



(Do not write above this line.)

**State Bar Court of California**  
**Hearing Department**  
**Los Angeles**

Counsel For The State Bar  <b>Deputy Trial Counsel Jean Cha</b> <b>State Bar of California</b> <b>1149 S. Hill Street</b> <b>Los Angeles, California 90015</b> <b>(213) 765-1000</b>  Bar # 228137	Case Number (s) <b>05-J-03259</b>          <div align="center"><b>PUBLIC MATTER</b></div>	(for Court's use)   <div align="center"> <b>FILED</b>   <b>AUG 26 2009</b> <i>AKC</i>  <b>STATE BAR COURT</b>  <b>CLERK'S OFFICE</b>  <b>LOS ANGELES</b> </div>
Counsel For Respondent  <b>Erica Tabachnick</b> <b>A Law Corporation</b> <b>900 Wilshire Blvd, Ste 1000</b> <b>Los Angeles, California 90017</b>  Bar # 94324	Submitted to: <b>Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>PUBLIC REPROVAL</b>  <input checked="" type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter Of: <b>Vicenta Montoya-Torres</b>  Bar # 97192  A Member of the State Bar of California (Respondent)		

**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 **April 1, 1981**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **14** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."

- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- ☒ costs added to membership fee for calendar year following effective date of discipline (public reproof)
  - ☐ case ineligible for costs (private reproof)
  - ☐ costs to be paid in equal amounts 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
- (9) The parties understand that:
- (a) ☐ A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
  - (b) ☐ A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
  - (c) ☒ A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

**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-O-14347, 95-O-16029, 95-O-17734**
  - (b) ☒ Date prior discipline effective **March 13, 1997**
  - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **3 counts of Rule of Professional Conduct 3-110(A), 3 counts of 6068(m) in 3 client matters, 1 count of 6068(i), in three client matters.**
  - (d) ☒ Degree of prior discipline **was private reproof.**
  - (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.
- (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.

- (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) ☐ **Private reproof (check applicable conditions, if any, below)**
- (a) ☐ Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b) ☐ Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2) ☒ **Public reproof (Check applicable conditions, if any, below)**

**E. Conditions Attached to Reproval:**

- (1) ☒ Respondent must comply with the conditions attached to the reproof for a period of **one (1) year**.
- (2) ☒ During the condition period attached to the reproof, 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 condition period attached to the reproof. 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 the reproof during the preceding calendar quarter. Respondent must also state in each report 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 (thirty) days, that report must be submitted on the next following 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 condition period and no later than the last day of the condition period.

- (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 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 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 conditions attached to the reproval.
- (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) ☒ 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 within one year of the effective date of the reproval.
- ☐ No MPRE recommended. Reason:
- (11) ☐ The following conditions are attached hereto and incorporated:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input type="checkbox"/> Financial Conditions             |

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

(Do not write above this line.)

Attachment language (if any):

ATTACHMENT TO  
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF MONTOYA-TORRES

CASE No.: 05-J-03259

**FACTS.**

- 1) The parties agree that the attached exhibit "A" is a true and correct copy of the State Bar of Nevada's Order Approving Letter of Private Reprimand and Fine and in Respondent's discipline matter in Nevada.
- 2) The parties stipulate that the acts or omissions warranting the agreed disposition is set forth and adopted as if set forth in full herein in the Order Approving Letter of Private Reprimand and Fine in case no. 04-006-NA99 attached hereto as Exhibit "A."
- 3) In File number D2003-239, Respondent was publicly reprimanded by the Board of Immigration Appeals in the Executive Office of Immigration Review of the Department of Justice.

**CONCLUSIONS OF LAW.**

- 4) By not filing an appellate brief and not investigating Mr. Magallanes De Lao's medical circumstances as it related to his immigration case, Respondent recklessly failed to perform legal services competently in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.
- 5) By failing to adequately supervise her staff such that her secretary filed a motion to reopen on behalf of Mr. Magallanes De Lao bearing Respondent's signature, Respondent recklessly failed to supervise the actions of her employee and failed to perform legal services competently in wilful violation of rule 3-110(A).
- 6) By not informing Mr. Magallanes De Lao that his appeal was denied by the Board of Immigration Appeals, Respondent failed to communicate a significant development in the immigration case in wilful violation of section 6068(m) of the Business and Professions Code.

**OTHER CIRCUMSTANCES.**

According to Standard 2.4(b) a violation of §6068(m) of the Business and Professions Code and Rule of Professional Conduct 3-100(A) shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.

Respondent has a prior record of discipline, a circumstance in aggravation. (Std. 1.2(b)(i).) However, the harm to Respondent's client was avoided because subsequent counsel successfully re-opened the proceedings in light of new information regarding a recently developing disability that was not evident at the time of Respondent's meeting with Mr. De Lao.

We must review the nature and extent of the facts and circumstances surrounding the misconduct. The determination of discipline involves an analysis of the standards on balance with any mitigation and aggravation. (Std. 1.6(b); *Segal v. State Bar* (1988) 44 Cal.3d 1077, 189; *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311.)

In April 2002, Mr. De Lao failed to appear at his hearing in Immigration Court because he initially misplaced the notice of hearing. As a result, Mr. De Lao was ordered deported in absentia. Mr. De Lao hired Respondent to assist him with a motion to re-open. In May 2002, Respondent was unexpectedly hospitalized for a sudden illness which required surgery. When Respondent recovered and returned to work in late May 2002, Respondent investigated and made a determination that there was no grounds rising to the level of "exceptional circumstances beyond the alien's control" that the court required in order to grant a motion to re-open other than that her client had inadvertently misplaced the notice and was mistaken about the date of his hearing. Although Respondent made her best efforts, the motion to re-open was denied. Respondent explored alternative relief for cancellation of removal. Unfortunately, her client did not receive notice because of an administrative error by way of a typo in his address line.

Ultimately, Mr. De Lao successfully overcame removal proceedings once he hired subsequent counsel. The Board of Immigration Appeals granted his petition to re-open and rescind the order of deportation based on an ineffective assistance of counsel theory regarding her failure to raise any "exceptional circumstance beyond the alien's control." The claim was that Respondent should have realized that Mr. De Lao had pre-Alzheimer's. However, in 2002, Respondent performed a thorough intake interview and made several inquiries that did not alert Respondent to any pre-Alzheimers or other health issues. Furthermore, the documented disability was diagnosed at the end of 2003, one and one-half years after Respondent last interacted with Mr. De Lao and after Mr. De Lao hired subsequent counsel.

The findings by the Board of Immigration Appeals in the Executive Office of Immigration Review of the Department of Justice resulted in a public reprimand based on the ineffective assistance of counsel theory. In turn, it led to the State Bar of Nevada's private reprimand. Here, a public reproval is comparable.

Respondent exercised her discretion in making a determination as to whether to send Mr. De Lao to see a specialist in good faith and did not file an opening brief in the appeal because no additional information gave her grounds to make arguments beyond those that were made in her underlying motion to re-open. Respondent acknowledges that she should have withdrawn the appeal rather than expend court resources and ultimately failing to file an opening brief. Respondent is remorseful and contrite.

The purposes of attorney discipline is preserved by a public reproval. (Std. 1.3; *Tarver v. State Bar* (1984) 37 Cal.3d 122, 133; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

A stipulation for public reproval was previously rejected with leave of court to further explore justifying a reproval in this matter. Mitigation that was not raised at the time of the original rejection has since been provided and additional factual material was received which substantiates a public reproval.

### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A. (7), was July 23, 2009.

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

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of July 23, 2009, the estimated prosecution costs in this matter are approximately \$1,983.00. 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.

### **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.





1 AFFIDAVIT OF AUTHENTICITY

2 STATE OF NEVADA )  
3 ) ss:  
4 COUNTY OF CLARK )

5 Tara Hernandez under penalty of perjury, being first duly sworn, deposes  
6 and says as follows:

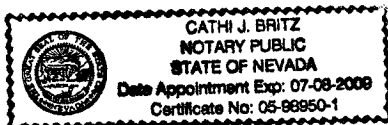
- 7 1. Affiant is employed as a legal secretary for the State Bar of  
8 Nevada;
- 9 2. In such capacity, Affiant is Custodian of Records for the Discipline  
10 Department of the State Bar of Nevada; and
- 11 3. The attached Order approving Letter of Private Reprimand and fine  
12 filed September 23, 2004, in re: Vicenta E. Montoya is a true and authentic copy  
13 of that on file with the State Bar of Nevada, created and maintained in the normal  
14 course of proceedings of the Office of Bar Counsel in accordance with Nevada  
15 Supreme Court Rules:

16  
17 Dated this 23rd day of May, 2006.

18   
19 Tara Hernandez

20 SUBSCRIBED AND SWORN  
21 before me this 23rd day of  
22 May 2006.

23   
24 NOTARY PUBLIC



Case No: 04-006-NA99

STATE BAR OF NEVADA

SOUTHERN NEVADA DISCIPLINARY BOARD

FILED

SEP 23 2004

*[Signature]*  
STATE BAR OF NEVADA

INFORMAL HEARING RE:

VINCENTA E. MONTOYA, ESQ.

ORDER APPROVING LETTER OF  
PRIVATE REPRIMAND AND FINE

This matter came before a designated Informal Hearing Panel of the Southern Nevada Disciplinary Board ("Panel") on Tuesday, August 31, 2004, at the hour of 10:00 a.m. Pursuant to Supreme Court Rule 105(1)(c), Vincenta E. Montoya, Esq. ("Respondent") appealed the decision of a prior Screening Panel to impose upon her a Letter of Private Reprimand and Five Hundred dollar (\$500) fine. The Panel consisted of Chair, Edward "Randy" Miley, Esq.; Bridget A. Branigan, Esq.; and Hardin Embry, laymember. Assistant Bar Counsel David A. Clark represented the State Bar of Nevada ("State Bar"). Respondent was present and represented herself.

Having reviewed the documentary evidence, the testimony of grievant, Santiago Magallanes De Mao, Respondent, and Elsa Mejia, Respondent's secretary, along with the argument of counsel, and good cause appearing,

IT IS HEREBY ORDERED THAT the imposition of a Letter of Private Reprimand, along with the Five Hundred dollar (\$500) fine, as proposed by the Screening Panel, is upheld in its entirety with the exception that the charge that Respondent violated SCR 166 (Declining or terminating representation) is dismissed upon the State Bar's motion. The Chair shall

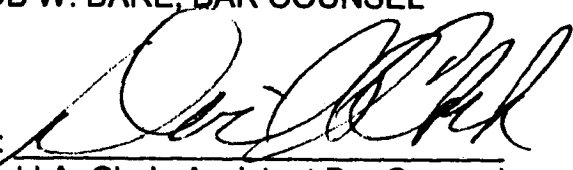
1 execute the Letter of Private Reprimand attached as Exhibit 1 and cause it to be served upon  
2 Respondent.

3 DATED this 20<sup>th</sup> day of September 2004.

4  
5   
6 Edward "Randy" Miley, Chair  
7 Informal Hearing Panel

8 Respectfully submitted:

9 STATE BAR OF NEVADA  
10 ROB W. BARE, BAR COUNSEL

11 By:   
12 David A. Clark, Assistant Bar Counsel  
13 600 East Charleston Boulevard  
14 Las Vegas, Nevada 89104  
15 Attorney for State Bar of Nevada  
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# State Bar of Nevada

*"Making the law work for everyone"*

September 20, 2004

## LETTER OF PRIVATE REPRIMAND

Vincenta Montoya, Esq.  
320 East Charleston Blvd.  
Las Vegas, Nevada 89104

RE: 04-006-NA99 / Santiago Magallanes De Lao

Dear Ms. Montoya:

As you know, on August 31, 2004, an Informal Hearing Panel of the Southern Nevada Disciplinary Board convened to consider your objections to the imposition of a Letter of Private Reprimand and Five Hundred dollar (\$500) fine in the above grievance. After considering the evidence and testimony, the Panel voted unanimously to uphold the proposed discipline with the exception of the allegations you violated SCR 166 (Declining or terminating representation), which the Panel dismissed on motion by the State Bar. The Panel also voted to uphold the imposition of the \$500.00 fine. This letter shall constitute delivery of that reprimand.

Santiago Magallanes De Lao was representing himself in removal proceedings. He can neither read nor write. In April 2002, after he received notice that he had been ordered deported *in absentia* for failing to appear April 23, 2002, for a hearing in Immigration Court, he went to your office to retain you. You quoted him a fee of \$1,500. He eventually made payments totaling \$700 toward legal fees.

On May 23, 2002, Magallanes De Lao came to your office concerned that the 30-day time limit to file a Motion to Re-open was about to run. You were out of the office and unavailable. Your secretary, Elsa Mejia, prepared the Motion to Re-open and signed your name, initialing behind it. While you state that your secretary "has since been reprimanded and informed that any similar actions will be grounds for dismissal," you failed to take any action to bring your secretary's unauthorized practice of law to the Court's attention or rectify her illegal conduct. It appears that the Court denied the Motion to Re-open because it failed to list any "exceptional circumstance beyond the alien's control," as is required to re-open an order for deportation *in absentia*.

You filed an appeal with the Board of Immigration Appeals (BIA). You also filed for and were granted a three-week extension of time in which to file the Opening Brief. However, you failed to do so, asserting that no brief was filed as "Mr. Magallanes and I had

[www.nvbar.org](http://www.nvbar.org)

not entered into an agreement to do an appeal brief." Still, there is no evidence that you explained this to your client.

The BIA denied the appeal by Order dated June 30, 2003. You failed to inform your client of the BIA Order and further failed to apprise him of his right to appeal to the Ninth Circuit Court of Appeals. In fact, the next communication that your client had about his case was in August 2003, when he received a letter from the Immigration Service advising him to report for deportation to Mexico in September 2003. He then sought new counsel, who investigated his case and reviewed his file.

In July 2002, you attempted to pursue alternative relief for cancellation of removal, namely an immediate relative visa petition (I-130), which listed your client's son, Manuel, as the petitioner on behalf of his father. A Notice of an interview was received by your office in April 2003, and mailed to the son at his last known address. You are unaware of what, if anything happened with the interview or the petition.

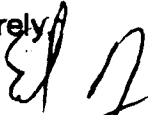
Nevertheless, you listed yourself on the petition as the attorney of record. In that case, you should have been prepared to attend the interview with the son and father who were your clients. As counsel of record, you should have at least followed-up to see what was the eventual outcome of the petition. Mr. Magallanes De Lao's subsequent counsel also discovered that your assistant, in preparing the original I-130 petition, included the wrong apartment number for the son, transposing 203 into 302. That appears to be the reason Manuel never received notice of the interview and is further evidence of your delegation of work to assistants and lack of involvement in this case.

Ultimately, Mr. Magallanes De Lao obtained an Order dated April 2, 2004, in which the BIA granted the Petition to Re-open and rescinded the Order of Deportation. The basis of the Order included ineffective assistance of counsel, Magallanes De Lao's documented disability, and non-opposition by the Immigration Service to re-open the proceedings in light of the disability.

Based on the foregoing, your conduct violated SCR 152 (Scope of representation), SCR 153 (Diligence), SCR 154 (Communication), SCR 187 (Responsibilities regarding nonlawyer assistants), and SCR 189 (Unauthorized practice of law). You are hereby Privately Reprimanded and assessed a \$500.00 fine, payable within 30 days of the date of this letter.

I trust that this reprimand will serve as a reminder to you of your ethical obligations, and that no such problems will arise in the future. Should similar problems arise, they will very likely result in a more severe form of professional discipline, including a recommendation for formal hearing.

Sincerely,



Edward "Randy" Miley, Chair  
Informal Hearing Panel

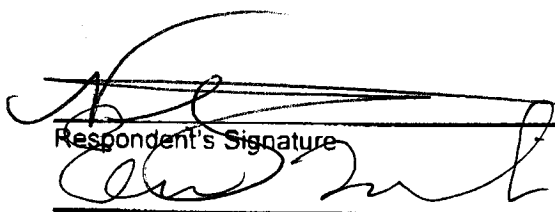
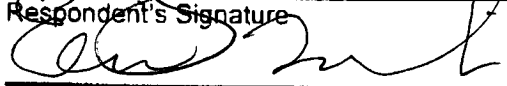
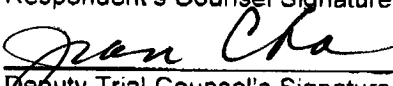
EM/dac

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In the Matter of <b>Vicenta Montoya-Torres</b>	Case number(s): <b>05-J-03259</b>
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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 Fact, Conclusions of Law and Disposition.

<u>7/28/09</u> Date	 Respondent's Signature	<u>Vicenta Montoya-Torres</u> Print Name
<u>8/3/09</u> Date	 Respondent's Counsel Signature	<u>Erica A. Tabachnick</u> Print Name
<u>8/11/09</u> Date	 Deputy Trial Counsel's Signature	<u>Jean Cha</u> Print Name

(Do not write above this line.)

In the Matter Of  
**Vicenta Montoya-Torres**

Case Number(s):  
**05-J-03259**

### ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproval, 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 REPROVAL IMPOSED.
- ☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- ☐ All court dates in the Hearing Department 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 125(b), Rules of Procedure.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

**Failure to comply with any conditions attached to this reproval may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.**

08-24-09  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Judge of the State Bar Court

**RICHARD A. PLATEL**



## 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 August 26, 2009, 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 Los Angeles, California, addressed as follows:
- ERICA TABACHNICK  
A LAW CORPORATION  
900 WILSHIRE BLVD STE 1000  
LOS ANGELES CA 90017
- ☐ by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:
- ☐ by overnight mail at , California, addressed as follows:
- ☐ by fax transmission, at fax number . No error was reported by the fax machine that I used.
- ☐ By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:
- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

JEAH CHA, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 26, 2009.



Angela Owens-Carpenter  
Case Administrator  
State Bar Court