



FILED

FEB 04 2016

STATE BAR COURT OF CALIFORNIA

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of)	Case No. 12-O-15437-PEM
)	
PHYLLIS VOISENAT,)	
)	ORDER GRANTING RESPONDENT'S
Member No. 159095,)	MOTION TO DISMISS WITHOUT
)	PREJUDICE
A Member of the State Bar.)	
_____)	

TO ALL PARTIES AND COUNSEL IN THE ABOVE ENTITLED MATTER:

On January 11, 2016, respondent Phyllis Voisenat, through her counsel, Marc Voisenat, filed a motion to dismiss the Notice of Disciplinary Charges (NDC) for failure to provide her an opportunity for an Early Neutral Evaluation Conference (ENE) and failure to state a disciplinable offense.

On January 26, 2016, Senior Trial Counsel Sherrie B. McLetchie of the Office of the Chief Trial Counsel of the State Bar (State Bar) opposed respondent's motion.

After the February 1, 2016 initial status conference, respondent filed a supplemental declaration on February 2, providing evidence that the State Bar's December 10, 2015 letter notice of intent to file notice of disciplinary charges was addressed to respondent as "Phyllis Voisenat," instead of her professional business name – "Phyllis Voisenat, Esq." As such, her mail delivery was delayed and she received the letter on December 30, 2015. Consequently, she

was barred from requesting an ENE since the NDC had already been filed on December 23, 2015.

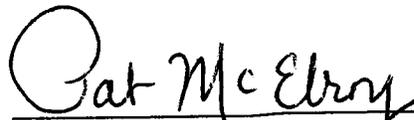
In deliberating respondent's motion to dismiss, the court considers these essential factors: (1) respondent's diligence in seeking relief; (2) lack of prejudice to the State Bar; and (3) the nature of the mistake.

Here, respondent was diligent in seeking relief once she learned of the NDC and the letter. There is no prejudice to the State Bar if the NDC is dismissed without prejudice. And the mistake in addressing respondent not in her professional business name was inadvertent but caused the delay in respondent receiving her mail in a timely manner. Therefore, the court finds that respondent was denied a significant procedural opportunity to resolve the matter before the NDC was filed when she was not afforded the right to request an ENE. (*In the Matter of Respondent AA* (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 721 [affirming a dismissal order without prejudice, in the furtherance of justice, where an attorney's request for an ENE was denied].)

THEREFORE, GOOD CAUSE HAVING BEEN SHOWN, the court hereby **GRANTS** respondent's motion to dismiss the NDC without prejudice in the furtherance of justice.

IT IS SO ORDERED.

Dated: February 4, 2016



PAT McELROY
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 February 4, 2016, I deposited a true copy of the following document(s):

ORDER GRANTING RESPONDENT'S MOTION TO DISMISS WITHOUT PREJUDICE

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:

MARC E. VOISENAT
1330 BROADWAY STE 734
OAKLAND, CA 94612

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

Sherrie B. McLetchie, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on February 4, 2016.


Laurretta Cramer
Case Administrator
State Bar Court