



ORIGINAL

(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles		
Counsel For The State Bar Michael J. Glass Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1254 Bar # 102700	Case Number (s) 06-O-15483 LMA 07-O-10618 07-O-10650 07-O-12810 07-O-12842 07-O-13491 09-O-11114 (Inv.)	(for Court's use) <p style="text-align: center;">PUBLIC MATTER</p> <p style="text-align: center;">FILED <i>[Signature]</i></p> <p style="text-align: center;">SEP 25 2009</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
Counsel For Respondent Michael E. Wine 301 N. Lake Avenue, Suite 800 Pasadena, CA 91101 (626) 796-6688 Bar # 58657	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter Of: JOHN JOSEPH O'KANE III Bar # 97772 A Member of the State Bar of California (Respondent)		

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 29, 1981.
- (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 19 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".

(Do not write above this line.)

- (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: 2011, 2012, and 2013.
(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-03571
 - (b) Date prior discipline effective May 11, 2005
 - (c) Rules of Professional Conduct/ State Bar Act violations: rule 3-100(A) of the Rules of Professional Conduct; Business and Professions Code section 6068(i);
 - (d) Degree of prior discipline Public Reproval
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.
 - i. State Bar Court Case Nos. 92-O-18885, et al.; Prior Discipline effective-1/14/95; RPC/State Bar Act violations-rule 3-700(D)(1); B&P Code sections 6068(a), 6125, and 6126; Degree of Prior Discipline-two (2) year stayed suspension; two (2) years probation w/conditions, including a 30 day actual suspension
- (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. See Attachment Pages 9-10.
- (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. See Attachment Page 10.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

(Do not write above this line.)

- (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 Attachment Page 9.
- (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.
- (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 three (3) 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 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:

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

(Do not write above this line.)

No MPRE recommended. Reason:

- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 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 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 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:**

In the Matter of JOHN JOSEPH O'KANE, III Member #97772 A Member of the State Bar	Case number(s): 06-O-15483-LMA; 07-O-10618; 07-O-10650; 07-O-12810; 07-O-12842; 07-O-13491; and 09-O-11114 (Inv.)
-------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------

Law Office Management Conditions

- a. Within days/ months/ years of the effective date of the discipline herein, Respondent must develop a law office management/organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.
- b. Within days/ months/one (1) year~~s~~ of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than six (6) hours of Minimum Continuing Legal Education (MCLE) approved courses in law office management, attorney client relations and/or general legal ethics. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)
- c. Within 30 days of the effective date of the discipline, Respondent must join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for year(s). Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California in the first report required.

In the Matter of

JOHN JOSEPH O'KANE, III
Member #97772

A Member of the State Bar

Case number(s):

06-O-15483-LMA; 07-O-10618; 07-O-10650;
07-O-12810; 07-O-12842; 07-O-13491;
09-O-11114 (Inv.)

NOLO CONTENDERE PLEA TO STIPULATION AS TO FACTS, CONCLUSIONS OF LAW AND DISPOSITION

Bus. & Prof. Code § 6085.5 Disciplinary Charges; Pleas to Allegations

There are three kinds of pleas to the allegations of a Notice of Disciplinary Charges or other pleading which initiates a disciplinary proceeding against a member:

- (a) Admission of culpability.
- (b) Denial of culpability.
- (c) **Nolo contendere, subject to the approval of the State Bar Court. The court shall ascertain whether the member completely understands that a plea of nolo contendere shall be considered the same as an admission of culpability and that, upon a plea of nolo contendere, the court shall find the member culpable. The legal effect of such a plea shall be the same as that of an admission of culpability for all purposes, except that the plea and any admission required by the court during any inquiry it makes as to the voluntariness of, or the factual basis for, the pleas, may not be used against the member as an admission in any civil suit based upon or growing out of the act upon which the disciplinary proceeding is based. (Added by Stats. 1996, ch. 1104.) (emphasis supplied)**

Rule 133, Rules of Procedure of the State Bar of California STIPULATION AS TO FACTS, CONCLUSIONS OF LAW AND DISPOSITION

(a) A proposed stipulation as to facts, conclusions of law, and disposition must set forth each of the following:

...

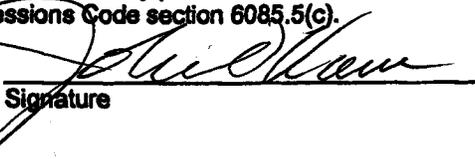
- (5) a statement that Respondent either
 - (i) admits the facts set forth in the stipulation are true and that he or she is culpable of violations of the specified statutes and/or Rules of Professional Conduct or
 - (ii) **pleads nolo contendere to those facts and violations. If the Respondent pleads nolo contendere, the stipulation shall include each of the following:**
 - (a) **an acknowledgement that the Respondent completely understands that the plea of nolo contendere shall be considered the same as an admission of the stipulated facts and of his or her culpability of the statutes and/or Rules of Professional Conduct specified in the stipulation; and**
 - (b) **If requested by the Court, a statement by the Deputy Trial Counsel that the factual stipulations are supported by evidence obtained in the State Bar investigation of the matter (emphasis supplied)**

I, the Respondent in this matter, have read the applicable provisions of Bus. & Prof. Code § 6085.5 and rule 133(a)(5) of the Rules of Procedure of the State Bar of California. I plead nolo contendere to the charges set forth in this stipulation and I completely understand that my plea must be considered the same as an admission of culpability except as state in Business and Professions Code section 6085.5(c).

Date

9-17-09

Signature



JOHN JOSEPH O'KANE, III
Print Name

(Nolo Contendere Plea form approved by SBC Executive Committee 10/22/1997. Revised 12/16/2004; 12/13/2006.)

disciplinary order was due. The second 2006 State Bar Membership Fee Statement was returned as undeliverable by the United States Postal Service, marked, "Return to Sender Box Closed Unable to Forward Return to Sender."

5. On May 26, 2006, State Bar Membership Services sent Respondent a Final Delinquent Notice advising Respondent that he had not paid his 2006 State Bar Membership Fees and that Respondent would be suspended from the practice of law effective September 16, 2006, if the outstanding fees were not paid.

6. Respondent failed to pay his 2006 State Bar Membership Fees or any portion of the outstanding fees or disciplinary costs. On September 16, 2006, Respondent was suspended for failing to pay State Bar Membership Fees.

7. On September 21, 2006, Respondent paid State Bar Membership Services \$484.37 which consisted of the 2006 State Bar Membership Fees as well as late penalties. At that time, the State Bar in error demanded payment of all disciplinary costs. Respondent was not prepared to make that full payment. When the State Bar refused partial payment of disciplinary costs from Respondent, he remained suspended from the practice of law.

8. In or about January 2007, Respondent was advised by an Assistant County Counsel that the State Bar's Web Site showed Respondent's status as "not entitled to practice law." Respondent contacted State Bar Membership Services and the person Respondent spoke with confirmed that Respondent's disciplinary costs remained outstanding and due.

9. On or about January 29, 2007, Respondent paid State Bar Membership Services his 2007 State Bar Membership Fees in the amount of \$400.00. At that time, the State Bar in error demanded payment of all disciplinary costs. However, Respondent did not pay any portion of the outstanding disciplinary costs. As such, Respondent remained suspended from the practice of law.

10. On or about March 26, 2007, for the first time, Respondent inquired from the State Bar as to why the costs assessed as a result of the 2005 disciplinary order were not spread over membership years 2006, 2007, and 2008. In this regard, Respondent wrote a letter, dated March 26, 2007, to State Bar Investigator Joy Nunley enclosing a copy of the 2005 disciplinary order.

11. Ms. Nunley subsequently forwarded a copy of the 2005 disciplinary order to State Bar Membership Services so that it could correct its records to reflect that the disciplinary costs assessed as a result of the 2005 disciplinary order were to be spread over membership years 2006, 2007, and 2008. On or about April 19, 2007, State Bar Membership Services corrected its records.

12. On or about July 18, 2007, Respondent paid the outstanding disciplinary costs for membership year 2006 and was returned to active status.

Case No. 06-O-15483

1. On or about July 25, 2006, Respondent filed an unlawful detainer action on behalf of Jose Elbierto Gonzales entitled *Gonzales v. Castillo*, Los Angeles Superior Court Case No. 06U08085 ("the Gonzales matter"), with Respondent's address listed as 1602 West 6th Street, Los Angeles, CA 90017.

2. On or about September 19, 2006, in the Gonzales matter, Respondent filed or caused to be filed a Request for Dismissal which listed Respondent as the Attorney for Plaintiff Jose E. Gonzales.

3. On or about November 20, 2006, in a separate matter, on behalf of landlord Octavina Zuluaga Vaquero, Respondent served or caused to be served a Notice to Quit to Margarita Martinez and Federico Torres, and all tenants in possession of 1335 East 21st Street, Los Angeles, CA. Respondent signed the Notice to Quit as "Attorney at Law" with an address of 1602 West 6th Street, Los Angeles, CA 90017.

4. On or about January 16, 2007, the State Bar opened an investigation, Case No. 06-O-15483, to investigate allegations that Respondent was engaging in the unauthorized practice of law ("the UPL matter").

5. On or about January 19, 2007, a State Bar Investigator wrote a letter to Respondent requesting that Respondent respond to allegations of misconduct in the UPL matter. The letter was mailed via the United States Postal Service, first class postage pre-paid, in a sealed envelope addressed to Respondent at his official State Bar membership records address at the time: P.O. Box 92372, Pasadena, CA 91109-2372. A copy of the letter was also mailed to Respondent at the address that appeared on the Gonzales matter complaint and on the Notice to Quit: 1602 West 6th Street, Los Angeles, CA 90017.

6. On or about January 22, 2007, the letter that was mailed to Respondent at his official State Bar membership records address was returned by the United States Postal Service as undeliverable, marked, "Return to Sender Box Closed Unable to Forward Return to Sender."

7. On or about March 2, 2007, during a telephone conversation, Respondent notified the State Bar Investigator that Respondent's home address in La Canada was his only "good" address and that he no longer used the Pasadena Post Office Box address or the West 6th Street address. The State Bar Investigator advised Respondent that he was required to update his State Bar membership records address. Respondent indicated that he would do so.

8. Respondent's official State Bar membership records address remained P.O. Box 92372, Pasadena, CA 91109-2372 until on or about September 26, 2007, when Respondent updated Respondent's official State Bar membership records address to reflect his official State Bar membership records address as 1602 West 6th Street, Los Angeles, CA 90017.

Conclusions of Law

9. By filing or causing to be filed the dismissal in the Gonzales matter in which Respondent was listed as the attorney for plaintiff, and by serving or causing to be served the notice to quit on behalf of Mr. Vaquero in which Respondent was identified as an attorney, Respondent engaged in the unauthorized practice of law in wilful violation of Business and Professions Code sections 6125 and 6126, and failed to support the laws of this state in wilful violation of Business and Professions Code section 6068(a).

10. By filing or causing to be filed the dismissal in the Gonzales matter in which Respondent was listed as the attorney for plaintiff, and by serving or causing to be served the notice to quit on behalf of Mr. Vaquero in which Respondent was identified as an attorney, all of which occurred when Respondent knew that he was not entitled to practice law, Respondent committed acts of moral turpitude in wilful violation of Business and Professions Code section 6106.

11. By failing to update his official records address for State Bar purposes within thirty days of a change, and by failing to maintain on the official membership records of the State Bar his current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, Respondent wilfully failed to comply with the requirements of Business and Professions Code section 6002.1 and thereby wilfully violated Business and Professions Code section 6068(j).

Case No. 07-O-10618

1. In or about mid 2006, Respondent advised Los Angeles Superior Court Judge Stanley Genser that he was available to serve on the conflicts panel to represent parties to Dependency Court proceedings. As a result, Respondent was added to the conflicts panel and began representing parties in Dependency Court proceedings.

2. While suspended from the practice of law, from September 18, 2006, through July 18, 2006, between September 18, 2006, and January 22, 2007, Respondent made approximately 126 appearances as an attorney representing a party in the Dependency Court. During this time period, Respondent never informed the Dependency Court or opposing counsel that Respondent was not entitled to practice law.

3. At a court appearance on January 11, 2007, Respondent informed Judge Genser that Respondent was having problems with the State Bar. In this regard, Respondent told Judge Genser that this was an administrative problem involving dues, that Respondent had resolved similar problems in the past, and expected to have the problem resolved by January 16, 2007. Respondent asked Judge Genser to continue Respondent's cases until January 16, 2007, at which time Respondent expected to have the problem resolved. Judge Genser continued Respondent's cases until January 16, 2007. On January 16, 2007, Respondent failed to appear in Judge Genser's court for any of the cases which had been continued. Respondent also failed to contact the court or notify the court of any explanation or not appearing on January 16, 2007. Judge Genser then checked the State Bar web site and discovered, for the first time, that Respondent had been suspended since September 18, 2006. Judge Genser then filed a complaint against Respondent with the State Bar.

Conclusions of Law

4. By making the approximately 126 court appearances in which Respondent represented clients and held himself out as entitled to practice law, all while suspended from the practice of law, Respondent engaged in the unauthorized practice of law in wilful violation of Business and Professions Code sections 6125 and 6126, and failed to support the laws of this State in wilful violation of Business and Professions Code section 6068(a).

5. By making the approximately 126 court appearances in which Respondent held himself out to his clients, the court, and opposing counsel as entitled to practice law, when Respondent knew he was not entitled to practice law, Respondent committed acts of moral turpitude in wilful violation of Business and Professions Code section 6106.

Case No. 07-O-10650

1. From September 18, 2006, until July 18, 2007, Respondent was suspended from the practice of law. On or about January 31, 2007, Respondent substituted in as counsel for Defendant

Francisco Hernandez, in the matter entitled *County of Los Angeles vs. Francisco Saul Hernandez*, Los Angeles County Superior Court Case No. BY0797351.

2. On January 31, 2007, in the *Hernandez* case, Respondent appeared in court and met with opposing counsel, Edwin Lee. Respondent never advised Mr. Lee or the court that Respondent was not entitled to practice law. Mr. Lee subsequently checked the State Bar website and discovered that Respondent was not entitled to practice law. Mr. Lee then informed the court that Respondent was not entitled to practice law. The court served Respondent with an Order to Show Cause ("OSC"), scheduled for February 13, 2007, as to why Respondent should not be referred to the State Bar and to the Los Angeles County District Attorney for practicing law while suspended.

3. Respondent failed to appear at the OSC on February 13, 2007. The court then referred this matter to the State Bar.

Conclusions of Law

4. By signing and filing the substitution of attorney form that substituted him in as attorney of record for Mr. Hernandez in the *Hernandez* case, by meeting with opposing counsel to discuss the case prior to the January 31, 2007, court appearance, by making the court appearance, and by holding himself out as entitled to practice law when he was suspended, Respondent engaged in the unauthorized practice of law in wilful violation of Business and Professions Code section 6125 and 6126, and failed to support the laws of this state in wilful violation of Business and Professions Code section 6068(a).

5. By signing and filing the substitution of attorney form that substituted him in as attorney of record for Mr. Hernandez in the *Hernandez* case, by meeting with opposing counsel to discuss the case prior to the January 31, 2007, court appearance, by making the court appearance, and by holding himself out as entitled to practice law when Respondent knew that he was not entitled to practice law, Respondent committed acts of moral turpitude in wilfull violation of Business and Professions Code section 6106.

6. By making the court appearance in the Hernandez case and by holding himself out to the court as entitled to practice law when Respondent knew that he was not entitled to practice law, Respondent sought to mislead a judge or judicial officer by an artifice or false statement of fact or law in wilful violation of Business and Professions Code section 6068(d).

7. By failing to appear at the OSC hearing on February 13, 2007, as ordered by the court in the *Hernandez* case, Respondent wilfully disobeyed or violated an order of the court requiring him to do an act connected with or in the course of Respondent's profession which he ought in good faith to do in wilful violation of Business and Professions Code section 6103.

Case No. 07-O-12810

1. Respondent was suspended from the practice of law, between September 18, 2006, and July 18, 2007. On or about December 21, 2005, Respondent became counsel for record for Defendant Pedro Armando Chinchilla aka Armando Ardon in the matter of *People v. Pedro Armando Chinchilla aka Armando Ardon*, Los Angeles Superior Court Case No. 4CR02623. This involved a criminal matter in which the defendant pled nolo contendere on December 21, 2005.

2. After September 18, 2006, between October 10, 2006, and April 2, 2007, Respondent made several appearances in court on behalf of defendant Ardon with regard to sentencing and proof of completion of summary probation. Respondent never advised the court or opposing counsel that Respondent was not entitled to practice law.

Conclusions of Law

3. By making court appearances on behalf of the defendant in the *Chinchilla* matter, and by holding himself out to his client, opposing counsel, and the court as entitled to practice law when he was suspended, Respondent engaged in the unauthorized practice of law in wilful violation of Business and Professions Code section 6125 and 6126, and failed to support the laws of this state in wilful violation of Business and Professions Code section 6068(a).

4. By making court appearances on behalf of the defendant in the *Chinchilla* matter, and by holding himself out to his client, opposing counsel, and the court as entitled to practice law when Respondent knew he was not entitled to practice law, Respondent committed acts of moral turpitude in wilful violation of Business and Professions Code section 6106.

5. By making court appearances on behalf of the defendant in the *Chinchilla* matter, and by holding himself out to his client, opposing counsel, and the court as entitled to practice law when Respondent knew he was not entitled to practice law, Respondent sought to mislead a judge or judicial officer by an artifice or false statement of fact or law in wilful violation of Business and Professions Code section 6068(d).

Case No. 07-O-12842

1. On July 31, 2003, Ms. Maria Mendoza filed a petition for marital dissolution and child custody entitled *Marriage of Maria S. Mendoza, Petitioner, and Mario L. Navarro*, Respondent, Los Angeles County Superior Court Case No. LD040488.

2. On or about October 8, 2003, Mario Navarro was convicted of spousal abuse in a separate criminal matter. As this was a third strike, Mr. Navarro was sentenced to 55 years to life in prison.

3. In or about November 2003, Respondent agreed to represent Mr. Navarro in his marital dissolution. Mr. Navarro's concerns were his share of the proceeds from the sale of the community property and preserving his parental rights.

4. Respondent subsequently failed to file a response on behalf of Mr. Navarro to the petition for marital dissolution. Respondent also failed to perform any other work on behalf of Mr. Navarro.

5. On April 25, 2004, Mr. Navarro wrote a letter to Respondent inquiring as to the status of the marital dissolution matter. Respondent received the letter but failed to respond.

6. On June 18, 2004, opposing counsel filed a Request to Enter Default against Mr. Navarro. Respondent received the Request to Enter Default, but failed to take any action on behalf of Mr. Navarro.

7. On November 17, 2004, the court entered a Default Judgment in the marital dissolution matter against Mr. Navarro. On November 17, 2004, the Notice of Entry of Judgment against Mr.

Navarro was served on Respondent. Respondent failed to take any action to set aside the Default Judgment.

9. Respondent also failed to notify Mr. Navarro of the entry of the Default Judgment.

Conclusions of Law

10. By failing to perform any legal services on behalf of Mr. Navarro in the dissolution matter after he was hired, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

11. By failing to respond to Mr. Navarro's April 25, 2004, letter inquiring about the status of the dissolution matter, and by failing to notify Mr. Navarro about the entry of the default judgment, Respondent failed to respond promptly to his client's reasonable status inquiry and failed to keep his client apprised of a significant development in wilful violation of Business and Professions Code section 6068(m).

Case No. 07-O-13491

1. Respondent was suspended from the practice of law, between September 18, 2006, and July 18, 2007. In or about June 2007, Respondent was employed to represent Mr. Edwin Antonio Serrano in the matter of *People v. Edwin Antonio Serrano*, Los Angeles County Superior Court Case No. YA068579 ("the Serrano matter").

2. On July 10, 2007, Respondent appeared in court with Mr. Serrano in the *Serrano* matter before Judge Sokolov. The Public Defender was relieved as relieved as Mr. Serrano's prior counsel and Respondent became Mr. Serrano's counsel. A bail hearing was scheduled for August 22, 2007.

3. Respondent never advised the court or opposing counsel that Respondent was not entitled to practice law at the time of the July 10, 2007, hearing. When Judge Sokolov learned that Respondent was not entitled to practice law at the time of the July 10, 2007, hearing, Judge Sokolov reported this matter to the State Bar.

Conclusions of Law

4. By representing Mr. Serrano in the *Serrano* matter, by appearing in court on behalf of Mr. Serrano, by holding himself out to his client, opposing counsel, and the court as entitled to practice law, when Respondent was suspended from the practice of law, Respondent engaged in the unauthorized practice of law in wilful violation of Business and Professions Code section 6125 and 6126, and failed to support the laws of this state in wilful violation of Business and Professions Code section 6068(a).

5. By making court appearances on behalf of the defendant in the *Serrano* matter, and by holding himself out to his client, opposing counsel, and the court as entitled to practice law when Respondent knew he was not entitled to practice law, Respondent committed acts of moral turpitude in wilful violation of Business and Professions Code section 6106.

6. By making court appearances on behalf of the defendant in the *Serrano* matter, and by holding himself out to his client, opposing counsel, and the court as entitled to practice law when Respondent knew he was not entitled to practice law, Respondent sought to mislead a judge or judicial

officer by an artifice or false statement of fact or law in wilful violation of Business and Professions Code section 6068(d).

Case No. 09-O-11114 (Investigation Matter)

1. On or about October 5, 2005, Carlos Aguilar employed Respondent to represent Mr. Aguilar in a personal injury matter on a contingency fee basis. If the matter turned out to be workers comp related, Respondent also agreed to represent Mr. Aguilar. Respondent filed a personal injury lawsuit against defendants Saul Diaz, et. al., but did not perform any other work.

2. On February 22, 2008, the court dismissed Mr. Aguilar's case because Respondent had failed to file a Proof of Service of the Complaint and Respondent had failed to appear in court for an Order to Show Cause Hearing.

Conclusions of Law

3. By failing to file a Proof of Service of the Complaint, failing to appear in court for the Order to Show Cause Hearing, and failing to perform any legal services for Mr. Aguilar, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(6), was September 9, 2009.

DISMISSALS.

In the interest of justice, the State Bar dismisses with prejudice, the following alleged violations in the Notice of Disciplinary Charges filed on March 25, 2009:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
07-O-10618	Seven	rule 4-200(A), Rules of Professional Conduct
07-O-12842	Seventeen	rule 3-700(A)(2), Rules of Professional Conduct
07-O-12842	Eighteen	rule 3-700(D)(2), Rules of Professional Conduct
07-O-13491	Twenty Two	rule 4-200(A), Rules of Professional Conduct

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of September 9, 2009, the prosecution costs in this matter are \$7,543.45. 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

Under standard 1.7(a), "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 as defined by standard 1.2(f), 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 to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust."

Standard 2.3 provides that "Culpability of a member of an act of moral turpitude, fraud, or intentional dishonesty toward a court, client or another person or of concealment of a material fact to a court, client or another person shall result in actual suspension or disbarment depending upon the extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of misconduct and the degree to which it relates to the member's acts within the practice of law."

Standard 2.4(b) provides that "Culpability of a member of wilfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of wilfully failing to communicate with a client shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.

Standard 2.6 provides, in pertinent part, that "Culpability of a member of a violation of any of the following provisions of the Business and Professions Code shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3: (a) Sections 6067 and 6068; (b) Sections 6103 through 6105...."

In *Silva-Vidor v. State Bar* (1989) 49 Cal. 3d 1071, Respondent wilfully practiced law from August 1983 to January 1987 with knowledge that she was suspended for non-payment of dues. Respondent was also found culpable of improper withdrawal from employment as to seven clients, failure to refund unearned fees as to six clients, failure to perform as to thirteen clients, failure to render an accounting, failure to promptly pay client funds as to two clients, and misappropriation of \$760.00 as to three clients. The court imposed discipline consisting of a five year stayed suspension, five years probation with conditions, including a one year actual suspension. In mitigation, Respondent had extensive personal problems including the break up of her marriage, severe depression, the birth of child with birth defects, physical injury and recuperation from that injury.

AGGRAVATING CIRCUMSTANCES

FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES

Under standard 1.2(b)(ii), Respondent's misconduct evidences multiple acts of wrongdoing as in five matters, Respondent held himself out to the court, opposing counsel, and his clients as entitled to practice law when Respondent knew he was not entitled to practice law, and in two matters Respondent failed to perform legal services which resulted in a default judgment being entered against one client (Mr. Navarro), and the dismissal of another clients case (Mr. Aguilar).

Under standard 1.2(b)(iii), Respondent's misconduct was surrounded by bad faith, dishonesty, concealment or other violations of the State Bar Act or Rules of Professional Conduct because in five matters, Respondent held himself out to the court, opposing

counsel, and his clients as entitled to practice law when Respondent knew he was not entitled to practice law.

Under standard 1.2(b) (iv), Respondent's misconduct significantly harmed a client, the public or the administration of justice, because in five matters, Respondent held himself out to the court, opposing counsel and his clients as entitled to practice law when Respondent knew he was not entitled to practice law. Respondent misconduct also significantly harmed client Mario Navarro as Respondent's failure to file a response, on behalf of Mr. Navarro, to the petition for marital dissolution, or file a motion to set aside the default judgment, resulted in a default judgment being entered against Mr. Navarro. Respondent's misconduct also significantly harmed client Carlos Aguilar as Respondent's failure to file a Proof of Service of the Complaint, failure to appear at the Order to Show Cause Hearing, or perform any other legal services on behalf of Mr. Aguilar, resulted in the court's dismissal of Mr. Aguilar's case.

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.

(Do not write above this line.)

In the Matter of John Joseph O'Kane III	Case number(s): 06-O-15483-LMA; 07-O-10618; 07-O-10650; 07-O-12810; 07-O-12842; 07-O-13491; 09-O-11114 (Inv.)
--------------------------------------------	------------------------------------------------------------------------------------------------------------------------

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.

September 17, 2009 Date	 Respondent's Signature	John Joseph O'Kane III Print Name
September 17, 2009 Date	 Respondent's Counsel Signature	Michael E. Wine Print Name
September 18, 2009 Date	 Deputy Trial Counsel's Signature	Michael J. Glass Print Name

(Do not write above this line.)

In the Matter Of John Joseph O'Kane III	Case Number(s): 06-O-15483-LMA; 07-O-10618; 07-O-10650; 07-O-12810; 07-O-12842; 07-O-13491; 09-O-11114 (Inv.)
--------------------------------------------	------------------------------------------------------------------------------------------------------------------------

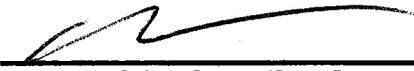
ORDER

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.)

09-24-09
Date


Judge of the State Bar Court

RICHARD A. PLATEL

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on September 25, 2009, 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:

MICHAEL E. WINE
301 N LAKE AVE STE 800
PASADENA, CA 91101 - 5113

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:

MICHAEL J. GLASS, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on September 25, 2009.



Bernadette C.O. Molina
Case Administrator
State Bar Court