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**ORIGINAL**

**State Bar Court of California  
Hearing Department  
Los Angeles**

**NOT FOR PUBLICATION**

<p>Counsel For The State Bar</p> <p>Elina Kreditor Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015</p> <p>Bar # 250641</p>	<p>Case Number (s) 09-C-15963</p>	<p>(for Court's use)</p> <p align="center"><b>FILED</b></p> <p align="center">MAY 28 2010 <i>R</i></p> <p align="center">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>John Joseph Thyne III Law Offices of John J. Thyne III 2000 State Street Santa Barbara, CA 93105</p> <p>Bar # 214025</p>	<p>Submitted to: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>PRIVATE REPROVAL</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of: John Joseph Thyne III</p> <p>Bar # 214025</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 June 7, 2001.
- (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 11 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 (public reproof)
  - case ineligible for costs (private reproof)
  - costs to be paid in equal amounts 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
- (9) The parties understand that:
- (a)  A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
  - (b)  A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
  - (c)  A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

**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.

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- (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.
- (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.

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- (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:**

SEE ATTACHMENT TO STIPULATION

**D. Discipline:**

- (1)  **Private reproof (check applicable conditions, if any, below)**
- (a)  Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b)  Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2)  **Public reproof (Check applicable conditions, if any, below)**

**E. Conditions Attached to Reproof:**

- (1)  Respondent must comply with the conditions attached to the reproof for a period of one year.
- (2)  During the condition period attached to the reproof, 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 condition period attached to the reproof. 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 the reproof during the preceding calendar quarter. Respondent must also state in each report 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 (thirty) days, that report must be submitted on the next following 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 condition period and no later than the last day of the condition period.

- (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 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 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 conditions attached to the reprobation.
- (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)  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 of the effective date of the reprobation.
- No MPRE recommended. Reason:
- (11)  The following conditions are attached hereto and incorporated:
- |  |   |
|--|---|
| <input checked="" 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:**

In the Matter of  
JOHN JOSEPH THYNE III

Case number(s):  
09-C-15963

### Substance Abuse Conditions

- a.  Respondent must abstain from use of any alcoholic beverages, and shall not use or possess any narcotics, dangerous or restricted drugs, controlled substances, marijuana, or associated paraphernalia, except with a valid prescription.
- b.  Respondent must attend at least \_\_\_\_\_ meetings per month of:
- Alcoholics Anonymous
  - Narcotics Anonymous
  - The Other Bar
  - Other program **See ADDITIONAL SUBSTANCE ABUSE CONDITIONS IN ATTACHMENT TO STIPULATION**

As a separate reporting requirement, Respondent must provide to the Office of Probation satisfactory proof of attendance during each month, on or before the tenth (10<sup>th</sup>) day of the following month, during the condition or probation period.

- c.  Respondent must select a license medical laboratory approved by the Office of Probation. Respondent must furnish to the laboratory blood and/or urine samples as may be required to show that Respondent has abstained from alcohol and/or drugs. The samples must be furnished to the laboratory in such a manner as may be specified by the laboratory to ensure specimen integrity. Respondent must cause the laboratory to provide to the Office of Probation, at the Respondent's expense, a screening report on or before the tenth day of each month of the condition or probation period, containing an analysis of Respondent's blood and/or urine obtained not more than ten (10) days previously.
- d.  Respondent must maintain with the Office of Probation a current address and a current telephone number at which Respondent can be reached. Respondent must return any call from the Office of Probation concerning testing of Respondent's blood or urine within twelve (12) hours. For good cause, the Office of Probation may require Respondent to deliver Respondent's urine and/or blood sample(s) for additional reports to the laboratory described above no later than six hours after actual notice to Respondent that the Office of Probation requires an additional screening report.
- e.  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.

**Attachment to Stipulation Re Facts, Conclusions of Law and Disposition in the Matter of**  
**JOHN JOSEPH THYNE III**  
**Case no. 09-C-15963**

**I FACTS**

1. On August 25, 2007, Respondent was involved in a single vehicle collision. Respondent's car collided with a concrete wall. Police officers responding to the scene of the accident observed that Respondent appeared to be intoxicated. Respondent was unable to satisfactorily complete the Field Sobriety Tests administered by the officers. A breathalyzer test revealed that Respondent's BAC was .18%. Respondent had no prior known DUI convictions.
2. On January 10, 2008, in Santa Barbara County Superior Court ("the court"), Respondent pled no contest to violating Vehicle Code section 23125(a), wilfully and unlawful driving a vehicle while being under the influence of an alcoholic beverage. The Court sentenced Respondent to 180 days in jail, suspended for three years, placed Respondent on unsupervised probation for three years on certain terms and conditions, including the condition that he abstain from drinking and driving, and ordered Respondent to serve five days in jail with credit for two days time served.
3. Respondent's probation was subsequently revoked for failure to timely report to serve his jail sentence. On May 29, 2008, the court again ordered Respondent to serve five days in jail and reinstated Respondent's probation on the same terms and conditions.
4. On May 15, 2009, a police officer observed that Respondent was driving with his high beams on in violation of Vehicle Code section 24409(a). When Respondent was pulled over, the police officer noticed an odor of alcohol emanating from Respondent. Respondent admitted to the police officer that he had consumed two alcoholic drinks and that he was on probation for DUI. The officer subsequently administered a PAS test which revealed that Respondent's Blood Alcohol Content was .063%.
5. On August 26, 2009, Respondent pled guilty to violating section VC23152(A) (an infraction) operating a motor vehicle with a blood alcohol content of .01% or greater while on probation for violating Ca. Vehicle Code Section 23125(a) or 23152(b). The court revoked Respondent's probation, ordered Respondent to serve 61 days in jail and reinstated Respondent's probation.
6. Respondent is currently in compliance with the terms of his probation.

## **II CONCLUSIONS OF LAW**

The parties stipulate that by violating Vehicle Code sections 23125(a) and 23152(a), Respondent did not commit an act of moral turpitude; however, Respondent committed other misconduct warranting discipline.

## **III SUPPORTING AUTHORITY**

Standard 3.4 of the Standards for professional conduct, states:

Final conviction of a member of a crime which does not involve moral turpitude inherently or in the facts and circumstances surrounding the crime's commission but which does involve other misconduct warranting discipline shall result in a sanction as prescribed under part B of these standards appropriate to the nature and extent of the misconduct found to have been committed by the member.

In assessing the level of discipline in a criminal conviction case, even where those convictions do not directly involve the practice of law, the court has found it to be its duty to impose a discipline that will protect the public from potential harm. *In re Kelley*, (1990) 52 Cal. 3d 487, 496.

## **IV PENDING PROCEEDINGS**

The disclosure date referred to on page 2, paragraph A(7), was May 18, 2010.

## **V MITIGATION**

In mitigation, Respondent has been an attorney for 13 years and has no prior incidents of discipline. Respondent has volunteered for pro-bono legal efforts, community service organizations and non-profit boards. Some examples include: Respondent is President of the Santa Barbara County Bar Foundation, a Director on the Santa Barbara County Bar Association, Trustee at two law schools where he teaches and was recognized as an Outstanding Professor, past President of the California Applicants' Attorneys Association-Central Coast chapter, past President of Leadership Santa Barbara County, currently serves on the board of directors of the University Club, is active in his Catholic Church and serves on several committees for the Santa Barbara Board of Realtors®.

## **VI ADDITIONAL SUBSTANCE ABUSE CONDITIONS**

Respondent understands and agrees to the following evaluation and treatment conditions:

1. Respondent has, with the assistance and approval of the Office of the Chief Trial Counsel, selected a medical doctor certified by the American Society of Addiction Medicine (ASAM) for the purpose of submitting to a substance abuse evaluation (Evaluation). The doctor's name is Dr. Joseph P. Frawley, MD, and the doctor can be contacted at 805- 730-1580, 525 Micheltorena Street, Santa Barbara, CA 93101.



2. Within 45 days of signing this stipulation, Respondent shall provide a complete copy of this stipulation to the approved ASAM certified medical doctor and all treatment providers.
3. Within 30 days of the effective date of this discipline, Respondent shall provide to the Office of Probation an original, signed declaration from the ASAM certified medical doctor and all treatment providers acknowledging receipt of a complete copy of this stipulation.
4. Within 45 days of signing this stipulation, Respondent shall execute all necessary waivers of confidentiality with the approved ASAM certified medical doctor as well as any treatment providers, including drug and/or alcohol testing facilities.
5. Within 30 days of the effective date of this discipline, Respondent shall provide to the Office of Probation a copy of the waiver provided to the ASAM certified medical doctor as well as all other treatment providers, including drug and/or alcohol testing facilities. Also within 30 days of the effective date of this discipline, Respondent shall provide to the Office of Probation an original, signed declaration from the ASAM certified medical doctor as well as all other treatment providers, including drug and/or alcohol testing facilities, acknowledging receipt of the waiver.
6. Within 30 days of the effective date of this discipline, Respondent is to undergo an Evaluation with the ASAM certified medical doctor. The evaluation will be for the purposes of (a) determining whether Respondent has a substance abuse or addiction problem, (b) setting treatment conditions Respondent is to undertake as a result of the Evaluation, if any, and (c) obtaining a written report from the evaluating physician. Respondent shall bear all costs of the Evaluation, the resulting report, and any treatment conditions recommended by the evaluator. Respondent understands that his treatment conditions may change if his treatment providers deem it necessary, and that he is to bear the cost of such treatment, which in some cases could include in-patient treatment. Respondent understands that (a) the treatment conditions, if any, shall become part of his probation requirements, (b) he must provide the Office of Probation with any proof of treatment compliance or waiver requested by the Office of Probation, and (c) any violation of the treatment conditions is a violation of the probation requirements.
7. Within 60 days of the effective date of this discipline, Respondent is to provide a copy of the ASAM certified medical doctor's written report to the Office of Probation. If the ASAM certified medical doctor requires additional information in order to propose treatment conditions, including, but not limited to, interviewing third parties, Respondent will make good faith efforts to provide timely the additional information. Respondent will provide proof of such good faith efforts to the Office of Probation within 10 days of any request.

8. Within 10 days of any change in treatment condition, Respondent is to provide written notice to the Office of Probation specifically setting forth the changes. With that written notice, Respondent is to provide an original, signed declaration from the ASAM certified medical doctor acknowledging receipt of the written notice and agreement with its accuracy.
9. Respondent shall report compliance with the treatment conditions by statement under penalty of perjury in each written quarterly report to the Office of Probation required pursuant to the discipline in this matter.
10. Respondent shall have his ASAM certified medical doctor submit to the Office of Probation an original, signed declaration that Respondent is in compliance with the treatment of conditions by each January 10, April 10, July 10, and October 10 covered by this discipline. Respondent understands that the declarations and reports may be shared with the Office of the Chief Trial Counsel and the State Bar Court.
11. Respondent understands that treatment conditions associated with other issues or entities, such as a criminal probation, may not satisfy treatment conditions required by this section.
12. If Respondent elects to change the above selected treating physician (Dr. Joseph P. Frawley) to another physician, such physician must be a medical doctor certified by the American Society of Addiction Medicine (ASAM). If any treatment providers are added or changed, Respondent must notify the Office of Probation of the name, address, and telephone number of all such treatment providers within ten days of the retaining of each one. Within 30 days of retaining each such treatment provider, Respondent must provide to the Office of Probation an original signed declaration from the treatment provider stating that it received a complete copy of this stipulation. Also within 30 days of retaining each such treatment provider, Respondent must provide to the Office of Probation an executed waiver of confidentiality as well as an original, signed declaration from the treatment providers acknowledging receipt of the waiver.
13. Respondent has been informed of the existence and nature of the State Bar's Lawyer Assistance Program and of the State Bar Court's Alternative Discipline Program, and Respondent has specifically declined to seek entry into either.

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**SIGNATURE OF THE PARTIES**

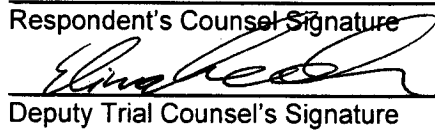
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

5/19/2010  
Date

  
Respondent's Signature

JOHN J. THYNE III  
Print Name

5/20/2010  
Date

  
Deputy Trial Counsel's Signature

ELINA KREDITOR  
Print Name

(Do not write above this line.)

In the Matter Of <b>JOHN JOSEPH THYNE</b>	Case Number(s): <b>09-C-15963</b>
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**ORDER**

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproval, 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 REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- All court dates in the Hearing Department 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 125(b), Rules of Procedure.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

**Failure to comply with any conditions attached to this reproval may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.**

5-27-10  
Date

*George Scott*  
Judge of the State Bar Court  
PRO TEM JUDGE  
GEORGE SCOTT

**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 May 28, 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:

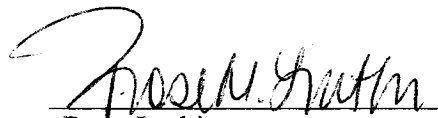
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JOHN J. THYNE III, ESQ.  
LAW OFC JOHN J THYNE III  
2000 STATE ST  
SANTA BARBARA, CA 93105

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

ELINA KREDITOR, ESQ., Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 28, 2010.



Rose Luthi  
Case Administrator  
State Bar Court