

PUBLIC MATTER

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STATE BAR COURT
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LOS ANGELES

1 STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL
2 JAYNE KIM, No. 174614
ACTING CHIEF TRIAL COUNSEL
3 PATSY J. COBB, No. 107793
DEPUTY CHIEF TRIAL COUNSEL
4 ALAN B. GORDON, No. 125642
ASSISTANT CHIEF TRIAL COUNSEL
5 KEVIN B. TAYLOR, No. 151715
SUPERVISING TRIAL COUNSEL
6 CHARLES T. CALIX, No. 146853
DEPUTY TRIAL COUNSEL
7 1149 South Hill Street
Los Angeles, California 90015-2299
8 Telephone: (213) 765-1255



11 STATE BAR COURT

12 HEARING DEPARTMENT - LOS ANGELES

14 In the Matter of:) Case No. 11-O-13025
15 ROBERT S. SHTOFMAN,)
No. 135577,) NOTICE OF DISCIPLINARY CHARGES
16)
17 A Member of the State Bar)

18 **NOTICE - FAILURE TO RESPOND!**

19 IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE
20 WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT
THE STATE BAR COURT TRIAL:

- 21 (1) YOUR DEFAULT WILL BE ENTERED;
22 (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU
WILL NOT BE PERMITTED TO PRACTICE LAW;
23 (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN
THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION
AND THE DEFAULT IS SET ASIDE, AND;
24 (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.
SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE
25 OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN
ORDER RECOMMENDING YOUR DISBARMENT WITHOUT
26 FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,
27 RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

1 The State Bar of California alleges:

2 **JURISDICTION**

3 1. Robert S. Shtofman (“Respondent”) was admitted to the practice of law in the
4 State of California on September 20, 1988, was a member at all times pertinent to these charges,
5 and is currently a member of the State Bar of California.

6 **COUNT ONE**

7 Case No. 11-O-13025
8 Business and Professions Code section 6068(b)
9 [Failure to Maintain Respect to the Court]

10 2. Respondent wilfully violated Business and Professions Code section 6068(b), by
11 failing to maintain the respect due to the courts of justice and judicial officers, as follows:

12 3. On or about November 10, 2008, Bernice Chinyere Ivoko (“Ivoko”) caused a civil
13 complaint to be filed on her behalf in the Superior Court of California, County of Riverside
14 (“Superior Court”), titled *Bernice Chinyere Ivoko v. Jecinta Azonobi*, Case No. RIC512676
15 (“*Ivoko v. Azonobi*”). Jecinta Azonobi (“Azonobi”) was represented by Gregory A. Pavia and
16 Poonam K. Walia (collectively “defense counsel”).

17 4. On or about November 30, 2010, a Substitution of Attorney was filed in *Ivoko v.*
18 *Azonobi*, substituting Respondent in place of Ivoko’s prior attorney of record. Respondent never
19 sought to substitute out of the case thereafter.

20 5. On or about January 27, 2011, *Ivoko v. Azonobi* was assigned for trial. The Court
21 asked the parties to prepare, *inter alia*, three sets of jury instructions and a joint exhibit list for
22 the trial set to commence on January 31, 2011. Respondent was present and heard the request.

23 6. On or about January 31, 2011, Respondent appeared 30 minutes for the first day
24 of trial in *Ivoko v. Azonobi* and his co-counsel had to begin *voire dire* without Respondent being
25 present. The parties did not present the three sets of jury instructions or the joint exhibit list.

26 7. On or about February 2, 2011, Respondent appeared late for the trial in of trial in
27 *Ivoko v. Azonobi* and the he parties did not present the three sets of jury instructions or the joint
28 exhibit list. The Court set an Order to Show Cause (“OSC”) for February 4, 2011 at 1:30 p.m.

1 for failure to comply with the civil trial requirements to provide jury instructions. Respondent
2 received notice of the OSC.

3 8. On or about February 4, 2011 at 1:30 p.m., the Court conducted the OSC in *Ivoko*
4 *v. Azonobi*. Respondent and defense counsel appear for the OSC. The Court ordered counsel to
5 not to leave the courtroom until 4:30 p.m. or they had tentatively agreed on a list of anticipated
6 jury instructions and an exhibit list. Counsel reached an agreement and the Court ordered
7 Respondent (after he volunteered) to present the jury instructions and a properly bates stamped
8 volume six of the Plaintiff's exhibits ("Volume Six") on February 7, 2011. The Court cautioned
9 counsel that it does not like to sanction attorneys, but will do so if it is appropriate to prevent
10 counsel from wasting the jurors' time. Respondent received notice of the order.

11 9. On or about February 7, 2011, Respondent failed to appear and present the jury
12 instructions and Volume Six as ordered in *Ivoko v. Azonobi*.

13 10. On or about February 8, 2011, Respondent and defense counsel appeared for the
14 trial in *Ivoko v. Azonobi*. Respondent failed to present the jury instructions or Volume Six. The
15 Court set OSCs re Sanctions for February 18, 2011 for \$500 for Respondent failure to present the
16 jury instructions ("OSC #1") and \$500 for Respondent's failure to present Volume Six ("OSC
17 #2"). The Court ordered Respondent to present the jury instructions by 8:30 a.m. on February 9,
18 2011. Respondent provided the revised Volume Six later that day. Respondent received notice
19 of OSC #s1&2 and the order.

20 11. On or about February 9, 2011, Respondent and defense counsel appeared for the
21 trial in *Ivoko v. Azonobi*. Respondent failed to present the jury instructions. The Court ordered
22 Respondent to present the jury instructions by 8:30 a.m. on February 10, 2011, and warned
23 Respondent that the failure to present the instructions would result in sanctions in excess of
24 \$1,000 on February 18, 2011, which would obligate the Court to report the sanctions to the State
25 Bar pursuant to Code of Civil Procedure section 177.5. Respondent received notice of the order
26 and that he was required to appear at or before 8:30 a.m., even though trial did not begin until
27 9:30 a.m.

1 12. On or about February 10, 2011 at approximately 9:40 a.m., Respondent appeared
2 for *Ivoko v. Azonobi*. Respondent did not call the Court to inform it that he was going to be late,
3 but presented the jury instructions. The Court set an OSC re Sanctions of \$1,200 for February
4 18, 2011, for failure to comply with the Court's order to present the jury instructions by 8:30
5 a.m. ("OSC #3"). The Court told Respondent that it was setting the OSC for February 18, 2011,
6 in part, to allow the Court to evaluate what occurred after the OSC was set and to allow
7 Respondent to present whatever information he believed was appropriate for the Court to
8 consider. Respondent received notice of OSC #3.

9 13. Between on or about February 10, 2011 and on or about February 15, 2011,
10 Respondent was late each day for trial in *Ivoko v. Azonobi*.

11 14. On or about February 16, 2011, Respondent was one hour and 15 minutes late for
12 the 9:30 a.m. trial in *Ivoko v. Azonobi*. Respondent was so late that the Court excused the jury
13 for the morning. Respondent explained that he had left his home at 8:00 a.m., but he ran into
14 rain, an accident, and traffic on his way from his home in Encino to the courthouse. The Court
15 explained that traffic and accidents were common and that two hours was an insufficient amount
16 of time to make the trip. The Court warned Respondent it would set OSCs re Sanctions of \$500
17 if Respondent was late again, and that if Respondent continued to be late, it would increase each
18 sanction by \$250.

19 15. On or about February 17, 2011, Respondent appeared late for the trial in *Ivoko v.*
20 *Azonobi*. The Court set an OSC re Sanctions of \$500 for appearing late ("OSC #4").
21 Respondent received notice of OSC #4.

22 16. On or about February 17, 2011, Respondent submitted a declaration in response to
23 the OSCs set for February 18, 2011.

24 17. On or about February 18, 2011, the hearing on the OSCs re Sanctions in *Ivoko v.*
25 *Azonobi* was continued.

1 18. On or about February 22, 2011, Respondent appeared late for the trial in *Ivoko v.*
2 *Azonobi*. The Court set an OSC re Sanctions of \$750 for appearing late ("OSC #5").
3 Respondent received notice of OSC #5.

4 19. On or about February 23, 2011, Respondent appeared late for the trial in *Ivoko v.*
5 *Azonobi*. The Court set an OSC re Sanctions of \$1,000 for appearing late ("OSC #6").
6 Respondent received notice of OSC #6.

7 20. On or about February 24, 2011, Respondent appeared late for the trial in *Ivoko v.*
8 *Azonobi*, but the Court did not set an OSC re Sanctions.

9 21. On or about February 25, 2011, Respondent and defense counsel appeared for the
10 trial in *Ivoko v. Azonobi*. The Court discovered that the instructions presented by Respondent
11 were incomplete. The Court reassigned the presentation of the jury instructions to defense
12 counsel and defense counsel was able to email a list and copy of the disputed instructions to the
13 Court within five minutes of receiving the assignment.

14 22. On or about February 28, 2011, Respondent appeared late for the trial in *Ivoko v.*
15 *Azonobi*. The Court set an OSC re Sanctions pursuant to Code of Civil Procedure section 128.5.
16 The Court later determined that section 128.5 was inapposite for awarding attorney's fees to
17 defense counsel for completing tasks that plaintiff was to have completed and vacated that
18 sanctions hearing.

19 23. On or about March 1, 2011, Respondent appeared late for the trial in *Ivoko v.*
20 *Azonobi*, but the Court did not set an OSC re Sanctions.

21 24. On or about March 2, 2011, Respondent and defense counsel appeared for the
22 trial in *Ivoko v. Azonobi*. After the jury was excused, the Court and counsel meet to finalize the
23 jury instructions. Respondent objected to several instructions that he had previously found
24 unobjectionable and the Court ordered Respondent to prepare three instructions and present them
25 to the Court no later than 9:15 a.m. on March 3, 2011.

26 25. On or about March 3, 2011, Respondent appeared at approximately 10:05 a.m. for
27 *Ivoko v. Azonobi*, which was the morning set for closing arguments. Respondent presented the
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1 Court with two of the instructions ordered by the Court, but the third instruction was the wrong
2 instruction. The Court set an OSC re Sanctions of \$1,250 for appearing late. ("OSC #8").
3 Respondent received notice of OSC #8.

4 26. On or about March 4, 2011, Respondent appeared for the OSCs re Sanctions in
5 *Ivoko v. Azonobi*. After stating the basis for each of the OSCs, the Court permitted Respondent
6 to explain his position. The Court found that Respondent did nothing to correct his conduct after
7 being warned on February 10, 2011 that one of the reasons for setting the OSC in the future was
8 to evaluate the effect of the Court's admonition. The Court ordered Respondent to pay: (a) \$500
9 to the Court within 30 days of the written order re OSC #1 – the February 8, 2011 OSC for \$500
10 for Respondent failure to present the jury instructions ("OSC #1"); and (b) \$1,250 to the Court
11 within 30 days of the written order for OSC #8 – the March 3, 2011 OSC re Sanctions of \$1,250
12 for appearing late on that date. Respondent received notice of the order.

13 27. On or about March 22, 2011, the Court filed and served its "Order re Sanctions"
14 in *Ivoko v. Azonobi*, which stated, in part, that Respondent was ordered to pay sanctions of \$500
15 and \$1,250 to the Court within 30 days of receipt of the order. Respondent received the order,
16 but did not pay the sanctions to the Court within 30 days, file any pleading to request relief from
17 the order within 30 days, or report the imposition of the sanctions to the State Bar within 30
18 days.

19 28. As of September 20, 2011, Respondent had not paid any portion of the sanctions
20 to the Court, filed any pleading to request relief from the imposition of the sanctions, or reported
21 the imposition of the sanctions to the State Bar.

22 29. On or about September 20, 2011, a State Bar Investigator mailed a letter to
23 Respondent at his official member records address requesting that Respondent respond in writing
24 to a complaint by the Court concerning Respondent's disobedience of Court orders during the
25 trial in *Ivoko v. Azonobi*. The letter requested a written response by September 30, 2011.
26 Respondent received the letter.

1 30. On or about September 26, 2011, Respondent faxed and mailed a letter to the
2 Investigator that, *inter alia*, requested a brief extension of time to respond to the letter because
3 Respondent was busy working on an appeal and had been unable to file a motion for
4 reconsideration of the Order re Sanctions. The Investigator received the letter.

5 31. On or about October 5, 2011, Respondent faxed and mailed a letter to the
6 Investigator that stated that Respondent was paying the sanctions that day and filing a motion for
7 reconsideration. The letter further stated, *inter alia*, that Respondent had not reported the
8 sanctions to the State Bar because he had intended on immediately filing a motion for
9 reconsideration that he hoped would be successful, but became side-tracked. The Investigator
10 received the letter.

11 32. On or about October 5, 2011, Respondent filed a Motion to Set Aside and/or
12 Modify the Order imposing sanctions of \$1,250 dated March 22, 2011 pursuant to Code of Civil
13 Procedure sections 473(b) and 1008 in *Ivoko v. Azonobi*, and paid the sanctions of \$500 and
14 \$1,250. On or about November 10, 2011, the Court heard and denied the motion.

15 33. By, *inter alia*,: (a) appearing 30 minutes late on or about January 31, 2011;
16 (b) failing to present the jury instructions and joint exhibit list on or about January 31, 2011 as
17 requested on or about January 27, 2011; (c) appearing late on or about February 2, 2011;
18 (d) failing to present the jury instructions and joint exhibit list on or about February 2, 2011 as
19 requested on or about January 27, 2011; (e) failing to call the court on or about February 10,
20 2011, to inform it that he would be late; (f) appearing late each day between on or about
21 February 10, 2011 and on or about February 15, 2011; (g) appearing one hour and 15 minutes
22 late on or about February 16, 2011; (h) appearing late on or about February 17, 2011;
23 (i) appearing late each date between on or about February 22, 2011 and on or about February 24,
24 2011; (j) appearing late on or about February 28, 2011; (k) appearing late on or about March 1,
25 2011; (l) appearing late for closing arguments on or about March 3, 2011; and (m) presenting the
26 wrong instruction on or about March 3, 2011, Respondent failed to maintain the respect due to
27 the courts of justice and judicial officers.

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COUNT TWO

Case No. 11-O-13025
Business and Professions Code section 6103
[Failure to Obey a Court Order]

34. Respondent wilfully violated Business and Professions Code section 6103, by wilfully disobeying or violating an order of the court requiring him to do or forbear an act connected with or in the course of Respondent's profession which he ought in good faith to do or forbear, as follows:

35. The allegations of Count One are incorporated by reference.

36. By, *inter alia*,: (a) failing to appear and present the jury instructions and Volume Six on or about February 7, 2011 as ordered on or about February 4, 2011; (b) failing to present the jury instructions and Volume Six the morning of on or about February 8, 2011 as ordered on or about February 4, 2011; (c) failing to present the jury instructions on or about February 9, 2011 as ordered on or about February 8, 2011; (d) failing to appear and present the jury instructions by 8:30 a.m. on or about February 10, 2011 as ordered on or about February 9, 2011; and (e) failing to pay sanctions of \$500 and \$1,250 to the Court or request relief from the order to pay sanctions within 30 days as ordered on March 22, 2011, Respondent willfully and repeatedly disobeyed or violated orders of the court requiring him to do or forbear acts connected with or in the course of Respondent's profession which he ought in good faith to do or forbear.

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COUNT THREE

Case No. 11-O-13025
Business and Professions Code section 6068(o)(3)
[Failure to Report Judicial Sanctions]

37. Respondent wilfully violated Business and Professions Code section 6068(o)(3), by failing to report to the agency charged with attorney discipline, in writing, within 30 days of the time Respondent had knowledge of the imposition of any judicial sanctions against Respondent, as follows:

38. The allegations of Counts One and Two are incorporated by reference.

39. Respondent did not report the sanctions imposed by the Orders re Sanctions to the State Bar.

DECLARATION OF SERVICE BY CERTIFIED MAIL

CASE NUMBER: 11-O-13025

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 1149 South Hill Street, Los Angeles, California 90015, declare that I am not a party to the within action; that I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service; that in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day; that I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit; and that in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles, on the date shown below, a true copy of the within

NOTICE OF DISCIPLINARY CHARGES

in a sealed envelope placed for collection and mailing as **certified mail, return receipt requested, Article No.: 7196 9008 9111 0443 4175**, at Los Angeles, on the date shown below, addressed to:

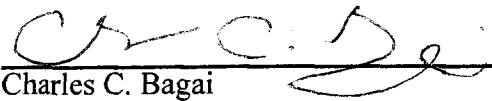
Robert S. Shtofman Law Ofc Robert Scott Shtofman 18150 Chardon Cir Encino, CA 91316	Arthur L. Margolis Margolis & Margolis LLP 2000 Riverside Dr Los Angeles, CA 90039
<u>SERVICE COPY SENT VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED</u>	<u>COURTESY COPY SENT FIRST CLASS MAIL</u>

in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

N/A

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: December 29, 2011

Signed: 
Charles C. Bagai
Declarant