

ORIGINAL

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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>ACTUAL SUSPENSION</b>		
<b>Counsel For The State Bar</b>  <b>Charles T. Calix</b> <b>Deputy Trial Counsel</b> <b>845 S. Figueroa Street</b> <b>Los Angeles, CA 90017-2515</b> <b>(213) 765-1255</b>  <b>Bar # 146853</b>	<b>Case Number(s):</b> <b>08-O-12556 - RAP</b>	<b>For Court use only</b>  <b>FILED</b>  <b>APR 10 2014</b> <b>STATE BAR COURT</b> <b>CLERK'S OFFICE</b> <b>LOS ANGELES</b>
<b>Counsel For Respondent</b>  <b>Kevin Gerry</b> <b>711 N. Soledad Street</b> <b>Santa Barbara, CA 93103</b> <b>(310) 275-1620</b>  <b>Bar # 129690</b>	<b>Submitted to: Settlement Judge</b>  <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND</b> <b>DISPOSITION AND ORDER APPROVING</b>  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> <b>PREVIOUS STIPULATION REJECTED</b>	
<b>In the Matter of:</b> <b>PAUL ANTHONY STABILE</b>  <b>Bar # 91222</b>  <b>A Member of the State Bar of California</b> <b>(Respondent)</b>		

**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.**

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**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted **December 31, 1979**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **13** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- ☐ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
  - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: **Costs to be paid in equal amounts prior to February 1 for the three billing cycles following the effective date of the Supreme Court order.** (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
  - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - ☐ Costs are entirely waived.

**B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(f) & 1.5]. 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.
- (2) ☐ **Dishonesty:** Respondent's misconduct was intentional, 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 Attachment at page 9.**
- (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.

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- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. **See Attachment at page 9.**
- (8) ☐ **Restitution:** Respondent failed to make restitution.
- (9) ☐ **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standards 1.2(g) & 1.6]. 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, the public, or the administration of justice.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted with a good faith belief that was honestly held and reasonable.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental 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 the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (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 extraordinarily 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. **See Attachment at page 9.**
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.

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- (13) ☐ **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

**No Prior Discipline: See Attachment at page 10.**  
**Community Service: See Attachment at page 10.**  
**Pretrial Settlement: See Attachment at page 10.**

**D. Discipline:**

- (1) ☒ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of **two years**.

- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:

- (b) ☒ The above-referenced suspension is stayed.

- (2) ☒ **Probation:**

Respondent must be placed on probation for a period of **three years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

- (3) ☒ **Actual Suspension:**

- (a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of **one year**.

- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:

**E. Additional Conditions of Probation:**

- (1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- (2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of

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information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

- (4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

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

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

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**

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- ☐ No MPRE recommended. Reason:
- (2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule **9.20**, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule **9.20**, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) ☐ **Other Conditions:**

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

IN THE MATTER OF:        PAUL ANTHONY STABILE

CASE NUMBER:            08-O-12556

**FACTS AND CONCLUSIONS OF LAW.**

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 08-O-12556 (Complainant: Kirk and Peggy Rinella)

**FACTS:**

1. Michael Mastrovito has never been admitted to the State Bar of California.
2. In 1976, Mastrovito was admitted to the State Bar of Arizona. In 1982, Michael Mastrovito pled guilty to felony theft and solicitation to possess cocaine for sale in Arizona, and resigned his membership in the State Bar of Arizona in lieu of disbarment in response to complaints submitted by former clients.
3. Mastrovito and Respondent were friends, and Respondent was aware in 1982 of Mastrovito's felony conviction and resignation in lieu of disbarment in Arizona. Respondent was aware that Mastrovito has never been admitted to practice law in California.
4. Between 1995 and 2005, Respondent employed Mastrovito on a case by case basis as a paralegal.
5. In 2000 and 2001, Peggy Rinella underwent several dental surgeries from two dentists. The surgeries caused significant injury and disfigurement.
6. On September 9, 2002, Peggy Rinella and her husband Kirk Rinella met with Mastrovito at Respondent's law office to discuss hiring Mastrovito to represent them in a dental malpractice and loss of consortium matter against the dentists. Mastrovito implied that he was an attorney, and told them he and Respondent were contemplating forming a law partnership and that they would represent the Rinellas. Mastrovito presented a fee agreement bearing Respondent's name as "lawyer." Mastrovito signed the fee agreement in the presence of the Rinellas beneath the signature line for Respondent. Thereafter, Mastrovito left the room for a few minutes and returned with what he claimed was Respondent's signature on the signature line. Respondent did not attend the meeting or speak with the Rinellas.
7. After September 2002, the Rinellas conducted countless telephone calls with Mastrovito and met with him roughly 50 times. During those telephone calls and meetings, Mastrovito provided legal advice, discussed the legal merits of the matter, discussed legal strategy, and discussed settlement options with the Rinellas. The services provided by Mastrovito constituted the practice of law. During

that time, the Rinellas did not meet with or speak with Respondent about their case at all, and Respondent ceded control of the case Mastrovito.

8. Respondent knew that the Rinellas believed that Mastrovito was an attorney and authorized to practice law. On September 18, 24, and 27, 2002, October 3, 2002, and November 12 and 25, 2002, the Rinellas sent letters concerning the dental malpractice matter to Respondent's office addressed to "Michael Mastrovito, Esq." or "Mike Mastrovito – Attorney at Law."

9. On October 2, 2003, Respondent, Mastrovito, and the Rinellas attended the mediation of the dental malpractice matter at a private dispute resolution service that offers neutral mediators and arbitrators. Mastrovito presented the case on behalf of the Rinellas. The matter did not settle during mediation.

10. Negotiations continued after the mediation and the dentists' insurance carrier ultimately offered \$325,000 to settle the dental malpractice matter. Mastrovito discussed the settlement offer with the Rinellas and pressured them to accept it as the highest possible settlement offer that they would receive. However, the reasonable settlement value of the case was at least \$500,000. The Rinellas relied on Mastrovito's advice and agreed to settle the case on or about January 27, 2004, which caused them to accept a settlement that was \$175,000 less than the lowest reasonable settlement value of the case.

11. At no time did Respondent or Mastrovito inform the Rinellas that Mastrovito was not admitted to practice law in California, that Mastrovito could not practice law because he was a paralegal, that Mastrovito had a felony criminal record, or that Mastrovito had resigned his membership in the State Bar of Arizona in lieu of disbarment.

12. On August 31, 2005, the Rinellas filed a legal malpractice lawsuit against Respondent and Mastrovito. On June 24, 2008, the jury returned special verdicts awarding past and future economic and noneconomic damages against Respondent and Mastrovito in the total amounts of \$180,000 and \$177,500, respectively. On June 25, 2008, the jury returned verdicts of \$700,000 in punitive damages against Respondent and Mastrovito. The verdicts were upheld on appeal by Respondent.

#### CONCLUSIONS OF LAW

13. Between September 2002 and January 2004, Respondent employed an attorney who had been disbarred or resigned from the practice of law and who Respondent knew had been disbarred or resigned from the practice of law, namely, Mastrovito, and permitted Mastrovito to practice law and hold himself out as practicing law in willful violation of Business and Professions Code section 6133.

14. Between September 2002 and January 2004, Respondent aided Mastrovito, who is not licensed to practice law in California, in the unauthorized practice of law, by knowingly allowing Mastrovito to hold himself out as an attorney, provide legal advice, discuss legal merits and strategy, and discuss settlement options with the Rinellas, in willful violation of Rules of Professional Conduct, rule 1-300(A).

15. Between September 2002 and January 2004, Respondent allowed Mastrovito to hold himself out as entitled to practice law and to actually practice law when Respondent knew that Mastrovito was not an active member of the State Bar and allowed Mastrovito to provide legal advice, discuss legal merits and strategy, and discuss settlement options with the Rinellas, and thereby



committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

16. From in or about September of 2002, through in or about January of 2004, Respondent failed to disclose to the Rinellas that Mastrovito was a convicted felon and a resigned former member of the State Bar of Arizona, even though Respondent knew that Mastrovito would be assisting Respondent in performing legal services on behalf of Peggy Rinella in connection with the Rinellas's dental malpractice matter, including providing legal advice, discussing legal merits and strategy, and discussing settlement options with the Rinellas, in breach of his fiduciary duty to the client, and thereby committed an act of moral turpitude, dishonesty, or corruption in willful violation Business and Professions Code section 6106.

#### **AGGRAVATING CIRCUMSTANCES.**

**Harm (Std. 1.5(f)):** The Rinellas were misled by Respondent's conduct into believing that they had retained a qualified and competent attorney in their time of need to pursue claims for egregious injuries arising from dental malpractice. Instead, they were represented by an unsupervised paralegal who was not qualified to practice law and were thereby deprived of the benefit of their agreement. In addition, the Rinellas suffered significant financial harm when they were induced by the paralegal to settle their claims for approximately \$175,000 less than the lowest reasonable settlement value. And they suffered further financial harm when they were forced by circumstances of Respondent's making to pursue a legal malpractice action and incur additional legal fees in an effort to be made whole.

**Multiple Acts of Misconduct (Std. 1.5(b)):** Respondent's ceding control of the matter to Mastrovito for 16 months, thereby allowing Mastrovito to hold himself as an attorney, provide legal services to the Rinellas, and discuss settlement with the Rinellas to their detriment constitutes multiple acts of misconduct. (See *In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 646-647.)

#### **MITIGATING CIRCUMSTANCES.**

**Good Character (Std. 1.6(f)):** Respondent presented declarations attesting to his excellent moral character, passion for the practice of law, commitment to his clients, and being a positive influence in their lives from seven attorneys and a District Judge for the State of Oklahoma, all of whom have known Respondent for 12 to 37 years, and are aware of the full extent of his misconduct. Six of the attorneys and the District Judge attested that they had worked on cases with Respondent and one of the attorneys also referred numerous cases to him. Three of the attorneys and the District Judge also attested to his substantial service to legal and community organizations, including involvement with the Pasadena Bar Association, 25 years of service to the Tournament of Roses, Boy Scouts of America, his church, and his children's little league. Respondent also presented declarations from two friends of 19 to 22 years, his sister-in-law who has been a client, his daughter who has been a client, and three other clients, including a client of 24 years. Each attested to Respondent's good character, dedication, compassion, professionalism, and their awareness of the full extent of his misconduct. They also attested to his substantial community service, including service to the Boy Scouts of America, his church, and his children's little league.

### **Additional Mitigating Circumstances:**

**No Prior Discipline:** Respondent had been a member of the State Bar since December 31, 1979, and had no prior record of discipline before the misconduct began in September 2002. Even though the misconduct is serious, Respondent is entitled to mitigation for his 23 years of practice without discipline prior to commencing the misconduct. (See *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49 [attorney's practice of law for more than 17 years considered to be a significant mitigating circumstance even though the misconduct at issue was serious].) Moreover, Respondent's misconduct ended in January 2004 and he has no prior record of discipline in the 10 years since the misconduct ended. (See *Rodgers v. State Bar* (1989) 48 Cal.3d 300, 316-317 [eight years unblemished post misconduct practice was a mitigating circumstance].)

**Community Service:** Respondent is entitled to mitigation for substantial community service, including but not limited serving as a Temporary Judge Pro Tem for the Superior Court of Los Angeles approximately twice a month between 1983 and 2004. In 1991, Respondent began serving as a Cub Master of a Club Scout Pack. Thereafter, he became an Assistant Scout Master of a Boy Scout Troop, a position he held until 2008. Stabile also served as the Troop Committee Chairman for the Club Scout pack and Boy Scout Troop. Respondent served on the board of the Italian American Lawyers Association from 1995 to 1999 and on the board of the Pasadena Lawyer Referral Service from 2002 to 2004. (See *Calvert v. State Bar* (1991) 54 Cal.3d 765, 785 [community service is a mitigative factor entitled to considerable weight]; and *In the Matter of Field* (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171, 185 [active participation in local bar associations and community associations promoting legal matters is a mitigative factor].)

**Pretrial Stipulation:** Respondent is entitled to mitigation for entering into a stipulation prior to trial, thereby conserving the time and resources of the State Bar Court and State Bar. (See *Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

### **AUTHORITIES SUPPORTING DISCIPLINE.**

The Standards for Attorney Sanctions for Professional Misconduct "set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Standard 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See Standard 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the Standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the Standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Standard 1.1.) "Any disciplinary recommendation that deviates from the Standards must

include clear reasons for the departure.” (Standard 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given Standard, in addition to the factors set forth in the specific Standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member’s willingness and ability to conform to ethical responsibilities in the future. (Standards 1.7(b) and (c).)

In this matter, Respondent admits to committing four acts of professional misconduct. Standard 1.7(a) requires that where a Respondent “commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed.”

The most severe sanction applicable to Respondent’s misconduct is found in Standard 2.7, which applies to Respondent’s two violations of Business and Professions Code section 6106. Standard 2.7 provides for actual suspension or disbarment for an act of moral turpitude, dishonesty, corruption, or concealment of material fact. The degree of the sanction imposed depends on the magnitude of the misconduct, and the extent to which the misconduct harmed or misled the victim and related to the practice of law.

Here, Respondent was hired to obtain compensation for the Rinellas for the significant injury and disfigurement to Peggy Rinella from dental malpractice, and thereafter, ceded control of the matter to Mastrovito for 16 months. Specifically, Respondent knowingly allowed Mastrovito to hold himself out as an attorney, provide legal advice, discuss legal merits and strategy, and discuss settlement options with the Rinellas. The magnitude of the misconduct was significant, it caused substantial harm to the Rinellas by depriving them of competent legal counsel, causing them to accept a settlement offer in the dental malpractice case that was \$175,000 less than the lowest reasonable settlement value of the case and by causing the Rinellas to have to prosecute a legal malpractice action to obtain compensation for the reasonable value of their injuries from the dental malpractice, and it related directly to Respondent’s practice of law. In aggravation, Respondent committed multiple acts of misconduct and his misconduct caused significant harm to his clients. In mitigation, Respondent practiced 23 years without discipline prior to the misconduct, practiced 10 years without discipline since the misconduct, established excellent character, demonstrated substantial community service, and entered into this stipulation resolving this matter, thereby conserving the time and resources of the State Bar Court and State Bar. In addition, the absence of any record of discipline for 10 years since the misconduct demonstrates that Respondent is willing and able to conform to ethical responsibilities in the future.

Given the nature of Respondent’s misconduct and balancing the aggravating and mitigating circumstances, a period of actual suspension as provided by Standard 2.7 is appropriate. In consideration of the foregoing, a two-year suspension (stayed) and three years of probation, including an actual suspension for the first year, is appropriate under the Standards and will serve the purpose of attorney discipline as set forth in Standard 1.1.

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

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of March 27, 2014, the prosecution costs in this matter are \$5,418. 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.

### **EXCLUSION FROM MCLE CREDIT**


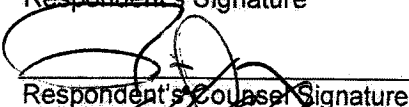

Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School.. (Rules Proc. of State Bar, rule 3201.)\*\*

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In the Matter of: PAUL ANTHONY STABILE - #91222	Case number(s): 08-O-12556
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### SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

<u>4-4-14</u> Date	<u></u> Respondent's Signature	<u>Paul Anthony Stabile</u> Print Name
<u>4-4-14</u> Date	<u></u> Respondent's Counsel's Signature	<u>Kevin Gerry</u> Print Name
<u>4.4.14</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>Charles T. Calix</u> Print Name

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In the Matter of: PAUL ANTHONY STABILE - #91222	Case Number(s): 08-O-12556
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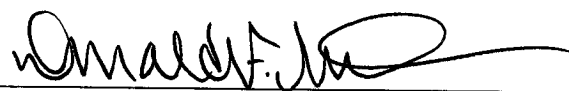
### ACTUAL SUSPENSION ORDER

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.)**

4/9/14  
Date



Judge of the State Bar Court

**DONALD F. MILES**

## 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 Los Angeles, on April 10, 2014, I deposited a true copy of the following document(s):

### STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

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

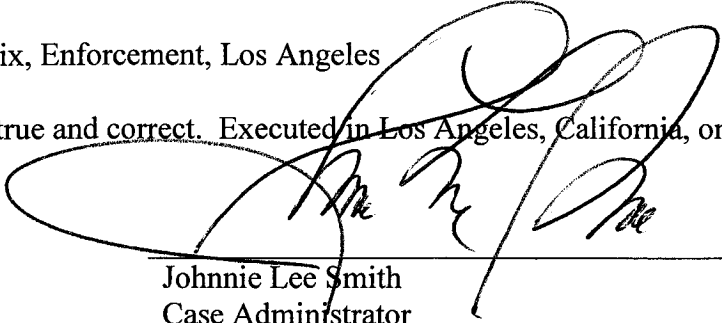
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

KEVIN P. GERRY  
711 N SOLEDAD ST  
SANTA BARBARA, CA 93103

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

Charles T. Calix, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 10, 2014.



Johnnie Lee Smith  
Case Administrator  
State Bar Court