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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>STAYED SUSPENSION</b>		
Counsel For The State Bar  <b>Ashod Mooradian, No. 194283</b> Senior Trial Counsel <b>Jamie J. Kim, No. 281574</b> Deputy Trial Counsel 845 S. Figueroa St. Los Angeles, CA 90017 (213) 765-1004  Bar # <b>194283</b>	Case Number(s): <b>12-J-16931-LMA</b>	For Court use only  <div style="text-align: center; font-size: 1.2em; font-weight: bold;">PUBLIC MATTER</div>  <div style="text-align: center; font-size: 1.5em; font-weight: bold;">FILED</div> <div style="text-align: center; font-size: 1.2em; font-weight: bold;">SEP 29 2015</div>  STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel For Respondent  <b>Blithe Leece</b> Law Offices of Blithe C. Leece 609 Deep Valley Dr., Ste. 200 Rolling Hills Estate, CA 90274  Bar # <b>202208</b>	Submitted to: <b>Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>STAYED SUSPENSION; NO ACTUAL SUSPENSION</b>  <input checked="" type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: <b>JOHN OWEN MURRIN, III</b>  Bar # <b>75329</b>  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 **July 8, 1977**.
- (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 **14** 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."



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- (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 are added to membership fee for calendar year following effective date of discipline.
  - Costs are to be paid in equal amounts prior to February 1 for the following membership years: **one billing cycle following the effective date of the Supreme Court order.** (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure). If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
  - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - Costs are entirely waived.

**B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are required.**

- (1)  **Prior record of discipline**
- (a)  State Bar Court case # of prior case
  - (b)  Date prior discipline effective
  - (c)  Rules of Professional Conduct/ State Bar Act violations:
  - (d)  Degree of prior discipline
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline. **Two prior records of discipline from foreign jurisdiction, see Stipulation, page 10.**
- (2)  **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3)  **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by misrepresentation.
- (4)  **Concealment:** Respondent's misconduct was surrounded by, or followed by concealment.
- (5)  **Overreaching:** Respondent's misconduct was surrounded by, or followed by overreaching.
- (6)  **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (7)  **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..

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- (8)  **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10)  **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11)  **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See Stipulation, page 10.
- (12)  **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13)  **Restitution:** Respondent failed to make restitution.
- (14)  **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances**

**C. Mitigating Circumstances [see standards 1.2(i) & 1.6]. Facts supporting mitigating circumstances are required.**

- (1)  **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not likely to recur.
- (2)  **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3)  **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4)  **Remorse:** Respondent promptly took objective steps demonstrating spontaneous remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5)  **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6)  **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7)  **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.
- (8)  **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.

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- (9)  **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10)  **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11)  **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12)  **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation.
- (13)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances**

**Pre-trial Stipulation, see Stipulation, page 10.**

**D. Discipline:**

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

The above-referenced suspension is stayed.

- (2)  **Probation:**

Respondent is placed on probation for a period of **two 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

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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.
- (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:

Substance Abuse Conditions                       Law Office Management Conditions  
 Medical Conditions                                       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 5.162(A) & (E), Rules of Procedure.**

No MPRE recommended. Reason: .

- (2)  **Other Conditions:**

**To satisfy the condition of Ethics School and the Multistate Professional Responsibility Examination ("MPRE"), respondent may attend a session of Ethics School and take the MPRE between the**

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**date that this Stipulation is approved by the State Bar Court and the effective date of the discipline herein. In that event, respondent must provide to the Office of Probation satisfactory proof of his attendance at Ethics School and passage of the test given at the end of that session, as well as passage of the MPRE, with his first quarterly report due under this Stipulation.**



8. On June 20, 2007, respondent filed a Second Amended Complaint, which was 144-pages long, contained 493 paragraphs and named 48 defendants.

9. On October 3, 2011, respondent filed a Third Amended Complaint, which was 187-pages long, contained 777 paragraphs and named 50 defendants.

10. On April 11, 2008, respondent filed a Fourth Amended Complaint, which was 272 pages long, contained 1,668 paragraphs and named 43 defendants.

11. Before the Court could rule on respondent's motion to file the Fourth Amended Complaint, he filed a Fifth Amended Complaint, which was 165-pages long, contained 945 paragraphs and included 64 counts against 43 defendants. Respondent signed each of these complaints as "Attorney for Plaintiffs."

12. On January 15, 2008, after a hearing, the Hennepin County District Court issued an order finding that respondent did not "clearly delineat[e] which claim is being pursued against which defendant for each cause of action contained in the Second Amended Complaint."

13. On February 14, 2008 order, the Hennepin County District Court issued an order finding that the chart respondent prepared for his Second Amended Complaint was "incomprehensible," and therefore, the complaint still failed to put the defendants on notice as to the allegations against them. The Hennepin County District Court further found that the Third Amended Complaint failed to adequately cure the defects of the Second Amended Complaint and failed to provide accurate citations to relevant statutes.

14. On December 2, 2008, the Hennepin County District Court issued an order finding that the Third Amended Complaint only further prejudiced the defendants. The order granted the defendants' motion for sanctions against respondent, his wife, and her attorney, Christopher A. LaNave, jointly and severally, to recover attorneys' fees and costs, which totaled over \$463,000.

15. The Hennepin County District Court eventually dismissed the lawsuit with prejudice as to all defendants, except two defendants (without prejudice). Respondent appealed this order.

16. The Minnesota Third Court of Appeals affirmed the Hennepin County District Court's findings and the order for sanctions against respondent, but overturned the sanctions against respondent's wife.

17. On April 28, 2014, the Hennepin County District Court entered an order accepting the parties' stipulation and vacating the December 2, 2008 contempt and sanctions, which had totaled over \$463,000.

#### The United States District Case in the District of Minnesota

18. At this Federal District Court, both a Magistrate Judge and a Federal District Judge presided over respondent's case. In January 2007, respondent filed a First Complaint, which was 156-pages long, contained 626 paragraphs, and named 20 defendants.

19. On February 25, 2008, the Federal District Court issued an order dismissing respondent's complaint for failure to comply with Rule 8 of the Federal Rules of Civil Procedure (short, plain

statement of the grounds for relief, short, plain statement of claim for entitlement of relief and a demand for the relief sought).

20. Thereafter, respondent continued to move for leave to file amended complaints (five more times), each of which contained hundreds of pages and paragraphs.

21. On September 5, 2008, the Magistrate Judge ordered respondent to file a final complaint, which did not allow punitive damages against defendants who had previously been dismissed.

22. Thereafter, respondent further moved to amend the Plaintiffs' complaint a sixth time. The Federal District Court found that respondent's attempts were merely to "circumvent the Court's directive that [the Plaintiffs] file a 'Final Amended Complaint': containing only those claims previously allowed by the Court." The Magistrate found that respondent's sixth amended complaint violated the order. The Magistrate again ordered respondent to file a Final Amended Complaint.

23. On November 26, 2008, the Federal District Court denied respondent's motion for leave to file more amended complaints, finding there were "compelling reasons such as undue delay, bad faith, or dilatory motive, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the non-moving party, or futility of the amendment."

24. On December 8, 2008, the Federal District Court Judge responded to respondent's appeal of the Magistrate Judge's order by addressing respondent's claim that he reasonably believed he could pursue punitive damages for all claims and finding that this claim was "surely contrived [as the Magistrate's order] cannot possibly be read to grant permission to plead punitive damages in connection with any claim," other than those claims already permitted. The District Judge further found that respondent had proven to be "singularly unwilling or unable to comply with the rules and instructions," of the Federal District Court.

25. The Federal District Court also found that respondent's litigation strategy, "resembles nothing so much as *peine forte et dure* – a method of torture by which heavier and heavier weights are placed on the chest of a defendant until the defendant either confesses or suffocates." The Federal District Court noted that over four hundred entries had been made for the docket in respondent's case, yet the action had not proceeded past the pleading stage. The Federal District Court further stated:

[respondent's action] should not have taken three years, four lawsuits, thousands of pages of filings, and a half-million dollars in attorney's fees to get to this point. The Murrins' claim that they should recover a quarter of a million dollars for pursuing their breach-of-contract claims is absurd.

26. Respondent sought "nearly \$500,000 in fees and costs," but was only allowed \$10,000. The District Court found that respondent was limited to only "reasonable" fees.

27. Thereafter, the respondent filed a "Final Amended Complaint" that was satisfactory to the Federal District Court and obtained a default judgment against a defendant in the amount of \$1,760,000.

The U.S. Bankruptcy Court Case, District of Minnesota

28. Two of the named defendants in the Hennepin County action, Jason and Clichelle Scott (the "Scotts"), sought to discharge their debts in the U.S. Bankruptcy Court. On June 4, 2007, respondent

filed an adversary complaint, which was 48-pages long, included 3 pages of exhibits, and contained 141 paragraphs.

29. Thereafter, respondent twice moved to amend the complaint. The Bankruptcy Court granted one amendment but denied the other. When granting the Scotts' motion to dismiss, the Bankruptcy Court found that respondent, who had been practicing for over thirty years in Minnesota, had "three chances to lay out a 'short and plain statement' of [the case] against the Debtors . . . . [respondent] had ample opportunity to step far back from the invested and emotionally-charged posture of a party-litigant, to look at the situation from the cool distance of an advisor-advocate, and to act professionally as an officer of the court to avoid a waste of judicial and party resources. He did not make responsible use of that opportunity."

#### **CONCLUSIONS OF LAW:**

30. As a matter of law, respondent's culpability of professional misconduct determined in the proceeding in Minnesota warrants the imposition of discipline under the laws and rules binding upon respondent in the State of California at the time respondent committed the misconduct in the other jurisdiction, pursuant to Business and Professions Code section 6049.1, subdivision (a).

#### **AGGRAVATING CIRCUMSTANCES.**

**Prior Record of Discipline (Std. 1.5(a)):** Respondent has no prior record of discipline in California, but has two prior records of discipline in Minnesota: a private reprimand from 1980 and an admonition from 1985, both private impositions of discipline. (*In the Matter of Jeffers* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211.) However, the weight of these prior records of discipline is minimal because they were relatively minor impositions of discipline that are remote in time. Additionally, the Minnesota court did not heavily rely on or state details regarding respondent's prior record of discipline in reaching its conclusions. (*In the Matter of Jeffers* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211, 224-225 [attorney's prior record in foreign jurisdiction did not affect the severity of misconduct at issue because there were insufficient facts regarding the specifics of that conduct in the findings of the foreign jurisdiction].)

**Multiple Acts of Misconduct (Std. 1.5(b)):** Respondent committed multiple acts of misconduct when he repeatedly filed voluminous, frivolous amended pleadings against nearly fifty defendants. (*In the Matter of Conner* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93, 105; *In the Matter of Seltzer* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 263, 270.)

#### **MITIGATING CIRCUMSTANCES.**

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

#### **AUTHORITIES SUPPORTING DISCIPLINE.**

The Standards for Attorney Sanctions for Professional Misconduct "set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Std. 1.1. All further references to Standards are to this source.)

The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See Std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the Standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

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

In this matter, respondent was found culpable of professional misconduct in the other jurisdiction, and to determine the appropriate sanction in this proceeding, it is necessary to consider the equivalent rule or statutory violation under California law. Specifically, respondent’s misconduct in the other jurisdiction demonstrates a violation of Business and Professions Code section 6068(c), had it been committed in California.

As noted above, the LPRB found that the nature of the claims and the many defendants respondent pursued resulted in prejudice to the administration of justice. The courts in Minnesota (both federal and state) found that not all the defendants named by respondent were appropriately named as parties, and should never have been defendants in respondent’s lawsuits. Accordingly, respondent’s complaint was dismissed as to certain defendants. Despite this clear direction from the courts, respondent continued to pursue claims against those defendants. The courts in Minnesota found that this pursuit of claims against these defendants wasted the court’s time and hindered the judicial process (i.e., conduct prejudicial to the administration of justice) in violation of Minnesota rule 8.4(d). Thus, respondent’s pursuit of actions that were no longer viable was essentially the maintaining of an unjust action that resulted in the prejudice to the administration of justice in Minnesota. Accordingly, respondent’s maintaining of an unjust action was a violation of Business and Professions Code section 6068(c).

Standard 2.12(d) provides that violations of Business and Professions Code section 6068(c) are covered by Standard 2.9. Standard 2.9(b) provides that a suspension or a reproof is the presumed sanction for a violation resulting in harm to an individual or the administration of justice. The LPRB found that respondent’s excessive dilatory prosecution caused significant harm. However, dilatory prosecution is not conduct that has resulted in the imposition of attorney discipline in California. Therefore harm was not significant and Standard 2.9(b) is applicable.

In addition to analysis of the appropriate level of discipline to impose on respondent pursuant to Standard 2.9(b), the application of standards 1.8(a) and (b) must be considered first.

Standard 1.8(a) provides that if "...a member has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust."

Standard 1.8(b) provides, in relevant part, that if "...a member has two or more prior records of discipline, disbarment is appropriate in the following circumstances, unless the most compelling mitigating circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct: [¶] 1. Actual suspension was ordered in any one of the prior disciplinary matters; 2. The prior disciplinary matters coupled with the current record demonstrate a pattern of misconduct; or 3. The prior disciplinary matters coupled with the current record demonstrate the member's unwillingness or inability to conform to ethical responsibilities...."

Beginning with an analysis pursuant to Standard 1.8(b), as noted above, respondent has two prior records of discipline in Minnesota: a private reprimand from 1980 and an admonition (private discipline) from 1985. Neither of respondent's Minnesota prior records of discipline have involved actual suspension. Further, respondent's prior disciplines coupled with this matter does not demonstrate a pattern because different violations are involved and the misconduct in the current matter occurred approximately 23 years after his most recent prior discipline. (*In the Matter of Crane and DePew* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 139, 157 [pattern found only for serious instances of misconduct over a prolonged period of time].)

In addition, respondent is not unwilling or unable to conform to ethical responsibilities as he was not disciplined in either Minnesota or California, during the 23 year period between the misconduct here and his prior discipline. The underlying circumstances are rather unique. Respondent represented himself, after having been defrauded of a significant amount of money. Moreover, in addition to respondent's lack of discipline in nearly 30 years, the passage of nearly eight years since the misconduct here without additional discipline in either Minnesota or California indicates that respondent is unlikely to continue committing misconduct. The underlying set of circumstances is very unlikely to be repeated and, therefore, a reasonable indication that recidivism is unlikely.

Therefore, in the absence of actual suspension or pattern of misconduct and the lack of any "unwillingness or inability to conform to ethical responsibilities" by respondent, it is not appropriate to apply Standard 1.8(b) here.

Nevertheless respondent's misconduct in the current matter is aggravated by multiple acts of misconduct in that respondent filed numerous and repetitive pleadings in three different courts, Minnesota state, federal and bankruptcy, all related to the same Ponzi scheme litigation. (*In the Matter of Valinoti* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498, 555; *In the Matter of Maloney & Virsik* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774, 792.) However, respondent is entitled to mitigation for acknowledging his misconduct by entering into this stipulation before trial and thereby conserving court time and resources as well as being indicative of a changed attitude and understanding of his misconduct in this matter. Thus, on balance, the aggravation in the current matter outweighs the mitigation.

Moreover, as noted above, Standard 1.8(a) requires progressive discipline when a prior record of discipline exists that was not remote or involved serious misconduct. In this matter, respondent has two prior records of discipline but both are remote in time and did not involve serious misconduct. Therefore, although strict application of Standard 1.8(a) in the current matter is not required,

respondent's prior record does indicate that discipline on the lowest end of Standard 2.9(a) is not appropriate.

Finally, pursuant to Standard 2.9(b), the nature of the claims and many of the defendants respondent pursued was found by the LPRB to have resulted in violation of Minn. R. Prof. Conduct, Model Rule 3.2 (failure to make reasonable efforts to expedite litigation) and Model Rule 8.4(d) (engaging in conduct prejudicial to the administration of justice). Had this misconduct occurred in California, respondent's actions would have been the equivalent of the maintaining of an unjust action and accordingly a violation of Business and Professions Code section 6068(c) and further a violation that caused harm to the administration of justice.

Therefore, based on the foregoing analysis, the imposition of a two-year suspension, stayed, with a two-year probation including standard probation conditions is both consistent with the level of the presumed sanction of Standard 2.9(b) and properly serves the goals of protection of the public, the courts, and the legal profession; maintenance of high professional standards by attorneys; and preservation of public confidence in the legal profession.

Applicable precedent of the California Supreme Court is also consistent with this outcome. In *Sorenson v. State Bar* (1991) 52 Cal.3d 1036, an attorney was found culpable of violating Business and Professions Code sections 6068(c) and 6068(g). The attorney expressed no remorse for causing the defendant to incur over \$4,000 in legal fees and expenses to defend a frivolous lawsuit alleging fraud and deceit. The attorney, who had practiced law for 11 years without discipline, was disciplined with a 30-day actual suspension.

Like *Sorenson*, respondent is culpable of violating Business and Professions Code section 6068(c). Like the attorney in *Sorenson*, respondent pursued legal action that became unjust through overly aggressive litigation tactics. Unlike the attorney in *Sorenson*, there is no culpability for violating Business and Professions Code section 6068(g) and respondent obtained both a default judgment in the amount of \$1,760,000 as well as cash settlements totaling \$707,000, whereas *Sorenson* received nothing by his action. Further, respondent's misconduct is more mitigated than was the misconduct in *Sorenson* as respondent is willing to acknowledge his wrongdoing by entering into a pre-trial stipulation. In light of these similarities and differences, respondent's discipline should be less than the level of discipline imposed in *Sorenson*.

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

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of September 3, 2015, the prosecution costs in this matter are \$3,584.00. 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.

#### **EXCLUSION FROM MCLE CREDIT**

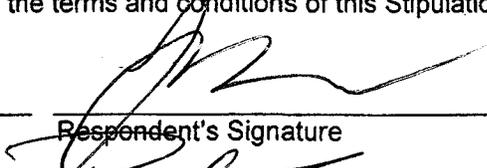
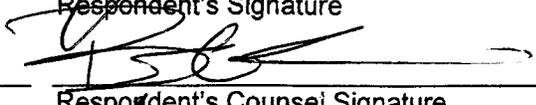
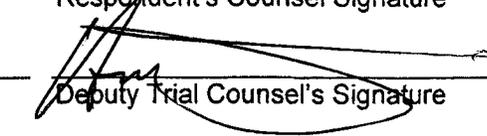
Pursuant to rule 3201, respondent may not receive MCLE credit for completion of State Bar Ethics School.

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**SIGNATURE OF THE PARTIES**

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

<u>9-3-15</u> Date	 Respondent's Signature	<u>John Owen Murrin, III</u> Print Name
<u>9/8/15</u> Date	 Respondent's Counsel Signature	<u>Blithe Leece</u> Print Name
<u>9/8/15</u> Date	 Deputy Trial Counsel's Signature	<u>Ashod Mooradian</u> Print Name

(Do not write above this line.)

In the Matter of: JOHN OWEN MURRIN, III	Case Number(s): 12-J-16931-LMA
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### STAYED 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.

On page 8 of the stipulation, in paragraph number 9, the date "October 3, 2011," is CHANGED to "October 3, 2007."

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.)**

9/28/15  
Date

  
DONALD F. MILES  
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 29, 2015, 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:

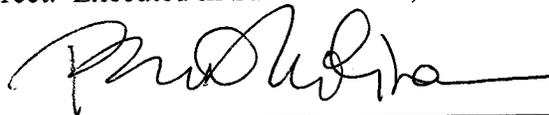
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

BLITHE C. LEECE  
AIZMAN LAW FIRM  
16133 VENTURA BLVD STE 645  
ENCINO, CA 91436

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

ASHOD MOORADIAN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on September 29, 2015.



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Bernadette C.O. Molina  
Case Administrator  
State Bar Court