

State Bar Court of California
Hearing Department
San Francisco

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<p>Counsel For The State Bar</p> <p>Office of the Chief Trial Counsel Maria J. Oropeza 180 Howard Street San Francisco, CA 94105 (415) 538-2569</p> <p>Bar # 182660</p>	<p>Case Number (s)</p> <p>05-O-01671 05-O-04809</p>	<p>(for Court's use)</p> <p>PUBLIC MATTER</p> <p>FILED <i>KDS</i></p> <p>MAY 31 2007</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Counsel For Respondent</p> <p>Richard Rogers 114 Sansome Street, Suite 1310 San Francisco, CA 94104 (415) 397-1515</p> <p>Bar # 45843</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>PUBLIC REPROVAL</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of:</p> <p>Kay McKenzie Parker</p> <p>Bar # 143140</p> <p>A Member of the State Bar of California (Respondent)</p>		

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 **December 11, 1989**.
- (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."

(Do not write above this line.)

- (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
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below or 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.
- (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:

Respondent did not know or realize that the award of attorney's fees issued under Civil Code of Procedure §425.16, the Anti-SLAPP statute, would trigger the reporting requirement in Business and Professions Code §6068(o)(3). C.C.P. §425.16 has a built in penalty, if one files a motion to strike a suit and one loses the motion to strike, one must pay the prevailing party's attorney's fees.

Respondent acknowledges that she was ultimately responsible for checking the case law cites in all the briefs submitted even when she was represented by counsel in Dixon v. Parker and in Parker v. Browns. Ms. Parker was a party in both of these matters and represented herself and was also represented by counsel.

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 Reproof:

- (1) Respondent must comply with the conditions attached to the reproof for a period of **one 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

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 reprobation.
- (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 reprobation.
- 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:

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Kay McKenzie Parker, Bar No. 143140

CASE NUMBER(S): 05-O-01671, 05-O-04809 ET AL.

FACTS AND CONCLUSIONS OF LAW.

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

Statement of Facts: Count One (Case No. 05-O-01671)

1. Kay Mckenzie Parker ("respondent") was admitted to the practice of law in the State of California on December 11,1989, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

2. Respondent wilfully violated Business and Professions Code, section 6068(o)(3), by failing to report to the agency charged with attorney discipline, in writing, within 30 days of the time respondent had knowledge of the imposition of any judicial sanctions against respondent, as follows:

3. At all times relevant to counts one through three respondent was listed as an attorney of record in the matter entitled *Dixon v. Parker, Case No 04-CE CG 03069*.

4. On January 18, 2005, the Superior Court issued a tentative ruling in *Dixon v. Parker, Case No 04-CE CG 03069* imposing sanctions on respondent in the sum of \$1,140.00. Respondent was to pay the sanctions within thirty days of the date of service of the order.

5. On or about January 19, 2005, the Superior Court held a hearing in *Dixon v. Parker, Case No 04-CE CG 03069*, at which time it adopted its tentative ruling in full. (See attachment 2)

6. The January 19, 2005 order was properly served on respondent and she received the January 19, 2005 order.

7. Respondent was to inform the State Bar of imposition of sanctions no later than February 20, 2005.

8. Respondent failed to inform the State Bar about the imposition of the sanctions by February 20, 2005.

9. To date, respondent has failed to report the sanctions imposed on January 19, 2005.

Conclusions of Law: Count One (Case No. 05-O-01671)

10. By failing to report to the State Bar, in writing, within 30 days of the time respondent had knowledge of the imposition of the \$1,140.00 in sanctions, respondent wilfully failed to report the imposition of judicial sanctions against her, a wilful violation of Business and Professions Code §6068(o)(3).

Statement of Facts: Count Two (Case No. 05-O-01671)

11. Respondent wilfully violated Business and Professions Code, section 6103, by wilfully disobeying or violating an order of the court requiring her to do or forbear an act connected with or in the course of respondent's profession which she ought in good faith to do or forbear, as follows:

12. The allegations contained in count one of this Stipulation are herein incorporated by reference as if set forth in full.

13. Respondent did not pay the sanctions imposed on January 19, 2005 by February 20, 2005

14. On February 28, 2006, respondent paid the sanctions imposed on January 19, 2005.

Conclusions of Law: Count Two (Case No. 05-O-01671)

15. By failing to pay the sanctions imposed on January 19, 2005 within the thirty day time period set by the superior court, respondent wilfully disobeying or violating an order of the court requiring her to do or forbear an act connected with or in the course of respondent's profession which she ought in good faith to do or forbear, a wilful violation of Business and Professions Code §6103.

Statement of Facts: Count Three (Case No. 05-O-01671)

16. Respondent wilfully violated Rules of Professional Conduct, rule 5-200(D), in presenting a matter to a tribunal, by citing as authority, while knowing its invalidity, a decision that has been overruled or a statute that has been repealed or declared unconstitutional, as follows:

17. The allegations contained in count one of this Stipulation are herein incorporated by reference as if set forth in full.

18. At page three of the order, the superior court states the following:

“Defendant also cites to *Albertson v. Raboff*, (1956) 46 Cal. 2d 375 and *Earp v. Nobmann* (1981) 122 Cal. App. 3d 270. Yet both *Albertson* and *Raboff* were decided prior to the

legislature's amendment of Civil Code §47(b) to expressly exclude the recording of improper *lis pendens* from the litigation privilege. *Palmer v. Zaklama*, supra, 109 Cal. App. 4th 1367 recognized that *Albertson* had been partially abrogated by the amendment to Civil Code §47(b). (Id. at 1379-1380) Since the legislature has now amended section 47(b) to expressly exclude false *lis pendens* from the litigation privilege, defendant's citations to *Albertson* and *Earp* do not avail her. Consequently, since Civil Code §47(b) does not immunize a party for the act of filing a false *lis pendens*, and since plaintiffs have presented sufficient evidence to support their assertion that the defendant's *lis pendens* was indeed false, the court intends to deny the motion to strike."

19. At page three of the order, the superior court states the following:

"Defendant also cited to several cases that have been partially overruled by later precedent or statute in her effort to support her claim that the recording of a *lis pendens* is privileged, yet she did not disclose to the court that the cases she cited had been overruled. (*Albertson v. Raboff*, supra, 46 Cal 2d 375, partially abrogated by statute as noted in *Palmer v. Zaklama*, supra, 109 Cal App. 4th at 1379-1380; *Earp v. Nobmann*, supra, 122 Cal App. 3d 270 overruled by *Silberg v. Anderson*, supra 50 Cal. 3d 205, 212) Defendant also cited another case, *Rubin v. Green* supra, 4 Cal. App. 4th 1187 that does not stand for the proposition cited. Thus, defendant's position lacked any valid legal support, and she knew or should have known of the lack of support when she filed the motion."

20. Respondent's citations to *Albertson*, and *Earp* were incorrect cites, as both cases had been superceded by statute amendment or overruled by case law. Respondent knew or should have known the cases were superceded or overruled.

Conclusions of Law: Count Three (Case No. 05-O-01671)

21. By citing to cases that were superceded by statute or overruled, respondent cited as authority, while knowing its invalidity, a decision that had been overruled or a statute that had been repealed or declared unconstitutional, a wilful violation of Rule 5-200(D) of the Rules of Professional Conduct.

Statement of Facts: Count Four (Case No. 05-O-04809)

22. Respondent wilfully violated Business and Professions Code, section 6068(o)(3), by failing to report to the agency charged with attorney discipline, in writing, within 30 days of the time respondent had knowledge of the imposition of any judicial sanctions against respondent, as follows:

23. On September 15, 2005, the Superior Court issued a tentative ruling in *Parker v.*

Browns Case No. 05-CE CG 02198 imposing sanctions on respondent in the sum of \$5,566.00. Respondent was to pay the sanctions within ten days of the date of service of the order.

24. The September 15, 2005 order was properly served on respondent and she received the September 15, 2005 order.

25. Respondent was to inform the State Bar of the imposition of the sanctions no later than October 16, 2005.

26. Respondent failed to inform the State Bar about the imposition of the sanctions by October 16, 2005.

27. To date, respondent has failed to report the sanctions imposed on September 15, 2005.

Conclusions of Law: Count Four (Case No. 05-O-04809)

28. By failing to report to the State Bar, in writing, within 30 days of the time respondent had knowledge of the imposition of the \$5,566.00 in sanctions, respondent wilfully failed to report the imposition of judicial sanctions against her, a wilful violation of Business and Professions Code §6068(o)(3).

Statement of Facts: Count Five (Case No. 05-O-04809)

29. Respondent wilfully violated Business and Professions Code, section 6103, by wilfully disobeying or violating an order of the court requiring her to do or forbear an act connected with or in the course of respondent's profession which she ought in good faith to do or forbear, as follows:

30. The allegations contained in count four of this Stipulation are herein incorporated by reference as if set forth in full.

31. Respondent did not pay the sanctions imposed on September 15, 2005 by September 25, 2005.

32. Respondent paid the sanctions imposed on September 15, 2005 on June 16, 2006.

Conclusions of Law: Count Five (Case No. 05-O-04809)

33. By failing to pay the sanctions imposed on September 15, 2005 within the ten day time period set by the superior court, or at all, respondent wilfully disobeyed or violated an order of the court requiring her to do or forbear an act connected with or in the course of respondent's profession which she ought in good faith to do or forbear, a wilful violation of Business and Professions Code §6103.

Statement of Facts: Count Six (Case No. 05-O-04809)

34. Respondent wilfully violated Rules of Professional Conduct, rule 5-200(D), in presenting a matter to a tribunal, by citing as authority, while knowing its invalidity, a decision that has been overruled or a statute that has been repealed or declared unconstitutional, as follows:

35. The allegations contained in count four through five are herein incorporated by reference as if set forth in full.

36. At page four of the September 15, 2005 order the court states the following:

“In opposition, plaintiff cites *Kinnamon v. Staitman & Snyder* (1977) 66 Cal. App. 3d 893 for the proposition that an attorney can be sued for intentional infliction of emotional distress for threatening to criminally prosecute a person in order to gain an unfair advantage in litigation. However, the California Supreme Court in *Silberg v. Anderson, supra*, 50 Cal 3d. 205 expressly overruled *Kinnamon* and the other cases applying the “interest of justice” exception to the litigation privilege. The Supreme Court found that the privilege was absolute, and that cases applying an interest of justice exception would undermine the purpose of the privilege. Thus, the plaintiff cannot rely upon *Kinnamon* to justify her IIED cause of action.”

37. Respondent’s citation to *Kinnamon* was an incorrect cite, as the case had been overruled by case law. Respondent knew or should have known the case was overruled.

Conclusions of Law: Count Six (Case No. 05-O-04809)

38. By citing to a case that was overruled, respondent cited as authority, while knowing its invalidity, a decision that had been overruled or a statute that had been repealed or declared unconstitutional, a wilful violation of rule 5-200(D) of the Rules of Professional Conduct.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was May 3, 2007.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of April 11, 2007, the costs in this matter are \$_2,073.08. 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.

Standard 2.6 states in pertinent part “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.” Subsection (a) cites to Business and Professions code section 6068. Subsection (b) cites to Business and Professions code section 6103.

Standard 2.10 states in pertinent part “Culpability of a member of a violation of any provision of the Business and Professions Code not specified in these standards or a of a wilful 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.”

In *In Re Ronald Robert Silverton* (2005) Supreme Court Order S123042, the Supreme Court stated that the standards are entitled to great weight and that the State Bar Court should follow the guidance of the Standards for Attorney Sanctions whenever possible (*Supra*. Slip opinion pg. 14).

Business and Professions Code section 6068(o)(3) cases.

In the Matter of Respondent Y (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862. The review department imposed a private reproof. The attorney in *Respondent Y* failed to report the imposition of the sanction and failed to pay the sanction. *Respondent Y* was the first published opinion clarifying that there is no silent exception to Business and Professions Code section 6068(o)(3)’s requirement that attorney’s report non-discovery sanction orders of \$1,000.00 or more within 30 days of becoming aware of any such order even if the order is being appealed. The review department held that the purpose of section 6068(o)(3) is to inform the State Bar promptly of events which could warrant disciplinary investigation. The State Bar had originally sought a period of stayed suspension in the hearing department in *Respondent Y*, however at the appellate stage they did not seek to increase the discipline rendered by the hearing department. The review department found the hearing judge’s private reproof was reasonable given *respondent y’s* lack of prior discipline and the narrow violations involved.

In the Matter of Wyshak, (Review Dept. 1999) 4 Cal State Bar Ct. Rptr.70. The respondent in *Wyshak* failed to report the imposition of \$80,000.00 in sanctions by a municipal court judge. *Wyshak* argued that he was appealing the sanctions and thus did not have to report them. The review department upheld its rationale in *Respondent Y* and noted that the duty to report sanctions timely pursuant to 6068(o)(3) is not excused solely because the pendency of an appeal. (*Id.* pg. 81) *Wyshak* was disbarred, however he had multiple matters and findings of culpability.

In the Matter of Varakin (Review Dept. 1994) 3 Cal State Bar Ct. Rptr. 179. The attorney in Varakin repeatedly filed frivolous motions and appeals in four different cases over a dozen years for the purpose of delay and harassment. Varakin continued this pattern despite being sanctioned numerous times. Varakin was disbarred. The Review Department held that the statutory duty to report to the State Bar any judicial sanction of more than \$1,000 not imposed for failure to make discovery applies to a sanction incurred by an attorney during self-representation. Violation of this duty may serve as the basis for discipline even though the court imposing the sanction is also required to report the sanction. Knowledge of the reporting requirement is not necessary to find a violation thereof.

In the Matter of Blum (Review Dept. 1994) 3 Cal State Bar Ct. Rptr. 170. The attorney in Blum was charged with multiple counts of misconduct inclusive of a \$55,000.00 misappropriation and was disbarred. However, Blum was also charged with a violation of Business and Professions Code §6068(o)(3). The Review Department in Blum, held that respondent's ignorance of a statute requiring attorneys to report court ordered sanctions to State Bar was not a defense to a violation of such statute, but respondent's awareness that the court itself had reported the sanctions was substantial mitigation.

Business and Professions Code Section 6103 case law

In the Matter of Kaplan (Review Dept. 1993) 2 Cal State Bar Ct. Rptr. 509. The attorney in Kaplan was charged with multiple counts of misconduct inclusive of failing to obey a court order. The Review Department imposed a three-months actual suspension, two-years stayed suspension with a two-year probation term.

Rule 5-200(D) Case Law.

The State Bar could not locate a reported case in which a rule 5-200(D) violation occurred. However, the State Bar believes that cases where a 5-200(B) violation have been found provide some guidance.

In the Matter of Jeffers (Review Dept. 1994) Cal State Bar Ct. Rptr. 211. The attorney in Jeffers failed to appear at a mandatory settlement conference and intentionally misleading the settlement conference judge. The Review Department imposed a one-year stayed suspension and two year probation term. The Review Department held that dishonest acts by an attorney are grounds for suspension or disbarment even if no harm results.

Di Sabatino v. State Bar (1980) 27 Cal 3d. 159, the attorney misled a bail commissioner by failing to disclose two other bail reduction motions. Di Sabatino had no prior record of discipline in six years of practice and the court imposed a public reproof.

Drociak v. State Bar (1991) 52 Cal.3d 1085, the attorney answered interrogatories directed to his client and attached the client's pre-signed verifications to the interrogatories without first consulting with the client to assure that the answers were true. Drociak had been in practice for twenty-five years with no disciplinary history. The Supreme Court imposed a thirty-day actual suspension, one-year stayed suspension and a two-year probation term.

MITIGATING CIRCUMSTANCES.

Respondent did not know or realize that the award of attorney's fees issued under Civil Code of Procedure §425.16, the Anti-SLAPP statute, would trigger the reporting requirement in Business and Professions Code §6068(o)(3). C.C.P. §425.16 has a built in penalty, if one files a motion to strike a suit and one loses the motion to strike, one must pay the prevailing party's attorney's fees.

Respondent acknowledges that she was ultimately responsible for checking the case law cites in all the briefs submitted even when she was represented by counsel in *Dixon v. Parker* and in *Parker v. Browns*. Ms. Parker was a party in both of these matters and represented herself and was also represented by counsel.

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.

(Do not write above this line.)

In the Matter of Kay McKenzie Parker	Case number(s): 05-O-01671, 05-O-04809
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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.

4-27-07
Date


Respondent's Signature

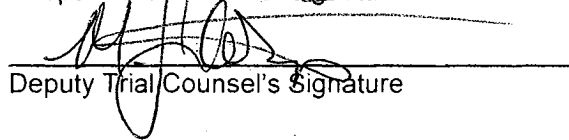
Kay McKenzie Parker
Print Name

5-7-07
Date


Respondent's Counsel Signature

Richard Rogers
Print Name

5-10-07
Date


Deputy Trial Counsel's Signature

Maria J. Oropeza
Print Name

(Do not write above this line.)

In the Matter Of Kay McKenzie Parker	Case Number(s): 05-O-01671, 05-O-04809
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ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, 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 reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

5/31/07 _____
Date 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 May 31, 2007, 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:

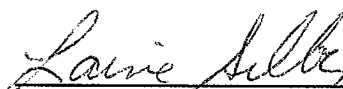
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**RICHARD MARTIN ROGERS
MAYO & ROGERS
114 SANSOME ST #1310
SAN FRANCISCO, CA 94104**

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

MARIA OROPEZA, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **May 31, 2007**.



Laine Silber
Case Administrator
State Bar Court