



**State Bar Court of California  
Hearing Department  
San Francisco  
DISBARMENT**

<b>Counsel For The State Bar</b>  CYDNEY BATCHELOR 180 Howard St., 7th Fl. San Francisco, CA 94105 Tele: 415/538-2204  Bar # 114637	<b>Case Number(s):</b>  08-O-10991-LMA 08-O-13402 [10-O-05852 unfiled 10-N-08504 unfiled]	<b>For Court use only</b>  <b>PUBLIC MATTER</b>  <b>FILED</b>   OCT 04 2011  STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<b>In Pro Per Respondent</b>  FRANK M. ENNIX III 576 -- 10th St. Oakland, CA 94607 Tele: 510/654-5525  Bar # 40459	<b>Submitted to: Assigned Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT  <b>DISBARMENT</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
<b>In the Matter of:</b>  FRANK M. ENNIX III  Bar # 40459  A Member of the State Bar of California (Respondent)	 kwiktag <sup>®</sup> 018 042 141	

**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 13, 1967.
- (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 resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of ( 14 ) pages, not including the order.

(Do not write above this line.)

- (4) A statement of acts or omissions acknowledged by respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
  - ☒ Costs to be awarded to the State Bar.
  - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - ☐ Costs are entirely waived.
- (9) ORDER OF INACTIVE ENROLLMENT:  
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

**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**
  - (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:  
  
See attached -- 3 prior records of discipline
- (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.  
See attached

(Do not write above this line.)

- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See attached
- (8) ☐ **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

None

**C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.**

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☒ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings. See attached
- (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.

(Do not write above this line.)

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- (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:**

None

**D. Discipline:**        **Disbarment.**

**E. Additional Requirements:**

- (1) **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.
- (2) ☐ **Restitution:** Respondent must make restitution to \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ plus 10 percent interest per year from \_\_\_\_\_. If the Client Security Fund has reimbursed \_\_\_\_\_ for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than \_\_\_\_\_ days from the effective date of the Supreme Court order in this case.
- (3) ☐ **Other:**

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

**IN THE MATTER OF:**                      **FRANK M. ENNIX III**

**CASE NUMBERS:**                      **08-O-10991, 08-O-13402,**  
   **10-O-05852, 10-N-08504**

**FACTS AND CONCLUSIONS OF LAW.**

**I.     Case No. 08-O-10991-LMA (Maxwell)**

**A.     Facts:**

1.        On August 31, 2007, Tracie Maxwell was driving a vehicle occupied also by passengers Trayaina Hawkins, Quinosha Williams and London Webb when it was struck by another vehicle.
2.        On September 25, 2007, Maxwell, Hawkins, Williams and Webb employed respondent to represent them regarding injuries they suffered in the accident.
3.        At the time that Maxwell, Hawkins, Williams and Webb employed respondent, a potential conflict existed between Maxwell, as the driver and Hawkins, Williams and Webb, as the passengers.
4.        Respondent failed to obtain the informed written consent of Maxwell, Hawkins, Williams and Webb prior to accepting their representation.

**B.     Conclusions of Law: Rule of Prof. Misconduct 3-310(c)** -- By failing to obtain the informed written consent from Maxwell, Hawkins, Williams and Webb, respondent accepted representation of more than one client in a matter in which the interests of the clients potentially conflicted without the informed written consent of each client, in violation of rule 3-310(C)(1) of the Rules of Prof. Conduct.

**II.    Case No. 08-O-13402 (Chiu)**

**A.     Facts:**

1.        On July 2, 2005, Wai Ming Chiu fell in a Fry's Electronics store.
2.        On July 5, 2005, Chiu employed respondent to represent him regarding the

injuries he suffered when he fell.

3. On December 21, 2005, respondent's paralegal, Pamela Silas, sent Chubb Services Corporation, the insurer for Fry's Electronics, a demand letter for \$24,000.

4. On or about May 5, 2006, Chiu participated in a telephone interview with Chubb and was represented during the interview by respondent's paralegal, Kathleen January. At the conclusion of the telephone call, Ms. January informed Chiu that the interview went well and his case should settle soon.

5. Thereafter, respondent failed to personally communicate with Chiu.

6. On or about June 19, 2006 and June 22, 2006, respondent spoke with Chubb claims adjuster Alvin Jimerson regarding settlement.

7. On or about June 22, 2006, Jimerson offered respondent \$1,500 to settle Chiu's case. Respondent informed Jimerson that respondent would present the offer to Chiu and would call Jimerson back within the next couple of days.

8. Respondent would testify that he spoke to Jimerson and that Jimerson pointed out numerous problems with plaintiff's case. Respondent would further testify that at no time did he understand Jimerson had made an offer of any amount to settle the case. Respondent would further testify that if Jimerson had extended an offer of settlement, that respondent erred in failing to recognize that a monetary offer to settle had been extended.

9. Respondent would testify that, because he did not understand that an offer to settle had been extended, that he did fail to communicate the settlement offer to Chiu, failed to respond to Chubb's settlement offer and failed to perform any further services for Chiu.

10. On or about November 15, 2006, Chubb closed its file because respondent failed to respond to the June 22, 2006 settlement offer.

11. Respondent failed to inform Chiu that Chubb offered \$1,500 to settle his matter. The settlement offer was a significant development in Chiu's case.

12. Between September 9, 2007 and August 4, 2008, Chiu telephoned respondent's office repeatedly and left a message each time requesting that respondent provide him with a status update on his case. Respondent received the messages, but failed to respond to them and failed to provide Chui with a status update on his case other than to eventually return Chiu's file to Chiu and conclude his representation of Chiu.

B. Conclusions of Law:

1. Rule of Prof. Conduct 3-110(A) -- By failing to recognize and respond to Chubb's settlement offer and by failing to provide any further services to Chiu after receiving Chubb's settlement offer, respondent violated rule 3-110(A) of the Rules of Prof. Conduct.

2. Bus. and Prof. Code section 6068(m) -- By failing to inform Chiu that Chubb offered \$1,500 to settle Chiu's claim and to otherwise respond to Chiu's status requests, respondent failed to keep a client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services, in violation of section 6068(m) of the Business and Professions Code.

III. Case No. 10-O-05852 (Rushing)

A. Facts:

1. In February 2008, Bevelyn Rushing ("Rushing") was injured in an accident. On or about February 12, 2008, Rushing retained respondent to represent her in an action to recover damages.

2. Respondent agreed to pay Rushing's medical bills on her behalf, presumably out of the settlement proceeds. Rushing's total medical bill was \$4,515.00.

3. In or about May, 2010, respondent settled Rushing's case.

4. Respondent contacted Rushing regarding settlement proceeds. Shortly thereafter, Rushing appeared at respondent's office and collected her share of the settlement proceeds by a separate check written to Rushing. Rushing did not sign or even see the actual full settlement check representing the entire settlement amount.



Respondent again confirmed that he would pay the medical bills for Rushing's treatment(s).

5. Rushing believed that respondent would take care of the medical bills, so did not think of it further until in approximately February, 2010, when Rushing received notices from her treating doctor that he had not received any payment for her medical bills and that the account was well past due. Rushing immediately and frequently tried to reach respondent by telephone to discover why her medical bills had not been paid. Rushing was not able to reach respondent directly, but did speak on a few occasions with "Corrine" in respondent's office. Corrine assured Rushing that "everything would be fine." Respondent received Rushing's messages, but failed to respond to her. The treating physician assigned his bill to a collection agency for further processing and collection.

6. On May 14, 2010, respondent contacted John Washington ("Washington") of International Recovery Systems ("IRS") and provided Washington with bank account information for respondent's non-trust/Bank of America business account for the purpose of making two check payments (numbers 1376 and 1377) in equal amounts of \$2,250.00, for a total of \$4,500. Washington attempted to process the first check, number 1367, but it was not honored by respondent's bank because there were insufficient funds in respondent's account to cover the amount of the check. Because there was not enough in respondent's account to cover the first check, Washington did not attempt to process the second check.

7. On May 28, 2010, respondent sent a cashier's check in the amount of \$1,000 to Washington at IRS.

8. Throughout the month of June, 2010, Washington made numerous phone calls to respondent's office in an attempt to collect the remaining amount of the medical bills. On at least one occasion, on June 18, 2010, respondent promised to send another cashier's check, this time in the amount of \$2,000, but respondent failed to send that

cashier's check, nor has respondent sent any payment subsequent to the May 28 cashier's check for \$1,000.

9. Rushing has made numerous attempts to contact respondent to demand that he pay the medical bills as he had promised to do. Respondent is aware of Rushing's attempts to contact him, but has failed to respond to those contacts or to otherwise inform Rushing of the status of the payments to IRS.

10. International Recovery Systems is currently threatening Rushing with direct collection action against Rushing because respondent has failed to pay the remaining balance of Rushing's bills, despite his promise to do so. As of approximately May, 2010, IRS had reduced the medical bill amount for settlement purposes to \$2,709. IRS has since and most recently notified Rushing that the total amount now due is \$3,590.00 and that if the amount is not paid, they will file suit against her personally.

B. Conclusions of Law: Rules of Prof. Conduct 3-110(A) and 4-100(B)(4) -- By failing to pay Rushing's medical bills as he had promised to do, respondent willfully violated rule 3-110(A) of the Rules of Prof. Conduct (failure to perform competently to insure that medical liens are paid), and rule 4-100(B)(4) of the Rules of Prof. Conduct (failure to promptly pay out client funds as requested by the client).

**IV. Case No. 10-N-08504 (Rule 9.20)**

A. Facts:

1. On June 25, 2010, the California Supreme Court filed a disciplinary order in State Bar Court 06-O-12235 (06-O-14292) (Supreme Court Case Number S182595).

2. The disciplinary order provided in relevant part as follows:

Frank Martin Ennix III must also comply with rule 9.20 of the 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 this order. Failure to do so may result in disbarment or suspension.

3. The order became effective thirty days after it was filed (California Rules of Court, rule 9.18(a)), i.e., on July 25, 2010, and at all times subsequent has remained in full force and effect except as set forth below.

4. Notice of the rule 9.20 order was properly served upon respondent in the manner prescribed by rule 9.18(b) of the Calif. Rules of Court at the address respondent maintained with the State Bar in accordance with section 6002.1, subdivision (a).

5. By order filed July 20, 2010, the Review Department of the State Bar Court issued an order temporarily staying respondent's suspension. Respondent received timely notice of this order.

6. By order dated August 2, 2010, the Review Department ordered that respondent's actual suspension would commence effective August 10, 2010. Respondent received timely notice of this order.

7. The Review Department orders did not stay respondent's duty to comply with rule 9.20. The deadlines for complying with rule 9.20(a) and rule 9.20(c) thus expired on August 24, 2010, and September 3, 2010, respectively.

8. Respondent willfully violated the rule 9.20 order by failing to file proof of compliance as required by rule 9.20(c) prior to the September 3, 2010 deadline.

9. On September 21, 2010, respondent filed a rule 9.20 compliance declaration with the State Bar Court using the State Bar Court form "Revised 12/13/06." This declaration was submitted after the expiration of the deadline for complying with rule 9.20(c).

10. The compliance declaration respondent submitted was defective because respondent checked off all the boxes on the form and, as a result, the information provided was contradictory.

11. On October 6, 2010, the Office of Probation sent respondent a letter notifying him that the above-mentioned compliance declaration was defective, advising him that the compliance declaration was rejected, and explaining why the declaration was defective. Respondent received this notification shortly after October 6, 2010.

12. To date, respondent has not submitted a revised rule 9.20(c) compliance declaration.

B. Conclusions of Law: Calif. Rule of Court 9.20(c) - By failing to submit a timely rule 9.20(c) compliance declaration, and by failing to submit a corrected rule 9.20(c) compliance declaration, respondent disobeyed and violated an order of the court requiring respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear and violated rule 9.20(c) of the Calif. Rules of Court.

#### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(7), was August 26, 2011.

#### **AUTHORITIES SUPPORTING DISCIPLINE.**

Standards for Attorney Sanctions for Professional Misconduct 1.2(b)(i), 1.2(b)(ii), 1.2(b)(iv), 1.2(e)(v), 1.7(b), 2.4(b) and 2.10; California Rule of Court 9.20(c); *Bercovich v. State Bar* (1990) 50 Cal.3d 116, 121.

#### **AGGRAVATING CIRCUMSTANCES.**

Prior Records of Discipline: Respondent has been disciplined three times, as follows:

S182595 (06-O-12235): Effective 7/25/2010, 18 months actual suspension and until compliance with standard 1.4(c)(ii), for violations of section 6068(m) of the Bus. and Prof. Code, and rules 3-110(A) and 3-400(B) of the Rules of Prof. Conduct, in two client matters.

S019460 (88-O-13283): Effective 8/16/1991, 3 years actual suspension and until compliance with standard 1.4(c)(ii) for violations in ten client matters, including: sections 6068(i), 6068(m), 6103, 6106 and 6125 of the Bus. and Prof. Code, and former rules 6-101(A)(2), 8-101(A), 8-101(B)(3) and 8-101(B)(4) of the Rules of Prof. Conduct.

BM 4095 (76-6-00101): Effective 5/18/1979, 60 days' actual suspension for violations in one client matter, to-wit: sections 6067, 6068, 6103 and 6106 of the Bus. and Prof. Code, and former rule 8-101 of the Rules of Prof. Conduct, in one client matter.

Multiple Acts of Misconduct: The misconduct stipulated to herein represented multiple acts of misconduct in multiple matters.

Harm: Respondent's failure to pay Rushing's medical bills as promised has resulted in collection proceedings being brought against Rushing, which have caused him tremendous stress and anxiety. Respondent's failure to convey the settlement offer to Chiu resulted in Chiu losing the opportunity to settle her personal injury case.

#### **MITIGATING CIRCUMSTANCES.**

Candor and cooperation: Respondent has been cooperative with the State Bar during the parties' resolution of these cases.

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of August 26, 2011, the estimated prosecution costs in this matter are approximately \$4270.07. 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.

(Do not write above this line.)

In the Matter of:

FRANK M. ENNIX III

Case number(s):

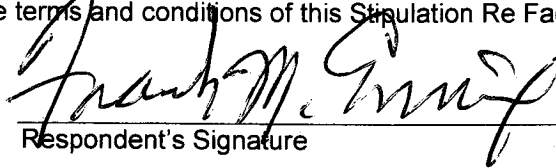
10-O-05852, et al.

### 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 Facts, Conclusions of Law, and Disposition.

21 Sep 11

Date



Respondent's Signature

FRANK M. ENNIX III

Print Name

N/A

Print Name

9/23/11

Date

Respondent's Counsel Signature



Deputy Trial Counsel's Signature

CYDNEY BATCHELOR

Print Name

(Do not write above this line.)

In the Matter of:  FRANK M. ENNIX III	Case Number(s):  08-O-10991, 08-O-13402, 10-O-5852, 10-N-8504
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### DISBARMENT 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 5.58(E) & (F), 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.)**

Respondent FRANK M. ENNIX III is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3) calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Date

Oct 4, 2011

  
LUCY ARMENDARIZ  
Judge of the State Bar Court

## CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on October 4, 2011, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND  
ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

in a sealed envelope for collection and mailing on that date as follows:

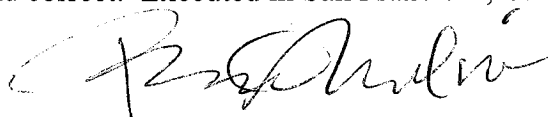
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

FRANK MARTIN ENNIX III  
LAW OFC FRANK M ENNIX  
576 10TH ST  
OAKLAND, CA 94607

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

CYDNEY BATCHELOR, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on October 4, 2011.



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Bernadette C.O. Molina  
Case Administrator  
State Bar Court