State Bar Court of California

CONFIDENTIAL

Hearing Department Los Angeles

PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE OR MENTAL HEALTH ISSUES Counsel For The State Bar Case Number (s) (for Court's use 05-O-04634 and Monique T. Miller 06-O-10677 **Deputy Trial Counsel** 1149 S. Hill Street PUBLIC MATTER Los Angeles, CA 90015-2299 SPATE BAR COUR' Tel: (213) 765-1486 CLERK'S OFFICE LOS ANGELES Bar # 212469 In Pro Per Respondent Ira Cohen **5249 Carmento Drive** STATE BAR JOUR Oak Park, CA 91377 LERES OFFICE Tel: (805) 496-6300 the ANGELES Submitted to: Program Judge Bar # 79888 STIPULATION RE FACTS AND CONCLUSIONS OF LAW In the Matter Of: IRA COHEN ☐ PREVIOUS STIPULATION REJECTED Bar # 79888 A Member of the State Bar of California

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

A. Parties' Acknowledgments:

(Respondent)

- (1) Respondent is a member of the State Bar of California, admitted June 23, 1978.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, if Respondent is not accepted into the Lawyer Assistance Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (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, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 12 pages, excluding 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".

(Stipulation form approved by SBC Executive Committee 9/18/2002. Rev. 12/16/2004; 12/13/2006.)

Program

(Do r	not writ	above this line.)
(6)	No	nore than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any ding investigation/proceeding not resolved by this stipulation, except for criminal investigations.
(7)		ment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 0.7 and will pay timely any disciplinary costs imposed in this proceeding.
I	Prof	avating Circumstances [for definition, see Standards for Attorney Sanctions for ssional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances equired.
(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:
(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)	\boxtimes	Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. Respondent's misconduct evinces multiple acts of wrongdoing in that the objects of Respondent's misconduct were two clients and the superior

Additional aggravating circumstances:

☐ No aggravating circumstances are involved.

None.

(8)

court.

	_	ating Circumstances [see standard 1.2(e)]. Facts supporting mitigating mustances 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 or 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 stres which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
(10)	Ø	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. See page 11
(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 has no prior record of discipline since his admission to practice law in California on June 23, 1978. To the extent the Court may have already considered this circumstance in mitigation in the concurrently pending State Bar Case Number 03-O-00950, no further weight should be given in connection with these matters.

ATTACHMENT TO

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

IN THE MATTER OF:

IRA COHEN

CASE NUMBERS:

05-O-04634 and 06-O-10677

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violating the specified statutes and the California Rules of Professional Conduct, which constitute causes for discipline in these matters.

I. Facts.

1. Respondent Ira Cohen (Respondent) was admitted to the practice of law in the State of California on June 23, 1978, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

State Bar Court Case Number 05-O-04634

- 2. On August 12, 2004, Respondent filed a personal injury complaint on behalf of plaintiff Doris Martin (Martin), entitled *Martin v. Western Horizon Care Assistance, Inc.*, Riverside County Superior Court Case Number INC045215 (the Martin matter).
- 3. On November 1, 2004, defendants' counsel in the Martin matter, Michael B. Levin (Levin), filed a general denial on behalf of the Western Horizon Care Assistance, Inc. defendants (Western).
- 4. On February 28, 2005, the superior court held a case management conference (CMC) in the Martin matter, but Respondent did not appear for that CMC.
- 5. At that CMC, the superior court ordered Martin and Western to each pay to the Clerk of the Court \$250 in sanctions on or before April 15, 2005. The superior court noted that if the sanctions were not paid timely, the Martin matter would be subject to dismissal. The superior court continued the CMC and further set an order to show cause re dismissal of the Martin matter for April 15, 2005 (the OSC). Notice of the OSC and continuance of the CMC was given by the Clerk. Respondent received that notice.

- 6. On April 8, 2005, Levin telephoned Respondent's office and left a voice-mail message for Respondent informing him that Levin would be making an ex parte appearance in the Martin matter on April 13, 2005, for the purposes of requesting a brief continuance of the OSC, the CMC, and a hearing on a motion Western had filed for relief from the February 28, 2005 sanctions. Respondent received that telephone message from Levin, but he did not respond or otherwise communicate with Levin.
- 7. On April 11, 2005, Levin telephoned Respondent's office and left him another voice-mail message, repeating the information he had already provided in the April 8, 2005 voice-mail message. Respondent received that telephone message from Levin, but he did not respond or otherwise communicate with Levin.
- 8. On April 11, 2005, Levin filed an Ex Parte Application for Continuance of the OSC re: Dismissal and the CMC.
- 9. On April 13, 2005, the superior court heard Levin's Ex Parte Application. Respondent did not appear for that hearing. The superior court granted the continuance and vacated the \$250 in sanctions previously ordered against Western.
- 10. On April 15, 2005, the OSC and the CMC were continued to May 3, 2005.
- 11. On May 3, 2005, Respondent did not appear for the OSC or the CMC. The superior court continued the OSC and CMC to July 6, 2005. The superior court also ordered Respondent to pay \$10,000 in sanctions to Financial Services on or before July 6, 2005, for his failure to appear or to file a substitution of attorney in the Martin matter. Notice of the sanctions order was given by the Clerk. Respondent received that notice and order.
- 12. On May 9, 2005, Levin filed a Notice of Continued OSC Hearing and Case Management Conference (Notice). The Notice also referenced the court order of \$10,000 against Respondent, as well as noting that they were issued for Respondent's failure to appear or withdraw. Respondent received that Notice.
- 13. On June 30, 2005, Levin filed a Declaration of Michael B. Levin in Support of OSC Re: Dismissal of Complaint for Plaintiff Counsel's Failure to Appear, and Opposition to Plaintiff's Request for Continuance of OSC and Case Management Conference (Declaration and Opposition). Respondent received that Declaration and Opposition.
- 14. On July 6, 2005, the superior court conducted a CMC and a hearing on the OSC, but Respondent did not make any appearance. The superior court continued the OSC and CMC to August 5, 2005.

- 15. Respondent did not inform Martin at any time that he was withdrawing from employment.
- By not appearing at the February 28, 2005 hearing, by not responding to Levin's April 8, 2005 and April 11, 2005 telephone calls, by not appearing at the hearings held on April 13, 2005, May 3, 2005, and July 6, 2005, Respondent effectively withdrew from representation of Martin.
- 17. Respondent did not inform the State Bar at any time that the superior court had imposed \$10,000 in sanctions against him on May 3, 2005, for his failure to appear or to file a substitution of attorney in the Martin matter.
- 18. Respondent did not comply with the February 28, 2005 superior court order imposing \$250 in sanctions against him and Martin, jointly and severally.
- 19. Respondent did not appeal the February 28, 2005 sanctions order or otherwise challenge that order for any reason.
- 20. Respondent did not pay the May 3, 2005 superior court order imposing \$10,000 in sanctions against him.
- 21. Respondent did not appeal the May 3, 2005 sanctions order or otherwise challenge that order for any reason.
- 22. On October 21, 2005, the State Bar commenced its investigation regarding the Martin matter, based on a State Bar complaint filed against Respondent (the Martin complaint).
- 23. On December 14, 2005, an investigator for the State Bar (investigator) sent Respondent a letter regarding the Martin complaint. On January 5, 2006, the investigator sent Respondent another letter regarding the Martin complaint. In both letters, the investigator requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar regarding the Martin complaint.
- 24. Respondent received the December 14, 2005 and January 5, 2006 letters from the investigator, but he did not respond in writing or otherwise communicate with the investigator at any time regarding the Martin complaint.

State Bar Court Case Number 06-O-10677

25. In December 2002, Floydell Carter (Carter) employed Respondent on a contingency fee basis to represent her in a discrimination claim with the Department of Fair Employment and Housing (DFEH) as a prerequisite to filing a lawsuit against her former employer, AMGEN.

- 26. Respondent agreed to obtain, on Carter's behalf, a right-to-sue letter from DFEH and to pursue all available remedies against AMGEN.
- 27. In February 2003, Respondent drafted a letter on Carter's behalf, addressed to the disability case manager for Liberty Life Assurance Company of Boston, asserting Carter's claim of improper denial of her application for long term disability benefits, in addition to her asserted employment discrimination. Respondent provided a draft of the letter for Carter's review.
- 28. In March 2003, Carter telephoned Respondent, seeking information concerning the status of her case. In response, Respondent told Carter that he would file her claim by the end of that month. Thereafter, Carter called Respondent again in March 2003 and asked when she could sign the discrimination claim. In response, Respondent told Carter that, as her attorney, he could and would sign the discrimination claim on her behalf.
- 29. In April 2003, Carter again called Respondent about the status of her case. During that conversation, Respondent informed Carter that he had filed the discrimination claim on her behalf.
- 30. In May 2003, Carter again called Respondent about the status of her case. In response, Respondent told her that he would provide her with copies of the paperwork he filed with DFEH. However, Respondent did not provide any such documents to Carter.
- 31. In July 2003, Carter again called Respondent to ask if he had heard anything from DFEH. In response, Respondent told Carter that he had not heard from DFEH, but he assured her that such a delay was not unusual.
- 32. In August 2003, Carter again called Respondent about the status of her case. During that conversation, Respondent told Carter that he had been notified by DFEH that he had submitted her claim using an outdated form. Respondent further assured Carter that he would complete and resubmit a new form promptly.
- 33. During another telephone conversation with Respondent in August 2003, Respondent informed Carter that he had received a right-to-sue letter from DFEH.
- 34. In October 2003, Carter contacted Respondent to inquire about the progress, if any, of her case. In response, Respondent told Carter that she needed to be patient, and that he would be setting up meetings and depositions relating to her case.
- 35. In the latter part of 2003, Respondent went to Carter's home and purportedly for the purposes of preparing Carter for her deposition in her case against AMGEN, which Respondent told her was scheduled for January 2004.

- 36. In January 2004, Respondent informed Carter that he would have to cancel and reschedule her deposition for some time in March 2004, because he was relocating his office.
- 37. Carter contacted Respondent in early March 2004 to discuss her deposition. In response, Respondent informed Carter that he again had to reschedule the deposition due to a planned family vacation.
- 38. In late March 2004, Carter contacted Respondent regarding her deposition. In response, Respondent informed Carter that her deposition had been rescheduled for April 12, 2004.
- 39. Between April 1, 2004, and April 9, 2004, Carter made several attempts to contact Respondent to obtain the status of her AMGEN case, and, in particular, her scheduled deposition. Although she left messages for Respondent requesting a return call, Respondent did not return any of Carter's calls or otherwise communicate with her.
- 40. On April 10, 2004, Carter went to Respondent's home to ask about her scheduled deposition. In response, Respondent informed Carter that her deposition had been rescheduled again.
- 41. On April 21, 2004, Respondent told Carter he could no longer represent her in connection with her case against AMGEN. At that time, Respondent informed Carter that he had not been professional in handling her case, and that he had misrepresented to her that he had filed anything on her behalf. Respondent, however, told Carter that there was a right-to-sue letter in her file, and he agreed to turn over her file to her.

told her to sue him.

- 42. Approximately three days later, Carter learned that Respondent did not receive or obtain a right-to-sue letter from DFEH.
- 43. Respondent did not file a claim with DFEH on Carter's behalf at any time.
- 44. DFEH did not issue to Carter a right-to-sue letter at any time during Respondent's representation of her.
- 45. During the entire period of Respondent's representation of Carter, no lawsuit was filed on her behalf and no deposition of any party or witness was scheduled relating to Carter's case against AMGEN
- 46. Thereafter, Carter employed William Grewe of the law firm Rose, Klein & Marias (Grewe) to investigate the status of any case she may have against AMGEN, and then to represent her in a malpractice action against Respondent.

- 47. On June 2, 2004, Grewe sent a letter to Respondent requesting Carter's file and enclosed with his letter an authorization signed by Carter for her file to be released to Grewe. Respondent received Grewe's June 2, 2004 letter, but he did not respond or otherwise communicate with Grewe.
- 48. On July 1, 2004, Grewe sent another letter to Respondent requesting Carter's file. Respondent received Grewe's July 1, 2004 letter, but he did not respond or otherwise communicate with Grewe.
- 49. On January 19, 2005, Grewe filed suit against Respondent in a matter entitled *Floydell Carter v. Ira Cohen*, Los Angeles County Superior Court Case Number LC070404 (the malpractice case).
- 50. On September 14, 2005, a default judgment for \$376,507.90 was entered against Respondent in the malpractice case.

II. Conclusions of Law.

State Bar Court Case Number 05-O-04634

Count One

By failing to inform Martin of his intent to cease performing services on behalf of Martin or his inability to complete the legal services for which he had been employed, and by failing to make arrangements for replacement counsel to represent Martin, Respondent failed to take reasonable steps to avoid reasonably foreseeable prejudice to his client upon termination of employment, in willful violation of rule 3-700(A)(2) of the California Rules of Professional Conduct.

Count Two

By failing to report to the State Bar, in writing, within 30 days of Respondent's having knowledge of the imposition of \$10,000 in judicial sanctions against him and which was unrelated to any failure to make discovery, Respondent willfully violated California Business and Professions Code section 6068, subdivision (o)(3).

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Count Three

By failing to pay the February 28, 2005 and May 3, 2005 sanctions ordered by the superior court, Respondent failed to comply with court orders requiring him to do an act or acts connected with or in the course of his profession, which he ought in good faith to do, in willful violation of California Business and Professions Code section 6103.

Count Four

By not providing a written response to the allegations in the Martin complaint or otherwise cooperating in the State Bar's investigation of the Martin complaint, Respondent failed to cooperate in a disciplinary investigation, in willful violation of California Business and Professions Code section 6068, subdivision (i).

State Bar Court Case Number 06-O-10677

Count One

By not filing a preliminary claim with DFEH, by not attempting to obtain a right-to-sue letter from DFEH, by not prosecuting Carter's claims for employment discrimination and improper denial of benefits, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A) of the California Rules of Professional Conduct.

Count Two

By informing Carter that Respondent had filed a claim with DFEH on her behalf, that he had obtained a right-to-sue letter from DFEH, that her case against AMGEN was proceeding, and that her deposition was scheduled in that case and then rescheduled, when Respondent knew that none of those statements were true when they were made, Respondent committed acts involving moral turpitude, dishonesty, or corruption, in willful violation of California Business and Professions Code section 6106.

Count Three

By not releasing Carter's file to either Grewe or Carter at their requests, Respondent failed to promptly return to the client all the client's papers and property upon termination of employment, in willful violation of rule 3-700(D)(1) of the California Rules of Professional Conduct.

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PENDING PROCEEDINGS.

The disclosure date referred to, on page two, paragraph A(6), was August 28, 2007.

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

The parties hereby waive any variance between the Notice of Disciplinary Charges filed on May 25, 2006, in State Bar Court Case Number 05-O-04634 and the facts and conclusions of law contained in this stipulation. The parties also waive any variance between the Notice of Disciplinary Charges filed on September 29, 2006, in State Bar Court Case Number 06-O-10677 and the facts and conclusions of law contained in this stipulation. The parties further waive the issuance of amended Notices of Disciplinary Charges relating to cases which are the subject matters of this stipulation.

Family Problems:

Between 1996 and 2004, Respondent suffered the loss of several family members: his mother (12/15/01); his wife (2/28/02); his first cousin (April 2002); and his father in law (June 2002).

The family problems were compounded by a remarriage in Movember 2004 which clissolved in a divorce in Felmary 2006.

(Do not write above this line.) In the Matter of IRA COHEN	Case number(s): 05-O-04634 and 06-O-10677	_

SIGNATURE OF THE PARTIES

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

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, upon Respondent's successful completion of or termination from the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Statement Re: Discipline shall be imposed or recommended to the Supreme Court.

3,14.08 Date	Respondent's Signature	Ira Cohen Print Name
Date	Respondent's Counsel Signature	Print Name
3/14/08 Date	Morrogre T. Muller Deputy Trial Counsel's Signature	Monique T. Miller Print Name

			;
		ORDER	
	ERED that the requested disr	arties and that it adequately pr nissal of counts/charges, if any	
·			
X	The stipulation as to facts ar	nd conclusions of law is APPR	OVED.
	The stipulation as to facts ar forth below.	nd conclusions of law is APPR	OVED AS MODIFIED as se
	All court dates in the Hearing	g Department are vacated.	
			•
			4
stipulation, urther mod	filed within 15 days after sen lifies the approved stipulation ram or does not sign the Prog	as approved unless: 1) a motivice of this order, is granted; or 3) Respondent is not accepram Contract. (See rule 135(b) Judge of the State Ba	r 2) this court modifies or epted for participation o) and 802(b), Rules of

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 July 21, 2008, I deposited a true copy of the following document(s):

CONFIDENTIAL STATEMENT OF ALTERNATIVE DISPOSITIONS AND ORDERS;

STIPULATION RE FACTS AND CONCLUSIONS OF LAW (lodged January 21, 2005 with Certificate of Service);

STIPULATION RE FACTS AND CONCLUSIONS OF LAW; and,

CONTRACT AND WAIVER FOR PARTICIPATION IN THE STATE BAR COURT'S ALTERNATIVE DISCIPLINE PROGRAM

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

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

IRA COHEN ESQ LAW OFC IRA COHEN 1710 N MOORPARK RD STE 59 THOUSAND OAKS, CA 91360

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

Monique T. Miller, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **July 21**, **2008**.

Julieta E. Gonzales

Case Administrator

State Bar Court

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on April 1, 2010, I deposited a true copy of the following document(s):

DECISION AND ORDER FILING AND SEALING CERTAIN DOCUMENTS; STIPULATION RE FACTS AND CONCLUSIONS OF LAW, CASE NO. 03-O-00950; STIPULATION RE FACTS AND CONCLUSIONS OF LAW, CASE NOS. 05-O-04634 and 06-O-10677; and STIPULATION RE FACTS AND CONCLUSIONS OF LAW, Inv. #07-O-12539

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

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

IRA COHEN ESQ LAW OFC IRA COHEN 28030 DOROTHY DR STE 301 AGOURA HILLS, CA 91301

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

Monique T. Miller, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 1, 2010.

> ta I. Jonzales Case Administrator

State Bar Court