

State Bar Court of California
Hearing Department
Los Angeles



<p>Counsel For The State Bar</p> <p>Larry DeSha Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1336</p> <p>Bar # 117910</p>	<p>Case Number (s)</p> <p>09-C-14708-RAH</p>	<p>(for Court's use)</p> <p>FILED</p> <p>DEC 20 2010</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel For Respondent</p> <p>David Cameron Carr 530 B Street, Suite 1410 San Diego, CA 92101 (619) 696-0526</p> <p>Bar # 124510</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>STAYED SUSPENSION; NO ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of:</p> <p>PATRICK BARNES CONDON</p> <p>Bar # 144012</p> <p>A Member of the State Bar of California (Respondent)</p>		

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 **December 11, 1989**.
- (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 **9** 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):
- costs added to membership fee for calendar year following effective date of discipline.
 - costs to be paid in equal amounts prior to February 1 for the following membership years: (hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - costs 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 or a separate attachment entitled "Prior 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.
- (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. **See Stipulation Attachment, page 7.**
- (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.
- (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

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **one (1) 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 1.4(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:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of **two (2) years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court)

E. Additional Conditions of Probation:

(1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

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- (6) 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.
- (7) 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 State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: .
- (8) 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.
- (9) 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 within one year. **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 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2) **Other Conditions:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: PATRICK BARNES CONDON
CASE NO.: 09-C-14708-RAH

FACTS:

1. On December 20, 2006, at approximately 8:30 p.m., a motorist dialed 911 in the city of Carlsbad, CA and reported that she was following another vehicle which was being driven erratically and had jumped the curb several times. Police officers were dispatched to the scene, guided by the motorist on her cell phone. When the police arrived at the scene, it was at Respondent's residence, where they found Respondent seated alone in his parked vehicle. The officers contacted Respondent, smelled alcohol, and administered field sobriety tests, which Respondent failed. His blood alcohol concentration ("BAC") was measured at 0.19 percent. Respondent was arrested and taken to jail, where he remained overnight.
2. On April 17, 2007, Respondent entered a guilty plea to one count of violating Vehicle Code section 23152(b), enhanced by a violation of Vehicle Code section 23578, i.e., driving a vehicle while having a BAC of 0.15 percent or more, a misdemeanor. He was convicted of that one count, and ordered to pay fines and fees of \$1,955.00. Summary probation was imposed for three years, with conditions which included five days of public service, successful completion of the court's program for a first conviction, no driving with a measurable amount of alcohol or drugs in his system, and serving two days in county jail.
3. Respondent complied with all of the terms of his probation, until November 10, 2008.
4. On November 10, 2008, at approximately 8:00 p.m., Respondent was driving down a four-laned street at about 55 miles-per-hour when his vehicle collided strongly with the rear of the moving vehicle in front of him. That vehicle struck the raised median, spun out of control, but stopped without further incident. After the collision, Respondent's vehicle crossed the median and collided head-on with an oncoming vehicle.
5. Respondent sustained injuries of broken bones in both hands, several broken ribs, and lung injuries resulting from the broken ribs. The other two drivers were alone and suffered soft tissue injuries to their necks and back, but no broken bones. A California Highway Patrol ("CHP") officer was first on the scene and was met by paramedics. The paramedics removed Respondent from his vehicle, and notified the CHP officer that Respondent smelled of alcohol. The CHP officer confirmed the smell, and observed Respondent's eyes to be bloodshot and watery. The officer asked Respondent what had happened, but Respondent replied in slurred speech that he did not know how much he had to drink and did not remember a collision. The paramedics then transported Respondent to a nearby hospital.

6. The CHP officer visited Respondent in the hospital approximately 90 minutes after the accident, but found Respondent to be incoherent and with no memory of the accident. A blood sample was drawn which resulted in a BAC of 0.18 percent.

7. On September 15, 2009, Respondent entered a guilty plea to one count of violating Vehicle Code section 23153(a), enhanced by violations of Vehicle Code sections 23560 and 23578, i.e., driving a vehicle while having a BAC of 0.15 percent or more, causing bodily injury to another person, and occurring within seven years of a prior offense of driving while intoxicated. Respondent was convicted of a felony.

8. On November 12, 2009, Respondent was ordered to pay fines and fees of \$2,170.00. Formal probation was imposed for five years, with conditions which included continuous participation in an alcohol monitoring device program, restitution of \$937.50 to the driver of the rear-ended vehicle, total abstinence from alcohol, attendance and successful completion of a psychiatric and substance abuse program, as directed by his probation officer after validated assessment tests, and serving 30 days custody by electronic surveillance.

9. Respondent has completed his period of electronic monitoring and is currently in compliance with the terms of his probation.

CONCLUSIONS OF LAW:

10. The facts and circumstances surrounding the violation of which Respondent was convicted did not involve moral turpitude, but did involve other misconduct warranting discipline.

MITIGATING CIRCUMSTANCES:

1. No Prior Discipline. At the time of the offense on November 10, 2008, Respondent had been an active member of the State Bar and had practiced law in California for more than 18 years with no prior discipline. He had been an active member for more than 17 years at the time of the prior offense on December 20, 2006.

SUPPORTING AUTHORITY:

Standard 2.6 of the Standards for Attorney Sanctions for Professional Misconduct provides that a violation of section 6068(a) of the Business and Professions Code (failure to uphold the laws of California) shall result in disbarment or suspension depending upon the gravity of the offense or the harm, if any, to the victim, with due regard to the purpose of imposing discipline.

In *In re Kelley* (1990) 52 Cal.3d 487, attorney Kelley was convicted for the second time of driving under the influence of alcohol, which offense occurred while she was still on criminal probation for her first offense. The California Supreme Court held that this was not moral turpitude, but was other misconduct warranting discipline. There were mitigating circumstances of no harm to the public or the courts, good

character, and candor and cooperation. There were no aggravating circumstances. The imposed discipline was a public reproof with conditions of probation for three years and attendance at the State Bar's alcohol abuse program.

Respondent's misconduct here is somewhat more serious than that of attorney Kelley, who injured no one. Respondent committed a felony while intoxicated, causing bodily injury to two other persons. It was only by chance that no one was injured more seriously, including himself. A stayed suspension of 12 months is the minimum under Standard 2.6, and there is no factor supporting a lesser sanction.

PENDING PROCEEDINGS:

The disclosure date referred to on page 2, paragraph A.(7), was November 29, 2010.

COSTS:

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of November 29, 2010, the costs in this matter are \$1,636.00. 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.

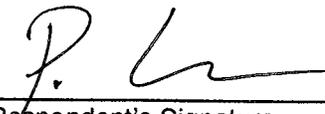
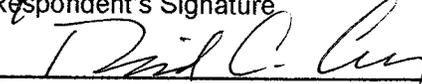
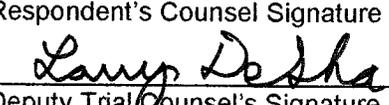
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In the Matter of PATRICK BARNES CONDON	Case number(s): 09-C-14708-RAH
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SIGNATURE OF THE PARTIES

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 Fact, Conclusions of Law and Disposition.

<u>November 26, 2010</u> Date	 _____ Respondent's Signature	<u>Patrick Barnes Condon</u> Print Name
<u>November 26, 2010</u> Date	 _____ Respondent's Counsel Signature	<u>David Cameron Carr</u> Print Name
<u>November 29, 2010</u> Date	 _____ Deputy Trial Counsel's Signature	<u>Larry DeSha</u> Print Name

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In the Matter Of PATRICK BARNES CONDON	Case Number(s): 09-C-14708-RAH
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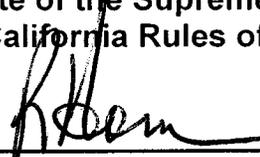
ORDER

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 135(b), 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.)**

12/20/10
Date



Judge of the State Bar Court
RICHARD A. HONN

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; 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 December 20, 2010, 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:

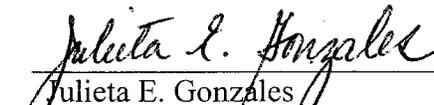
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

DAVID C CARR ESQ
LAW OFFICE OF DAVID CAMERON CARR
530 B ST STE 1410
SAN DIEGO, CA 92101

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

Ernest Larry DeSha, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 20, 2010.



Julieta E. Gonzales
Case Administrator
State Bar Court