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State Bar Court of California  
Hearing Department  
Los Angeles  
ACTUAL SUSPENSION

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Bar # 146643

Case Number(s):  
12-O-12753  
12-O-16398

For Court use only

**FILED**

APR 10 2013 *JMC*

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

**PUBLIC MATTER**

In Pro Per Respondent  
  
Jiyoung Kym  
3345 Wilshire Blvd., Suite 810  
Los Angeles, CA 90010  
(213) 386-0800

Submitted to: **Assigned Judge**

Bar # 125974

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND  
DISPOSITION AND ORDER APPROVING

In the Matter of:

Jiyoung Kym

**ACTUAL SUSPENSION**

Bar # 125974

PREVIOUS STIPULATION REJECTED

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 December 11, 1986.
- (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 21 pages, not including the order.

(Effective January 1, 2011)

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- (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):
- Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
  - Costs are to be paid in equal amounts prior to February 1 for the following membership years: the two billing cycles immediately following the effective date of the Supreme Court's order in this matter. (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.
- (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. See Attachment to Stipulation at p. 17.

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- (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. See Attachment to Stipulation at p. 17.
- (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. See Attachment to Stipulation at pp. 17-18.
- (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. See Attachment to Stipulation at p. 18.
- (5)  **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6)  **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7)  **Good Faith:** Respondent acted in good faith.
- (8)  **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9)  **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10)  **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11)  **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.

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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:**

See Attachment to Stipulation at p. 18.

**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:

(b)  The above-referenced suspension is stayed.

(2)  **Probation:**

Respondent must be 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)

(3)  **Actual Suspension:**

(a)  Respondent must be actually suspended from the practice of law in the State of California for a period of 90 days.

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:

**E. Additional Conditions of Probation:**

(1)  If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

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

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- (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 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.

- (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 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.
- (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 probation conditions.
- (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)  The following conditions are attached hereto and incorporated:
- |   |  |
|---|--|
| <input type="checkbox"/> Substance Abuse Conditions | <input checked="" type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input type="checkbox"/> Financial Conditions                        |

#### F. Other Conditions Negotiated by the Parties:

- (1)  **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without**

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**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)  **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3)  **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4)  **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5)  **Other Conditions:** As a condition of probation, Respondent shall pay the balance of \$6,540 due in sanctions to Chan Yeong Jeong, counsel for Jung Hee Ahn, and provide satisfactory proof of payment to the Office of Probation no later than six months after the effective date of the disciplinary order.

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In the Matter of: Jiyoung Kym	Case Number(s): 12-O-12753 and 12-O-16398
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### Law Office Management Conditions

- a.  Within 30 days/       months/       years of the effective date of the discipline herein, Respondent must develop a law office management/organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.
- b.  Within 30 days/       months/       years of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than one hours of Minimum Continuing Legal Education (MCLE) approved courses in law office management, attorney client relations and/or general legal ethics. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)
- c.  Within 30 days of the effective date of the discipline, Respondent must join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for year(s). Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California in the first report required.

Other:





5. On October 15, 2010, the court held a case management conference in the action. Respondent did not appear at the CMC on behalf of Atex and Lee. The court scheduled another CMC and a hearing on an order to show cause why sanctions should not be imposed for defendants' failure to appear at the CMC ("OSC") for November 29, 2010. On October 15, 2010, Ahn's counsel served notice of the November 29, 2010 CMC and OSC on Respondent. Respondent received the notice.

6. On October 19, 2010, Ahn's counsel served Respondent with a request for production of documents, set one; a request for admissions, set one; form interrogatories, set two, and special interrogatories, set one, propounded to Cross-Complainant Lee; and a request for production of documents, set two, propounded to Cross-Complainant Atex (collectively the "October discovery"). Responses to the October discovery were due on November 18, 2010 but were not received by Ahn's counsel. Respondent did not inform Lee of his receipt of the October discovery and did not respond to the October discovery on behalf of Lee.

7. On November 23, 2010, Jeong faxed a letter to Respondent about the overdue responses to the October discovery and demanded that the responses be served immediately. Respondent did not respond to Jeong's fax, serve responses to the October discovery, or request an extension to respond to the October discovery.

8. On November 29, 2010, Respondent did not appear at the CMC on behalf of Atex and Lee. The court struck the answer to the first amended complaint and entered default against Atex and Lee. On November 29, 2010, Ahn's counsel personally served Respondent with notice of the court's rulings.

9. On December 22, 2010, Ahn's counsel filed and served Respondent with motions to compel Lee and Atex to respond to the August discovery and for an order imposing monetary sanctions against Respondent and Lee and terminating sanctions. A hearing on the motions was set for March 15, 2011. Respondent received the motions and notice of the hearing. Respondent did not file any written response to the motions.

10. On January 4, 2011, Ahn's counsel filed and served Respondent with motions to compel Lee to respond to the October discovery and for an order imposing monetary sanctions against Respondent and Lee and terminating sanctions. A hearing on the motions was set for March 22, 2011. Respondent received the motions and notice of the hearing. Respondent did not file any written response to the motions.

11. On March 15, 2011, the court held a hearing on the motions to compel the August discovery. Respondent did not appear at the hearing on the motions. The court granted the motions to compel responses by Atex and Lee to the August discovery and ordered Atex and Lee to serve responses to the discovery, without objection, within 20 days of March 15, 2011; and ordered that the matters set forth in the request for admissions were deemed admitted as to Atex. The court further ordered that Atex, Lee, and Respondent pay sanctions in the amount of \$2,450 to Jeong forthwith. On March 15, 2011, Ahn's counsel personally served notice of the court's ruling on Respondent.

12. On March 22, 2011, the court held a hearing on the motions to compel the October discovery. Respondent did not appear at the hearing on the motions. The court granted the motions to compel responses by Atex and Lee to the October discovery and ordered Atex and Lee to serve responses to the discovery, without objection, within 20 days of March 22, 2011; and ordered that the matters set forth in the request for admissions were deemed admitted as to Lee. The court further

ordered that Lee, Atex and Respondent pay sanctions in the amount of \$2,450 to Jeong forthwith. On March 22, 2011, Ahn's counsel personally served notice of the court's ruling on Respondent.

13. On March 30, 2011, Jeong faxed a letter to Respondent. In the letter, Jeong requested payment of the sanctions, totaling \$4,900, by 3:00 p.m. on April 1, 2011 and informed Respondent that he would file a motion for additional sanctions if the \$4,900 was not received. Respondent received the letter but did not respond to Jeong's request. On April 11, 2011, Jeong faxed a letter to Respondent. In the letter, Jeong stated that he had not received the discovery responses from Atex and Lee. Respondent received but did not respond to Jeong's fax.

14. On April 15, 2011, Jeong faxed a letter to Respondent. In the letter, Jeong stated that he had not received the discovery responses from Atex and Lee. Respondent received but did not respond to Jeong's fax.

15. On May 25, 2011, Jeong filed a motion for terminating sanctions against Atex and Lee for failing to respond to discovery, failing to comply with the court's discovery orders, and failing to appear at hearings; for an order that the sanctions previously awarded on March 15 and 22, 2011 be delivered to Ahn's counsel forthwith; and for an award of additional monetary sanctions for attorney fees and costs incurred in bringing the motion. A hearing on the motion was set for June 22, 2011.

16. On June 22, 2011, the court heard and granted plaintiff's motion. The court ordered that Atex and Lee pay forthwith to Ahn \$2,140 as a sanction for attorney fees and costs incurred by Ahn, plus the \$4,900 in sanctions ordered on March 15 and 22, 2011, or a total of \$7,040, and dismissed the cross-complaint as a terminating sanction. On June 23, 2011, Ahn's counsel served notice of the court's order on Respondent by mail and fax. Respondent received the order. Respondent did not attempt to set aside the dismissal of the cross-complaint.

17. On January 6, 2012, the court entered judgment in the action against Lee in the amount of \$408,105.50. On January 6, 2012, Ahn's counsel served notice of the judgment on Respondent. Respondent received notice of the judgment. Respondent did not attempt to set aside the judgment.

18. Respondent did not inform Lee of the court's rulings on the motions, the sanctions, the dismissal of the cross-complaint, or the judgment.

19. Respondent has not completed payment of the \$7,040 in sanctions. However, Respondent made a partial payment of \$500 to Jeong on March 13, 2013.

#### CONCLUSIONS OF LAW:

20. By not responding to the August and October discovery; by not appearing at the CMC on October 15 and November 29, 2010; by not responding to the motions to compel responses to the August and October discovery or appearing at the hearings on the motions; and by not attempting to set aside the dismissal of the cross-complaint or the judgment in the action, Respondent failed to perform legal services with competence, in wilful violation of Rules of Professional Conduct, rule 3-110(A).

21. By not informing Lee of his receipt of the August and October discovery, the sanctions, the dismissal of the cross-complaint and the judgment, Respondent failed to inform a client of significant

developments in a matter in which Respondent had agreed to provide legal services, in wilful violation of Business and Professions Code section 6068(m).

22. By not paying Ahn any of the sanctions as ordered by the court until March 13, 2013, Respondent disobeyed and violated orders of the court requiring him to do an act connected with or in the course of Respondent's profession which he ought in good faith to do, in wilful violation of Business and Professions Code section 6103.

Case No. 12-O-16398 (Complainant: John Lee)

FACTS (The Grigio action):

23. On May 19, 2008, Respondent filed breach of contract lawsuit on behalf of his clients, John Lee ("Lee") and Lee's corporation, Atex Corporation ("Atex"), in the Los Angeles County Superior Court entitled, *Atex Corporation v. Grigio Creative, Inc., et al.*, case no. BC391080 (the "Grigio action"). Respondents' clients were seeking a collection of a debt owed.

24. On July 17, 2008, the court set a case management conference ("CMC") in the Grigio action for October 16, 2008. On or about July 18, 2008, Respondent received notice of the CMC from the court. In the notice, the court ordered Respondent to serve notice of the CMC on all parties or their attorneys of record and meet and confer with all parties or their attorneys of record no later than 30 days before the CMC. Also, the notice contained a warning that if Respondent failed to file a CMC statement or appear at the CMC, the court may impose sanctions.

25. On October 16, 2008, Respondent did not appear at the CMC. The court continued the CMC to November 6, 2008, and set a hearing for November 6, 2008 on an order to show cause re: sanctions against plaintiff for failing to appear at the CMC (the "OSC re: sanctions"). On October 16, 2008, the court served notice of the November 6, 2008 hearing on Respondent. Respondent received the notice.

26. On November 6, 2008, the court held the CMC and the OSC re: sanctions. Respondent appeared in the proceedings and represented that service would be affected on the defendant no later than November 14, 2008 and that the proof of service would be filed with the court. The court continued the CMC to December 5, 2008 and set a hearing on an order to show cause re: dismissal for failure to prosecute the Grigio action for December 5, 2008 (the "OSC re: dismissal"). Respondent received notice of the December 5, 2008 hearing.

27. Respondent was not able to serve the defendant and consequently, did not file proof of service on the defendant with the court. Respondent did not file a request for dismissal of the Grigio action.

28. On December 5, 2008, the court held the CMC and the OSC re: dismissal. Respondent did not appear for the proceedings. The court noted that no proof of service on the defendant had been filed despite Respondent's representation to the court on November 6, 2008. The court dismissed the Grigio action. On December 8, 2008, the court served notice of the court's ruling on Respondent by mail. Respondent received the notice.

29. Respondent took no further action to set aside the dismissal of the Grigio action. Respondent did not inform Lee of the dismissal of the Grigio action.

## CONCLUSIONS OF LAW:

30. By not appearing at the CMC on October 16, 2008 and by not appearing at the CMC and OSC re: dismissal on December 5, 2008, Respondent failed to perform legal services with competence, in wilful violation of Rules of Professional Conduct, rule 3-110(A).

31. By not informing Lee of the dismissal of the Grigio action, Respondent failed to inform a client of a significant development in a matter in which Respondent had agreed to provide legal services, in wilful violation of Business and Professions Code section 6068(m).

## FACTS (The Kyo action):

32. On March 4, 2010, Respondent filed breach of contract lawsuit on behalf of his clients John Lee ("Lee") and Lee's corporation, Atex Corporation ("Atex"), in the Los Angeles County Superior Court entitled, *Atex Corporation v. Kyo, Inc.*, case no. BC433127 (the "Kyo action"). Respondents' clients were seeking a collection of a debt owed.

33. On March 10, 2010, the court set a case management conference ("CMC") in the Kyo action for July 2, 2010. On or about March 10, 2010, Respondent received notice of the CMC from the court. In the notice, the court ordered Respondent to serve notice of the CMC on all parties or their attorneys of record and meet and confer with all parties or their attorneys of record no later than 30 days before the CMC. Also, the notice contained a warning that if Respondent failed to file a CMC statement or appear at the CMC, the court may impose sanctions.

34. On May 18, 2010, the court rescheduled the CMC in the Kyo action for July 20, 2010. On May 18, 2010, the court served notice of the July 20, 2010 CMC on Respondent. Respondent received the notice. In the notice, the court ordered Respondent to give notice of the CMC to all parties and to file proof of service of such notice with the court. Respondent was not able to obtain a current address for Kyo, Inc. as the company had folded, so Respondent was unable to serve Kyo, Inc. Respondent did not file a request for dismissal of the Kyo action.

35. On July 20, 2010, Respondent did not appear at the CMC. The court noted that no proof of service on the defendant and no CMC statement for the plaintiff had been filed. The court continued the CMC to September 29, 2010, and set a hearing for September 29, 2010 on an order to show cause why \$250 in sanctions should not be imposed against Respondent for failing to appear at the CMC, to file a proof of service on defendants and to file a CMC statement (the "OSC re: sanctions"). On July 20, 2010, the court served notice of the September 29, 2010 hearing on Respondent. Respondent received the notice.

36. On September 29, 2010, Respondent did not appear at the CMC or OSC re: sanctions. The court noted that no proof of service on the defendant, no CMC statement for the plaintiff, and no response to the OSC re: sanctions had been filed. The court continued the CMC to October 26, 2010 and set a hearing for October 26, 2010 on an order to show cause why the Kyo action should not be dismissed for plaintiff failing to appear on September 29, 2010, to respond to the court's prior orders, to file a CMC statement or to file proof of service on the defendant (the "OSC re: dismissal"). The court further ordered Respondent to pay a \$250 sanction to the Superior Court by October 26, 2010 for failing to comply with the court's July 20, 2010 order regarding the filing of a CMC statement and proof of service and for failing to appear at the CMC. On September 29, 2010, the court served notice of the

October 26, 2010 hearing and the court's ruling on Respondent. Respondent received the notice. Respondent did not pay the \$250 sanction until March 11, 2013.

37. On October 26, 2010, Respondent did not appear at the CMC or OSC re: dismissal, did not file a response to the OSC re: dismissal, and did not provide proof of payment of the \$250 sanction. The court dismissed the Kyo action without prejudice. On October 26, 2010, the court served notice of the court's ruling on Respondent. Respondent received the notice.

38. Respondent did not inform Lee of the dismissal of the Kyo action.

#### CONCLUSIONS OF LAW:

39. By not appearing at the CMC on July 20, 2010; by not appearing at the CMC and OSC re: sanctions on September 29, 2010; by not appearing at the CMC and OSC re: dismissal on October 26, 2010; and by not responding to the OSC re: dismissal, Respondent failed to perform legal services with competence, in wilful violation of Rules of Professional Conduct, rule 3-110(A).

40. By not paying the \$250 sanction until March 11, 2013, Respondent disobeyed or violated an order of the court requiring him to do an act connected with or in the course of Respondent's profession which he ought in good faith to do, in wilful violation of Business and Professions Code section 6103.

41. By not informing Lee of the dismissal of the Kyo action, Respondent failed to inform a client of a significant development in a matter in which Respondent had agreed to provide legal services, in wilful violation of Business and Professions Code section 6068(m).

#### FACTS (The Song action):

42. On June 11, 2010, Respondent filed breach of contract lawsuit on behalf of his clients John Lee ("Lee") and Lee's corporation, Atex Corporation ("Atex"), in the Los Angeles County Superior Court entitled, *Atex Corporation v. Seung Il Song*, case no. BC439608 (the "Song action"). Respondents' clients were seeking a collection of a debt owed. Seung Il Song ("Song") was the principal of a company that filed for bankruptcy protection. Lee requested that Respondent sue Song as an individual. Respondent was unable to affect service on Song.

43. As of September 30, 2010, Respondent had not filed proof of service of the summons and complaint pursuant to California Rules of Court, rules 3.110(b) and 3.110(c) and had not requested a dismissal of the Song action.

44. On September 30, 2010, the court set a hearing on its order to show cause for November 2, 2010 in the Song action (the "OSC"). On or about September 30, 2010, the court served notice of the OSC on Respondent by mail. Respondent received notice of the OSC. In the notice, the court ordered Respondent to show cause why sanctions should not be imposed against him for failure to file proof of service of the summons and complaint. In the notice, the court warned that the Song action could be dismissed if the proof of service of the summons and complaint was not filed with the court.

45. On November 2, 2010, Respondent did not appear at the OSC and did not file proof of service of the summons and complaint with the court. The court dismissed the Song action for failure to

prosecute the case. On November 2, 2010, the court served notice of the court's ruling on Respondent. Respondent received the notice.

46. Respondent did not inform Lee of the dismissal of the Song action.

#### CONCLUSIONS OF LAW:

47. By not appearing at the OSC on November 2, 2010, Respondent disobeyed and violated orders of the court requiring him to do an act connected with or in the course of Respondent's profession which he ought in good faith to do, in wilful violation of Business and Professions Code section 6103.

48. By not informing Lee of the dismissal of the Song action, Respondent failed to inform a client of a significant development in a matter in which Respondent had agreed to provide legal services, in wilful violation of Business and Professions Code section 6068(m).

#### FACTS (The Emma's Closet action):

49. On August 17, 2010, Respondent filed breach of contract lawsuit on behalf of his clients John Lee ("Lee") and Lee's corporation, Atex Corporation ("Atex"), in the Los Angeles County Superior Court entitled, *Atex Corporation v. Emma's Closet*, case no. BC443923 ("Emma's action"). Respondents' clients were seeking a collection of a debt owed.

50. On August 18, 2010, the court set a hearing on its order to show cause for October 18, 2010 in Emma's action (the "OSC"). On August 18, 2010, the court served notice of the OSC on Respondent by mail. Respondent received notice of the OSC. In the notice, the court ordered Respondent to show cause why sanctions should not be imposed against him for failure to file proof of service of the summons and complaint. In the notice, the court warned that Emma's action could be dismissed if the proof of service of the summons and complaint was not filed with the court.

51. On September 1, 2010, Respondent filed a first amended complaint on behalf of Lee and Atex in Emma's action.

52. On October 18, 2010, the court continued the OSC to December 15, 2010. Respondent waived notice. On December 15, 2010, Respondent appeared in court for the OSC. The court continued the OSC to January 25, 2011.

53. On January 25, 2011, the court discharged the OSC and set a hearing on an order to show cause re: dismissal (the "OSC re: dismissal") for February 25, 2011. On January 26, 2011, the court served notice of the OSC re: dismissal on Respondent by mail. Respondent received notice of the OSC re: dismissal. In the notice, the court warned that the failure to comply with the court's order or to appear for the OSC re: dismissal may result in dismissal of Emma's action.

54. On February 25, 2011, Respondent appeared at OSC re: dismissal. The court continued the OSC re: dismissal to March 25, 2011. Respondent received notice of the continuance.

55. On March 25, 2011, Respondent did not appear at the OSC re: dismissal. The court dismissed Emma's action without prejudice for failure to prosecute the action. On March 25, 2011, the court served notice of the court's ruling on Respondent. Respondent received the notice.

56. Respondent took no further action to set aside the dismissal of Emma's action on behalf of Lee and Atex. Respondent did not inform Lee of the dismissal of Emma's action.

#### CONCLUSIONS OF LAW:

57. By not appearing at the OSC re: dismissal on March 25, 2011 and by taking no action to set aside the dismissal of Emma's action on behalf of Lee and Atex, Respondent failed to perform legal services with competence, in wilful violation of Rules of Professional Conduct, rule 3-110(A).

58. By not informing Lee of the dismissal of the Emma's action, Respondent failed to inform a client of a significant development in a matter in which Respondent had agreed to provide legal services, in wilful violation of Business and Professions Code section 6068(m).

#### FACTS (The Chey Rin Park action):

59. On December 12, 2008, Chey Rin Park ("Park") filed a Chapter 7 bankruptcy petition in the United States Bankruptcy Court, Central District, case no. 2:08-bk-31659-BR.

60. On June 2, 2009, Respondent filed an adversary complaint in the bankruptcy in the name of Atex Corporation ("Atex") on behalf of his clients, John Lee ("Lee") and Lee's corporation, Atex. In the adversary complaint, Respondent requested a judicial determination that an alleged debt owed by Park to Atex was non-dischargeable under 11 U.S.C. §523(a)(2) and 11 U.S.C. §523(a)(6).

61. On July 6, 2009, Park's counsel filed a motion to dismiss the adversary complaint on the ground that the adversary complaint was not timely filed by March 9, 2009, the deadline for objecting to the discharge, and on the ground that no facts were alleged to support the complaint. In the motion to dismiss, Park's counsel sought monetary sanctions under rule 9011 of the Federal Rules of Bankruptcy Procedure ("rule 9011") for filing the motion to dismiss without just cause. On July 6, 2009, the Park's counsel served the motion to dismiss by mail on Respondent. Respondent received the motion to dismiss. Respondent did not oppose the motion to dismiss.

62. On August 12, 2009, the court granted the motion to dismiss and granted monetary sanctions under rule 9011, thereby concluding that the adversary complaint was filed without just cause. Particularly, the court ordered that Atex and Respondent jointly pay \$1,722.50 as sanctions to Park no later than 30 days from August 11, 2009, or by September 10, 2009, for the attorney fees incurred by Park in bringing the motion to dismiss the adversary complaint.

63. On August 12, 2009, the court served a copy of the court's order regarding the motion to dismiss on Respondent via electronic mail and by regular mail. Respondent received a copy of the order. Respondent did not inform Lee of the dismissal of the adversary complaint or of the imposition of the \$1,722.50 sanction against Atex. Respondent did not report the imposition of the \$1,722.50 sanction against him to the State Bar of California.

64. On September 1, 2009, Park's counsel mailed a letter to Respondent with a copy of the court's order regarding the motion to dismiss as a reminder that payment of the sanction was due by September 10, 2009. Respondent did not pay the sanction to Park by September 10, 2009. Park's counsel received no communication from Respondent, Atex or Lee regarding payment of the sanctions.

65. On September 15, 2009, Park's counsel faxed and mailed another letter to Respondent with copies of his September 1, 2009 letter and the court's order regarding the motion to dismiss. In the letter, Park's counsel requested payment of the sanction by the close of business on September 18, 2009 and stated that he would seek an order to show cause re: contempt for failure to pay the sanction and request additional sanctions for having to seek the order. Respondent received the letter. Respondent did not pay the sanction by September 18, 2009 or respond to the September 15, 2009 letter.

66. On September 25, 2009, Park's counsel filed an application for an order to show cause re: contempt for the failure to pay the sanction and for additional sanctions of \$975 under 11 U.S.C. §105 and rule 9011 (the "application"). On September 25, 2009, Park's counsel served the application on Respondent by mail. Respondent received the application.

67. On October 26, 2009, the court issued an order to show cause re: contempt for failure to pay the sanction and re: additional monetary sanctions (the "OSC") and set a hearing on the OSC for November 24, 2009. On October 26, 2009, the court served the OSC on Respondent by mail. Respondent received the OSC. On October 28, 2009, Park's counsel served notice of the hearing on the OSC on Respondent and Lee by mail. Respondent received the notice of the hearing on the OSC.

68. On November 24, 2009, the court held the hearing on the OSC. Respondent appeared at the hearing for himself and Atex. Respondent did not file a written opposition to the OSC for himself or for Atex. The court granted the application for sanctions and ordered that Respondent and Atex jointly pay sanctions in the total sum of \$2,697.50 to Park for the attorney fees he incurred in applying to the court for the OSC and for additional sanctions. The court ordered that the sanctions be paid no later than January 25, 2010.

69. On December 9, 2009, the court entered its order regarding the OSC. On December 11, 2009, the court served notice of the order regarding the OSC on Respondent by mail. Respondent received the notice of the order. Respondent did not inform Lee of the imposition of the \$2,697.50 sanction against Atex. Respondent did not report the imposition of the \$2,697.50 sanction against him to the State Bar of California. On January 25, 2010, Respondent paid the \$2,697.50 sanction to Park's counsel.

#### CONCLUSIONS OF LAW:

70. By filing the adversary complaint for Atex without just cause, Respondent failed to counsel or maintain such action, proceedings, or defenses only as appear to him legal or just, in wilful violation of Business and Professions Code section 6068(c).

71. By not informing Lee of the dismissal of the adversary complaint, or of the imposition of the \$1,722.50 and \$2,697.50 sanctions against Atex, Respondent failed to inform a client of significant developments in a matter in which Respondent had agreed to provide legal services, in wilful violation of Business and Professions Code section 6068(m).

72. By not reporting the imposition of the \$1,722.50 and \$2,697.50 sanctions against him to the State Bar of California, Respondent failed 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, in wilful violation of Business and Professions Code section 6068(o)(3).



73. By not paying the sanction to Park by September 10, 2009, Respondent disobeyed or violated an order of the court requiring him to do an act connected with or in the course of Respondent's profession which he ought in good faith to do, in wilful violation of Business and Professions Code section 6103.

**FACTS (As to all matters):**

74. In February 2012, Respondent apologized to his client Lee for his misconduct. To make amends to his client Lee, Respondent gave Lee twenty-four \$1,000 checks, including post-dated checks, dated between April 13, 2012 and April 10, 2013. To date, Lee has cashed 18 of the \$1,000 checks for a total of \$18,000.

**ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.**

**Harm:**

Respondent's misconduct caused significant harm to his client and to the public. In *Ahn v. Atex*, Respondent's misconduct led to the imposition of \$7,040 in sanctions against Respondent and his clients in March and June 2011, the dismissal of his client's cross-complaint on June 22, 2011 and to a judgment against his client in the amount of \$408,105.50 on January 6, 2012. Respondent did not timely pay the monetary sanctions due to the opposing party. In *Atex v. Emma's Closet*, Respondent's misconduct led to the dismissal of his client's breach of contract action on March 25, 2011.

In the Chey Rin Park bankruptcy, Respondent's misconduct led to the imposition of a \$1,722.50 sanction against Respondent's client and Respondent on August 12, 2009. Respondent did not timely pay the sanction to opposing counsel, which resulted in another \$2,697.50 sanction against Respondent's client. Respondent did not report to the State Bar the \$1,722.50 sanction imposed on Respondent in August 2009 and the \$2,697.50 sanction imposed on Respondent in November 2009, causing harm to the administration of justice, as the State Bar was not made aware of Respondent's misconduct in 2009 which permitted Respondent to continue to practice law without discipline by the State Bar.

**Multiple/Pattern of Misconduct:**

Respondent committed multiple acts of misconduct including failing to perform in four client matters, to communicate significant developments in six client matters, to comply with the court's order to show cause in one client matter; to timely pay six sanctions in three client matters, and to report two sanctions to the State Bar; and filing an unjust adversary complaint in a bankruptcy case.

**ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.**

**Candor/Cooperation:** Respondent was candid with the State Bar during its investigation and proceedings. Respondent acknowledged that he was not as diligent as he should have been in dealing with the matters for his clients, John Lee and Atex Corporation, and that time management was his biggest problem. Respondent had represented these clients for over 10 years. He exercised poor judgment by agreeing to pursue the collection actions and the adversary complaint when the chance of recovering any money was low in order to please his long-term clients. Respondent acknowledged that he did not have an effective calendaring system in place which led to his failure to meet deadlines and to his missed appearances. Also, Respondent has stipulated to misconduct at an early stage of the

proceedings. Respondent thereby demonstrated his recognition of wrongdoing and cooperation with the State Bar and saved the State Bar's resources. (Standard 1.2(e)(v); *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 50.)

**Remorse:** Respondent expressed remorse to his client, John Lee, for his misconduct. To make amends to his client, Respondent gave Lee twenty-four \$1,000 checks, including post-dated checks, dated between April 13, 2012 and April 10, 2013. To date, Lee has cashed 18 of the \$1,000 checks for a total of \$18,000.

**Additional Mitigating Circumstances:**

Respondent was admitted to the State Bar on December 11, 1986 and had no prior discipline before his misconduct began in December 2008. His 22 years of practice without prior discipline before the misconduct occurred is entitled to significant weight in mitigation. (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 [over 10 years of discipline-free practice worth significant weight in mitigation].)

At the time of the misconduct, Respondent was dealing with the stress of caring for his elderly, ailing mother who resides in Korea. Respondent had to travel to Korea, sometimes on short notice, to take care of his mother. Also, Respondent was suffering from stress caused by his marital problems and his health issues (hypertension, for which he takes medication). Respondent has not provided an expert opinion that these stressors had a nexus to his misconduct, but these stressors led to his agreeing to pursue the collection actions and the adversary complaint when the chance of recovering any money was low in order to maintain his long-term attorney-client relationship with John Lee and Atex Corporation. These stressors also negatively impacted Respondent's ability to devote his full attention to their matters, including the time to promptly request dismissals of the Grigio, Kyo and actions when proceeding with the actions was no longer feasible. (*In the Matter of Kaplan* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547, 546 [limited mitigation for marital and family problems in absence of expert testimony establishing nexus to misconduct]; *Ainsworth v. State Bar* (1988) 46 Cal.3d 1218, 1228-1229 [ulcerative colitis].)

**AUTHORITIES SUPPORTING DISCIPLINE.**

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline as announced by the Supreme Court." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed are "the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession." (*In re Morse* (1995) 11 Cal.4th 184, 205; std 1.3.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silvertown* (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.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Respondent admits to committing multiple acts of professional misconduct. Standard 1.6 (a) requires that where a Respondent acknowledges two or more acts of misconduct, and different sanctions are prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards.

The most severe sanction applicable to Respondent's misconduct is found in standard 2.6, which applies to Respondent's violations of Business and Professions Code sections 6068(c) and 6103. Standard 2.6 provides that culpability of a member of a violation of any of the following provisions of the Business and Professions Code shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3:

Respondent committed serious misconduct in six matters involving two long-term clients, John Lee and his business, Atex Corporation. Respondent's misconduct included failing to perform for and communicate with the client in four matters, maintaining an unjust action for the client, failing to obey court orders to show cause or to pay sanctions, and failing to report two of the sanctions to the State Bar. Respondent's misconduct spanned from October 2008 to January 2012, and included harm to his client, the public and the administration of justice. Respondent's misconduct did not involve moral turpitude, however, and stemmed from his deficient time-management skills and failure to calendar court dates, and it occurred at a time when he was dealing with marital, family and health problems. Instead of declining to represent the client on matters which had a low chance of recovery, Respondent sought to maintain his relationship with the long-term client and took on cases at a time when he was unable to devote his full attention to them. With due regard to the purposes of imposing discipline, the extent of Respondent's misconduct and the harm caused to his client warrant a period of actual suspension. Respondent's misconduct is mitigated by his lack of prior discipline over many years in practice, his candor and cooperation during the State Bar's proceedings; remorse and recognition of wrongdoing, and belated restitution to the victims of his misconduct. Respondent has been making payments to his client totaling \$18,000 to date to address the harm caused by his misconduct, and he has made a late, partial payment toward the \$7,040 in sanctions due to the opposing party. Therefore, an actual suspension of 90 days, with the requirement that Respondent comply with California Rules of Court, rule 9.20, is appropriate to protect the public, the court and the legal profession, as well as to maintain high professional standards by attorneys and preserve public confidence in the legal profession.

This disposition is consistent with Supreme Court case law where failures to perform and abandonment of clients not involving a pattern of misconduct has resulted in stayed suspension or an actual suspension up to 90 days even with no prior record of discipline. (See *Layton v. State Bar* (1991) 50 Cal.3d 889 [30 day actual suspension for abandonment of a single trust/estate matter with no prior discipline in 30 years]; *King v. State Bar* (1990) 52 Cal.3d 307 [three months actual suspension for abandonment in two client matters with no prior misconduct and substantial mitigation]; *Harris v. State Bar* (1990) 51 Cal.3d 1082 [90 days actual for abandonment of single client matter; no prior discipline in 10 years]; *Van Sloten v. State Bar* (1989) 48 Cal.3d 921 [stayed suspension, no actual, for abandonment of a single client matter; no prior discipline].)

## **PENDING PROCEEDINGS.**

The disclosure date referred to on page 2, paragraph A(7), was February 22, 2013.

## **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of February 6, 2013, the prosecution costs in this matter are \$4,172.50. 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 and/or any other educational course(s) to be ordered as a condition of suspension. (Rules Proc. of State Bar, rule 3201.)



(Do not write above this line.)

In the Matter of: Jiyoun Kym	Case Number(s): 12-O-12753 and 12-O-16398
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### ACTUAL 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 4 of the stipulation under part D(1)(a), the period of stayed suspension is increased to two (2) years.
2. On page 4 of the stipulation under part D(2), the period of probation is increased to three (3) 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

4-8-13

  
GEORGE E. SCOTT, JUDGE PRO TEM  
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 April 10, 2013, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION**

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:

**JIYOUNG KYM  
LAW OFCS JIYOUNG KYM  
3435 WILSHIRE BLVD STE 2600  
LOS ANGELES, CA 90010**

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

**DIANE J. MEYERS, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 10, 2013.



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Tammy Cleaver  
Case Administrator  
State Bar Court