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

Counsel For The State Bar  <b>BRANDON K. TADY</b> The State Bar of California 1149 S Hill St Los Angeles, CA 90015  Bar # 83045	Case Number (s) <b>06-O-12210-RAP and 07-H-12220-RAP</b> <div style="text-align: center; font-size: 2em; font-weight: bold;">PUBLIC MATTER</div>	(for Court's use)   <div style="text-align: center; font-size: 1.5em; font-weight: bold;">FILED</div> <div style="text-align: center;">APR 14 2010 <i>sec</i></div> <div style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div>
In Pro Per Respondent  <b>PATRICIA JOAN BARRY</b> 634 S Spring St Ste 823 Los Angeles, CA 90014  Bar # 59116	Submitted to: <b>Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <div style="text-align: center; font-weight: bold;">ACTUAL SUSPENSION</div>	
In the Matter Of: <b>PATRICIA JOAN BARRY</b>  Bar # 59116  A Member of the State Bar of California (Respondent)	<div style="text-align: center;"><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</div>	

**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 **June 18, 1974**.
- (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 **22** 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):
- ☐ 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: **three(3) billing cycles following the effective date of the Supreme Court order on this matter.**  
(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 **00-O-13850**
  - (b) ☒ Date prior discipline effective **June 22, 2005**
  - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **6068 (b) and 6103 of the State Bar Act**
  - (d) ☒ Degree of prior discipline **Private Reproval**
  - (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. **See Stipulation Re Facts, Conclusions of Law and Disposition.**
- (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.
- (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. **See Stipulation of Facts, Conclusions of Law and Disposition.**
- (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 **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 9.18, California Rules of Court)

(3) ☒ **Actual Suspension:**

(a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of **60 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 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:

☐ 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 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 954-9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**

☐ No MPRE recommended. Reason:

- (2) ☐ **Rule 955-9.20, California Rules of Court:** Respondent must comply with the requirements of rule 955-9.20, 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 955-9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955-9.20, 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.
- (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: See attached Stipulation of Facts and Conclusions of Law, Other Conditions Negotiated By The Parties**

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

IN THE MATTER OF:                      PATRICIA JOAN BARRY  
CASE NUMBER(S): ET AL.              06-O-12210-RAP and 07-H-12920-RAP

**FACTS AND CONCLUSIONS OF LAW.**

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

Case numbers: 06-O-12210-RAP and 07-H-12920-RAP

**STIPULATED FACTS IN CASE NUMBER 06-O-12210-RAP.**

1. Patricia Joan Barry ("Respondent") was admitted to the practice of law in the State of California on June 18, 1974, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.
2. Respondent represented Darla Elwood ("Elwood") and others in civil actions she filed in both the Los Angeles County Superior Court and in the United States District Court for the Central District of California. Some of the issues in these actions relate to Elwood's and Joseph Morin's ("Morin") two children and to Elwood's and Rodney Delaplane's ("Delaplane") two children..
3. Elwood and Morin did not marry. They lived together, had two children, and ended their relationship on or before January, 1997.
4. Delaplane is the father of two children with Elwood, a boy and a girl, who are the second and third children of Elwood. Delaplane also adopted Elwood's oldest son.
5. On or about January 13, 1999, Morin filed with the Los Angeles County Superior Court a Petition to Establish Parental Relationship as the father of his two children with Elwood.
6. In or about April, 1999, Los Angeles County Superior Court Commissioner Robert W. Zakon ("Zakon") awarded Elwood and Morin temporary joint legal and physical custody of their two children.
7. In or about April, 1999, Morin took his two children by Elwood to Robert Boyle ("Boyle) for clinical evaluation and therapy. At all times relevant herein, Boyle was a licensed clinical social worker

engaged in private practice. Boyle evaluated and treated Morin's two children by Elwood in his capacity as a clinical social worker. From in or about April, 1999 through June, 2000, Boyle continued to evaluate and treat the two children. Respondent contends that Morin violated an order of the Court by taking his two children to Boyle without Elwood's knowledge or consent.

8. On May 7, 1999, Julie Delaplane called the Los Angeles County Sheriff's Department reporting that Elwood's oldest child molested Julie Delaplane's son at Elwood's home.

9. In or about June, 1999, Boyle submitted reports to the Juvenile Court containing his recommendations whether the Court should award Morin primary physical custody of his two children by Elwood. Boyle's recommendations were favorable to Morin.

10. At all relevant times herein, Ann Wellman ("Wellman") was a social worker employed by the County of Los Angeles and Barbara Dallis was her supervisor (these defendants are referred to hereinafter as "the County Defendants"). Wellman was assigned by the County of Los Angeles to report to the Court how Elwood's children were faring in the custody of Morin and Delaplane. On or before June 11, 1999, Wellman submitted reports to Juvenile Court Referee Skeba suggesting that Morin and Delaplane have sole physical custody of Elwood's children.

11. On or about June 11, 1999, Referee Skeba issued an order requiring the Juvenile Court to assume jurisdiction over Elwood's four children. Elwood disagreed with Skeba's order. She did not appeal Referee Skeba's order.

12. On or about June 11, 1999, Juvenile Court Referee Valerie Skeba ("Skeba") also issued an order giving Morin primary physical custody of his two children by Elwood and giving Delaplane primary physical custody of his two children by Elwood. Elwood disagreed with Skeba's decision. She did not appeal Skeba's order.

13. On February 18, 2000, Commissioner Zakon, in a default proceeding, ordered Elwood to pay child support of \$697.00 each month to Morin for their two children.

14. On February 6, 2002, Respondent filed a First Amended Complaint on behalf of Darla Elwood ("Elwood") in the United States District Court, Central District of California, entitled *Darla Elwood vs. Joseph Morin, Robert Boyle, County of Los Angeles, Ann Wellman, Barbara Dallis, Rodney Delaplane, Sonia Jimenez et. al.* bearing case number CV 01-8582 LGB (FMOx) ("*Elwood vs. Morin*").



15. The First Amended Complaint in *Elwood vs. Morin* alleged causes of action against Morin, Boyle, Delaplane, and the County Defendants for violations of California Civil Code ("Civil Code") section 49(a) (the unlawful taking or enticement of a child from her parents), violations of 42 United States Code ("U.S.C.") section 1983 and the Fourteenth Amendment of the United States Constitution ("Fourteenth Amendment") (conspiracy by the defendants to deprive Elwood of due process in obtaining physical custody of her children and of her right to equal protection as a woman and a victim of domestic violence), and a cause of action against Morin and Delaplane based on California Penal Code Section 11172(a) (false claim of child abuse and neglect). The First Amended Complaint in *Elwood vs. Morin* also alleged causes of action against Sonia Jimenez including defamation and invasion of privacy.

16. In the First Amended Complaint, Respondent alleged in the cause of action based on Civil Code section 49(a) that Morin violated stipulation and order of the Family Court by taking his two children with Elwood to Boyle. Respondent alleged that Elwood did not have knowledge of or consent to Morin's taking the two children to Boyle. Respondent also alleged in the First Amended Complaint that Morin continued to violate the Family Court's Order by taking the two children to Boyle after Referee Skeba entered an order that no one except the social worker's and the parties' attorneys could interview the children. Respondent further alleged in the First Amended Complaint that Wellman and Dallis used Boyle's reports to justify a recommendation that Morin and Delaplane be given sole custody of Elwood's children. Boyle, and the County Defendants unlawfully took Elwood's two children by Morin from her.

17. In the First Amended Complaint, Respondent alleged that Sonia Jimenez ("Jimenez") was a caretaker of Morin's two children by Elwood and that Wellman and Dallis relied on Jimenez's statements to justify a recommendation that Morin and Delaplane be sole custody of Elwood's children.

18. Respondent alleged in the causes of action for conspiracy to violate 42 U.S.C. 1983 that Morin, Delaplane, Boyle, Jimenez, and the County Defendants conspired together to deprive Elwood of her Fourteenth Amendment rights of due process and equal protection related the Courts' orders giving Morin and Delaplane primary physical and legal custody of his their children by Elwood.

19. On or about March 5, 2002, Delaplane filed a Motion to Dismiss *Elwood vs. Morin*.

20. On or about March 13, 2002, Morin filed a Motion to Dismiss *Elwood vs. Morin*.
21. On or about March 22, 2002, Boyle filed a Motion to dismiss *Elwood vs. Morin*.
22. On or about May 10, 2002, the Court issued an Order granting Morin's and Delaplane's Motions to Dismiss all of Elwood's causes of action against them except for the cause of action based on California Penal Code Section 11172(a) (false claim of child abuse and neglect). On the same date, the Court granted Boyle's Motion to Dismiss all of Elwood's claims against him.
23. In its Order of Dismissal, the Court stated: "The Court agrees with Plaintiff that though Morin, Delaplane, and Boyle are private parties, her allegations appear to satisfy the State action requirement of section 1983 because they appear to accuse Morin, Boyle, and Delaplane of operating as wilful participants in joint activity with the state or its agents (here, Wellman and Dallis as social, workers employed with the County of Los Angeles. [citations.] However, to prove conspiracy between these private defendants and the social service employees under Section 1983, an agreement or meeting of the minds to violate Plaintiff's constitutional rights must be shown. [Citations.]...."
24. On or about August 6, 2002, the County Defendants filed a Motion for Judgment on the Pleadings *Elwood vs. Morin*.
25. After May 10, 2002, Morin and the County Defendants filed Motions for Attorney's Fees against Elwood. Respondent objected to these Motions. The Court issued orders striking the Motions for Attorney's Fees and gave Morin and the County Defendants leave to re-file them. Morin and the County defendants re-filed the Motions for Attorney's Fees.
26. On September 13, 2002, the Court issued an Order dismissing the causes of action against the County Defendants based on the Fourteenth Amendment and 42 U.S.C., section 1983. On the same date, the Court declined to exercise supplemental jurisdiction over the remaining causes of action and it dismissed Elwood's first amended complaint in its entirety.
27. On or about November 8, 2002, Respondent filed an appeal with the Ninth Circuit Court of Appeal. On or about April 25, 2003, Respondent filed an opening brief on appeal.
28. On or about January 2, 2004 the Ninth Circuit Court of Appeal affirmed the Court's order of dismissal. In its opinion, the Ninth Circuit was silent on whether the causes of action dismissed by the Court were frivolous.

29. On or after January 16, 2004, Respondent filed a Petition for Rehearing with the Ninth Circuit Court of Appeal asking the Court of Appeals to reconsider its orders affirming the lower court's orders granting Morin's, Delaplane's, Boyle's, and the County Defendants Motions to Dismiss.
30. On or about February 23, 2004, the Ninth Circuit court of Appeal denied Respondent's Petition for Rehearing. In or about May, 2004, Respondent filed a Petition for Writ of Certiorari with the United States Supreme Court ("Supreme Court"). The Supreme Court denied this Petition.
31. On or about January 23, 2004, Morin re-noticed his Motion for Attorney's Fees. On or about March 25, 2004, the Court granted Morin's Motion for Attorney's fees as to Elwood's cause of actions based on California Civil Code section 49(a), the Fourteenth Amendment, and 42 U.S.C. section 1983. In its order, the Court found, for the first time, these causes of action were "groundless and vexatious" and "... the case was unreasonable, frivolous, meritless..." The Court noted that Respondent did not cite any legal authority to support Elwood's claims against Morin based on Civil Code Section 49(a) and Respondent failed to plead facts showing a meeting of the minds or an agreement to establish a conspiracy by Morin, Boyle, and the County Defendants to violate Elwood's rights under 42 U.S.C. Section 1983 and the Fourteenth Amendment. Respondent disagrees with the Court and contends the brief she filed cited all of the relevant legal authorities interpreting Civil Code, section 49 (a).
32. The County Defendants also filed a Motion for Attorney's Fees. On or about March 25, 2004, the Court granted the County Defendants' Motion for Attorney's Fees as to Ellwood's claims against the County Defendants based on 42 U.S.C., section 1983 and the Fourteenth Amendment. In its order the Court found, for the first time, these causes of action were "groundless" and "... the case was unreasonable, frivolous, meritless, and vexatious." The Court noted that Respondent provided no legal authorities to support Elwood's claims against the County Defendants and Respondent failed to plead facts showing a meeting of the minds or an agreement by the County Defendants and the other defendants to establish a conspiracy to violate Elwood's rights under 42 U.S.C. 1983 and the Fourteenth Amendment.
33. On or about March 31, 2004, Respondent filed an appeal with the Ninth Circuit Court of Appeal challenging the Court's orders awarding attorney's fees to Morin and the County Defendants. The Ninth

Circuit Court of Appeal affirmed the orders awarding attorney's fees to Morin and the County Defendants.

34. On or about June 13, 2002, Respondent filed a Complaint in the United States District Court, Central District of California, entitled *Darla Elwood et. al. vs. Robert Drescher, et. al.* bearing case number CV 02-4656 LGB (FMOx) ("*Elwood vs. Drescher*"). The Complaint includes as defendants Robert Drescher, Judy Hutchinson, Robert W. Zakon, Valerie Skeba, John Farrell, Haig Kehiayan, William McLaughlin, and the California Department of Justice.

35. At all times relevant herein, Defendant Robert Drescher ("Drescher") was an attorney representing Joseph Morin in *Elwood vs. Morin*.

36. At all times relevant herein, Defendant Judy Hutchinson ("Hutchinson") was a child support attorney employed by the County of Los Angeles.

37. At all times relevant herein, Zakon was a Los Angeles Superior Court Commissioner in Family Law Court and Skeba was a Juvenile Court Referee. At all times relevant herein, Defendants the Honorable John Farrell ("Farrell"), the Honorable Haig Kehiayan ("Kehiayan"), and the Honorable William McLaughlin ("McLaughlin") were sitting judges of the Los Angeles County Superior Court ("the Judicial Officers").

38. In the Complaint in *Elwood vs. Drescher*, Respondent alleged that she filed an anti-SLAPP motion and motion to strike conspiracy claims on behalf of herself and Elwood's parents. Respondent alleged that Farrell denied Respondent's anti-SLAPP motion and motion to strike. Respondent filed an immediate appeal with the Second District Court of Appeal. She contended the appeal imposed an automatic stay of the proceeding before Farrell. In the Complaint, Respondent alleged that Farrell continued to exercise jurisdiction in the proceeding where Respondent filed the anti-SLAPP motion and the motion to strike the conspiracy claims.

39. In the Complaint in *Elwood vs. Drescher*, Respondent alleged Amy Meinke filed an OSC Re Contempt against Morin. The OSC Re Contempt was heard by Kehiayan. Respondent alleged Kehiayan denied the OSC without permitting Meinke to testify at the hearing.

40. In the Complaint in *Elwood vs. Drescher*, Respondent alleged Zakon was not qualified to hear a child support enforcement action ("Enforcement Action") filed by the County of Los Angeles against

Elwood. Over Respondent's objection, Zakon was assigned to hear the Enforcement Action. Respondent alleged Skeba refused to allow preparation of a transcript of the hearing in the Juvenile Court case giving Morin primary physical custody of his two children by Elwood and giving Delaplane primary physical custody of his two children by Elwood. Respondent also alleged that Skeba refused to allow Respondent and Elwood to copy the Court file in the Juvenile Court proceeding.

41. In the Complaint in *Elwood vs. Drescher*, Respondent alleged that she asked McLaughlin to assign the Enforcement Action to a child support enforcement commissioner instead of assigning it to Zakon. Respondent contends that the following rules and statutes require the Enforcement Action to be heard by a child support enforcement commissioner: California Rules of Court, rules 5.300, 5.305, 5.340, 5.350, Local Rules of the Los Angeles County Superior Court, rule 14.10, and Title IV (D) of the United States Social Security Act.

42. The Complaint in *Elwood vs. Drescher* contained causes of action against the Judicial Officers for violations of Elwood's due process and equal protection rights under the Fourteenth Amendment and a cause of action against Drescher, Farrell, and Kehiayan for violation of the First and Fourteenth Amendments to the Constitution. In her prayer for relief, Respondent asked the Court for, *inter alia*, to reverse or void court orders unfavorable to Elwood made by the Judicial Officers, order Judge McLaughlin to produce a court file which the Superior Court Clerk's Office informed Respondent it was unable to locate, order training for Judicial Officers Zakon, Farrell, Kehiayan, and McLaughlin in gender bias, maintenance of judicial impartiality, and development of their courtroom skills, report Drescher and Hutchinson to the State Bar of California for misconduct, order Hutchinson and Drescher to take CEB courses on judicial ethics, and order Drescher to take a CEB course on civil procedure.

43. On July 19, 2002, the Judicial Officers filed Motions to Dismiss the complaint in *Elwood vs. Drescher*.

44. On July 25, 2002, Defendant Hutchinson filed a Motion to Dismiss the complaint in *Elwood vs. Drescher*.

45. On July 31, 2002, the Court *sua sponte* ordered Elwood and the other Plaintiffs in *Elwood vs. Drescher* to show cause why sanctions should not issue under Rule 11(c)(1)(B) and Rule 11(b). The

Court's OSC stated that the legal contentions in the Complaint appeared frivolous and without legal merit.

46. On August 9, 2002, Drescher filed a Motion to Dismiss the complaint in *Elwood vs. Drescher*.

47. On September 2, 2002, Respondent appeared at the OSC why sanctions should not issue but did not address the Court's stated concerns that the Complaint appeared to be frivolous and without merit. Respondent filed a supplemental Declaration. The Court discharged the OSC and did not order sanctions against Respondent. The Court stated, in part: "...the Court declines to impose sanctions on Ms. Barry because the Court is "mindful of the potential chilling effect on civil rights plaintiffs who argue in good faith for the modification or extension of rights and remedies under section 1983." *Id.*.... Ms. Barry is reminded of her obligation to the Court to only present arguments and pleadings that go to the merit of her client's case...."

48. On September 12, 2002, the Court granted the Judicial Officers', Hutchinson's, and Drescher's Motions to Dismiss. The Court held that the claims against the Judicial Officers were barred by the *Younger Abstention Doctrine* and the *Rooker-Feldman Doctrine*. The Court held that the claims against the DOJ were barred by the 11<sup>th</sup> Amendment of the United States Constitution and the claims against Hutchinson failed to allege either a conspiracy or that Elwood was deprived of a constitutional right. The claims against Drescher were barred because Elwood failed to show a specific agreement between Drescher and Judge Farrell or that Elwood suffered a loss of a constitutionally protected right.

49. On November 8, 2002, Respondent filed an appeal with the Ninth Circuit Court of Appeal challenging the orders of dismissal. On April 24, 2003, the Judicial Officers and the DOJ filed a motion for summary affirmance. On May 9, 2003, Drescher filed a motion for summary affirmance. On July 28, 2003, the Ninth Circuit denied the motions for summary affirmance (disposition) because "...the arguments raised in appellants' opening brief are not so insubstantial as not to require further argument."

50. On January 2, 2004, the Court of Appeal affirmed the USDC's order of dismissal.

51. On January 2, 2004, Respondent filed with the Ninth Circuit Court of Appeal a Petition for Rehearing asking the Court of Appeals to reconsider its orders affirming the lower court's orders of dismissal. On or about February 23, 2004, the Court of Appeal denied Respondent's Petition for Rehearing.

52. On September 27, 2002, the Judicial Officers filed Motions for Attorney's fees against Plaintiffs.

53. On January 21, 2004, Hutchinson filed a Motion for Attorney's Fees against Plaintiffs. On or about January 23, 2004, Drescher filed a Motion for Attorneys Fees against Plaintiffs.

54. On March 23, 2004, the Court granted Drescher's, Hutchinson's, the Judicial Officer's, and the Department of Justice's Motions for Attorney's Fees. The Court found, for the first time, the claims against these Defendants were "groundless and without foundation" and were "unreasonable, frivolous and meritless."

55. On March 31, 2004, Respondent filed an appeal with the Ninth Circuit Court of Appeal challenging the Court's orders granting Drescher's, Hutchinson's, the Department of Justice's and the Judicial Officer's Motions for Attorney's fees.

56. The Ninth Circuit Court of Appeal upheld the Court's order awarding attorney's fees to Hutchinson and the Department of Justice. It reversed on other grounds the award of attorney's fees to Drescher and the Judicial Officers. It held the jurists were not entitled to recover attorney's fees because the USDC's orders of dismissal were based on lack of jurisdiction (*Younger, Rooker-Feldman*). The Ninth Circuit stated: "Therefore, the parties dismissed on that basis did not prevail within the meaning of section 1988, and they were not entitled to attorney's fees."

57. The Ninth Circuit also reversed the award of attorney's fees to Drescher finding that a pro se attorney defendant cannot recover statutory attorney's fees. The Ninth Circuit also denied Drescher's, Hutchinson's, the Department of Justice's and the Judicial Officer's request for attorney's fees on appeal. The Court reversed the award of attorney's fees to the DOJ to allow the DOJ's attorneys to file a revised accounting. The DOJ did not apply for attorney's fees.

#### **STIPULATED CONCLUSIONS OF LAW IN CASE NUMBER 06-O-12210-RAP.**

58. By filing and maintaining *Elwood vs. Morin* and *Elwood vs. Drescher*, Respondent accepted and continued employment that she knew or should have known had the objective of presenting a claim or defense that is not warranted under existing law in wilful violation of California Business and Professions Code, section 3-200 (B).

#### **STIPULATED FACTS IN CASE NUMBER 07-H-12920-RAP.**

**STIPULATED FACTS IN CASE NUMBER 07-H-12920-RAP.**

59. On June 10, 2005, Respondent entered into a Stipulation Re Facts, Conclusions of Law and Disposition ("Stipulation") with the State Bar of California in case number 00-0-13850.

60. On June 22, 2005, the Hearing Department of the State Bar Court filed an Order approving the Stipulation and imposing a private reproof with conditions set forth in the Stipulation ("Reproof Order").

61. On June 22, 2005, the Reproof Order was properly served by mail on Respondent via the United States Postal Service, first class postage prepaid, in a sealed envelope addressed to Respondent at her official State Bar membership records address, 634 South Spring Street, Suite 823, Los Angeles, California 90014. Respondent received the Order.

62. Pursuant to the June 22, 2005 Reproof Order, Respondent was ordered to comply with the following terms and conditions:

- a. to comply with the conditions attached to the reproof for a period of one year from the effective date of the Reproof Order;
- b. to comply with the provisions of the State Bar Act and Rules of Professional Conduct during the conditions period attached to the reproof;
- c. within one (1) year of the effective date of the Reproof Order, to submit to the Probation Unit satisfactory proof of attendance of Ethics School and passage of the test given at the end of that session; and
- d. within one (1) year of the effective date of the Reproof Order, provide to the Office of Probation proof of passage of the Multistate Professional Responsibility Examination ("MPRE").

The June 22, 2005 Reproof Order became effective on the same date.

63. On June 23, 2005, Probation Deputy Yolanda Acosta ("Acosta") of the Office of Probation of the State Bar of California wrote a letter to Respondent in which she reminded Respondent of the terms and conditions of her Reproof imposed pursuant to the June 22, 2005 Reproof Order. In the June 23, 2005 letter, Acosta specifically advised Respondent of Respondent's duty to take and pass the MPRE within one year of the effective date of the reproof. Enclosed with the June 22, 2005 letter to



Respondent were, among other things, copies of the conditions of probation included in the Stipulation and an MPRE examination schedule.

64. Acosta's June 23, 2005 letter to Respondent was mailed on or about June 23, 2005 via the United States Postal Service, first class postage prepaid, in a sealed envelope addressed to Respondent at her official State Bar membership records address. The June 23, 2005 letter was not returned as undeliverable or for any other reason by the United States Postal Service. Respondent received the June 23, 2005 letter from Acosta.

65. On July 17, 2006, Respondent filed with the State Bar Court a Motion to extend the time for taking and passing the MPRE.

66. On August 8, 2006, the Court granted Respondent's Motion for an extension of time. Pursuant to the Court's order, Respondent was given an extension until the MPRE results were released for the August 4, 2006 examination. Respondent's probation also was extended by the Court's order to October 10, 2006. The Court served the Order on Respondent and Respondent received the Order.

67. On September 16, 2006, Respondent filed a second Motion to extend the time for taking and passing the MPRE.

68. On September 21, 2006, the Court granted Respondent's second Motion requesting an extension of time. Pursuant to the Court's order, Respondent was given an extension until the MPRE results were released for the for the March, 2007 examination. The Court also extended Respondent's probation to April 10, 2007. The Court served the Order on Respondent and Respondent received the Order.

69. On December 12, 2007, Respondent filed a third Motion requesting an extension of time for taking and passing the MPRE.

70. On January 17, 2007, the Court granted Respondent's third Motion for an extension of time. Pursuant to the Court's order, Respondent was given a further extension until the results of the March, 2007 MPRE were released. The Court also extended Respondent's probation period to June 10, 2007. The Court served the Order on Respondent and Respondent received the Order.

71. On March 10, 2007, Respondent took the MPRE but did not pass it. Respondent took the MPRE a second time and again did not pass it.

72. To date, Respondent has not taken and passed the MPRE or requested additional extensions of time.

**STIPULATED CONCLUSIONS OF LAW IN CASE NUMBER 07-H-12920-RAP.**

73. By failing to take and pass the MPRE within the time ordered by the Court, Respondent failed to comply with the terms and conditions of the June 22, 2005 Reproval Order, and subsequent Orders of the Court modifying the terms of the Reproval Order, in wilful violation of California Rules of Professional Conduct, rule 1-110.

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

The parties waive any variance in the Notice of Disciplinary Charges in case number 06-O-12210-RAP filed on April 4, 2008 and the Notice of Disciplinary Charges in case number 07-H-12920-RAP filed on February 14, 2008 and the facts contained in the Stipulation. Additionally, the parties waive the issuance of amended Notices of Disciplinary Charges in the above two cases.

**PENDING PROCEEDINGS.**

The State Bar has an open investigation in case number 09-O-10387 where the complaining witness is attorney Robert Drescher. The disclosure date referred to, on page 2, paragraph A(6), was March 18, 2010. Respondent contends the open investigation in case number 09-O-10387 is related to case number 06-O-12210-RAP. She also contends that *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602 ("*In the Matter of Sklar*") applies to case number 09-O-10387. The State Bar disagrees that case number 09-O-10387 is related to case number 06-O-12210-RAP. The State Bar also disagrees that *In the Matter of Sklar* applies to case number 09-O-10387. The State Bar is not bound by Respondent's contentions.

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of July 23, 2009, the prosecution costs in this matter are \$5220. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

## **AUTHORITIES SUPPORTING DISCIPLINE.**

In *In re Silverton* (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).

The Court should not recommend a level of discipline below the standard unless it has a reasoned justification for having "...grave doubts as to the propriety..." of the recommended discipline. (*In re Silverton* (2005) 36 Cal. 4th 81).

Standard 1.3 provides that the purposes of State Bar discipline are protection of the public, the courts, and the legal profession, the maintenance of high professional standards by attorneys, and the preservation of public confidence in the legal profession.

Standard 1.6 provides that if two or more acts of professional misconduct are found or acknowledged in a single disciplinary proceeding, and different sanctions are prescribed by the Standards, the sanction imposed shall be the more or the most severe of the different applicable sanctions.

Standard 1.7 provides that if a member is found culpable of professional misconduct in any proceeding in which discipline may be imposed, and the member has a record of one prior imposition of discipline, the degree of discipline imposed in the current proceeding shall be greater than that imposed

in the prior proceeding unless the prior discipline was so remote in time and the offense for which it was imposed is so minimal in severity that imposing greater discipline would be manifestly unjust.

Standard 2.9 provides that culpability of a member of a willful violation of Rules of Professional Conduct, rule 1-110 shall result in suspension.

Standard 2.10 provides that culpability of a member for a wilful violation of Rules of Professional Conduct, rule 3-200 shall result in reproof or suspension according to the gravity of the offense or harm, if any to the victim, with due regard for the purposes of imposing discipline set forth in Standard 1.3.

The stipulated discipline of 60 days actual suspension, two years suspension stayed, and two years probation with conditions is consistent with the Standards and relevant case law and is an appropriate level of discipline.

#### **AGGRAVATING CIRCUMSTANCES.**

1. Prior Discipline (Standard 1.2 (b) (i)). Respondent has one, prior State Bar discipline. The State Bar and Respondent stipulated to a private reproof in case number 00-O-13850. The effective date of the private reproof is June 22, 2005.
2. Respondent's filing and maintaining *Elwood vs. Morin* and *Elwood vs. Drescher* and her failure to pass the MPRE within one year or within the extensions of time allowed by the court evidence multiple acts of wrongdoing. (Standard 1.2 (b) (ii)).

#### **MITIGATING CIRCUMSTANCES.**

Respondent cooperated with the State Bar during its investigation and the proceedings in State Bar Court case numbers 06-O-12210-RAP and 07-H-12920-RAP. (Standard 1.2 (e) (v)).

#### **STATE BAR ETHICS SCHOOL.**

Respondent shall not receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

#### **OTHER CONDITIONS NEGOTIATED BY THE PARTIES.**

In addition to Ethics School, Respondent is required to take an additional total of four (4) hours of Ethics, in person, given by an authorized MCLE provider.

### **MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION.**

It is recommended that Respondent be required to take the Multistate Professional Responsibility Examination because he or she was ordered on June 22, 2005 to take and pass the examination in connection with case number 00-O-13850 and she did not do so. Respondent is required to take and pass the MPRE within one year of the effective date of the discipline for these proceedings.

(Do not write above this line.)

In the Matter of Patricia Joan Barry	Case number(s): 06-O-12210-RAP & 07-H-12920-RAP
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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>March 18, 2010</u> Date	<u>Patricia Joan Barry</u> Respondent's Signature	<u>Patricia Joan Barry</u> Print Name
<u>March 18, 2010</u> Date	<u>Brandon K. Tady</u> Respondent's Counsel Signature	<u>Brandon K. Tady</u> Print Name
	<u>Deputy Trial Counsel's Signature</u>	<u>Print Name</u>

(Do not write above this line.)

In the Matter Of

PATRICIA JOAN BARRY

Case Number(s):

06-O-12210-RAP and 07-H-12920-RAP

### ORDER

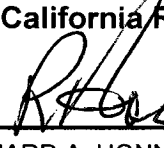
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☐ 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.
1. On page 4 of the stipulation, the "X" in box E(1) is deleted to remove the conditional standard 1.4(c)(ii) requirement.
  2. On page 6 of the stipulation, the "X" in box F(3) is deleted to remove the conditional rule 9.20 requirement.

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.)**

4-13-10

Date

  
RICHARD A. HONN  
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 April 14, 2010, I deposited a true copy of the following document(s):

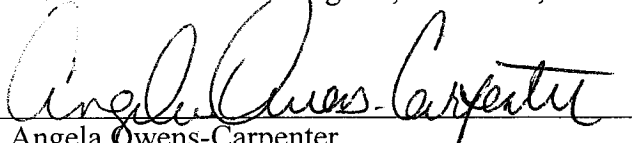
### STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

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 Los Angeles, California, addressed as follows:  
  
PATRICIA JOAN BARRY  
634 S SPRING ST STE 823  
LOS ANGELES CA 90014
- ☐ by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:
- ☐ by overnight mail at , California, addressed as follows:
- ☐ by fax transmission, at fax number . No error was reported by the fax machine that I used.
- ☐ By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:
- ☒ 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 April 14, 2010.

  
Angela Owens-Carpenter  
Case Administrator  
State Bar Court