



(Do not write above this line.)

State Bar Court of California		
Hearing Department <input type="checkbox"/> Los Angeles <input checked="" type="checkbox"/> San Francisco		
Counsel for the State Bar Robin B. Brune Deputy Trial Counsel 180 Howard Street, 7th Floor San Francisco, CA 94105 (415) 538-2218 Bar # 149481	Case number(s) 04-0-11698-JMR 05-0-02925	(for Court's use) <div style="text-align: center; font-size: 1.2em; font-weight: bold;">PUBLIC MATTER</div> <div style="text-align: center; font-size: 1.5em; font-weight: bold;">FILED <i>LS</i></div> AUG 15 2006 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<input type="checkbox"/> Counsel for Respondent <input checked="" type="checkbox"/> In Pro Per, Respondent John William Johanson 2657 Windmill Pkwy #246 Henderson, NV 89074 (702) 269-5989 Bar # 82001	Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge	
In the Matter of <div style="text-align: center;">JOHN WILLIAM JOHANSON</div> Bar # 82001 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:

- (1) Respondent is a member of the State Bar of California, admitted November 29, 1978
(date)
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation, are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation and order consist of 1 pages.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.

(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:
- (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 95-0-17869 (S071230)

(b) Date prior discipline effective September 27, 1998

(c) Rules of Professional Conduct/ State Bar Act violations: Rules of Professional Conduct 3-110(A), 1-300(B), 4-100(A)(2) and 4-100(B)(4); Business and Professions Code section 6106

(d) Degree of prior discipline two (2) years suspension, stayed; two (2) years probation

(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.

(Do not write above this line.)

- (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:

See attachment

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of two (2) years

i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.

ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. and until Respondent does the following: _____

(b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of 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.)

(Do not write above this line.)

(3) **Actual Suspension:**

(a) Respondent must be actually suspended from the practice of law in the State of California for a period of 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 type="checkbox"/> Law Office Management Conditions |
| <input checked="" 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:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: John William Johanson
CASE NUMBER(S): 04-O-11698-JMR; 05-O-02925

FACTS AND CONCLUSIONS OF LAW.

Scott Matter (Case No. 04-O-11698)

In or about May 1999, John L. Scott ("Scott") employed respondent to represent him in a workers' compensation matter, *John L. Scott v. Chilcote, Inc.*, WCAB case number SDO 206799. On March 28, 2003, Scott wrote respondent a letter terminating his employment. On September 8, 2003, Scott's successor attorney, Eric Siegler ("Siegler"), wrote respondent requesting that respondent sign a substitution of attorney form and send Scott's file to his office. Respondent failed to send the file or to sign the substitution of attorney form in response to the letter. Siegler subsequently obtained a court order substituting himself in place of respondent as attorney of record for Scott.

On November 13, 2003, Siegler served respondent with a deposition subpoena for production of business records requesting that he produce Scott's file. Respondent failed to return the file.

On December 10, 2003, Judge Udkovich of the WCAB issued an order requesting respondent return Scott's workers compensation file within ten days. The order was personally served on respondent.

On March 5, 2004, Scott filed a complaint against respondent with the State Bar.

On or about July 8, 2004, respondent wrote a response to the State Bar's May 13, 2004 letter. In the letter respondent acknowledged the request for Scott's file and stated that he would send a copy of the file to Scott's attorney by the end of the month.

In or about July, 2005, respondent sent Scott's file to Scott.

Conclusions of Law

1. By not returning Scott's file, respondent failed to release the file promptly, upon termination of employment, to the client, at the request of the client, in wilful violation of Rules of Professional Conduct, rule 3-700(D)(1).

2. By not releasing Scott's file to Siegler in ten days as ordered by the court, respondent wilfully disobeyed or violated an order of the court requiring him to do or forbear an act connected with or in the course of respondent's profession which he ought in good faith to do or forbear, in wilful violation of Business and Professions Code section 6103.

Benson Matter (Case No. 05-O-02925)

In August 2004, Bruce Benson ("Benson") retained respondent to represent his corporation, Resolution Settlement Corporation ("RSC"), in collecting funds owed to RSC in a lawsuit entitled *Freeman v. The Board of Realtors* ("Freeman II"). The matter progressed through the San Francisco County Superior Court from August 2004 through May 2005.

On March 30, 2005, the RSC filed a case entitled *RSC v. Freeman*, case no. 05-439966, wherein RSC argued that it was entitled to the sum of \$750,000.00 from the defendants. On April 14, 2005, San Francisco County Superior Court entered judgment in favor of RSC, awarding it the sum of \$750,000.00. On April 26, 2005, Barry and Associates issued check number 102 from their client trust account in the sum of \$174,953.49 made payable to respondent and RSC.

Subsequently, respondent deposited the funds received for RSC's benefit into a non-client trust account. Respondent had specifically opened an account to process RSC's check, but did not designate it as a client trust account. On May 4, 2005, respondent released to RSC's president Bruce Benson the sum of \$134,958.49. Respondent retained his attorney's fees from the \$174,953.49.

Conclusions of Law

1. By failing to deposit check number 102 in the sum of \$174,953.49 that respondent had received for the benefit of RSC into a client trust account, "Client's Funds Account," or words of similar import, respondent wilfully violated Rule 4-100(A) of the Rules of Professional conduct.

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Page #

Attachment Page 2

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was June 30, 2006.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of June 29, 2006, the estimated prosecution costs in this matter are approximately \$4,299.43. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

AUTHORITIES SUPPORTING DISCIPLINE.

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547

In the Matter of Kopinski (Review Dept, 1994) 2 Cal. State Bar Ct. Rptr. 716

In the Matter of Myrdall (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 363

AGGRAVATING CIRCUMSTANCES.

Standard 1.2(b)(i) – prior discipline

Standard 1.2(b)(iv) – significant harm

Standard 1.2(b)(v) – indifference

PRIOR DISCIPLINE.

In 1998 respondent received a two year suspension, stayed, with two years of probation for failure to perform, engaging in the unauthorized practice of law in another jurisdiction, misappropriation of client funds, trust account improprieties, and misrepresentations to his client and a third party lien holder.

FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.

Respondent's conduct significantly harmed his client. The client, John Scott, proceeded to trial with subsequent counsel, but was damaged due to the fact that respondent had items in his file which would have been of use to successor counsel, including, but not limited to, deposition transcripts, proof of payment dates, and addresses of potential witnesses. The client ultimately sued respondent for malpractice and obtained a default judgment in the sum of \$154,976.50.

Respondent's conduct also harmed the public; by failing to honor a court order, respondent undermined confidence in the legal system.

Respondent eventually returned the file, but not until the summer of 2005, approximately one and one half years after the court ordered its return. Such a delay demonstrates indifference to his client.

MITIGATING CIRCUMSTANCES.

Standard 1.2(e)(v) – candor and cooperation with the State Bar

FACTS SUPPORTING MITIGATING CIRCUMSTANCES.

Respondent has been cooperative in reaching settlement in this case and has early on acknowledged his culpability.

ADDITIONAL MITIGATING CIRCUMSTANCES.

Respondent suffered the death of his father and two close friends.

Respondent admits that the aforementioned facts are true and that he/she is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

STATE BAR ETHICS SCHOOL.

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

OTHER CONDITIONS NEGOTIATED BY THE PARTIES.

Respondent waives all variance between the Notice of Disciplinary Charges and this Stipulation, and waives a right to receive a 20-day letter, and other procedural rights in order to incorporate the *Benson* matter into this Stipulation.

See attached Medical Conditions.

(Do not write above this line.)

In the Matter of JOHN WILLIAM JOHANSON	Case Number(s): 04-0-11698 05-0-02925
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Medical Conditions

- a. Respondent must obtain psychiatric or psychological help/ treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of 2 times per month and must furnish evidence to the Office of Probation that Respondent is so complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment must continue for days or 6 months or years or, the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

If the treating psychiatrist, psychologist, or clinical social worker determines that there has been a substantial change in Respondent's condition, Respondent or Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 550 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist, psychologist, or clinical social worker, by affidavit or under penalty of perjury, in support of the proposed modification.

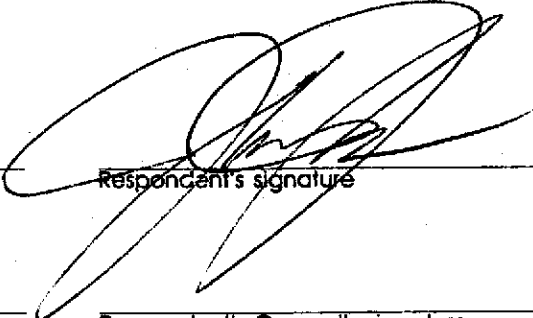
- b. Upon the request of the Office of Probation, Respondent must provide the Office of Probation with medical waivers and access to all of Respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court, who are directly involved with maintaining, enforcing or adjudicating this condition.

(Do not write above this line.)

In the Matter of JOHN WILLIAM JOHANSON	Case number(s): 04-0-11698 05-0-02925
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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.

7-5-06  JOHN WILLIAM JOHANSON
Date Respondent's signature Print name

Date Respondent's Counsel's signature Print name

7/11/06  ROBIN B. BRUNE
Date Deputy Trial Counsel's signature Print name

(Do not write above this line.)

In the Matter of JOHN WILLIAM JOHANSON	Case number(s): 04-O-11698-JMR 05-O-02925
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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.

1. On page 1, in the caption, the stipulation is submitted to the assigned judge.
2. On page 1, under section A(3), the stipulation and order consist of 14 pages.
3. On page 5, under E(1), the "x" in the box is deleted. There are no conditions attached to respondent's actual suspension that would trigger the conditional standard 1.4(c)(ii) requirement.

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.)**

Date

8/15/06


JOANN M. REMKE
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 San Francisco, on August 15, 2006, I deposited a true copy of the following document(s):

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

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

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

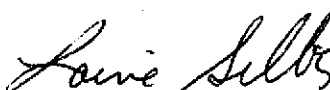
**JOHN WILLIAM JOHANSON
2657 WINDMILL PKWY #246
HENDERSON, NV 89074 - 3384**

**COURTESY COPY
JOHN W JOHANSON
183 BETHANY ST
HENDERSON, NV 89074-0000**

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

ROBIN BRUNE, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **August 15, 2006.**



Laine Silber
Case Administrator
State Bar Court