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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Mia R. Ellis Deputy Trial Counsel 1149 South Hill Street Los Angeles, CA 90015 213-765-1380 Bar # 228235	Case Number(s): 08-O-12749; 09-O-14382; 09-O-14860	For Court use only PUBLIC MATTER FILED SEP 16 2011 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent Susan E. Emrich Emrich & Associates 7676 Hazard Center Drive, Suite 500 San Diego, CA 92108 Bar # 171174	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: Susan E. Emrich Bar # 171174 A Member of the State Bar of California (Respondent)		

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 17, 1994.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 13 pages, not including the order.



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- (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: 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 [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) ☐ **Prior record of discipline** [see standard 1.2(f)]
 - (a) ☐ State Bar Court case # of prior case
 - (b) ☐ Date prior discipline effective
 - (c) ☐ Rules of Professional Conduct/ State Bar Act violations:
 - (d) ☐ Degree of prior discipline
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) ☒ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.

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

Additional aggravating circumstances:

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

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☒ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings. Respondent has been cooperative in stipulating to facts, conclusions of law and discipline.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ on in restitution to without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.

- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

At the time of the misconduct, Respondent was suffering from depression. She has been diagnosed with Major Depressive Disorder, Recurrent, Severe and Dysthymic Disorder. She continues to treat for this condition. Respondent voluntarily enrolled in the Lawyer's Assistance Program of the State Bar. Respondent has no prior record of discipline.

D. Discipline:

- (1) ☒ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of three 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 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:
- (b) ☒ The above-referenced suspension is stayed.

- (2) ☒ **Probation:**

Respondent must be placed on probation for a period of five 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 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 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:

E. Additional Conditions of Probation:

- (1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

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- (2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state 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:
 - ☐ Substance Abuse Conditions ☐ Law Office Management Conditions
 - ☒ Medical Conditions ☐ Financial Conditions

F. Other Conditions Negotiated by the Parties:

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- (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.**
- ☐ 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:**

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In the Matter of: Susan E. Emrich	Case Number(s): 08-O-12749; 09-O-14382; 09-O-14860
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Medical Conditions

- a. ☒ Unless Respondent has been terminated from the Lawyer Assistance Program ("LAP") prior to respondent's successful completion of the LAP, respondent must comply with all provisions and conditions of respondent's Participation Agreement with the LAP and must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of respondent's participation in the LAP and respondent's compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. However, if respondent has successfully completed the LAP, respondent need not comply with this condition.
- b. ☒ Respondent must obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of two times per month and must furnish evidence to the Office of Probation that respondent is so complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment must continue for days or months or five years or, the period of probation or until a motion to modify this condition is granted and that ruling becomes final.
- If the treating psychiatrist, psychologist, or clinical social worker determines that there has been a substantial change in respondent's condition, respondent or Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 5.300 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist, psychologist, or clinical social worker, by affidavit or under penalty of perjury, in support of the proposed modification.
- c. ☒ Upon the request of the Office of Probation, respondent must provide the Office of Probation with medical waivers and access to all of respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court, who are directly involved with maintaining, enforcing or adjudicating this condition.

Other:

Respondent's therapy sessions with LAP can count toward satisfying the requirement of the medical condition as outlined above in Section b. Respondent's licensed psychiatrist, psychologist, or clinical social worker must furnish evidence of compliance to the Office of Probation.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Susan E. Emrich

CASE NUMBER(S): 08-O-12749; 09-O-14382; 09-O-14860

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

INCORPORATION OF PRIOR STIPULATION

On February 25, 2010, the parties lodged with the State Bar Court in Alternative Discipline Program ("ADP") proceedings a Stipulation re: Facts and Conclusions of Law in Case Number 08-O-12749 (the "Prior Stipulation"). Respondent was released from ADP proceedings under Rule 5.386 of the Rules of Procedure of the State Bar. The facts and conclusions of law from that Prior Stipulation, which remains binding,¹ are incorporated and fully set forth herein.

Case No. 08-O-12749 (Complainant: Carl Hoffman)

FACTS:

1. On December 23, 2005, Carl Hoffman hired Respondent to represent him in a copyright matter against Impact Confections.
2. On March 6, 2006, Respondent filed a lawsuit in United States District Court against Impact Confections, alleging copyright infringement, case no. 3:06-CV-00489-BTM-NLS (the copyright matter).
3. In November 2007, Impact Confections filed a Motion for Summary Judgment (MSJ) in the copyright matter.
4. Impact Confections properly served the MSJ upon Respondent. Respondent knew that she was obligated to file a response to the MSJ on Mr. Hoffman's behalf.
5. In December 2007, Respondent filed a motion to continue Impact Confections' MSJ.
6. On December 26, 2007, the court granted Respondent's motion to continue, in part, and scheduled a hearing on the MSJ for February 1, 2008.
7. Respondent never filed a response to the MSJ.
8. On January 28, 2008, Impact Confections filed a Notice of Non-Opposition to its MSJ. Impact Confections properly served the Notice upon Respondent.
9. On February 1, 2008, the court ordered that the MSJ would be submitted on papers.
10. On February 14, 2008, the court granted Impact Confections' Motion for Summary Judgment, and entered a judgment in favor of Impact Confections and against Mr. Hoffman.
11. From February 14, 2008, through March 3, 2008, Mr. Hoffman called Respondent repeatedly to get updates on the status of his case.
12. From February 14, 2008, through March 3, 2008, Respondent spoke to Mr. Hoffman on at least one occasion, but she did not tell Mr. Hoffman that the court had entered judgment against him.

¹ See Rule 5.386 of Rules of Procedure of the State Bar: Impact of Subsequent Proceedings on ADP Participation

13. On March 3, 2008, Mr. Hoffman learned that he had lost his case because the court granted Impact Confections' summary judgment motion.
14. On July 1, 2008, Mr. Hoffman filed a motion to substitute Respondent out of the copyright matter.
15. On July 3, 2008, the court ordered Respondent to file a response to Mr. Hoffman's motion to substitute Respondent out of the copyright matter. The court ordered Respondent to file her response by July 11, 2008.
16. Respondent did not file a response to Mr. Hoffman's motion by July 11, 2008.

CONCLUSIONS OF LAW:

By never filing a response to Impact Confections' Motion for Summary Judgment, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

By not informing Mr. Hoffman that the court had entered a judgment against him, 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 business and Professions Code section 6068(m).

By not filing a response to Mr. Hoffman's motion to substitute Respondent out of the copyright matter by July 11, 2008, Respondent disobeyed or violated an order of the court requiring her to do or forbear an act connected with, or in the course of, Respondent's profession which she ought in good faith to do or forbear, in willful violation of Business and Professions Code section 6103.

WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY

The parties waive any variance between the Notice of Disciplinary Charges ("NDC") filed on August 2, 2010 in case numbers 09-O-14382 and 09-O-14860, and the facts and conclusions of law contained in this stipulation.

Case No. 09-O-14382 (Complainant: Curt Bachman)

FACTS:

1. In January 2004, Respondent represented Square One Parachutes in a patent case entitled *Para Gear Equipment Company v. Square One Parachutes*, case no. 1:2004cv00601, Northern District of Illinois (*Para Gear v. Square One*).
2. Respondent failed to timely complete discovery in *Para Gear v. Square One*, although Respondent sought and received extensions of time to complete discovery.
3. On February 9, 2006, Respondent filed her own declaration in *Para Gear v. Square One* stating that she had been unable to conduct discovery in the case because she had been hospitalized for complications related to pregnancy and subsequent miscarriages, during the discovery period.
4. The facts attested to in Respondent's declaration were false. Respondent knew that the statements in her declaration were false.
5. On February 9, 2006, Respondent filed the signed declaration of Brandi G. Stelter, attorney at law (Stelter), in *Para Gear v. Square One* to corroborate Respondent's statements regarding Respondent's medical emergencies. Stelter's declaration stated that Stelter worked for Respondent, that Stelter had spoken with Respondent and Respondent's husband about Respondent's medical emergencies, Stelter had met with Respondent in the hospital to discuss Respondent's cases and

calendar, and Stelter agreed to monitor Respondent's cases and obtain required continuances/extensions from the relevant courts and/or opposing counsel.

6. Stelter's signature on the declaration was not placed on the declaration by Stelter, nor was it placed on the declaration with Stelter's permission or authority. At the time that Stelter's declaration was filed in *Para Gear v. Square One*, Respondent knew that Respondent did not employ Stelter, she did not employ Stelter to monitor her caseload and to seek continuances or extensions in cases, and that Stelter did not sign the Stelter declaration.
7. The facts attested to in Stelter's declaration were false. Respondent knew that the statements in Stelter's declaration were false.

CONCLUSIONS OF LAW:

By filing Stelter's declaration, that was not signed by Stelter or with Stelter's consent, and by filing a declaration that contained false statements, Respondent sought to mislead the judge by an artifice or false statement of fact in wilful violation of Business and Professions Code section 6068(d).

By signing Brandi Stelter's signature without permission on the Stelter declaration, or causing Brandi Stelter's signature to be placed on the Stelter declaration without Stelter's permission, and by submitting a declaration to the court containing false statements, Respondent committed an act, or acts, of moral turpitude, dishonesty or corruption in wilful violation of Business and Professions Code section 6106.

Case No. 09-O-14860 (State Bar Investigation)

FACTS:

1. In June 2006, Mo Husain hired Respondent to represent him and his company, MH Systems, Inc. (collectively, MHS), in an ongoing patent infringement case entitled *MH Systems, Inc. v. Peter McNulty, et al.*, case no. CV 05-7263 DSF, United States District Court, Central District of California. (*MHS v. McNulty*).
2. On June 6, 2006, Respondent substituted into *MHS v. McNulty*.
3. On October 23, 2006, the District Court ordered that the proceedings in *MHS v. McNulty* would be stayed until the completion of a separate proceeding in the United States Patent and Trademark Office (PTO proceeding). In its October 23, 2006, order, the District Court ordered the parties to submit joint status reports on the PTO proceeding every 90 days. Respondent received the order.
4. Respondent filed separate status reports in April 2007, July 2007, and October 2007 on behalf of MHS, but after that Respondent failed to file subsequent status reports, and did not participate in preparing and filing any joint status reports. The reports that the court ordered Respondent to file and that Respondent did not file included, but were not limited to, the status reports that were due on or about January 2008, and April 2008.
5. On June 10, 2008, the District Court ordered MHS to file a status report regarding the PTO proceedings by July 8, 2008. Respondent received the order. Respondent failed to file a status report as required by the court's June 10, 2008, order.
6. On August 6, 2008, the court ordered MHS to show cause in writing (OSC) by August 18, 2008 why *MHS v. McNulty* should not be dismissed, its Answer to McNulty's counterclaims should not be stricken, and default entered on McNulty's counterclaim. The court set an in-person hearing on September 8, 2008, for the OSC. Respondent received the court's August 6, 2008, OSC.
7. Respondent did not file a response to the OSC, and did not appear at the September 8, 2008, hearing. As a result, the court dismissed MHS' complaint with prejudice, struck MHS' Answer to the counterclaim, and entered a default against MHS on McNulty's counterclaim.

8. On November 10, 2008, Respondent filed a motion to vacate the dismissal of *MHS v. McNulty*, and to set aside the default entered on the counterclaim.
9. On December 31, 2008, the court denied the motion to vacate the dismissal of *MHS v. McNulty*, but the court granted Respondent's motion to set aside the default on the counterclaim, provided that Respondent pay the attorney fees that McNulty incurred as a result of her conduct. The amount of attorney fees would be determined later. The court also sanctioned Respondent \$500.00, noting that the default was entered on the counterclaim due to Respondent's failure to comply with the Court's orders and to prosecute the action.
10. On February 20, 2009, the court awarded McNulty's counsel \$49,079.75 in attorney's fees. The court ordered Respondent to pay McNulty's attorney fees and the \$500 sanction by on or about March 30, 2009. Respondent received the order. Respondent did not pay the attorney's fees or the sanction.
11. By April 7, 2009, Respondent had not paid the February 20, 2009 sanction and attorney award order.
12. On April 9, 2009, the court ordered Respondent to show cause in writing by April 20, 2009, why the default should not be reinstated and why she should not be found in contempt for failure to obey a court order (2nd OSC). Respondent received the order.
13. Respondent failed to file a written response to the 2nd OSC as ordered, and failed to appear at the hearing on or about April 27, 2009.
14. On April 27, 2009, Mo Husain, appeared in District Court and asked the court for a continuance so that he could secure new counsel. The District Court continued the status conference and Husain retained new counsel.
15. Respondent did not comply with the court's October 23, 2006, order to submit status reports every 90 days.
16. Respondent failed to obey the June 10, 2008 court order, requiring MHS and Husain to file a status report of the PTO proceedings by July 8, 2008.
17. Respondent did not comply with the court's order filed on August 6, 2008, requiring her to file a response to the OSC explaining why the action should not be dismissed and default judgment should not be granted.
18. Respondent failed to obey the court orders issued on December 31, 2008, and on February 20, 2009, requiring her to pay sanctions and defendant's attorney fees by March 30, 2009.
19. Respondent did not inform MHS that: the court issued an OSC on or about August 6, 2008, the Court's dismissed MHS' complaint and ordered an entry of default on Defendants' counterclaims on or about September 8, 2008; the court denied MHS' motion to vacate the dismissal of *MHS v. McNulty*, but set aside the default on McNulty's counterclaim on or about December 31, 2008.

CONCLUSIONS OF LAW:

By repeatedly failing to file quarterly reports, respond to Orders to Show Cause, appear at scheduled court hearings, pay court-ordered attorney fees and sanctions, and failing to prosecute MHS' claim or defend MHS against McNulty's counterclaim, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

By failing to file status reports, written responses, and failing to pay sanction and defendant's attorney's fees, Respondent disobeyed or violated orders of the court requiring her to do or forbear an act connected with or in the course of Respondent's profession which she ought in good faith to do or forbear, in wilful violation of Business and Professions Code section 6103.

By failing to inform MHS of the court's Orders to Show Cause, that MHS' complaint was dismissed and

default judgment was entered on McNulty's cross-complaint, Respondent failed to keep her client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services in wilful violation of Business and Professions Code section 6068(m).

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was August 16, 2011.

AUTHORITIES SUPPORTING DISCIPLINE.

Standards 1.3 provides that the primary purposes of attorney discipline are, "the protection of the public, the courts and the legal profession; the maintenance of high legal professional standards by attorneys and the preservation of public confidence in the legal profession."

Standard 1.6 provides that "[i]f two or more acts of professional misconduct are found or acknowledged in a single disciplinary proceeding, and different sanctions are prescribed by these standards for said acts, the sanction imposed shall be the more or most severe of the different applicable sanctions."

Standard 2.3 provides that culpability of a member of an act of moral turpitude, fraud, or intentional dishonesty toward a court, client or another person or of concealment of a material fact of a court, client or another person shall result in actual suspension or disbarment depending upon the extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of the misconduct and the degree to which it related to the member's acts within the practice of law.

Standard 2.4(b) provides that "culpability of a member of wilfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a matter of wilfully failing to communicate with a client shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client."

According to Standard 2.6, culpability of a member of a violation of any of the following provisions of the Business and Professions Code shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim, with the due regard to the purposes of imposing discipline set forth in standard 1.3: sections 6068.

COSTS OF DISCIPLINARY PROCEEDINGS.



Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of August 16, 2011, the prosecution costs in this matter are \$5404.57. Respondent further acknowledges that this is an estimate and 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.

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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.

_____		Susan E. Emrich
Date	Respondent's Signature	Print Name
_____	_____	_____
Date	Respondent's Counsel Signature	Print Name
9/10/11		Mia Ellis
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of:
Susan E. Emrich

Case Number(s):
08-O-12749; 09-O-14382; 09-O-14860

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.)**

Date

9/15/11



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 September 16, 2011, 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:

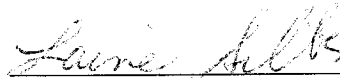
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

SUSAN E. EMRICH
EMRICH & ASSOCIATES
7676 HAZARD CENTER DR STE 500
SAN DIEGO, CA 92108

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

MIA R. ELLIS, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on September 16, 2011.



Laine Silber
Case Administrator
State Bar Court