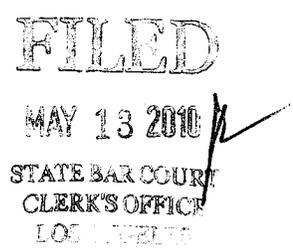


ORIGINAL

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State Bar Court of California  
Hearing Department

**PUBLIC MATTER**

Counsel For The State Bar <b>Eli D. Morgenstern</b> Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015-2299 Bar # 190560      Tel. (213) 765-1334	Case Number (s)  07-O-12731	(for Court's use)  <div style="text-align: center;">  </div>
<b>Oyewole Akinyemi</b> Law Office Wole Akinyemi, APLC 3753 Tibbetts Street Riverside, California 92506 Bar # 170745      Tel. (951) 274-9630	Submitted to: <b>Settlement Judge</b>	
In the Matter Of:  <b>OYEWOLE AKINYEMI</b>  Bar # 170745  A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

**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 7, 1994 .
- (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 (12) 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.

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004; 12/13/2006.)

Actual Suspension  
(Printed: 041210)



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- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
  - costs to be paid in equal amounts prior to February 1 for the following membership years: \*  
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
  - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
  - costs entirely waived \* three (3) billing cycles following the effective date of the Supreme Court ordered discipline herein. See page 10 for additional discussion re: costs.

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

- (1)  Prior record of discipline [see standard 1.2(f)]
- (a)  State Bar Court case # of prior case
  - (b)  Date prior discipline effective
  - (c)  Rules of Professional Conduct/ State Bar Act violations:
  - (d)  Degree of prior discipline
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below.
- (2)  **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3)  **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4)  **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6)  **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7)  **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**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:**

(Do not write above this line.)

- (a)  Respondent must be suspended from the practice of law for a period of one (1) year.
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii.  and until Respondent does the following:
- (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 thirty (30) days.
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii.  and until Respondent does the following:

#### E. Additional Conditions of Probation:

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

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004; 12/13/2006.)

Actual Suspension

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

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

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

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

- (1)  **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- 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.

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004; 12/13/2006.)

Actual Suspension

(Do not write above this line.)

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

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

<b>IN THE MATTER OF:</b>	<b>OYEWOLE AKINYEMI</b>
<b>CASE NUMBER(s):</b>	<b>07-O-12731</b>

**FACTS AND CONCLUSIONS OF LAW.**

Respondent admits that the following facts are true and that he is culpable of violations of the specified statute.

**Statement of Facts**

1. At all times relevant to the allegations herein, Respondent represented Seferina McHatten (“McHatten”) in a matter titled *Rosemary Cook v. Seferina McHatten, et. al.*, Los Angeles Superior Court case no. KC049173H (the “McHatten matter”).
2. On February 2, 2007, McHatten signed under penalty of perjury a declaration prepared by Respondent in which McHatten declared that she had “a lack of understanding of the English language.” In fact, McHatten was, and is, fluent in English.
3. On February 6, 2007, Respondent filed and served on behalf of McHatten a motion to set aside the default judgment in the McHatten matter. Respondent filed McHatten’s declaration concurrently with the motion to set aside the default judgment.
4. On March 15, 2007, the hearing on the motion to set aside the default judgment was held. At the hearing, the court advised Respondent that McHatten’s declaration contained a false statement of fact, *i.e.*, that McHatten had a lack of understanding of the English language, and therefore she appeared to be making a misrepresentation to the court. The court denied the motion to set aside the default judgment.
5. On March 19, 2007, Respondent signed a declaration under penalty of perjury. In the declaration, Respondent stated that his “office had mix-up [sic] the declaration of another client in a family law matter with the declaration of Seferina McHatten.” On March 27, 2007, Respondent filed a renewed motion to set aside the default judgment in the McHatten matter. Respondent filed his March 19, 2007, declaration concurrently with the renewed motion to set aside the default judgment.
6. In fact, a mix-up in Respondent’s office did not cause the false statement of fact to appear in McHatten’s declaration. On March 19, 2007, Respondent knew that the explanation was false.

7. On May 10, 2007, the hearing on the renewed motion to set aside the default judgment in the McHatten matter was held. At the hearing, Respondent represented to the court that the reason for the false statement in McHatten's declaration was that his secretary had mistakenly incorporated the contents of a declaration prepared for a client in a prior family law matter. Respondent knew that the explanation was false when he made the statement on May 10, 2007.

8. On May 10, 2007, the court ordered Respondent to provide a copy of the alleged prior declaration to the court and opposing counsel.

9. On May 11, 2007, in response to the court's orders in the McHatten matter, Respondent filed a declaration that he signed under penalty of perjury. Respondent attached to his declaration a motion to set aside default and default judgment that he had allegedly prepared on behalf of Gilberto Aispuro, a respondent in a dissolution matter titled *Gabriela Aispuro v. Gilberto Aispuro*, San Bernardino County Superior Court case no. SBFSS 55208 ("Aispuro dissolution"). The alleged declaration of Gilberto Aispuro was attached to the motion to set aside default.

10. The caption on the motion to set aside default and on the declaration of Gilberto Aispuro indicated that Respondent was the attorney for Gilberto Aispuro, the respondent in the Aispuro dissolution. The motion to set aside default and the declaration of Gilberto Aispuro also bore the purported file stamp from the San Bernardino County Superior Court indicating that the documents were filed with the court on February 21, 2003.

11. In fact, Respondent represented Gabriela Aispuro, the petitioner in the Aispuro dissolution. Respondent did not file a motion to set aside the default and default judgment in the Aispuro dissolution. Respondent opposed a motion to set aside a stipulated judgment brought by Gilberto Aispuro.

12. Gilberto Aispuro did file a declaration in the Aispuro dissolution. But, it was not the declaration that Respondent filed with the court in the McHatten matter on May 11, 2007. Respondent cut Gilberto Aispuro's signature from the declaration that Gilberto Aispuro signed in the Aispuro dissolution, and pasted the signature on the false declaration of Gilberto Aispuro that Respondent filed with the court in the McHatten matter.

13. On May 11, 2007, Respondent knew that he filed false documents in the McHatten matter.

### **Conclusions of Law**

By filing a declaration that he knew contained a false statement of fact, and by making an oral representation to the court which he knew to be false, Respondent sought to mislead the 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).

By filing false documents, Respondent sought to mislead the 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).

## **PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(6), was April 12, 2010.

## **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed him that as of April 12, 2010, the prosecution costs in this matter are \$1,983. The costs are to be paid in equal amounts prior to February 1 for the following three billing cycles following the effective date of the Supreme Court Order.

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

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.

## **MITIGATING CIRCUMSTANCES.**

### **1. Candor and Cooperation**

On June 5, 2007, Respondent filed with the court in the McHatten matter a declaration that he signed under penalty of perjury. In the June 5, 2007 declaration, Respondent admitted to making misrepresentations to the court and filing fabricated documents. In the declaration, Respondent explained that when the court asked him about the false statement in McHatten's declaration at the March 15, 2007 hearing (paragraph 4 in the Statement of Facts), Respondent was too ashamed to admit that he had never met with McHatten and assumed that she did not speak English. As a result, in his March 19, 2007 declaration, Respondent provided an untrue explanation as to why McHatten's declaration contained the false statement (paragraphs 5 and 6 in the Statement of Facts), and he repeated the untrue explanation at the May 10, 2007 hearing (paragraph 7 in the Statement of Facts.) When the court asked Respondent to provide documents to support the alleged "mix-up" (paragraph 8 in the Statement of Facts), Respondent submitted the fabricated documents (paragraph 9 in the Statement of Facts).

At all times during the State Bar investigation, Respondent has responded promptly and candidly to all inquiries, and willingly provided any and all documentation requested.

Respondent's subsequent candor and cooperation to the court and the State Bar constitute significant mitigating circumstances. (Std. 1.2(e)(v)).

## **AUTHORITIES SUPPORTING DISCIPLINE.**

### **1. Standards**

Standard 2.6(a) of the Standards for Attorney Sanctions for Professional Misconduct ("Standards") apply to this proceeding.

Standard 2.6(a) provides, in pertinent part, that culpability of a member of a violation of Business and Professions Code section 6068 shall result in disbarment or suspension depending upon the gravity of the offense or the harm, if any, to the victim.

Here, Respondent made multiple misrepresentations to the court and filed fabricated documents. Respondent's misconduct warrants actual suspension notwithstanding his subsequent candor and cooperation with the State Bar.

### **2. Case Law**

In *In the Matter of Chesnut* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166, the Review Department recommended a six month actual suspension for an attorney who falsely represented to two judges that he had personally served papers on an opposing party. (*Id.* at 17-175, 177.) The Review Department found in aggravation the attorney's prior record of discipline and that his testimony in the State Bar Court lacked candor. In mitigation, the Review Department found the attorney's eight witnesses demonstrated good character and that the attorney engaged in pro bono activities. (*Id.* at 175-177.)

In *In the Matter of Farrell* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr.490, the attorney represented a defendant in an unlawful detainer action. During the trial, the attorney misrepresented to the court that a defense witness had been subpoenaed when in fact the witness had not been subpoenaed. (*Id.* at pp. 495-496.) The attorney had previously received a ninety (90) day actual suspension and two years probation for misconduct committed in two client matters. The Review Department recommended that the attorney receive a six month actual suspension and three years probation.

Here, Respondent does not have a prior record of discipline and has at all times been completely candid with the State Bar. Respondent's misconduct occurred in 2007, and he has not committed misconduct since then. Consequently, the State Bar submits that Respondent's misconduct warrants a lower level of discipline that was imposed against the attorneys in *In the Matter of Chestnut* and *In the Matter of Farrell*.

The State Bar submits that discipline recommended herein is sufficient to serve the purposes of attorney discipline, which is protection of the public, the courts, and the legal profession; and the

maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession. (Std. 1.3).

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

Because Respondent has agreed to attend State Bar Ethics School as part of this stipulation, he may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

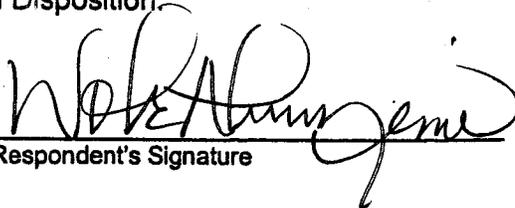
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In the Matter of <b>OYEWOLE AKINYEMI</b> Member #170745	Case number(s): 07-O-12731
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**SIGNATURE OF THE PARTIES**

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.

4/23/10  
Date

  
Respondent's Signature

OYEWOLE AKINYEMI  
Print Name

4/26/10  
Date

  
Respondent's Counsel Signature  
Deputy Trial Counsel's Signature

ELI D. MORGENSTERN  
Print Name

(Do not write above this line.)

In the Matter Of <b>OYEWOLE AKINYEMI</b> Member #170745	Case Number(s): <b>07-O-12731</b>
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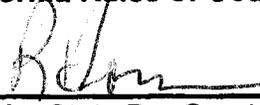
**ORDER**

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

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

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

5-13-10  
Date

  
Judge of the State Bar Court

**RICHARD A. HONN**

**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 May 13, 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:

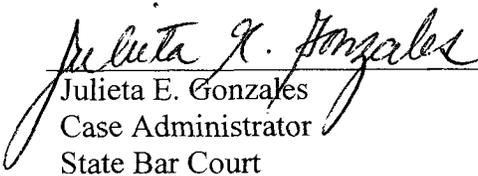
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

OYEWOLE AKINYEMI ESQ  
LAW OFC WOLE AKINYEMI APLC  
3753 TIBBETTS ST  
RIVERSIDE, CA 92506

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

Eli D. Morgenstern, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 13, 2010.

  
\_\_\_\_\_  
Julieta E. Gonzales  
Case Administrator  
State Bar Court