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

Counsel For The State Bar  <b>Brandon K. Tady</b> 1149 South Hill Street Los Angeles, California 90015  Bar # <b>83045</b>	Case Number (s) <b>05-O-03852</b>	(for Court's use)  <p align="center"><b>FILED</b></p> <p align="center">OCT - 6 2008 <i>YIC</i></p> <p align="center">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p align="center"><b>PUBLIC MATTER</b></p>
In Pro Per Respondent  <b>Geraldine Darrow</b> Darrow & Merrill, #200 5150 E. Pacific Coast Highway Long Beach, California 90804  Bar # <b>84548</b>	Submitted to: <b>Settlement Judge</b>	
In the Matter Of: <b>Geraldine Darrow</b> Darrow & Merrill, #200 5150 E. Pacific Coast Highway, #200 Long Beach, California 90804  Bar # <b>84548</b>  A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>STAYED SUSPENSION; NO ACTUAL SUSPENSION</b>  <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**.
- (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 **11** 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.
  - costs to be paid in equal amounts prior to February 1 for the following membership years: **2009, 2010, 2011.**  
(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
  - (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. **Respondent filed a civil complaint on behalf of Josie Martinez to recover unpaid overtime . The Court scheduled an OSC re Dismissal. Respondent failed to appear for the OSC re Dismissal and the Court dismissed Josie Martinez's civil complaint. Respondent did not file a motion for relief from the Court's order of dismissal. The dismissal of the civil complaint caused harm to Martinez because she lost the opportunity to pursue a meritorious claim.**
- (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. **Although the present misconduct is serious, Respondent was admitted to practice on November 29, 1978 and she does not have a record of prior State Bar discipline.**
- (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)  **Stayed Suspension:**

(a)  Respondent must be suspended from the practice of law for a period of **one year**.

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:

The above-referenced suspension is stayed.

(2)  **Probation:**

Respondent is placed on probation for a period of **one year**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court)

**E. Additional Conditions of Probation:**

(1)  During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(2)  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.

(3)  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.

(4)  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.

(5)  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.

- (6)  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.
- (7)  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 State Bar Ethics School, and passage of the test given at the end of that session.
  - No Ethics School recommended. Reason:
- (8)  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.
- (9)  The following conditions are attached hereto and incorporated:
  - Substance Abuse Conditions                       Law Office Management Conditions
  - Medical Conditions                                       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 within one year. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
  - No MPRE recommended. Reason:
- (2)  **Other Conditions:**

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

IN THE MATTER OF:        Geraldine Darrow (Bar #84548)  
CASE NUMBER(S):         05-O-03852-RAP

**FACTS AND CONCLUSIONS OF LAW.**

Respondent admits the following facts are true and she is culpable of the violations of the specified statutes.

Case number 05-O-03852-RAP

**FACTS**

1. On October 4, 2002, Josie Martinez (“Martinez”) employed Respondent to represent her in an action to recover unpaid overtime against her employer, Oakley, Inc.
2. On August 14, 2003, Respondent filed a civil complaint on behalf of Martinez in the Orange County Superior Court entitled *Josie Martinez vs. Oakley, Inc.*, case number 03CC10294 (“Martinez Action”).
3. On February 3, 2004, Respondent appeared in Court for a case management conference. During this hearing, the Court referred the Martinez Action to arbitration and scheduled a post arbitration review hearing /order to show cause/ trial setting conference (“post arbitration review”) for June 3, 2004. Respondent received oral notice of the post arbitration review.
4. On June 3, 2004, Respondent failed to appear for the post arbitration review hearing. The Court scheduled an OSC re Dismissal for July 13, 2004. Respondent received notice of the OSC re Dismissal.
5. On June 23, 2004, Respondent filed a Declaration with the Court explaining that she failed to attend post arbitration review because of a calendaring error.
6. On July 13, 2004, Respondent did not appear for the OSC re Dismissal but had another attorney attend the hearing. At the hearing of the OSC re Dismissal, the Court scheduled a Case Management Conference (“CMC”) for September 14, 2004.

7. On September 14, 2004, Respondent appeared telephonically for the CMC and the Court set a new post arbitration review hearing and order to show cause (“ second OSC re Dismissal”) for February 3, 2005. The Court informed Respondent that if she failed to attend the second OSC re Dismissal, the Martinez Action would be dismissed.

8. On February 3, 2005, Respondent failed to attend the second OSC re Dismissal and the Court dismissed the Martinez Action. Respondent received notice of the dismissal.

9. Respondent did not file a motion for relief from the Court’s order dismissing the Martinez Action.

10. Respondent did not inform Martinez the Martinez Action was dismissed.

11. From February, 2004 through May, 2005, Martinez left numerous telephone messages for Respondent asking about the status of the Martinez Action and requesting that Respondent return Martinez’s calls. Respondent received Martinez’s telephone messages and she did not return them.

### **CONCLUSIONS OF LAW**

12. By failing to attend the second OSC re Dismissal which caused the Court to dismiss the Martinez Action, and by not filing a motion for relief from the Court’s order of dismissal, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in violation of California Rules of Professional Conduct, rule 3-110 (A).

13. By failing to advise Martinez that the Court dismissed the Martinez Action, Respondent wilfully failed to inform Martinez about a significant development in her case in violation of California Business and Professions Code (“B&P”), section 6068 (m).

14. By failing to respond to Martinez’s telephone calls requesting the status of the Martinez Action, Respondent wilfully failed to respond promptly to the reasonable status inquiries of a client in violation of B&P Code, section 6068 (m).

### **WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY**

The parties waive any variance between the Notice of Disciplinary Charges filed on February 28, 2008 and the facts contained in this Stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to a formal hearing on any charge not included in the Notice of Disciplinary Charges.

## **PENDING PROCEEDINGS.**

None. The disclosure date referred to, on page one, paragraph A.(7), was September 19, 2008.

## **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of September 19, 2008, the costs in this matter are \$3654.00. 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.

## **AGGRAVATING CIRCUMSTANCES.**

Respondent's misconduct significantly harmed Martinez and is an aggravating circumstance under Standard 1.2 (b) (iv).

## **MITIGATING CIRCUMSTANCES.**

Respondent was admitted to the State Bar on November 29, 1978 and she does not have a record of prior discipline. Respondent's misconduct is serious; but, the State Bar acknowledges that *In the Matter of Stamper* (Review Department 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, the Review Department held that Standard 1.2 (e) (i) has been repeatedly applied by the Supreme Court in cases involving serious misconduct.

## **AUTHORITIES SUPPORTING DISCIPLINE.**

Standard 2.4 applies to Respondent's failure to perform services in an individual matter not demonstrating a pattern of misconduct and to Respondent's wilful failure to communicate with a client. The range of discipline required by Standard 2.4 is reproof or suspension.

In *In re Silvertown* (2005) 36 Cal. 4th 81, 92, 29 Cal. Rptr. 3d 766, the California Supreme Court affirmed the Standards are entitled to great weight and should be applied unless Respondent demonstrates the existence of extraordinary circumstances justifying a lesser sanction than that required by the Standards.

In *In re Ivan O. B. Morse* (1995) 11 Cal. 4th 184, 206, 44 Cal. Rptr. 620 ("*In re Morse*"), the Supreme Court identified the proper analysis for determining the appropriate level of discipline:

"In deciding appropriate discipline, we consider the underlying misconduct and

aggravating and mitigating circumstances.... To determine the appropriate level of discipline, we, like the review department, must look to the Standards for guidance. ‘These guidelines are not binding on us, but they promote the consistent and uniform application of disciplinary measures. Hence we have said that “we will not reject a recommendation arising from the application of the Standards unless we have grave doubts as to the propriety of the recommended discipline (Citations omitted).”’” (*In re Morse*, supra, 11 Cal. 4th 184, 206).

Standard 1.3 provides that the primary purposes of disciplinary proceedings are protection of the public, the courts, and the legal profession, the maintenance of high professional standards by attorneys, and preservation of public confidence in the legal profession. (See also *Garlow vs. State Bar* (1982) 30 Cal. 3d 912, 916, 180 Cal. Rptr. 831, 640 P 2d. 1106, *In re Morse*, supra, 11 Cal. 4th 184, 205, 206).

In *Van Sloten vs. State Bar* (1989) 48 Cal. 3d 921 (“*Van Sloten*”), attorney Van Sloten was employed by Marian Tuscherer (“Tuscherer”) to handle a marital dissolution proceeding. When Van Sloten was not able to secure the cooperation of Ms. Tuscherer’s husband to obtain an uncontested divorce, he did nothing more to obtain the marital dissolution. Ms. Tuscherer subsequently hired another attorney who obtained the marital dissolution.

The Court characterized Van Sloten’s misconduct as “... a single act of failing to perform the requested services without serious consequences to the client...” *Van Sloten vs. State Bar*, supra, 48 Cal. 3d at 933. The Court imposed discipline on attorney Van Sloten of six (6) months suspension stayed and one year probation with conditions including passing the MultiState Professional Responsibility Examination.

Respondent’s misconduct in the present case deserves a higher level of discipline imposed by the Court in *Van Sloten*. Respondent’s misconduct significantly harmed Martinez because the Court’s dismissal of the Martinez Action deprived her of the opportunity to pursue a meritorious claim.

In *In the Matter of Nunez* (Review Department 1992) 2 Cal. State Bar Ct. Rptr. 196 (“*In the Matter of Nunez*”), the Court stated that the discipline imposed by the Supreme Court in matters involving abandonment of a single client by an attorney with no prior record of discipline “...ranged from no actual suspension to 90 days actual suspension.” (*In the Matter of Nunez*, supra, 2 Cal. State Bar Ct. Rptr. 206). The Court recommended discipline for attorney Nunez of 30 days actual suspension, stayed suspension of six months, and one year probation. The Court characterized attorney Nunez’s misconduct as including trust account violations, abandonment, and failure to communicate. Attorney Nunez introduced evidence of mitigating evidence, which the Court characterized as “impressive,” including services to disadvantaged clients and to the minority community.

Respondent's misconduct in the present does not include the trust account violations identified by the Court in *In the Matter of Nunez*, and therefore, a lower level of discipline without actual suspension is appropriate.

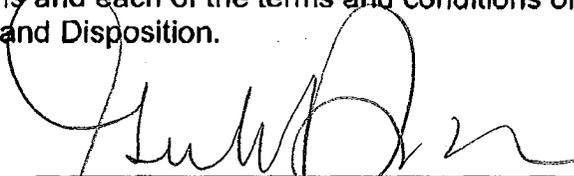
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In the Matter of Geraldine Darrow	Case number(s): 05-O-03852
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**SIGNATURE OF THE PARTIES**

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.

10/1/08  
Date

  
Respondent's Signature

Geraldine Darrow  
Print Name

10/2/08  
Date

Brandon K. Tady  
Deputy Trial Counsel's Signature

Brandon K. Tady  
Print Name

(Do not write above this line.)

In the Matter Of  
**Geraldine Darrow**

Case Number(s):  
**05-O-03852**

### ORDER

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

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

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

10-06-08  
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 October 6, 2008, I deposited a true copy of the following document(s):

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

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:

GERALDINE DARROW  
DARROW & MERRILL #200  
5150 E PACIFIC COAST HWY  
LONG BEACH, CA 90804

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

BRANDON TADY, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 6, 2008.



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Tammy Cleaver  
Case Administrator  
State Bar Court