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**State Bar Court of California  
Hearing Department  
San Francisco**

<p>Counsel For The State Bar</p> <p><b>Susan I. Kagan</b> Deputy Trial Counsel 180 Howard Street, 7<sup>th</sup> Fl. San Francisco, CA 94105 Tel: (415) 538-2037</p> <p>Bar # 214209</p>	<p>Case Number (s) 06-O-10219 06-O-13116</p>	<p>(for Court's use)</p> <p align="center"><b>PUBLIC MATTER</b></p> <p align="center"><b>FILED</b></p> <p align="center">JAN 30 2007</p> <p align="center">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p><b>Marie I. Klopchic</b> 6680 Alhambra Ave., #208 Martinez, CA 94553 Tel: (925) 812-1858</p>	<p>Submitted to: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>Bar # 201106</p> <p>In the Matter Of: <b>Marie I. Klopchic</b></p> <p>Bar # 201106</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 6/7/99.
- (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 10 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."

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- (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):
- until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
  - costs to be paid in equal amounts prior to February 1 for the following membership years: (hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
  - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
  - costs entirely waived

**B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.**

- (1)  **Prior record of discipline** [see standard 1.2(f)]
- (a)  State Bar Court case # of prior case
  - (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)  **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:**

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Actual Suspension

**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)  **Stayed Suspension:**

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- (a)  Respondent must be suspended from the practice of law for a period of **two (2) years**.
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii.  and until Respondent does the following:
- (b)  The above-referenced suspension is stayed.

(2)  **Probation:**

Respondent must be placed on probation for a period of **two (2) years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 953, Calif. Rules of Ct.)

(3)  **Actual Suspension:**

- (a)  Respondent must be actually suspended from the practice of law in the State of California for a period of **thirty (30) days**.
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii.  and until Respondent does the following:

**E. Additional Conditions of Probation:**

- (1)  If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2)  During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3)  Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4)  Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5)  Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Actual Suspension

whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6)  Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7)  Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8)  Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason:
- (9)  Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10)  The following conditions are attached hereto and incorporated:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input type="checkbox"/> Financial Conditions             |

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

- (1)  **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2)  **Rule 955, California Rules of Court:** Respondent must comply with the requirements of rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3)  **Conditional Rule 955, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

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(4)  **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:

(5)  **Other Conditions:**

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(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Actual Suspension

Attachment language begins here (if any):

## FACTS AND CONCLUSIONS OF LAW

**Case No. 06-O-10219**

### Facts

1. Prior to August 23, 2005, Debra Hoelter ("Hoelter") employed attorney Leslie Shaw ("Shaw") to represent her in a dissolution proceeding, *In re Marriage of Franklin DeSpain and Debra Hoelter*, El Dorado County Superior Court case number SFL2005-0232. Respondent represented Franklin DeSpain in the matter.
2. At the time Shaw began representing Hoelter, Hoelter had been served with a temporary restraining order and a notice of hearing on the temporary restraining order set for August 30, 2005. Hoelter had not yet been served with the petition for dissolution.
3. On August 23, 2005, Shaw wrote respondent regarding the case, advised that he was unavailable for the hearing scheduled for August 30, 2005 due to a trial, and requested that the hearing be continued until September 6, 2005.
4. On August 25, 2005, Shaw sent respondent a letter and enclosed a proposed stipulation to continue the August 30, 2005 hearing. In the letter, Shaw also told respondent that he asked Hoelter if she would allow him to accept service on her behalf, so that she would not have to be personally served.
5. On August 25, 2005, respondent wrote a letter to Shaw agreeing to continue the hearing scheduled for August 30, 2005 on the condition that Shaw agree to accept service on Hoelter's behalf.
6. On August 29, 2005, Shaw called respondent and left a message with respondent's assistant that Hoelter agreed to allow him to accept service on her behalf. Shaw also stated that since the condition of him accepting service on Hoelter's behalf was met, he anticipated that respondent would advise the Court that the parties had agreed to a continuance with the understanding that the temporary restraining orders would remain in full force and effect through the September 6, 2005 hearing. Shaw stated that there would be no appearance by any member of his firm on Hoelter's behalf on August 30, 2005.
7. On August 29, 2005, Shaw sent a letter to respondent via facsimile memorializing his conversation with respondent's assistant. In the letter, respondent stated that Hoelter authorized him to accept service, that he expected respondent to inform the Court of their agreement to continue the hearing, and that there would no appearance by any member of his firm on behalf of Hoelter.
8. Shaw instructed Hoelter not to appear at the hearing because he believed it would be continued.
9. Prior to appearing at the August 30, 2005 hearing, respondent spoke with her assistant who summarized her August 29, 2005 conversation with Shaw including the fact that he was not going to appear at the August 30, 2005 hearing.
10. On August 30, 2005, respondent appeared at the hearing on the temporary restraining order. At the hearing, respondent stated: "We have—Leslie Shaw has been retained to represent Debra Hoelter. He told me he was not going to be available to appear this morning, but Ms. Hoelter would be here." In fact, respondent knew that Hoelter was not going to appear and Shaw never told respondent that Hoelter would appear. Respondent's statement that Shaw told her Hoelter would appear at the hearing was a misrepresentation to the Court.
11. In considering whether to issue a permanent restraining order, the judge expressed concern about whether Hoelter had received sufficient notice of the hearing. The judge was concerned that if he entered a permanent restraining order, Hoelter would file a motion to set it aside. Therefore, the judge suggested the matter be continued for two or three weeks. He also suggested that respondent and Shaw talk and continue the temporary restraining order while the parties wait for the next hearing date. After the judge suggested continuing the matter, respondent stated: "And Mr. Shaw and I knew that he was not going to appear, and he and I agreed that if requested— and he understands that his client was supposed to be here and request it." In fact, respondent knew that neither Shaw nor

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Hoelter would be at the hearing, that Shaw expected her to ask for a continuance, and that Shaw never discussed Hoelter appearing without him and asking for a continuance. Respondent's statement that Hoelter would be at the hearing and request a continuance were misleading.

12. At no time during the hearing did respondent ask for a continuance or mention that she and Shaw had discussed a continuance.

13. Respondent's statements to the Court that she expected Hoelter to appear and her failure to mention that she and Shaw discussed a continuance were meant to persuade the Court to issue a permanent restraining order without Hoelter or Shaw being present. Based on respondent's statements, the Court issued a permanent restraining order for one year to August 10, 2006.

14. Thereafter, the parties reconciled and the case was dismissed. Although Shaw prepared a motion to set aside the permanent restraining order, it was not filed based on the reconciliation and dismissal.

#### Conclusions of Law

By misrepresenting Shaw's statements regarding his client's appearance at the hearing and not informing the court that Shaw requested a continuance, respondent sought to mislead the judge or judicial officer by an artifice or false statement of fact or law in willful violation of Business and Professions Code section 6068(d).

By misrepresenting Shaw's statements to the Court such that the court issued a permanent restraining order, respondent committed an act involving moral turpitude, dishonesty and corruption in willful violation of Business and Professions Code section 6106.

#### **Case No. 06-O-13116**

#### Facts

1. On June 13, 2005, respondent was hired by petitioner, Rodolfo Mendoza ("Mendoza"), to represent him in the dissolution proceeding, *Mendoza v. Mendoza*, El Dorado Superior Court Case No. 20040022. Mendoza's wife, Yolanda Mendoza, was represented by attorney, Dee Schilling ("Schilling").

2. On June 13, 2005, respondent filed a notice of motion for modification of child support, visitation and spousal support.

3. On July 12, 2005, a hearing was held in the matter. Respondent attended the hearing. At the hearing, the Court granted respondent's motion and ordered respondent to prepare the Findings and Order after Hearing as to custody and visitation. At all times relevant herein, the order was in full force and effect. Thereafter, respondent failed to comply with the Court's order.

4. On September 9, 2005, a mandatory settlement conference was held in the matter. Respondent attended the conference. At the conference, the parties reached a full settlement on all issues. The Court ordered respondent to prepare the Notice of Entry of Judgment and Settlement Agreement. At all times relevant herein, the order was in full force and effect. Thereafter, respondent failed to comply with the Court's order.

#### Conclusions of Law

By not complying with the July 12 and September 9, 2005 orders, respondent willfully disobeyed court orders requiring her to do acts in the course of her profession which she ought in good faith to do in violation of Business and Professions Code section 6103.

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

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)



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The parties waive any variance between the Notice of Disciplinary Charges filed on June 6, 2006, and the facts and/or conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to the filing of a Notice of Disciplinary Charges and to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

**PENDING PROCEEDINGS**

The disclosure date referred to on page two, paragraph A (7) was December 21, 2006.

**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.

**FACTS SUPPORTING AGGRAVATING AND MITIGATING CIRCUMSTANCES**

**AGGRAVATING CIRCUMSTANCES**

Standard 1.2(b)(iv). Respondent's misconduct harmed significantly the administration of justice. In addition to misleading the judge, which led to the issuance of a year-long permanent restraining order against Hoelter, respondent's misconduct caused Shaw to incur unnecessary expense in relation to his appearance at the courthouse on September 6, 2005, and the effort undertaken in drafting a motion to set aside the restraining order issued on August 30, 2005.

**MITIGATING CIRCUMSTANCES**

Standard 1.2(e)(i). Respondent has been in practice since 1999 and has no prior record of discipline.

**SUPPORTING AUTHORITY**

Standard 2.3 requires an actual suspension or disbarment for a respondent that has committed an act of moral turpitude.

Standard 2.6(a) states that a violation of Business and Professions Code sections 6068 and 6103 shall result in disbarment or suspension depending on the gravity of the offense or harm, if any, to the victim, with due regard to the purpose of imposing discipline set forth in standard 1.3.


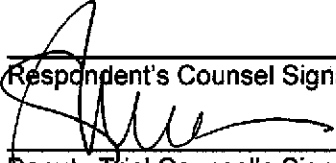
In accordance with the standards, a 30-day actual suspension is the proper discipline for respondent's willful violation of section 6068(d) of the Business and Professions Code. (See *Drociak v. State Bar* (1991) 52 Cal.3d 1085 [30 days' actual suspension for violation of Business and Professions Code section 6068(d) and 6106; no prior record of discipline].)

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In the Matter of Marie I. Klopchic	Case number(s): 06-O-10219 06-O-13116
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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>1-10-07</u> Date	 Respondent's Signature	<u>Marie I. Klopchic</u> Print Name
<u>1/16/07</u> Date	 Respondent's Counsel Signature	<u>Susan I. Kagan</u> Print Name
	<u>Deputy Trial Counsel's Signature</u>	<u>Print Name</u>

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In the Matter Of <b>MARIE I. KLOPCHIC</b>	Case Number(s): <b>06-O-10219</b> <b>06-O-13116</b>
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**ORDER**

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

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

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.)**

June 29, 2007  
Date

Pat McElroy  
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 January 30, 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:

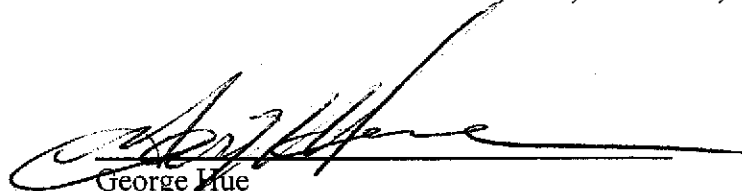
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**MARIE I KLOPCHIC  
6680 ALHAMBRA AVE #208  
MARTINEZ CA 94553**

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

**SUSAN KAGAN, Enforcement, San Francisco**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **January 30, 2007**.



George Hue  
Case Administrator  
State Bar Court