		PUBLIC MATTER
1	THE STATE BAR OF CALIFORNIA	FILED
2	OFFICE OF THE CHIEF TRIAL COUNSEL	۲ ۱
	SCOTT J. DREXEL, No. 65670 CHIEF TRIAL COUNSEL	APR 2 3 2008
3	RUSSELL G. WEINER, No. 94504 DEPUTY CHIEF TRIAL COUNSEL	STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
4	LAWRENCE J. DAL CERRO, No. 104342 ASSISTANT CHIEF TRIAL COUNSEL	SAN FRANCISCO
5	ALLEN BLUMENTHAL, No. 110243 SUPERVISING TRIAL COUNSEL	
6	ROBERT A. HENDERSON, No. 173205 DEPUTY TRIAL COUNSEL	
7	MARK HARTMAN, No. 114925 ASSIGNED DEPUTY TRIAL COUNSEL	
8	180 Howard Street	kwiktag [®] 026 804 312
9	San Francisco, California 94105 Telephone: (415) 538-2000	
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. 11	THE STATE BAR COURT	
12	HEARING DEPARTN	MENT - SAN FRANCISCO
13		
14	In the Matter of) Case No. 07-O-13017
15	JONATHAN D. NEWMAN,	
16	No. 47353,) NOTICE OF DISCIPLINARY CHARGES
17	A Member of the State Bar.	.)
18	NOTICE - FAII	URE TO RESPOND!
19		WER TO THIS NOTICE WITHIN THE
20	IF YOU FAIL TO APPEAR AT THE	RULES, INCLUDING EXTENSIONS, OR E STATE BAR COURT TRIAL, (1) YOUR
21	INACTIVE MEMBER OF THE	(2) YOU SHALL BE ENROLLED AS AN STATE BAR AND WILL NOT BE
22	ON MOTION TIMELY MADE UN	UNLESS THE DEFAULT IS SET ASIDE DER THE RULES OF PROCEDURE OF
23	THE STATE BAR, (3) YOU PARTICIPATE FURTHER IN TH	SHALL NOT BE PERMITTED TO HESE PROCEEDINGS UNLESS YOUR
24	DEFAULT IS SET ASIDE, AND ADDITIONAL DISCIPLINE.	(4) YOU SHALL BE SUBJECT TO
25	STATE BAR RULES REQUIRI	E YOU TO FILE YOUR WRITTEN
26	RESPONSE TO THIS NOTICE WIT	THIN TWENTY DAYS AFTER SERVICE.
27		O AND THE DISCIPLINE IMPOSED BY ROCEEDING INCLUDES A PERIOD OF
28	ACTUAL SUSPENSION, YOU WI	LL REMAIN SUSPENDED FROM THE ST THE PERIOD OF TIME SPECIFIED
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1	BY THE SUPREME COURT. IN ADDITION, THE ACTUAL SUSPENSION		
2	WILL CONTINUE UNTIL YOU HAVE REQUESTED, AND THE STATE BAR COURT HAS GRANTED, A MOTION FOR TERMINATION OF THE		
3	ACTUAL SUSPENSION. AS A CONDITION FOR TERMINATING THE ACTUAL SUSPENSION, THE STATE BAR COURT MAY PLACE YOU ON		
4	PROBATION AND REQUIRE YOU TO COMPLY WITH SUCH CONDITIONS OF PROBATION AS THE STATE BAR COURT DEEMS		
5	APPROPRIATE. SEE RULE 205, RULES OF PROCEDURE FOR STATE BAR COURT PROCEEDINGS.		
6	The State Bar of California alleges:		
7	JURISDICTION		
8	1. Jonathan Newman ("Respondent") was admitted to the practice of law in the State		
9	of California on August 24, 1970, was a member at all times pertinent to these charges, and is		
10	currently a member of the State Bar of California.		
11	<u>COUNT ONE (A)</u>		
12	Case No. 07-O-13017 Rules of Professional Conduct, rule 3-110(A)		
13	[Failure to Perform with Competence]		
14	2. Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A), by		
15	intentionally, recklessly, and repeatedly failing to perform legal services with competence, as		
16	follows:		
17	3. Jeannette E. Baneat is the mother of Jean Marie Baneat and Joelle Bautista.		
18	4. Jeannette E. Baneat is the trustee of a trust which controls a residential unit on		
19	Judah Street in San Francisco, California.		
20	5. On or about October 31, 2006, Jeannette E. Baneat ("Baneat"), hired respondent		
21	to represent her in an unlawful detainer suit for a residential unit located on Judah Street in San		
22	Francisco, California. The unlawful detainer was to evict Jean Marie Baneat ("Jean Marie") from		
23	the unit. Baneat also retained respondent to secure rehabilitation services for Jean Marie's		
24	alcoholism.		
25	6. On or about October 31, 2006 and at all times relevant to this Notice of		
26	Disciplinary Charges, Baneat authorized respondent to communicate with her daughter Joelle		
27	Bautista regarding the legal representation. Respondent actually knew he was authorized to		
28	communicate with Joelle Bautista.		
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17.On or about November 6, 2006, respondent received \$1,500 in advanced2attorney's fees and costs from Baneat.

3 8. On or about December 6, 2006, respondent e-mailed Baneat a draft Three-Day
4 Notice to Quit directed to Jean Marie.

5 9. On or about December 20, 2006, respondent wrote Jean Marie a letter. 6 Respondent notified Jean Marie that he had been retained to "undertake the termination of your 7 tenancy at the Judah Street property." Respondent enclosed the Three-Day Notice to Quit. 8 Respondent also raised the issue of Jean Marie vacating the unit and entering a rehabilitation 9 facility for alcoholism. Respondent further stated: "Whether you decide to undertake the 10 rehabilitation and residential recovery program or not, the Three-Day Notice to Quit will be 11 applicable and, if necessary, I will take steps to enforce it." Subsequently Jean Marie failed to 12 communicate with respondent.

13 10. On or about December 22, 2006, respondent wrote Sam Tomlin of Bear Flag
14 Process Services. Respondent provided the Three-Day Notice to Quit and asked for written proof
15 that the delivery was made to Jean Marie.

16 11. On or about December 22, 2006, respondent wrote Joelle Bautista notifying her
17 that he had requested the Three-Day Notice to Quit be delivered on Jean Marie.

18 12. On or about December 31, 2006, respondent provided Baneat with a Statement
19 for services rendered and costs incurred. The Statement reflected a credit in favor of Baneat in
20 the amount of \$1,126.

21 13. Subsequent to December 31, 2006, respondent took no further action on behalf
22 of Baneat.

14. Subsequent to December 31, 2006, Baneat continued to want Jean Marie evicted
from the unit. Baneat never authorized respondent to cease working on evicting Jean Marie from
the Judah Street property.

26 15. Subsequent to December 31, 2006, Joelle Bautista never authorized respondent to
27 cease working on evicting Jean Marie from the Judah Street property.

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1 16. On or about March 12, 2007, Joelle Bautista wrote a letter to respondent. In her
 2 letter Joelle Bautista asked respondent whether he had initiated the unlawful detainer against her
 3 brother Jean Marie. Respondent received this letter. Respondent did not reply in any way, nor
 4 did he file the unlawful detainer.

5 17. In or around the middle of May 2007, respondent entered a residential treatment
6 facility for his alcoholism. Respondent remained in the facility into June 2007.

18. On or about July 12, 2007, Joelle Bautista and Baneat wrote a letter to
respondent. They informed respondent that for the past two months they had tried without
success to learn the status of the unlawful detainer. Baneat requested a status update on the case
and copies of all documents as soon as possible. The letter further states that if they did not hear
from respondent by July 18, 2007, that respondent should return the retainer. Respondent
received this letter. Respondent did not reply, nor did he file the unlawful detainer or take any
other action on behalf of Baneat.

14 19. On or about October 21, 2007, Baneat wrote the State Bar a letter. The letter
15 authorized the State Bar to communicate with Joelle Bautista regarding her complaint against
16 respondent.

17 20. On or about November 14, 2007, respondent communicated to the State Bar that
18 he continued to have \$738 in funds belonging to Baneat. Respondent thereafter did not turn over
19 the funds to Baneat until the week of March 10, 2008.

20 21. Respondent's failure to file the unlawful detainer against Jean Marie made
21 whatever efforts he had made on behalf of Baneat worthless.

22 22. By failing to file the unlawful detainer complaint against Jean Marie from
23 November 6, 2006 through July 12, 2007, respondent intentionally, recklessly and repeatedly
24 failed to perform legal services with competence.

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COUNT ONE (B)

Case No. 07-O-13017 Business and Professions Code, section 6068(m) [Failure to Respond to Client Inquiries] [Failure to Inform Client of Significant Development]

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1	23.	Respondent wilfully violated Business and Professions Code, section 6068(m), by	
2	failing to respond promptly to reasonable status inquiries of a client, and by failing to keep a		
3	client reasonably informed of significant developments in a matter in which respondent had		
4	agreed to provide legal services, as follows:		
5	24.	The allegations contained in Count One (A) are hereby incorporated by reference.	
6	25.	By failing to inform Baneat that he would not file the unlawful detainer against	
7	Jean Marie and by not responding to Joelle Bautista's telephone messages and letter requesting a		
8	status update on the matter, respondent failed to keep a client reasonably informed of significant		
9	developments and also failed to respond to reasonable status inquiries in a matter in which		
10	respondent had agreed to provide legal services.		
11		<u>COUNT ONE (C)</u>	
12	Case No. 07-O-13017 Rules of Professional Conduct, rule 3-700(D)(2)		
13	[Failure to Refund Unearned Fees]		
14	26.	Respondent wilfully violated Rules of Professional Conduct, rule 3-700(D)(2), by	
15	failing to refund promptly any part of a fee paid in advance that has not been earned, as follows:		
16	27.	The allegations contained in Count One (A) are hereby incorporated by reference.	
17	28.	On or about July 12, 2007, Baneat requested by letter a refund of the unearned	
18	fees and costs. Respondent received this request.		
19	29.	Respondent provided no services of value to Baneat. Respondent did not earn any	
20	of the advanced fees and costs paid by Baneat.		
21	30.	On or about March 10, 2008 respondent refunded \$762 of the \$1,500	
22	advanced fee.		
23	31.	As a result of respondent's failure to pursue the unlawful detainer against Jean	
24	Marie, respondent's services were of no value to Baneat.		
25	32.	By not refunding the full \$1,500 in advanced fees and costs to Baneat, respondent	
26	failed to promptly refund unearned fees.		
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. 1	NOTICE - INACTIVE ENROLLMENT!
2	YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR
3	COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL
4	THREAT OF HÀRM TO THE INTERESTS OF YOUR CLIENTS OR TO THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN
	INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE
5	ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE RECOMMENDED BY THE COURT. SEE RULE 101(c), RULES OF
6	PROCEDURE OF THE STATE BAR OF CALIFORNIA.
7	NOTICE - COST ASSESSMENT!
8	IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC DISCIPLINE,
9	YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING AND REVIEW OF
10	THIS MATTER PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6086.10. SEE RULE 280, RULES OF PROCEDURE OF THE
11	STATE BAR OF CALIFORNIA.
12	Respectfully submitted,
13	THE STATE BAR OF CALIFORNIA
14	OFFICE OF THE CHIEF TRIAL COUNSEL
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16	Dated: April 22, 2008 By: Alth. Brilling
17	Robert A. Henderson Deputy Trial Counsel
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	Assigned Deputy Trial Counsel:
19	Mark Hartman
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DECLARATION OF SERVICE BY CERTIFIED MAIL

CASE NUMBER: 07-0-13017

4 I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that I am not a party to the within action; that I am readily 5 familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service; that in the ordinary 6 course of the State Bar of California's practice, correspondence collected and processed 7 by the State Bar of California would be deposited with the United States Postal Service that same day; that I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is 8 more than one day after date of deposit for mailing contained in the affidavit. That in accordance with the practice of the State Bar of California for collection and processing 9 of mail, I deposited or placed for collection and mailing in the City and County of San Francisco, on the date shown below, a true copy of the within 10

11 Notice of Disciplinary Charges

in a sealed envelope placed for collection and mailing as certified mail, return receipt requested, Article No.: 7160 3901 9845 6046 7743, at San Francisco, on the date shown
 below, addressed to:

14Lindsay K Slatter1111 Civic Dr., Ste.215

15 Walnut Creek, CA 94596

in an inter-office mail facility regularly maintained by the State Bar of California
 addressed to:

N/A

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Francisco, California, on the date shown
 below.

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DATED: 4/23/08 23

SIGNED: Kathlon Kehre

Kathleen N. Kehoe Declarant