

**STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES**

In the Matter of)	Case Nos. 08-O-10975-RAP;
)	(08-O-11622; 08-O-11871;
CHRISTOPHER LaVAR TURPIN,)	09-O-11648; 09-O-14531;
)	09-O-18799; 09-O-19224;
Member No. 210177,)	10-O-00576)
)	
A Member of the State Bar.)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
)	ENROLLMENT
_____)	

I. Introduction

In this default matter, respondent Christopher LaVar Turpin (respondent) is charged with 28 counts of professional misconduct, involving 8 different client matters. The court finds, by clear and convincing evidence, that respondent is culpable of all of the charged acts of misconduct.

Based on the evidence before the court and the factors in aggravation, the court recommends, among other things, that respondent be disbarred from the practice of law.

II. Significant Procedural History

The State Bar filed a Notice of Disciplinary Charges (NDC) against respondent, in the above-listed case numbers, on October 25, 2010. That same day, a copy of the NDC was

properly served on respondent in the manner set forth in rule 60 of the Former Rules of Procedure of the State Bar of California (Former Rules of Procedure).¹

As respondent did not timely file a response to the NDC, the State Bar, on February 8, 2011, filed and properly served on respondent a motion for the entry of respondent's default.² When respondent failed to file a written response within 10 days after service of the motion for the entry of his default, the court, on March 1, 2011, filed an order of entry of default and involuntary inactive enrollment.³ A copy of said order was properly served on respondent. This order was subsequently returned by the U.S. Postal service as undeliverable. Thereafter, the State Bar waived a hearing in this matter, and it was submitted for decision on March 22, 2011.

III. Findings of Fact and Conclusions of Law

All factual allegations of the NDC are deemed admitted upon entry of respondent's default unless otherwise ordered by the court based on contrary evidence. (Former Rules Procedure, rules 200, et seq.)

Respondent was admitted to the practice of law in California on December 1, 2000, and has been a member of the State Bar of California at all times since that date.

¹ Effective January 1, 2011, the Rules of Procedure of the State Bar of California were amended. Based on the court's determination that injustice would otherwise result, the court applied the Former Rules of Procedure in this proceeding.

² The State Bar also requested that the court take judicial notice of respondent's official membership records address history. The court grants this request.

³ Respondent's involuntary inactive enrollment pursuant to Business and Professions Code section 6007, subdivision (e), was effective three days after the service of this order by mail.

A. Case No. 08-O-10975 – The Vu/Pham Matter

Facts

At all relevant times, respondent represented Phouc Vu and Hoan Pham, the plaintiffs in the civil matter titled, *Phouc Vu, Hoan Pham v. Do Nguyen, et al.*, Orange County Superior Court case number 06CC01980 (the Nguyen civil matter).

At all relevant times, Do Nguyen (Nguyen), the defendant in the Nguyen civil matter, was represented by counsel. At all relevant times, respondent knew that Nguyen was represented by counsel in the Nguyen civil matter. At no time did Nguyen's counsel authorize respondent to communicate with Nguyen about any aspect of the Nguyen civil matter.

On or about November 1, 2007, the court announced the special verdicts in the Nguyen civil matter. The jury in the Nguyen civil matter awarded damages against Nguyen in favor of the plaintiffs.

On or about November 1, 2007, respondent visited Nguyen at his jewelry store and threatened him with criminal prosecution if Nguyen did not pay the damages awarded by the jury in the Nguyen civil matter.

On or about November 21, 2007, the court entered judgment on the special verdicts in the Nguyen civil matter.

On or about December 12, 2007, Nguyen's attorneys filed an ex parte application in support of a temporary stay of the judgment in the Nguyen civil matter.

On or about February 5, 2008, Nguyen filed a complaint against respondent with the State Bar.

On or about April 14, 2008, and on or about May 9, 2008, a State Bar investigator mailed letters to respondent at his address of record with the State Bar regarding Nguyen's complaint.

The letters requested that respondent respond in writing to specified allegations of misconduct under investigation by the State Bar raised by Nguyen's complaint. Respondent received the letters. Respondent did not provide a written response to the allegations raised by Nguyen's complaint or otherwise cooperate in the investigation.

Conclusions of Law

1. Count 1 – (Rules Prof. Conduct, rule 2-100(A)⁴ [Communication with a Represented Party])

Rule 2-100(A) provides that an attorney shall not communicate, either directly or indirectly, about the subject of the representation with a party whom the attorney knows to be represented by another attorney unless the other attorney consents. By directly communicating with Nguyen regarding the Nguyen civil matter on November 1, 2007, respondent represented a client and communicated about the subject of that representation with a party respondent knew was represented by another lawyer without the consent of that lawyer, in willful violation of rule 2-100(A).

2. Count 2 – (Rule 5-100(A) [Threatening Charges to Obtain an Advantage])

Rule 5-100(A) provides that a member shall not threaten to present criminal, administrative, or disciplinary charges to obtain an advantage in a civil dispute. By threatening Nguyen with criminal prosecution if he did not pay the damages awarded by the jury in the Nguyen civil matter, respondent threatened to present criminal, administrative, or disciplinary charges to obtain an advantage in a civil dispute, in willful violation of rule 5-100(A).

⁴ Unless otherwise indicated, all further references to rules refer to the State Bar Rules of Professional Conduct.

3. Count 3 – (Bus. & Prof. Code, § 6068, subd. (i))⁵ [Failure to Cooperate in State Bar Investigation]

Section 6068, subdivision (i) provides that an attorney must cooperate and participate in any disciplinary investigation or proceeding pending against the attorney. By not providing a written response to the allegations in the Nguyen complaint or otherwise cooperating with the investigation on the Nguyen complaint, respondent failed to cooperate and participate in a disciplinary investigation pending against him, in willful violation of section 6068, subdivision (i).

B. Case No. 08-O-11622 – The Torrence Matter

Facts

On or about November 20, 2006, Margarita Torrence (Torrence) employed respondent to represent her in pursuing a personal injury claim arising out of an automobile accident which occurred on or about August 5, 2005.

The driver of the other automobile involved in the accident was insured by Hartford Fire Insurance Company (Hartford). At no time did respondent inform a Hartford claims specialist that he was representing Torrence in connection with her personal injury claims arising out of the August 5, 2005 accident. Consequently, on or about April 2, 2007, and on or about May 1, 2007, a Hartford claims specialist mailed letters addressed to Torrence offering to settle her personal injury claim for \$2,295.

On or about July 25, 2007, respondent filed a complaint on behalf of Torrence titled, *Margarita Torrence v. Napoleon Echeverria, et al.*, San Diego County Superior Court case number 37-2007-00071865-CU-PA-CTL (the Torrence civil matter).

⁵ Unless otherwise indicated, all further statutory references are to the Business and Professions Code.

On or about September 24, 2007, respondent's employee advised Torrence that respondent had filed a complaint on behalf of Torrence.

After in or about September 24, 2007, Torrence telephoned respondent's office numerous times and left messages with the receptionist requesting a copy of the complaint in the Torrence civil action and a status update. Respondent received the messages. At no time did respondent or his staff provide Torrence with a copy of the complaint or inform her of the status of the Torrence civil action.

On or about October 18, 2007, the court in the Torrence civil matter set a hearing for on or about December 14, 2007, for an Order to Show Cause (OSC) re: Dismissal for respondent's failure to file a proof of service of the complaint. Respondent received notice of the OSC. On or about December 13, 2007, the court re-scheduled the OSC for on or about January 18, 2008. Respondent received notice of the OSC which was re-scheduled for on or about January 18, 2008.

On or about January 18, 2008, respondent failed to appear at the OSC in the Torrence civil matter. The court set a hearing for on or about March 14, 2008, for an OSC re: Dismissal and Sanctions for respondent's failure to appear. Respondent received notice of the March 14, 2008 OSC re: Sanctions. Thereafter, the OSC scheduled for on or about March 14, 2008, was continued to on or about May 9, 2008. Respondent received notice of the continuance.

On or about February 15, 2008, Torrence mailed respondent a letter via certified mail requesting her client file. Torrence stated that if respondent did not comply by on or about March 3, 2008, she would file a complaint against him with the State Bar of California. Respondent received the letter. Respondent did not provide Torrence with her client file or otherwise respond to Torrence's letter.

In or about March 2008, Torrence contacted an attorney who advised her that an OSC re: Dismissal and Sanctions was scheduled for on or about May 9, 2008. At no time did respondent inform Torrence of the OSC re: Dismissal and Sanctions set for on or about May 9, 2008.

On or about April 14, 2008, Torrence filed a complaint against respondent with the State Bar.

On or about May 9, 2008, respondent failed to appear at the OSC re: Dismissal and Sanctions. Torrence did appear at the hearing. Torrence advised the court that respondent had failed to respond to her telephone calls and the February 15, 2008 letter. The court re-scheduled the OSC for on or about June 13, 2008. The court also ordered that Torrence notify respondent of the OSC set for on or about June 13, 2008. On or about May 16, 2008, the court served respondent with notice of the June 13, 2008 OSC. Respondent received the notice.

On or about May 28, 2008, a State Bar investigator mailed a letter to respondent at his address of record with the State Bar regarding Torrence's complaint. The letter requested that respondent respond in writing to specified allegations of misconduct under investigation by the State Bar raised by Torrence's complaint. Respondent received the letter, but did not provide a written response to the allegations raised by Torrence's complaint or otherwise cooperate in the investigation.

On or about June 2, 2008, respondent filed a certificate of service on behalf of Torrence in the Torrence civil matter.

On or about June 7, 2008, Torrence sent respondent a letter via Federal Express also informing him of the date for the OSC. Respondent received the letter. Respondent did not respond to Torrence's letter or otherwise communicate with Torrence.

On or about June 13, 2008, respondent appeared by telephone at the OSC. Respondent represented to the court that he would telephone Torrence by no later than on or about Monday, June 16, 2008. The OSC re: Dismissal was continued to on or about August 15, 2008.

Respondent did not telephone Torrence or otherwise contact her by the date he had informed the court that he would contact her.

On or about June 18, 2008, Torrence mailed the court in the Torrence civil matter a letter informing the court that respondent had failed to contact her. Torrence mailed a copy of the letter to respondent. Respondent received the letter.

On or about June 20, 2008, respondent mailed Torrence a substitution of attorney.

On or about July 7, 2008, the defendants in the Torrence civil matter filed answers to the complaint.

On or about August 15, 2008, a substitution of attorney was filed on behalf of Torrence. On or about August 15, 2008, the court also took the OSC re: Dismissal off calendar. The court set a case management conference for on or about October 24, 2008.

Conclusions of Law

1. Count 4 – (Rule 3-110(A) [Failure to Perform Competently])

Rule 3-110(A) provides that a member must not intentionally, recklessly, or repeatedly fail to perform legal services with competence. By failing to timely file a proof of service and failing to appear at multiple court proceedings in the Torrence civil matter, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A).

2. Count 5 – (§ 6068, subd. (m) [Failure to Communicate])

Section 6068, subdivision (m) provides that it is the duty of an attorney to respond promptly to reasonable status inquiries of clients and to keep clients reasonably informed of significant developments in matters with regard to which the attorney has agreed to provide legal services. By failing to respond to Torrence’s telephone calls and her February 15, 2008 letter, and by failing to inform Torrence of the May 9, 2008 OSC re: Dismissal in the Torrence civil matter, respondent failed to respond promptly to reasonable status inquiries of a client, and failed to keep a client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services, in willful violation of section 6068, subdivision (m).

3. Count 6 – (§ 6068, subd. (i) [Failure to Cooperate in State Bar Investigation])

By not providing a written response to the allegations in the Torrence complaint or otherwise cooperating with the investigation on the Torrence complaint, respondent failed to cooperate and participate in a disciplinary investigation pending against him, in willful violation of section 6068, subdivision (i).

C. Case No. 08-O-11871 – The Kelly Matter

Facts

On or about November 15, 2006, Terry Kelly (Kelly) employed respondent to represent him in pursuing a personal injury claim arising out of an automobile accident which occurred on or about December 8, 2005. On or about July 31, 2007, respondent filed a complaint on behalf of Kelly titled, *Terrence Kelly v. Phu T. Tang*, Riverside County Superior Court case number RIC476722 (the Kelly civil matter).

In or about March 2008, Kelly decided to terminate respondent and employ attorney Timothy C. Kuzelka (Kuzelka) to represent him in the Kelly civil matter. On or about April 3,

2008, Kuzelka sent respondent a letter by facsimile requesting that respondent sign and return the attached substitution of attorney. Respondent received the letter and substitution of attorney. Respondent did not respond to the letter or return the substitution of attorney.

On or about April 4, 2008, Kuzelka sent respondent another letter via facsimile requesting that respondent sign and return the substitution of attorney that Kuzelka had sent to respondent the day before. Respondent received the letter. Respondent did not respond to the letter or return the substitution of attorney.

On or about April 10, 2008, Kuzelka sent respondent another facsimile requesting that respondent sign and return the substitution of attorney which was attached to the facsimile. Respondent received the cover letter and the substitution of attorney. Respondent did not respond to the letter or return the substitution of attorney.

On or about April 28, 2008, Kelly filed a complaint against respondent with the State Bar.

On or about May 21, 2008, Kuzelka sent respondent a facsimile requesting that respondent sign and return the substitution of attorney which was attached to the facsimile. Kuzelka stated that, if respondent did not sign and return the substitution within days of the date of the letter, he would file a motion to substitute in as Kelly's counsel in the Kelly civil matter. Respondent received the cover letter and the substitution of attorney.

On or about May 30, 2008, a State Bar investigator mailed a letter to respondent at his address of record with the State Bar regarding Kelly's complaint. The letter requested that respondent respond in writing to specified allegations of misconduct under investigation by the State Bar raised by Kelly's complaint. Respondent received the letter.

On or about June 1, 2008, respondent signed the substitution and caused it to be filed with the court.

Respondent did not provide a written response to the allegations raised by Kelly's complaint or otherwise cooperate in the investigation.

Conclusions of Law

1. Count 7 – (Rule 3-700(A)(2) [Improper Withdrawal])

Rule 3-700(A)(2) provides that an attorney may not withdraw from employment until taking reasonable steps to avoid foreseeable prejudice to the client's rights. By failing to timely acknowledge or sign the substitution of attorney, respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client, in willful violation of rule 3-700(A)(2).

2. Count 8 – (§ 6068, subd. (i) [Failure to Cooperate in State Bar Investigation])

By not providing a written response to the allegations in the Kelly complaint or otherwise cooperating with the investigation on the Kelly complaint, respondent failed to cooperate and participate in a disciplinary investigation pending against him, in willful violation of section 6068, subdivision (i).

D. Case No. 09-O-11648 – The Moore Matter

Facts

On or about November 7, 2006, Deloris Moore (Moore) employed respondent to represent her in pursuing her personal injury claims arising out of a slip and fall which occurred on or about November 5, 2006.

On or about September 10, 2008, respondent filed a complaint on behalf of Moore in a matter titled, *Deloris Moore v. Andy Coin-Op Laundry, et al.*, Los Angeles County Superior Court case number NC051797 (the Moore civil matter).

On or about December 1, 2008, the court in the Moore civil matter served respondent with notice of a hearing on or about December 10, 2008, for an OSC re: Dismissal for respondent's failure to file a proof of service and a declaration of due diligence. Respondent received notice of the December 10, 2008 OSC.

On or about December 10, 2008, the court continued the OSC to on or about December 17, 2008. Respondent was served with notice of the continuance. Respondent received the notice.

On or about December 17, 2008, respondent failed to appear at the OSC. The court dismissed the Moore civil matter without prejudice on its motion. The court served respondent with notice of the dismissal. Respondent received the notice. At no time did respondent advise Moore that the court dismissed the Moore civil matter.

On or about January 8, 2009, respondent filed a motion to set aside the dismissal in the Moore civil matter. The hearing on the motion to set aside the hearing was set for February 17, 2009.

On or about January 9, 2009, Moore spoke with respondent on the telephone. At no time did respondent advise Moore that the court dismissed the Moore civil matter and that he had filed a motion to set aside the dismissal. Instead, respondent stated to Moore that he was making an appearance in the Moore civil matter on or about February 17, 2009. Respondent did not inform Moore that the hearing on the motion to set aside the dismissal in the Moore civil matter was set for on or about February 17, 2009.

On or about February 17, 2009, the court granted respondent's motion to set aside the dismissal in the Moore civil matter. The court set a Case Management Conference (CMC) for on or about March 18, 2009. Respondent received notice of the CMC set for on or about March 18, 2009. At no time did respondent inform Moore that the court granted the motion to set aside the dismissal in the Moore civil matter. At no time did respondent inform Moore that the CMC was set for on or about March 18, 2009.

On or about March 18, 2009, respondent failed to appear at the CMC. The court dismissed the Moore civil matter without prejudice. The court served respondent with notice of the dismissal. Respondent received notice of the court's dismissal of the Moore civil matter. At no time did respondent inform Moore that the Moore civil matter was dismissed.

On or about March 22, 2009, Moore visited the Los Angeles County Superior Court website and discovered that the Moore civil matter was dismissed.

On or about March 24, 2009, Moore mailed respondent a letter inquiring about the status of the Moore civil matter. Respondent received the letter. Respondent did not respond to Moore's letter or otherwise communicate with Moore.

On or about March 27, 2009, Moore filed a complaint against respondent with the State Bar.

On or about May 4, 2009, and on or about June 9, 2009, a State Bar investigator mailed letters to respondent at his address of record with the State Bar regarding Moore's complaint. The letters requested that respondent respond in writing to specified allegations of misconduct under investigation by the State Bar raised by Moore's complaint. Respondent received the letters. Respondent did not provide a written response to the allegations raised by Moore's complaint or otherwise cooperate in the investigation.

On or about May 3, 2010, more than one year after the court had dismissed the Moore civil matter, an associate attorney in respondent's office filed a motion to vacate the dismissal in the Moore civil matter. Respondent did not inform Moore that the motion to vacate the dismissal of the Moore civil matter was filed.

On or about July 20, 2010, the court in the Moore civil matter denied the motion on the grounds that it was filed untimely. Respondent received notice of the court's denial. Respondent did not inform Moore that the motion was denied.

Conclusions of Law

1. Count 9 – (Rule 3-110(A) [Failure to Perform Competently])

By failing to timely file a proof of service and failing to appear at multiple court hearings in the Moore civil matter, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A).

2. Count 10 – (§ 6068, subd. (m) [Failure to Communicate])

By failing to inform Moore that: (1) the court dismissed the Moore civil matter on or about December 17, 2008; (2) he filed a motion to set aside the dismissal on or about January 8, 2009; (3) the court granted the motion to set aside dismissal on or about February 17, 2009, and set a CMC for on or about March 18, 2009; (4) the court dismissed the Moore civil matter without prejudice on or about March 18, 2009; (5) he caused a motion to set aside the dismissal in the Moore civil matter to be filed on or about May 3, 2010; and (6) the court denied the motion to set aside the dismissal on or about July 20, 2010, respondent failed to keep a client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services, in willful violation of section 6068, subdivision (m).

3. Count 11 – (§ 6068, subd. (i) [Failure to Cooperate in State Bar Investigation])

By not providing a written response to the allegations in the Moore complaint or otherwise cooperating with the investigation on the Moore complaint, respondent failed to cooperate and participate in a disciplinary investigation pending against him, in willful violation of section 6068, subdivision (i).

E. Case No. 09-O-14531 – The Taylor Matter

Facts

In or about September 2007, Carol Taylor (Taylor) employed respondent to represent her in pursuing her personal injury claims arising out of an automobile accident which occurred on or about February 14, 2006. Taylor was approximately 78 years old at the time of the automobile accident.

On or about December 17, 2007, respondent filed a complaint on behalf of Taylor titled, *Carol Taylor v. The Hertz Corporation, et al.*, Los Angeles County Superior Court case number YC056439 (the Taylor civil matter).

On or about February 25, 2008, the court in the Taylor civil matter served respondent with notice of an OSC Re: Failure to Prosecute set for on or about March 13, 2008. The court also ordered respondent to file a declaration with the court by no later than on or about March 10, 2008, stating facts showing cause why sanctions, including dismissal, should not be imposed for failure to prosecute. Respondent received notice of the OSC hearing set for on or about March 13, 2008.

On or about March 13, 2008, respondent failed to appear at the OSC. Respondent also failed to file a declaration with the court. On or about March 13, 2008, the court sanctioned respondent \$250 payable “forthwith” to the Los Angeles County Superior Court. On or about

March 13, 2008, the court also served respondent with notice of an OSC Re: Failure to Prosecute set for on or about April 14, 2008. The court further ordered respondent to file a declaration with the court by no later than on or about April 10, 2008, stating facts showing cause why sanctions, including dismissal, should not be imposed for failure to prosecute. Respondent received notice of the OSC hearing set for on or about April 14, 2008.

As of the filing date of the NDC, respondent had not paid any portion of the \$250 sanction ordered by the court in the Taylor civil matter on or about March 13, 2008. As of the filing date of the NDC, respondent had not taken any action to modify or vacate the sanction ordered by the court in the Taylor civil matter on or about March 13, 2008.

On or about April 14, 2008, respondent failed to appear at the OSC. Respondent also failed to file a declaration with the court. On or about April 14, 2008, the court sanctioned respondent \$250 payable “forthwith” to the Los Angeles County Superior Court. On or about April 14, 2008, the court also served respondent with notice of an OSC Re: Failure to Prosecute set for on or about May 1, 2008. The court further ordered respondent to file a declaration with the court by no later than on or about April 28, 2008, stating facts showing cause why sanctions, including dismissal, should not be imposed for failure to prosecute. Respondent received notice of the OSC hearing set for on or about April 14, 2008.

As of the filing date of the NDC, respondent had not paid any portion of the \$250 sanction ordered by the court in the Taylor civil matter on or about April 14, 2008. As of the filing date of the NDC, respondent had not taken any action to modify or vacate the sanction ordered by the court in the Taylor civil matter on or about April 14, 2008.

On or about May 21, 2009, a mediation was conducted in the Taylor civil matter by the Honorable William Sheffield, Judge of the Los Angeles County Superior Court [Ret.] (Judge Sheffield). Respondent and Taylor appeared at the mediation.

About two weeks after the mediation, respondent stated to Taylor that a settlement agreement had been reached for \$400,000 in accordance with Judge Sheffield's recommendation. Respondent stated to Taylor that she would receive a settlement check within the next two weeks.

In fact, a settlement agreement in the amount of \$400,000 had not been reached. At the time that respondent made the representation to Taylor concerning the \$400,000 settlement, respondent knew, or was grossly negligent in not knowing, that the statement was false.

On or about June 11, 2009, respondent made an unannounced visit to Taylor's office. At the meeting, respondent advised Taylor for the first time that the settlement agreement was \$300,000, and not \$400,000. Respondent recommended that Taylor accept the \$300,000 offer, because she would be unable to get a trial date for the Taylor civil matter for at least one year. In fact, the trial date for the Taylor civil matter was set for on or about June 16, 2009.

On or about June 11, 2009, respondent knew, or was grossly negligent in not knowing, that the trial date in the Taylor civil matter was set for on or about June 16, 2009.

On or about June 11, 2009, respondent also promised Taylor that, if she accepted the \$300,000 offer, he would reduce his contingency fee by \$50,000. On or about June 11, 2009, Taylor signed a Settlement Agreement and Release (Release) for \$300,000.

On or about June 11, 2009, a few hours after respondent had left her office, Taylor sent an e-mail to respondent and left telephone messages with his receptionist informing respondent that she no longer wanted to settle for \$300,000, and to destroy or rescind the Release.

On or about June 15, 2009, respondent stated to Taylor during a telephone conversation that he had already submitted the Release to the defendants in the Taylor civil matter.

Respondent also stated to Taylor that she would receive the settlement within the next several days. In fact, at no time did respondent submit the Release to the defendants. When respondent made the statement to Taylor, respondent knew, or was grossly negligent in not knowing, that he had not submitted the Release to the defendants in the Taylor civil matter.

In or about July 2009, Taylor's niece discovered that respondent had not submitted the release to the defendants in the Taylor civil matter.

On or about July 16, 2009, Taylor and her niece met with respondent at his office. Taylor obtained the original Release from respondent, and informed him that she would personally deliver the Release to opposing counsel in the Taylor civil matter. Respondent stated that he was no longer willing to reduce his contingency fee as he had represented previously.

On or about July 17, 2009, the Taylor civil matter was dismissed.

On or about August 3, 2009, Taylor filed a complaint against respondent with the State Bar.

On or about September 14, 2009, Taylor employed attorney Rickey Ivie (Ivie) to represent her in the distribution of her settlement proceeds received from her settlement of the Taylor civil matter.

On or about October 14, 2009, Ivie mailed and faxed a letter to respondent requesting respondent to contact him so that arrangements could be made for a messenger to pick-up Taylor's file. Respondent received the letter. Respondent did not respond to it or otherwise arrange to have the file picked up by Ivie's messenger.

On or about September 18, 2009, and on or about May 14, 2010, a State Bar investigator mailed letters to respondent at his address of record with the State Bar regarding Taylor's complaint. The letters requested that respondent respond in writing to specified allegations of misconduct under investigation by the State Bar raised by Taylor's complaint. Respondent received the letters.

At no time did respondent provide a written response to the allegations raised by Taylor's complaint or otherwise cooperate in the State Bar's investigation.

Conclusions of Law

1. Count 12 – (§ 6103 [Failure to Obey a Court Order])

Section 6103 provides that “[a] wilful disobedience or violation of an order of the court requiring him to do or forbear an act connected with or in the course of his profession, which he ought in good faith to do or forbear, and any violation of the oath taken by him, or of his duties as such attorney, constitute causes for disbarment or suspension.” By failing to pay or take any action to modify or vacate the sanctions awarded in the Taylor civil matter, respondent willfully disobeyed or violated an order of the court requiring him to do or forbear an act connected with or in the course of respondent's profession which he ought in good faith to do or forbear, in willful violation of section 6103.

2. Count 13 – (§ 6106 [Moral Turpitude – Misrepresentation])

Section 6106 prohibits an attorney from engaging in conduct involving moral turpitude, dishonesty, or corruption. By making multiple misrepresentations to Taylor, respondent committed acts involving moral turpitude, dishonesty or corruption, in willful violation of section 6106.

3. Count 14 – (Rule 3-700(D)(1) [Failure to Release File])

Rule 3-700(D)(1) states that a member whose employment has terminated shall promptly release to the client, at the request of the client, all the client papers and property. By failing to return Taylor’s file to her, at the request of Ivie, respondent failed to release promptly, upon termination of employment, to his client, at the request of the client, all the client’s papers and property, in willful violation of rule 3-700(D)(1).

4. Count 15 – (§ 6068, subd. (i) [Failure to Cooperate in State Bar Investigation])

By not providing a written response to the allegations in the Taylor complaint or otherwise cooperating with the investigation on the Taylor complaint, respondent failed to cooperate and participate in a disciplinary investigation pending against him, in willful violation of section 6068, subdivision (i).

F. Case No. 09-O-18799–The Orlando Matter

Facts

On or about February 29, 2008, Roberta Orlando (Orlando) employed respondent to represent her in a civil matter titled *Roberta Orlando v. Rawesome, James Stewart, Bill J. McCoy, et al.*, Los Angeles County Superior Court case number SC 097086 (the Orlando civil matter). On or about February 15, 2008, before Orlando employed respondent, the complaint in the Orlando civil matter was filed. The complaint alleged that Orlando sustained personal injuries at Rawesome, a food cooperative, on or about February 18, 2006. At the time that respondent substituted in as Orlando’s counsel of record in the Orlando civil matter, the complaint had not been served on the defendants.

On or about June 2, 2008, the initial status conference for the Orlando civil matter was called for a hearing. Respondent did not appear at the hearing. The court ordered respondent to

appear on or about July 10, 2008, at an OSC why sanctions, including monetary sanctions and/or dismissal, should not be imposed for respondent's failure to appear at the initial status conference and for failure to file a proof of service. Respondent received notice of the OSC set for on or about July 10, 2008.

On or about July 10, 2008, the court held the OSC in the Orlando civil matter. Respondent did not appear for the hearing on the OSC. The court imposed sanctions against respondent and Orlando, jointly and severally, in the sum of \$100, payable by on or about August 29, 2008. The court also ordered respondent to appear on or about August 29, 2008, at an OSC why sanctions, including monetary sanctions and/or dismissal of the complaint, should not be imposed for respondent's failure to appear at the court ordered hearings in the Orlando civil matter and file a proof of service. Respondent received notice of the court's ruling and of the OSC set for on or about August 29, 2008.

On or about August 29, 2008, the court held the OSC in the Orlando civil matter. Respondent did not appear. The court imposed sanctions against respondent and Orlando, jointly and severally, in the sum of \$200 payable by on or about October 31, 2008. The court also ordered respondent to appear on or about October 31, 2008, at an OSC why sanctions, including monetary sanctions and/or dismissal of the complaint, should not be imposed for respondent's failure to file a proof of service, and pay the sanctions ordered by the court on or about July 10, 2008. Respondent received notice of the court's ruling and of the OSC set for on or about October 31, 2008.

On or about September 2, 2008, respondent served all of the defendants in the Orlando civil matter.

On or about September 17, 2008, counsel for James Stewart (Stewart), a defendant in the Orlando civil matter, served respondent with Form Interrogatories (Set No. One) and Request for Production of Documents.

On or about October 1, 2008, respondent mailed Stewart's Form Interrogatories (Set No. One) and Request for Production of Documents to Orlando. On or about October 13, 2008, Orlando provided respondent with her responses to Stewart's discovery.

On or about October 17, 2008, counsel for Bill J. McCoy (McCoy), one of the defendants in the Orlando civil matter, properly served respondent with a Request for Production of Documents (Set No. One), Form Interrogatories (Set No. One), Special Interrogatories (Set No. One), and a Request for Statement of Damages (Set No. One). Respondent received McCoy's discovery requests. At no time did respondent inform Orlando of McCoy's discovery requests. At no time did respondent respond to McCoy's discovery requests.

On or about October 24, 2008, Stewart's counsel served respondent with Special Interrogatories. On or about October 29, 2008, Stewart's counsel also served respondent with Form Interrogatories (Set No. Two) and Request for Admissions. Respondent received Stewart's discovery requests.

On or about October 31, 2008, the court held the OSC in the Orlando civil matter. Respondent did not appear. The court held the OSC re: respondent's failure to file proof of service and ordered the OSC discharged as all of the defendants had been served. The court also held the OSC re: respondent's failure to pay sanctions. The court imposed sanctions against respondent and Orlando, jointly and severally, in the sum of \$400 payable to the court by on or about November 21, 2008. The court also ordered respondent to appear on or about November 21, 2008, at an OSC re: dismissal for respondent's failure to prosecute the Orlando civil matter

and for failure to make payment of the previously imposed sanctions. Respondent received notice of the court's ruling and of the OSC set for on or about November 21, 2008.

As of October 31, 2008, the court in the Orlando civil matter had imposed sanctions against respondent and Orlando, jointly and severally, in the total sum of \$700.

On or about November 2, 2008, respondent mailed Stewart's Special Interrogatories, the Form Interrogatories (Set No. Two) and the Request for Admissions to Orlando. On or about November 15, 2008, Orlando provided respondent with her responses to Stewart's discovery. Respondent did not provide responses to Stewart's discovery requests to Stewart's counsel.

On or about November 19, 2008, Stewart's counsel filed and properly served a motion to compel responses to Stewart's Request for Documents and Form Interrogatories (Set No. One). The hearing on the motion was set for on or about February 10, 2009. Respondent received notice of the motion. Respondent did not respond to it.

On or about November 21, 2008, the court held the OSC in the Orlando civil matter. Respondent did not appear. The court imposed additional sanctions in the sum of \$1,000 against respondent and Orlando, jointly and severally, making the total sanctions due by respondent and Orlando, jointly and severally, \$1,700. The court also ordered respondent to appear on or about January 8, 2009, for an OSC re: respondent's failure to pay sanctions and failure to prosecute the Orlando civil matter. Respondent received notice of the court's ruling and of the January 8, 2009 OSC.

On or about December 19, 2008, Stewart's counsel filed and properly served a motion to compel responses to Stewart's Request for Admissions, Form Interrogatories (Set No. Two) and Special Interrogatories. The hearing on the motion was set for on or about February 10, 2009. Respondent received the motion. Respondent did not file any response to the motion.

In or about January 2009, Orlando received a telephone call from respondent's employee requesting that Orlando again provide responses to all of Stewart's discovery requests. On or about January 22, 2009, Orlando provided respondent with her responses to Stewart's discovery requests. At no time did respondent inform Orlando of McCoy's discovery requests.

On or about January 8, 2009, Stewart's counsel filed and properly served a motion for an order deeming Stewart's Request for Admissions admitted. The hearing on the motion was set for on or about February 10, 2009. Respondent received the motion. Respondent did not file any response to the motion.

On or about January 8, 2009, the court held the OSC in the Orlando civil matter. Respondent appeared at the OSC. The court imposed sanctions in the amount of \$1,700 against respondent payable within 10 days of on or about January 8, 2009. The OSC re: dismissal was held and discharged. The court ordered respondent to appear on or about February 10, 2009, at a Case Management Conference (CMC)/OSC re: proof of payment of sanctions.

On or about January 9, 2009, McCoy's counsel filed and properly served a motion to compel responses to McCoy's Request for Production of Documents, Form Interrogatories, Special Interrogatories, and Request for Statement of Damages. The hearing on the motion was set for on or about February 10, 2009. Respondent received the motion. Respondent did not file any response to the motion.

On or about February 10, 2009, respondent paid sanctions to the court in the amount of \$1,700. Consequently, the OSC re: proof of payment of sanctions was discharged.

On or about February 10, 2009, the court held a hearing on Stewart and McCoy's discovery motions. Respondent appeared at the February 10, 2009 hearings. The court granted Stewart's discovery motions and ordered Orlando to provide responses to Stewart's discovery

requests within 15 days of notice of the order, deemed admitted all of Stewart's Request for Admissions, and sanctioned respondent and Orlando, jointly and severally, in the amount of \$1,340 payable to Stewart's counsel within 15 days of notice of the order. The court also granted McCoy's discovery motions, ordered Orlando to provide responses to McCoy's discovery requests within 15 days of notice of the order, and sanctioned respondent and Orlando, jointly and severally, in the amount of \$910 payable to McCoy's counsel within 15 days of notice of the order. Respondent waived notice of the order at the February 10, 2009 hearing.

On or about February 10, 2009, the court also conducted the CMC. The court ordered a final status conference for on or about November 10, 2009, and set a trial date for on or about November 16, 2009.

On or about February 24, 2009, respondent filed a motion to reconsider, vacate, or set aside the court's order deeming Stewart's Requests for Admissions admitted.

On or about February 27, 2009, respondent mailed a letter to Orlando stating, among other things, that respondent had "provided responses to defendants' discovery." At no time did respondent advise Orlando that McCoy had served discovery requests. Respondent also informed Orlando that the trial in the Orlando matter was set for on or about November 16, 2009.

On or about March 13, 2009, Stewart's counsel filed and properly served a motion for summary judgment in the Orlando civil matter. Respondent was served with the motion. The hearing on the motion for summary judgment was set for on or about June 2, 2009. Respondent did not file any response to the motion for summary judgment.

On or about May 5, 2009, the court denied respondent's motion to reconsider, vacate, or set aside the court's order deeming Stewart's Requests for Admissions admitted. Respondent was served with notice of the court's ruling.

On or about June 2, 2009, the court held the hearing on Stewart's motion for summary judgment in the Orlando civil matter. Respondent did not appear. The court granted Stewart's motion for summary judgment. On or about June 8, 2009, respondent was served notice of the court's ruling. Respondent received a copy of the notice of the court's ruling granting Stewart's motion for summary judgment.

On or about June 5, 2009, McCoy's counsel filed and properly served a motion for summary judgment in the Orlando civil matter. Respondent was served with the motion. The hearing on the motion for summary judgment was set for on or about August 25, 2009. Respondent did not file any response to the motion for summary judgment.

Between in or about March 2009 and in or about July 2009, Orlando made several telephone calls to respondent's office. Respondent's employees assured Orlando that respondent was working on the Orlando civil matter. At no time during this period did Orlando speak with respondent.

In or about August 2009, Orlando spoke on the telephone with an employee of respondent. The employee stated that respondent had filed documents in response to McCoy's summary judgment motion and that respondent would appear at the hearing for McCoy's summary judgment motion. When Orlando asked if she should attend the hearing for the summary judgment motion, respondent's employee advised Orlando not to attend.

On or about August 25, 2009, the court held the hearing on McCoy's motion for summary judgment in the Orlando civil matter. Respondent did not appear. The court granted McCoy's motion for summary judgment. On or about August 25, 2009, respondent was served notice of the court's ruling. Respondent received a copy of the notice of the court's ruling granting McCoy's motion for summary judgment.

On or about August 27, 2009, respondent was personally served with an order requiring him to appear at a judgment debtor's examination on or about September 18, 2009, involving the \$1,340 sanction awarded against respondent and Orlando, jointly and severally, in favor of Stewart's counsel in the Orlando civil matter.

In or about September 2009, Orlando reviewed her case on the Los Angeles County Superior Court website and determined that respondent had abandoned the Orlando civil matter.

In or about September 2009, Orlando made several telephone calls to respondent's office and left messages with respondent's receptionist requesting her client file. Respondent received the messages. Respondent did not provide Orlando with her client file or otherwise respond to her calls.

On or about September 11, 2009, and September 30, 2009, Orlando sent respondent e-mails requesting that respondent provide Orlando with her client file. Respondent received the messages. Respondent did not provide Orlando with her client file or otherwise respond to her e-mails.

On or about September 18, 2009, respondent did not appear at the judgment debtor's examination. The court ordered that a bench warrant be issued for his arrest and held until on or about October 2, 2009. The court also continued the debtor's examination until on or about October 2, 2009. On or about September 21, 2009, respondent was served with the notice of the court's ruling. Respondent received notice of the ruling.

On or about October 2, 2009, respondent failed to appear at the debtor's examination involving the Orlando civil matter. On or about October 2, 2009, the court issued a bench warrant for respondent's arrest.

On or about November 5, 2009, the court entered Stewart's request for dismissal of the Orlando civil matter. On or about November 6, 2009, the court entered McCoy's request for dismissal of the Orlando civil matter.

As of the filing date of the NDC, neither respondent nor Orlando had paid any portion of the \$1,340 sanction awarded to Stewart's counsel in the Orlando civil matter. As of the filing date of the NDC, respondent had not taken any action to modify or vacate the sanction awarded to Stewart's counsel in the Orlando civil matter.

As of the filing date of the NDC, neither respondent nor Orlando had paid any portion of the \$910 sanction awarded to McCoy's counsel in the Orlando civil matter. As of the filing date of the NDC, respondent had not taken any action to modify or vacate the sanction awarded to McCoy's counsel in the Orlando civil matter.

On or about October 31, 2009, Orlando filed a complaint against respondent with the State Bar.

On or about January 21, 2010, and on or about July 2, 2010, a State Bar investigator mailed letters to respondent at his address of record with the State Bar regarding Orlando's complaint. The letters requested that respondent respond in writing to specified allegations of misconduct under investigation by the State Bar raised by Orlando's complaint. Respondent received the letters. At no time did respondent provide a written response to the allegations raised by Orlando's complaint or otherwise cooperate in the investigation.

Respondent failed to inform Orlando of the following significant developments in the Orlando civil matter: (1) that the initial status conference was set for on or about June 2, 2008; (2) that respondent failed to appear at the initial status conference on or about June 2, 2008, and the court set an OSC re: sanctions for on or about July 10, 2008; (3) that respondent failed to

appear at the OSC on or about July 10, 2008, and the court sanctioned respondent and Orlando, jointly and severally, \$100, and set an OSC re: sanctions for on or about August 29, 2008; (4) that respondent failed to appear at the OSC on or about August 29, 2008, and the court sanctioned respondent and Orlando, jointly and severally, \$200, and set an OSC re: sanctions for on or about October 31, 2008; (5) that McCoy's counsel served discovery requests on or about October 24, 2008; (6) that respondent failed to appear at the OSC on or about October 31, 2008, and the court sanctioned respondent and Orlando, jointly and severally, \$400, and set an OSC re: sanctions for on or about November 21, 2008; (7) that Stewart's counsel filed and served a motion to compel responses to Stewart's Request for Documents and Form Interrogatories (Set No. One) on or about November 19, 2008; (8) that respondent failed to appear at the OSC on or about November 21, 2008, and the court sanctioned respondent and Orlando, jointly and severally, \$1000, and set an OSC re: sanctions for on or about January 9, 2009; (9) that Stewart's counsel filed and served a motion to compel responses to Stewart's Request for Admissions, Form Interrogatories (Set No. Two), and Special Interrogatories on or about December 19, 2008; (10) that Stewart's counsel served a motion for an order deeming Stewart's Request for Admissions admitted on or about January 8, 2009; (11) that McCoy's counsel filed and properly served a motion to compel responses to McCoy's Request for Production of Documents, Form Interrogatories, Special Interrogatories, and Request for Statement of Damages on or about January 9, 2009; (12) that on or about February 10, 2009, the court granted Stewart's discovery motions, deemed his Request for Admissions admitted, and sanctioned respondent and Orlando, jointly and severally, in the amount of \$1,340; (13) that on or about February 10, 2009, the court granted McCoy's discovery motions and sanctioned respondent and Orlando, jointly and severally, in the amount of \$910; (14) that he filed a motion to reconsider, vacate, or set aside the

court's order deeming Stewart's Requests for Admissions admitted on or about February 24, 2009, and the court denied the motion on or about May 5, 2009; (15) that Stewart's counsel filed and served a motion for summary judgment on or about March 13, 2009, and the court granted the motion on or about June 2, 2009; (16) that the court granted McCoy's motion for summary judgment on or about August 25, 2009; (17) that the court granted Stewart's request for dismissal of the Orlando civil matter on or about November 5, 2009; and (18) that the court granted McCoy's request for dismissal of the Orlando civil matter on or about November 6, 2009.

Conclusions of Law

1. Count 16 – (Rule 3-110(A) [Failure to Perform Competently])

By failing to respond to discovery requests and appear at numerous court proceedings in the Orlando civil matter, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A).

2. Count 17 – (§ 6068, subd. (m) [Failure to Communicate])

As illustrated above, respondent failed to keep a client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services, in willful violation of section 6068, subdivision (m).

3. Count 18 – (Rule 3-700(D)(1) [Failure to Release File])

By failing to return Orlando's file to her, at the request of Orlando, respondent failed to release promptly, upon termination of employment, to his client, at the request of the client, all the client's papers and property, in willful violation of rule 3-700(D)(1).

4. Count 19 – (§ 6103 [Failure to Obey a Court Order])

By failing to pay or take any action to modify or vacate the sanctions awarded in the Orlando civil matter, respondent willfully disobeyed or violated an order of the court requiring

him to do or forbear an act connected with or in the course of respondent's profession which he ought in good faith to do or forbear, in willful violation of section 6103.

5. Count 20 – (§ 6103 [Failure to Obey a Court Order])

By failing to appear at the September 18, 2009 and October 2, 2009 debtor's examinations, respondent willfully disobeyed or violated an order of the court requiring him to do or forbear an act connected with or in the course of respondent's profession which he ought in good faith to do or forbear, in willful violation of section 6103.

6. Count 21 – (§ 6068, subd. (i) [Failure to Cooperate in State Bar Investigation])

By not providing a written response to the allegations in the Orlando complaint or otherwise cooperating with the investigation on the Orlando complaint, respondent failed to cooperate and participate in a disciplinary investigation pending against him, in willful violation of section 6068, subdivision (i).

G. Case No. 09-O-19224–The Moriarity Matter

Facts

On or about February 23, 2007, attorney Michael W. Weinstock (Weinstock) filed a complaint on behalf of Michael Moriarty (Moriarty) in a matter titled, *Michael Moriarity v. Los Angeles Unified School District, et al.*, Los Angeles County Superior Court case number LC077183 (the Moriarty civil matter).

On or about August 2, 2007, the attorneys for the Los Angeles Unified School District served Weinstock with form interrogatories in connection with the Moriarty civil matter.

On or about August 30, 2007, the attorneys for the Los Angeles Unified School District reached an agreement with Weinstock extending Moriarty's time to respond to the form interrogatories to on or about October 15, 2007.

On or about September 13, 2007, Moriarty provided Weinstock with his answers to the form interrogatories.

On or about December 18, 2007, respondent substituted into the Moriarty civil matter as Moriarty's attorney of record. On or about December 18, 2007, Moriarty's responses to the Los Angeles Unified School District's form interrogatories had not been served. At no time did respondent provide Moriarty's discovery responses to the Los Angeles Unified School District's attorney.

On or about May 6, 2008, the attorneys for the Los Angeles Unified School District served respondent with a notice of deposition requesting to depose Moriarty on or about May 22, 2008. Respondent received the deposition notice. Respondent did not advise Moriarty that his deposition had been noticed for on or about May 22, 2008.

On or about May 19, 2008, the attorneys for the Los Angeles Unified School District mailed and faxed to respondent a letter requesting that respondent provide Moriarty's responses to the form interrogatories by no later than on or about May 29, 2008.

On or about May 22, 2008, neither respondent nor Moriarty appeared for Moriarty's deposition. On that date, the attorneys for the Los Angeles Unified School District again mailed the May 19, 2008 letter to respondent. Respondent received the letters. Respondent did not inform Moriarty of the letters or that Moriarty's responses to the form interrogatories had not been served on opposing counsel.

On or about May 29, 2008, the attorney for the Los Angeles Unified School District mailed and faxed a letter to respondent informing him that they would be appearing ex parte on June 2, 2008, in Los Angeles County Superior Court for an application shortening time for a hearing on a motion for an order compelling Moriarty to respond to the form interrogatories, for

an order compelling Moriarty to appear at his deposition, and also for an order that Moriarty and respondent pay sanctions in the amount of \$2,832. Respondent received the letter. Respondent did not inform Moriarty of the ex parte hearing.

On or about May 30, 2008, the attorneys for the Los Angeles Unified School District filed a motion for an order compelling Moriarty to respond to the form interrogatories and a motion for an order compelling Moriarty's deposition. Respondent received the motion. Respondent did not inform Moriarty of the motion.

On or about June 2, 2008, the attorneys for the Los Angeles Unified School District appeared ex parte in the Moriarty civil matter. Respondent failed to appear. The court granted the Los Angeles Unified School District's ex parte request for an order shortening time for the hearing on the May 30, 2008 motion. The court advanced the hearing date to on or about June 16, 2008.

On or about June 13, 2008, respondent informed Moriarty that his deposition had been set for June 18, 2008. This was the first time that respondent had communicated with Moriarty since Moriarty employed respondent to represent him in the Moriarty civil matter.

On or about June 16, 2008, an order granting the Los Angeles Unified School District's May 30, 2008 motion was filed. Pursuant to the order, Moriarty was ordered to respond to the form interrogatories and appear for deposition within 20 days of service of the order. Moriarty was also ordered to pay sanctions in the amount of \$2,832 to the Los Angeles Unified School District within 30 days of service of the order. On or about June 16, 2008, respondent was served with the order. Respondent received the order. Respondent did not inform Moriarty of the order.

On or about June 18, 2008, Moriarty terminated respondent.

On or about June 19, 2008, the attorneys for the Los Angeles Unified School District filed a motion for terminating sanctions in the Moriarty civil matter.

On or about August 18, 2008, judgment was entered in favor of Los Angeles Unified School District in the Moriarty civil matter.

On or about February 4, 2009, the Los Angeles Unified School District filed a Notice of Entry of Amended Judgment in the Moriarty civil matter. The Amended Judgment included sanctions awarded against respondent and Moriarty, jointly and severally, in the sum of \$2,832, as ordered on or about June 16, 2008. On or about February 6, 2009, respondent was served with a copy of the Notice of Entry of Amended Judgment. Respondent received a copy of the Notice of Entry of Amended Judgment.

In or about 2009, Moriarity filed a malpractice claim against respondent. On March 16, 2010, respondent mailed a letter to Moriarity stating that if Moriarity was willing to dismiss with prejudice his malpractice claim and “any complaints with the State Bar,” respondent would be willing to sign a declaration assisting Moriarity with the dismissal of the malpractice claim.

As of the filing date of the NDC, neither respondent nor Moriarty had paid any portion of the \$2,832 sanction awarded to the Los Angeles Unified School District in the Moriarty civil matter. As of the filing date of the NDC, respondent had not taken any action to modify or vacate the sanction awarded to the Los Angeles Unified School District in the Moriarty civil matter.

On or about November 4, 2009, Moriarty filed a complaint against respondent with the State Bar.

On or about January 20, 2010, and on or about June 17, 2010, a State Bar investigator mailed letters to respondent at his address of record with the State Bar regarding Moriarty’s

complaint. The letters requested that respondent respond in writing to specified allegations of misconduct under investigation by the State Bar raised by Moriarty's complaint. Respondent received the letters. At no time did respondent provide a written response to the allegations raised by Moriarty's complaint or otherwise cooperate with the State Bar's investigation.

Conclusions of Law

1. Count 22 – (§ 6068, subd. (m) [Failure to Communicate])

By failing to keep Moriarty reasonably informed of numerous significant developments in the Moriarty civil matter, respondent failed to keep a client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services, in willful violation of section 6068, subdivision (m).

2. Count 23 – (§ 6103 [Failure to Obey a Court Order])

By failing to pay or take any action to modify or vacate the sanctions awarded in the Moriarty civil matter, respondent willfully disobeyed or violated an order of the court requiring him to do or forbear an act connected with or in the course of respondent's profession which he ought in good faith to do or forbear, in willful violation of section 6103.

3. Count 24 – (§ 6090.5(a)(2) [Agreement to Withdraw State Bar Complaint])

Section 6090.5(a)(2) provides that it is cause for suspension, disbarment, or other discipline for any member, whether as a party or as an attorney for a party, to seek agreement that the plaintiff shall withdraw a disciplinary complaint or shall not cooperate with the investigation or prosecution conducted by the disciplinary agency. By offering to assist Moriarty upon dismissal of his State Bar complaint, respondent acted as a party and sought agreement that a plaintiff would withdraw a disciplinary complaint or would not cooperate with the

investigation or prosecution conducted by the disciplinary agency, in willful violation of section 6090.5(a)(2).

4. Count 25 – (§ 6068, subd. (i) [Failure to Cooperate in State Bar Investigation])

By not providing a written response to the allegations in the Moriarty complaint or otherwise cooperating with the investigation on the Moriarty complaint, respondent failed to cooperate and participate in a disciplinary investigation pending against him, in willful violation of section 6068, subdivision (i).

H. Case No. 10-O-00576 – The Sailer Matter

Facts

On or about February 1, 2007, Robert Sailer (Sailer) employed respondent to represent him in a contract dispute with a friend of Sailer's named Daniel Copano (Copano).

On or about April 25, 2007, respondent filed and served a complaint on behalf of Sailer in a matter titled, *Robert Sailer v. Daniel Copano*, Los Angeles County Superior Court case number 07A02068 (the Sailer civil matter).

On or about December 18, 2007, respondent appeared on behalf of Sailer at a Trial Setting Conference in the Sailer civil matter. The court set a jury trial for August 19, 2008. A Final Status Conference was also set for August 11, 2008.

On or about January 2, 2008, respondent mailed Sailer a letter informing Sailer, among other things, that Copano had requested a jury trial in the Sailer civil matter and that the trial was set for on or about August 19, 2008.

On or about August 11, 2008, respondent appeared on behalf of Sailer at the Final Status Conference in the Sailer civil matter. Copano did not appear. The court found that Copano had waived a jury trial because he had failed to post jury fees. The court also set an OSC re:

Sanctions against Copano for Copano's failure to appear at the Final Status Conference and a court trial date for on or about August 19, 2008.

On or about August 12, 2008, the court on its own motion continued the OSC and the court trial in the Sailer civil matter to on or about August 28, 2008. On or about August 12, 2008, the court served respondent with notice of the continuance of the trial date in the Sailer civil matter. Respondent received notice of the continuance.

Between on or about August 12, 2008, and on or about August 28, 2008, respondent informed Sailer that he was unable to represent Sailer on August 28, 2008, at the trial in the Sailer civil matter because of a scheduling conflict. At no time did respondent move the court for a continuance of the trial date.

On or about August 28, 2008, Sailer arrived late to the trial in the Sailer civil matter. Copano failed to appear. When Sailer arrived at court, he discovered that the court had dismissed the Sailer matter because neither party had appeared for trial.

On or about August 28, 2008, the court properly served respondent with the order of dismissal in the Sailer civil matter. Respondent received the order of dismissal.

On or about August 28, 2008, Sailer informed respondent that the court dismissed the Sailer civil matter. Respondent represented to Sailer that he would request relief from the judgment in the Sailer civil matter on behalf of Sailer.

Between in or about August 2008 and in or about October 2009, Sailer spoke with respondent approximately 10 times. Each time, respondent stated that he intended to request relief from the judgment in the Sailer civil matter on behalf of Sailer. At no time did respondent request relief from the judgment in the Sailer civil matter.

On or about October 8, 2009, Sailer sent a letter to respondent via facsimile terminating respondent's employment and requesting his client file. Respondent received the letter.

Respondent did not provide Sailer with his client file or otherwise respond to the letter.

On or about October 26, 2009, Sailer sent another letter to respondent via facsimile terminating respondent's employment and requesting his client file. Respondent received the letter. Respondent did not provide Sailer with his client file or otherwise respond to the letter.

On or about December 14, 2009, Sailer mailed a certified letter to respondent requesting his client file. Respondent received the letter. In or about December 2009, respondent provided Sailer with the client file.

On or about December 28, 2009, Sailer filed a complaint against respondent with the State Bar.

On or about July 14, 2010, a State Bar investigator mailed a letter to respondent at his address of record with the State Bar regarding Sailer's complaint. The letter requested that respondent respond in writing to specified allegations of misconduct under investigation by the State Bar raised by Sailer's complaint. Respondent received the letter. Respondent did not provide a written response to the allegations raised by Sailer's complaint or otherwise cooperate in the investigation.

Conclusions of Law

1. Count 26 – (Rule 3-110(A) [Failure to Perform Competently])

By failing to timely appear for trial or request relief from the judgment in the Sailer civil matter, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A).

2. Count 27 – (Rule 3-700(D)(1) [Failure to Release File])

By failing to promptly return Sailer’s file to him, at the request of Sailer, respondent failed to release promptly, upon termination of employment, to his client, at the request of the client, all the client’s papers and property, in willful violation of rule 3-700(D)(1).

3. Count 28 – (§ 6068, subd. (i) [Failure to Cooperate in State Bar Investigation])

By not providing a written response to the allegations in the Sailer complaint or otherwise cooperating with the investigation on the Sailer complaint, respondent failed to cooperate and participate in a disciplinary investigation pending against him, in willful violation of section 6068, subdivision (i).

IV. Mitigation and Aggravation

A. Mitigation

No mitigating factors were submitted into evidence and none could be gleaned from the record. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(e).)⁶

B. Aggravation

1. Prior Record of Discipline

Respondent’s prior record of discipline is a significant factor in aggravation. (Std. 1.2(b)(i).) On June 25, 2010, the California Supreme Court issued an order (S182671) suspending respondent from the practice of law for four years, stayed, with a three-year period of probation, including a two-year actual suspension and/until respondent provides proof of his rehabilitation, fitness to practice, and learning and ability in the law. In this proceeding, respondent was found culpable of two acts of moral turpitude and failing to cooperate in a State

⁶ All further references to standard(s) are to this source.

Bar investigation. In mitigation, respondent cooperated with the State Bar by entering into an extensive factual and evidentiary stipulation. In aggravation, respondent demonstrated indifference toward rectification of or atonement for the consequences of his misconduct.

2. Multiple Acts of Misconduct

Respondent was found culpable of 28 acts of misconduct involving 8 separate clients. Multiple acts of misconduct are an aggravating factor. (Std. 1.2(b)(ii).)

3. Significant Harm

Respondent's misconduct also resulted in significant harm to his clients. (Std. 1.2(b)(iv).) Respondent's failure to perform with competence caused the courts to dismiss respondent's clients' claims in the Moore, Orlando, and Sailer matters.

V. Discussion

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, to preserve public confidence in the profession, and to maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1025; std. 1.3.)

Standard 1.6 provides that the appropriate sanction for the misconduct found must be balanced with any mitigating or aggravating circumstances, with due regard for the purposes of imposing discipline. If two or more acts of professional misconduct are found in a single disciplinary proceeding, the sanction imposed must be the most severe of the applicable sanctions. (Std. 1.6(a).)

Standards 2.3, 2.6, and 2.10 apply in this matter. The most severe sanction is found at standard 2.3 which recommends, upon the commission of an act of moral turpitude, that a member receive discipline consisting of actual suspension or disbarment depending on 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.

The Supreme Court gives the standards "great weight" and will reject a recommendation consistent with the standards only where the court entertains "grave doubts" as to its propriety. (*In re Silverton* (2005) 36 Cal.4th 81, 91-92; *In re Naney* (1990) 51 Cal.3d 186, 190.) The standards are not mandatory; they may be deviated from when there is a compelling, well-defined reason to do so. (*Bates v. State Bar* (1990) 51 Cal.3d 1056, 1061, fn. 2; *Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.)

The State Bar has requested that respondent be disbarred. The court agrees with this recommendation. In reaching this conclusion, the court finds *In the Matter of Hunter* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 63, to be instructive.

In *Hunter*, the attorney, in four criminal law matters, failed to make scheduled court appearances, failed to file pleadings, failed to comply with numerous court orders, failed to perform services competently, and failed to refund an unearned fee. In aggravation, the attorney: (1) had a record of two prior disciplinary matters; (2) committed multiple acts of wrongdoing; (3) caused significant harm to his clients; and (4) demonstrated a lack of concern for the disciplinary process and failed to appreciate the seriousness of the charges. No mitigating circumstances were found. The Review Department recommended that the attorney be disbarred.⁷

While *Hunter* involves arguably greater aggravation, the misconduct in the present matter is more egregious. The present matter affected considerably more clients and included a finding of moral

⁷ In a separate disciplinary recommendation, the Review Department recommended that the attorney's prior disciplinary probation be revoked. This revocation constituted the attorney's second discipline for purposes of aggravation.

turpitude. On the whole, the court finds the facts and circumstances of the present matter to be fairly comparable to *Hunter*.

Based on respondent's egregious misconduct, his demonstrated indifference to multiple court orders, his failure to participate in the present proceedings, and the previously articulated factors in aggravation, the court finds no reason to recommend a level of discipline short of disbarment. Consequently, it is recommended that respondent be disbarred.

VI. Recommendations

The court recommends that respondent **Christopher LaVar Turpin** be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys in this state.

A. California Rules of Court, Rule 9.20

The court further recommends that respondent be ordered to comply with California Rules of Court, rule 9.20, and to 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 order in this matter.⁸

B. Costs

It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

⁸ Respondent is required to file a rule 9.20(c) affidavit even if he has no clients to notify on the date the Supreme Court files its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.)

VII. Order of Involuntary Inactive Enrollment

In accordance with Business and Professions Code section 6007, subdivision (c)(4), it is ordered that respondent be involuntarily enrolled as an inactive member of the State Bar of California effective three days after service of this decision and order by mail. (Rules Proc. of State Bar, rule 5.111(D)(1).)

Dated: June 3, 2011.

RICHARD A. PLATEL
Judge of the State Bar Court