

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

**PUBLIC MATTER**

<p>Counsel For The State Bar</p> <p>Anthony J. Garcia The State Bar of California Office of the Chief Trial Counsel 1149 South Hill Street Los Angeles, CA 90015 (213) 765-1089</p> <p>Bar # 171419</p>	<p>Case Number(s): 12-O-10592</p>	<p>For Court use only</p> <p><b>FILED</b></p> <p>JUN 05 2012</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>MARY E. DANIELS 4166 Almond Street Riverside, CA 92501 (951) 684-4444</p> <p>Bar # 118730</p>	<p>Submitted to: <b>Assigned Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>STAYED SUSPENSION; NO ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: MARY E. DANIELS</p> <p>Bar # 118730</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 11, 1985.
- (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.



(Do not write above this line.)

- (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 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: 2013, 2014. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure). If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
  - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - Costs are entirely waived.

**B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.**

- (1)  **Prior record of discipline** [see standard 1.2(f)]
  - (a)  State Bar Court case # of prior case
  - (b)  Date prior discipline effective
  - (c)  Rules of Professional Conduct/ State Bar Act violations:
  - (d)  Degree of prior discipline
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below 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. As described on page 7 of this Stipulation, Respondent's client was harmed.
- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

(Do not write above this line.)

- (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. Respondent's conduct evidences the fact that her errors were made 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.

(Do not write above this line.)

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- (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**

Respondent is receiving mitigation for 26 years of practice with no prior discipline.

Respondent is receiving mitigation for accepting responsibility for her actions at this early stage of the proceedings.

## D. Discipline:

(1)  **Stayed Suspension:**

(a)  Respondent must be suspended from the practice of law for a period of one 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 eighteen months, 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.

(Do not write above this line.)

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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:
  - 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:**

**ATTACHMENT TO STIPULATION**  
**RE: FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:        Mary Ellen Daniels

CASE NUMBER:            12-O-10592

**FACTS AND CONCLUSIONS OF LAW**

Mary E. Daniels (Respondent) admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 12-O-10592

FACTS:

1. On January 12, 2010, Kimberly Barney (Kimberly) hired Respondent to represent her in a dissolution of marriage action that Kimberly had previously filed in Riverside Superior Court, case number SWD.018884 (the divorce matter). Kimberly was divorcing Chad Barney (Chad).
2. One of the issues in the divorce matter was the allocation of Chad's pension funds, specifically the pension funds that had accrued during his employment at AT&T.
3. On March 1, 2010, a check from AT&T arrived at the Barney family residence. The check, in the amount of \$49,148.73, was made out to Chad and represented the full amount of Chad's pension funds at AT&T.
4. On March 2, 2010, Respondent filed an ex-parte motion in the divorce matter. Respondent's ex-parte motion requested the court to order that the AT&T funds be placed in Respondent's client trust account and that the court authorize the clerk of the court to endorse the AT&T check.
5. On March 3, 2010, the court held a hearing on the issue of the AT&T funds. The court found that the AT&T funds were community property and ordered the court clerk to endorse the check, The court also ordered Respondent to deposit the AT&T funds into her "attorney/client trust account" (CTA).
6. Respondent did not deposit the funds in her CTA. Instead of depositing the funds in her CTA, Respondent promptly opened a new business interest checking account at Provident Bank, account no.\*\*\*6884. Respondent was the sole signatory on the account and opened it in the name of "Mary Ellen Daniels ITF Chad Barney."
7. Respondent intended the funds to be held in Respondent's name "in trust for" Chad Barney, but Respondent placed the AT&T funds in a business interest account and not a client trust account.
8. In June 2010, Chad withdrew \$32,450.23 from account no. \*\*\*6884.
9. In April 2011, Respondent joined Provident Bank in the divorce matter, and in April 2011, Respondent filed an Order to Show Cause and Affidavit for Contempt against Chad.
10. In August 2011, Respondent filed a motion in the divorce matter asking the court to order Provident Bank to restore the AT&T funds to account no. \*\*\*6884.
11. On August 31, 2011, the Superior Court awarded the remaining balance in acct no \*\*\*6884, \$13,241.76 to Kimberly as a portion of her share in the AT&T funds.
12. In February 2012, Kimberly terminated Respondent's employment and Respondent withdrew from the divorce matter.
13. The issue regarding the balance of the AT&T funds is still before the Superior Court.

CONCLUSION OF LAW

14. By depositing the AT&T funds in a business interest account, that Chad had access to, instead of her

client trust account, Respondent recklessly failed to perform legal services with competence.

### **PENDING PROCEEDINGS**

The disclosure date referred to, on page 2, paragraph A(7), was May 3, 2012.

### **DISCIPLINARY STANDARDS**

Standard 2.4(b), which states that culpability of a member of wilfully failing to perform services in a client matter shall result in reproof or suspension depending on the extent of the misconduct and the degree of harm to the client.

### **COSTS**

The Office of the Chief Trial Counsel estimates that, as of May 3, 2012, the costs in this matter are approximately \$3,000. Respondent 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.



(Do not write above this line.)

In the Matter of:  
MARY E. DANIELS

Case number(s):  
12-O-10592

**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>5-9-12</u>		<u>Ellen Daniels</u>
Date	Respondent's Signature	Print Name
_____	Respondent's Counsel Signature	Print Name
<u>5/14/12</u>		<u>Anthony J. Garcia</u>
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of: MARY E. DANIELS	Case Number(s): 12-O-10592
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### STAYED SUSPENSION ORDER

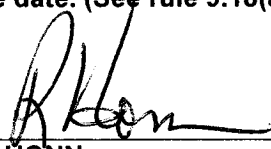
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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.

1. On page 3 in paragraph B(8), delete the "x" from the box, which precedes the words, "No aggravating circumstances are involved."
2. On page 4, in the first sentence that appears under the heading "Additional mitigating circumstances," delete the words "26 years" and in their place insert the following words: "her almost 25 years."

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

Date 6-5-12

  
RICHARD A. HONN  
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 Los Angeles, on June 5, 2012, 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:

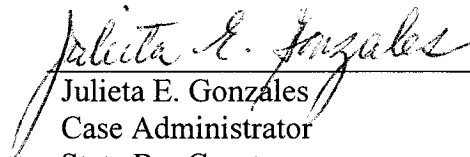
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

MARY ELLEN DANIELS ATTORNEY AT LAW  
4166 ALMOND ST  
RIVERSIDE, CA 92501

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

Anthony J. Garcia, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 5, 2012.

  
\_\_\_\_\_  
Julieta E. Gonzales  
Case Administrator  
State Bar Court