2004. Thereafter, Respondent failed to complete the services for which she was retained in the Indio case.

By failing to complete the performance of services for which she was retained in the Indio and suspended license matters, Respondent acted in wilful violation of Rule of Professional Conduct 3-110(A).

Case No. 04-O-13052 Violation of Rule of Professional Conduct 3-700(D)(2)– Failure to Promptly Refund Unearned Fees

On February 23, 2004, Juan Aguilar employed Respondent's law firm to represent him in connection with the preparation and filing of a Chapter 7 Bankruptcy petition and for an appearance at a 341 meeting of creditors (the "Aguilar bankruptcy matter"). Aguilar paid Respondent a total of \$1,459.00; \$209.00 for a filing fee and \$1,250.00 for attorney's fees.

Between March 2, 2004 and June 15, 2004, Aguilar responded to requests from Respondent's office to provide documents and information to assist in the preparation of the bankruptcy petition. Aguilar consulted with Respondent's associate Hultgrien and met with Respondent during that period.

By July 7, 2004, the Bankruptcy petition was not completed, as Respondent's office needed additional information from Aguilar.

However, on that date, July 7, 2004, Aguilar sent a letter to Respondent terminating her services, requesting his file and asking for a refund of all monies he paid to the office. Respondent received Aguilar's letter.

Respondent did not provide a refund of unearned fees until October 2005.

By failing to promptly refund the fees to Aguilar, Respondent acted in wilful violation of Rule of Professional Conduct 3-700(D)(2).

**Attachment to Stipulation re
Facts, Conclusions of Law and Disposition**

**Case No. 04-O-15005 Violation of Business and Professions Code section 6103 –
Violation of Court Order**

On June 11, 2002, U.S. Bankruptcy Court Judge Mitchell R. Goldberg ordered Respondent to disgorge \$200.00 in a bankruptcy case (Schwartz) to be paid by U.S. Postal Money Order, mailed to the U.S. Trustee in Riverside, California within thirty (30) days of service of the order. The order was properly served on Respondent by the clerk of the court at Respondent's membership records address and Respondent received actual notice of the order. Respondent failed to comply with the order.

On September 23, 2002, Judge Goldberg fined Respondent an additional \$500.00 for her failure to comply with the previous order in the Schwartz bankruptcy, ordering the funds to be paid to the U.S. Trustee by certified funds within thirty (30) days of service of the order. The September 23, 2002 order was properly served on Respondent by the clerk of the court at Respondent's membership records address and Respondent received actual notice of the order. Respondent failed to comply with the order.

On June 7, 2004, U.S. Bankruptcy Court Judge David N. Naugle ordered Respondent to disgorge \$1,500.00 in another bankruptcy case (Rodriguez) to be paid by check or certified funds sent to the U.S. Trustee in Riverside, California within thirty (30) days of service of the order. The clerk of the court properly served Respondent with the order. Respondent failed to comply with the order.

On September 28, 2004, Farris sent a letter to Respondent detailing her failure to fully comply with the orders in the Schwartz bankruptcy and the Rodriguez bankruptcy, including a combined delinquency of \$1,950.00. Respondent received the September 28, 2004 letter.

Respondent did not pay the sanctions ordered in the Schwartz and Rodriguez bankruptcies until November 16, 2004.

By failing to timely comply with the court orders in the Schwartz and Rodriguez bankruptcies, Respondent acted in wilful violation of Business and Professions Code section 6103.

Case No. 04-O-15264 Violation of Rule of Professional Conduct 3-700(D)(2)

On July 25, 2003, Jose Jimenez, Sr. employed Respondent to represent his son, Jose Jimenez, Jr., with respect to a vehicular manslaughter charge filed in San Bernardino County Superior Court, case no. FSB040439 filed July 25, 2003 entitled *People vs. Jose Antonio Jimenez* (the "Jimenez criminal matter"). Jose Jimenez, Sr. paid Respondent \$2,000.00.

The retainer agreement provided that Respondent would be paid a flat fee of \$7,500.00. The scope of the services Respondent was to perform included:

- A. Collect factual information with supporting documents for the [Jimenez] case
- B. Represent Client up to a plea agreement or to the preliminary trial. This

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Facts, Conclusions of Law and Disposition**

- retainer allows for three appearances. Additional appearances will be charged in accordance with the attached fee schedule. . . .
- C. Open a Client file and maintain file during pendency of the case and for a period of five (5) years, (sic) after the termination of the case. . . .
 - D. Meet to consult and advise Client on the results of the investigation, the analysis of the investigation and counsel the Client regarding Rights, Obligations and Consequences of the analysis, and the alternative options, if any.
 - E. Negotiate with the District attorney (sic) to reach a plea agreement
 - F. Interview client, (sic) and witnesses to the incident and complete the investigation of the facts and possible affirmative defenses.
 - G. Appear at necessary hearings, however should the hearings exceed 3, the Client shall be responsible for immediate payment of any additional hearing prior to such hearings, which include motions to withdraw.

Respondent visited Jose Jimenez, Jr. in jail at the West Valley Detention Center and discussed the case with him.

On August 4, 2003, Jose Jimenez, Sr. paid \$2,000.00 to Respondent.

On August 5, 2003, Respondent appeared in court for the pre-preliminary conference on Jose Jimenez, Jr.'s behalf.

Unhappy with Respondent's services, the next day, August 6, 2003, Jose Jimenez, Sr. consulted with another attorney, Richard E. Escobedo, and retained his services for his son.

Escobedo thereafter called and left a message for Respondent on August 6, 2003 indicating that he would be substituting in as attorney of record.

The formal substitution was filed September 2, 2003.

In addition, on or about September 2, 2003, Jose Jimenez, Sr. requested a refund of the fees paid to Respondent's office. Respondent did not refund unearned fees to Jose Jimenez, Sr. until October 2005.

By failing to promptly refund unearned fees to Jimenez, Respondent acted in wilful violation of Rule of Professional Conduct 3-700(D)(2).

AUTHORITIES SUPPORTING DISCIPLINE

STANDARDS FOR ATTORNEY SANCTIONS

Pursuant to Standard 1.3 of the Standards for Attorney Sanctions for Professional Misconduct:

The primary purposes of disciplinary proceedings conducted by the State Bar of California and of sanctions imposed upon a finding or acknowledgment of a

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member's professional misconduct are the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the protection of public confidence in the legal profession.

Business and Professions Code section 6068(a) requires that an attorney must uphold the laws of the State, the United States and the Constitution. Section 6068(a) provides that:

It is the duty of an attorney to do all of the following: (a) To support the Constitution and the laws of the United States and this state.

Pursuant to Standard 2.6 of the Standards for Attorney Sanctions for Professional Misconduct:

Culpability of a member of a violation of any of the following provisions of the Business and Professions Code shall result in disbarment or suspension, depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3:

- (a) Sections 6067 and 6068
- (b) Section 6103 through 6105 . . .
- (d) Sections 6125 and 6126 . . .

Pursuant to Standard 2.4(b) of the Standards for Attorney Sanctions for Professional Misconduct:

Culpability of a member of wilfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of wilfully failing to communicate with a client shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.

Pursuant to Standard 2.10 of the Standards for Attorney Sanctions for Professional Misconduct:

Culpability of a member of a violation of . . . any Rule of Professional Conduct not specified in these standards shall result in reproof or suspension according to the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.

Because no standard specifically addresses the sanction for violation of Rule of Professional Conduct 3-700(D)(2), Standard 2.10 provides guidance.

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Pursuant to Standard 1.7(a) of the Standards for Attorney Sanctions for Professional Misconduct:

If a member is found culpable of professional misconduct in any proceeding in which discipline may be imposed and the member has a record of one prior imposition of discipline . . . , the degree of discipline imposed in the current proceeding shall be greater than that imposed in the prior proceeding

Respondent has a prior imposition of discipline.

Based on the Standards, the proposed discipline is warranted.

PENDING PROCEEDINGS.

The disclosure date Respondent referred to, on page one, paragraph A.(7), was September 22, 2005.

OTHER CONDITIONS NEGOTIATED BY THE PARTIES

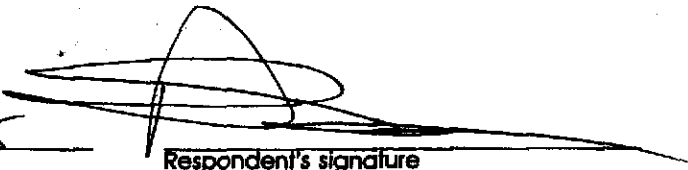

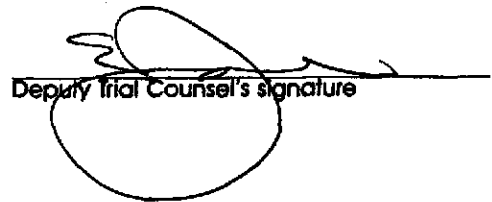
Respondent shall successfully complete eight (8) hours of live instruction continuing legal education courses in legal ethics above those required for her license and provide satisfactory proof of completion within two (2) years of the effective date of the order approving this stipulation re facts, conclusions of law and disposition to the Office of Probation of the State Bar of California. These hours will not count toward Respondent's MCLE requirements.

(Do not write above this line.)

In the Matter of Patricia Mireles	Case number(s): 04-0-11205; 04-0-11764; 04-0-11766; 04-0-11769; 04-0-12319; 04-0-13052; 04-0-15005; and 04-0-15264
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SIGNATURE OF THE PARTIES

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

10/12/05 Date	 Respondent's signature	Patricia Mireles Print name
10/12/05 Date	 Respondent's Counsel's signature	Susan Margolis Print name
10-12-05 Date	 Deputy Trial Counsel's signature	Erin M. Joyce Print name

(Do not write above this line.)

In the Matter of Patricia Mireles	Case number(s): 04-O-11205; 04-O-11764; 04-O-11766; 04-O-11769; 04-O-12319; 04-O-13052; 04-O-15005; and 04-O-15264
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ORDER

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

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

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.)**

10/19/05
Date


RICHARD A. PLATEL
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 of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on October 25, 2005, 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:

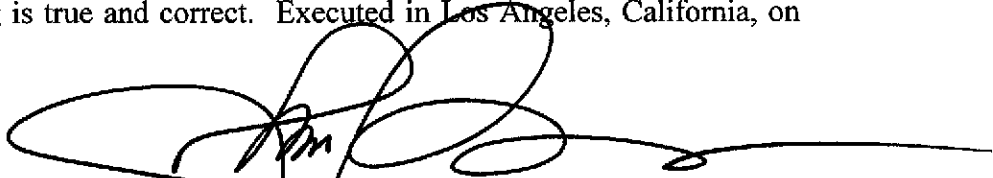
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**SUSAN L MARGOLIS
MARGOLIS & MARGOLIS LLP
2000 RIVERSIDE DR
LOS ANGELES CA 90039**

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

ERIN JOYCE, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **October 25, 2005.**



Johnnie Lee Smith
Case Administrator
State Bar Court