

State Bar Court of California  
Hearing Department  
Los Angeles

<p>Counsel For The State Bar</p> <p><b>Eric H. Hsu</b> Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015-2299 Tel: (213)765-1247</p> <p>Bar # 213039</p>	<p>Case Number (s) <b>06-O-12011</b></p>	<p>(for Court's use)</p> <p><b>FILED</b></p> <p><b>JUL 26 2007</b> <i>Ysc</i></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p><b>PUBLIC MATTER</b></p>
<p>In Pro Per Respondent</p> <p><b>Zakeya Leona Brookins</b> 6746 S. Throop Street Chicago, IL 60636 Tel: (773)994-7294</p> <p>Bar # 212900</p>	<p>Submitted to: <b>Settlement Judge</b></p>	
<p>In the Matter Of: <b>ZAKEYA LEONA BROOKINS</b></p> <p>Bar # 212900</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>STAYED SUSPENSION; NO ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</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 **May 25, 2001**.
- (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."



(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.
  - costs to be paid in equal amounts prior to February 1 for the following membership years: **the next three billing cycles following the effective date of the Supreme Court order.**  
(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 **03-O-00770 et al. (Supreme Court case no. S126953)**
  - (b)  Date prior discipline effective **November 20, 2004**
  - (c)  Rules of Professional Conduct/ State Bar Act violations: **rules 3-110(A), 3-700(A)(2), 3-700(D)(1), and 3-700(D)(2) of the California Rules of Professional Conduct; and California Business and Professions Code section 6068, subdivision (m).**
  - (d)  Degree of prior discipline **90 days actual suspension, one year of stayed suspension, and three years of probation.**
  - (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**

None.

**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. **Respondent has been cooperating with the State Bar's investigation and proceedings in this matter.**
- (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. **See page 9.**
- (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. **See page 9.**
- (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. **See page 10.**
- (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**

None.

## D. Discipline:

(1)  **Stayed Suspension:**

(a)  Respondent must be suspended from the practice of law for a period of **one (1) 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 (1) 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: **California Supreme Court Order S126953 did not require Respondent to take Ethics School.**
- (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:
- |   |   |
|---|---|
| <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 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: **Respondent has already taken and passed the MPRE on August 12, 2005.**
- (2)  **Other Conditions:**

**ATTACHMENT TO**

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

IN THE MATTER OF:        ZKEYA LEONA BROOKINS

CASE NUMBER:            06-O-12011

**FACTS AND CONCLUSIONS OF LAW**

Respondent admits that the following facts are true and that she is culpable of violating the specified California Rules of Professional Conduct, which constitutes a cause for discipline in this case:

I. Facts.

1.        On September 6, 2002, James White (White) employed Respondent to represent him in a personal injury case against the Los Angeles Metropolitan Transportation Authority (MTA).
2.        On October 21, 2002, Respondent filed a lawsuit on behalf of White against MTA, entitled *James L. White v. Los Angeles County Metropolitan Transportation Authority*, in Los Angeles County Superior Court (the superior court), case number BC283751 (the lawsuit).
3.        On May 29, 2003, Respondent advised the superior court that she intends to file a motion to withdraw as counsel for White. The superior court instructed Respondent to file her motion to withdraw by June 6, 2003.
4.        Respondent did not file a motion to withdraw as counsel for White at any time.
5.        On June 4, 2003, MTA propounded its First Set of Form Interrogatories and Demand to Produce Certain Documents and Items (MTA's discovery) to White. MTA's discovery was served on Respondent by mail. Respondent received MTA's discovery.
6.        White's responses to MTA's discovery were due by July 9, 2003.
7.        Respondent did not respond to MTA's discovery or request for an extension of time to respond to MTA's discovery on behalf of White.
8.        On July 10, 2003, MTA's counsel informed Respondent that White's discovery responses were past due. Respondent advised MTA's counsel that she would serve White's

discovery responses within one week. However, Respondent did not serve White's discovery responses at any time.

9. On July 24, 2003, MTA's counsel sent a letter to Respondent advising her that White's responses to discovery were past due and, if White's responses were not received within five days of the date of that letter, motions to compel White's responses would be filed. Respondent received that July 24, 2003 letter but did not serve any discovery responses on behalf of White.

10. On July 29, 2003, MTA's counsel served Respondent with a notice to take White's oral deposition, which was set for October 2, 2003. Respondent received that July 29, 2003 notice.

11. Respondent contends that in July 2003, Respondent introduced White to another attorney, Stanley White, regarding White's case. Respondent further contends that she left White's file with Attorney Stanley White's law office, pursuant to White's instructions. Respondent further contends that Attorney Stanley White's office manager assured her that White's discovery matters and other necessary filings would be done by Attorney Stanley White's law office. Based on the foregoing, Respondent contends that she was led to believe that Attorney Stanley White's law office would be handling White's case.

12. On August 7, 2003, Respondent moved to Georgia without formally substituting out of White's case.

13. Respondent did not notify White, MTA's counsel, or the superior court, of her new address in Georgia.

14. Respondent contends that she provided to White her new address in Georgia. However, White contends that Respondent did not provide him with her new address in Georgia and, as a result, White contacted the State Bar to obtain Respondent's address and contact information as maintained with the State Bar's Membership Records.

15. On August 12, 2003, MTA filed with the superior court and served on Respondent its motions to compel White's responses to discovery. The hearing on MTA's motions was set for September 11, 2003. Respondent received MTA's motion but did not file any response or opposition to said motions on behalf of White.

16. On September 5, 2003, Respondent updated her State Bar membership records address to 2901 Buckskin Trail SW, Marietta, Georgia, 30064. Prior to that, her membership records address was 3014 W. 4th Street, Los Angeles, California, 90020.

17. On September 11, 2003, the superior court held a hearing regarding MTA's motions. Respondent did not appear at that hearing or otherwise arrange for another attorney to appear in

her place on behalf of White. At that hearing, the superior court ordered White to answer MTA's discovery by September 22, 2003. Respondent did not serve White's discovery responses at any time.

18. On October 2, 2003, Respondent did not appear or otherwise arrange for another attorney to appear in her place at White's deposition.

19. On December 5, 2003, a substitution of attorney form was filed with the superior court in the lawsuit. Respondent was substituted out of White's case, and she was replaced by Attorney Ephraim Obi.

## II. Conclusions of Law.

### Count One

By failing to respond to MTA's discovery and by failing to appear or otherwise arrange for another attorney to appear in her place at White's deposition, while she was the attorney of record for White, Respondent recklessly and repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A) of the California Rules of Professional Conduct.

## **DISMISSALS**

The parties jointly request this Court to dismiss the following alleged violations, in the interest of justice:

<u>Case Number</u>	<u>Count</u>	<u>Alleged Violation</u>
06-O-12011	Two	Rules of Professional Conduct, rule 3-700(A)(2); and
06-O-12011	Three	Business and Professions Code section 6103.

## **PENDING PROCEEDINGS**

The disclosure date referred to, on page one, paragraph A(7), was June 20, 2007.

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## SUPPORTING AUTHORITY

### i. Standards

Standard 2.4(b) provides that the willful failure to perform legal services involving an individual matter not amounting to a pattern, or the willful failure to communicate with a client shall result in reproval or suspension, depending on the degree of harm and the extent of such misconduct.

### ii. Case law

In *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 618-619, the Court held that “the aggravating force of prior discipline is generally diminished if the misconduct underlying it occurred during the same time period.” (*Sklar*, at p. 619.) The Court further articulated the rationale for considering prior discipline as having an aggravating impact, as follows: That the prior discipline “is indicative of a recidivist attorney’s inability to conform his or her conduct to ethical norms.” (*Id.*) Where the misconduct involved in the current proceedings was contemporaneous with the misconduct in the prior case, the Court considers the totality of the findings in the two cases to determine what the discipline would have been “had all the charged misconduct in this period been brought as one case.” (*Id.*)

Here, Respondent’s misconduct was contemporaneous with her prior misconduct. Her prior discipline was not imposed until almost a year after her currently stipulated misconduct has already occurred. When viewed in the totality of circumstances and considering the record as combined, the presently stipulated count of rule 3-110(A) violation in this case would not increase the level of discipline already imposed in Respondent’s prior.

Accordingly, a one-year stayed suspension conditioned upon a one-year probation is consistent with the standards and case law.

## **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 March 9, 2007, and the facts and conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges relating to cases which are the subject matters of this stipulation.

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## STIPULATION REGARDING MITIGATING CIRCUMSTANCES

As a result of her medical condition, Respondent suffered emotional difficulties during the period from December 2002 through January 2004. Respondent sought treatment with a medical professional, and she is no longer suffering from her emotional difficulties.

Respondent did not have steady employment for almost 30 months, from April 2003 through October 2005. Respondent was unable to obtain full-time employment after her move to Georgia in August 2003. Respondent did not have other financial resources available during that period. As a result, Respondent suffered severe financial stress at the time of the misconduct.

Since May 16, 2003, to and including January 2004, Respondent suffered extreme difficulties in her personal life as a result of a failed relationship with her former fiancé during that period.

(Do not write above this line.)

In the Matter of <b>ZAKEYA LEONA BROOKINS</b>	Case number(s): <b>06-O-12011</b>
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**SIGNATURE OF THE PARTIES**

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

<u>6/25/07</u> Date	<u>Zakeya Leona Brookins</u> Respondent's Signature	<u>Zakeya Leona Brookins</u> Print Name
<u>        </u> Date	<u>        </u> Respondent's Counsel Signature	<u>        </u> Print Name
<u>JUNE 26, 2007</u> Date	<u>        </u> Deputy Trial Counsel's Signature	<u>Eric H. Hsu</u> Print Name

(Do not write above this line.)

In the Matter Of <b>ZKEYA LEONA BROOKINS</b>	Case Number(s): <b>06-O-12011</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.

See the following modification of this stipulation:

On page 2 of the stipulation, at paragraph A.(8), the following language should be inserted:

If respondent fails to pay any installment within the time provided herein or as may be modified by the State Bar Court pursuant to section 6086.10, subdivision (c), the remaining balance of the costs is due and payable immediately and enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment unless relief has been granted under the Rules of Procedure of the State Bar of California. (Rules Proc. Of State Bar, rule 286)

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.)**

7/25/07  
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 Los Angeles, on July 26, 2007, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION  
AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL  
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:

**ZAKEYA L. BROOKINS  
6746 S THROOP ST  
CHICAGO, IL 60636**

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

**ERIC HSU, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **July 26, 2007**.



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**Tammy R. Cleaver**  
Case Administrator  
State Bar Court