

PUBLIC MATTER

FILED

JUN 28 2013

**STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES**

STATE BAR OF CALIFORNIA
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STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of:)	Case No. 12-O-16226
ANTHONY ROBERT LOPEZ, JR.,)	NOTICE OF DISCIPLINARY CHARGES
No. 137401,)	
)	
<u>A Member of the State Bar.</u>)	

NOTICE - FAILURE TO RESPOND!

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

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



1 The State Bar of California alleges:

2 JURISDICTION

3 1. Anthony Robert Lopez, Jr. ("Respondent") was admitted to the practice of law in the
4 State of California on December 7, 1988, was a member at all times pertinent to these charges,
5 and is currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 12-O-16226
8 Rules of Professional Conduct, rule 3-110(A)
9 [Failure to Perform with Competence]

10 2. Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A), by
11 intentionally, recklessly, or repeatedly failing to perform legal services with competence, as
12 follows:

13 3. On or about May 25, 2007, David Baez ("David") and Miguel Baez ("Miguel") were
14 involved in a car accident. David was the driver of the vehicle involved in the accident. Miguel
15 was a passenger in David's vehicle.

16 4. On or about July 10, 2007, David and Miguel signed a fee agreement retaining
17 Respondent to represent them in a personal injury matter arising from the May 25, 2007 car
18 accident. Pursuant to the fee agreement, Respondent would receive a contingency fee of 25% if
19 the claim resolved within six (6) months from the date of the accident and before the filing of a
20 lawsuit or request for arbitration, 40% if the claim resolved after six (6) months from the date of
21 the accident and before the filing of a lawsuit or request for arbitration, and 45% after the filing
22 of a lawsuit or request for arbitration.

23 5. The medical providers that treated David in connection with the car accident were St.
24 Louis Regional Hospital, Doctors Medical Center, Hazel Hawkins Memorial Hospital,
25 Foundation San Benito Clinics, NMCI, Hector Cervantes, D.P.M. ("Cervantes"), Santa Clara
26 Imaging, Sunnyvale Imaging Center ("Sunnyvale"), Bay Area Anesthesia, Bay Area Surgical
27 Group ("Bay Area") and Michael Esposito ("David's medical providers").
28

1 6. The medical providers that treated Miguel in connection with the car accident were
2 CalStar-Air Rescue, Regional Medical Center, Northern California Trauma Medical, and Central
3 Valley Imaging ("Miguel's medical providers").

4 7. On or about October 29, 2007, Respondent signed a medical lien for David with
5 Cervantes. Cervantes' bill for medical services provided to David totaled \$18,700. Respondent
6 had notice of the amount of the bill.

7 8. On or about November 2, 2007, Respondent signed a medical lien for David with
8 Sunnyvale. Sunnyvale's bill for medical services provided to David totaled \$1,983. Respondent
9 had notice of the amount of the bill.

10 9. On or about February 29, 2008, Respondent signed a medical lien for David with Bay
11 Area. Bay Area's bill for medical services provided to David totaled \$56,493. Respondent had
12 notice of the amount of the bill.

13 10. On or about February 27, 2009, Respondent, on behalf of David and Miguel, filed a
14 personal injury action against the third party defendant ("defendant") who they claimed was
15 responsible for the May 25, 2007 accident, in San Benito County Superior Court, case number
16 CU09-00017.

17 11. On or about December 15, 2009, at mediation, Respondent settled David's personal
18 injury claim for \$40,000 and Miguel's personal injury claim for \$72,500 with the insurance
19 company for the defendant.

20 12. On or about December 16, 2009, the insurance company for the defendant sent
21 Respondent settlement check number 00674678 in the amount of \$40,000 and made payable to
22 Respondent's law office and David and settlement check number 00674679 in the amount of
23 \$72,500 and made payable to Respondent's law office and Miguel.

24 13. On or about December 31, 2009, Respondent deposited check number 00674678, in
25 the amount of \$40,000 into his client trust account maintained at Wells Fargo Bank, account
26 number *****0592 ("CTA").¹ Of that amount, Respondent collected 40% or \$16,000 as his
27

28 ¹ Only the partial number is provided due to privacy reasons.

1 fees and \$5,287.14 in costs. Thereafter, Respondent was required to maintain \$18,712.86 in the
2 CTA for the benefit of David and his medical lien holders.

3 14. On or about December 31, 2009, Respondent deposited check number 00674679, in
4 the amount of \$72,500 into his CTA. Of that amount, Respondent collected 40% or \$29,000 as
5 his fees and \$5,287.86 in costs.

6 15. On or about January 5, 2010, Respondent issued five (5) checks, each in the amount
7 of \$1,000, to David and seven (7) checks, each in the amount of \$1,000, to Miguel. At the time
8 that Respondent issued the seven (7) checks to David, Respondent had not yet paid David's bills
9 with the medical lien holders Cervantes, Sunnyvale, and Bay Area. After Respondent issued the
10 seven (7) checks to David totaling \$7,000, only \$11,712.86 remained in Respondent's CTA to
11 pay medical lien holders Cervantes, Sunnyvale, and Bay Area, whose combined outstanding
12 medical bills totaled \$77,176.

13 16. Between in or about March 2010 and in or about June 2010, David and Miguel
14 repeatedly telephoned Respondent and left messages with Respondent's staff inquiring about the
15 status of the remaining settlement funds. Respondent received the voicemail messages, but did
16 not contact David or Miguel.

17 17. Respondent represented to the State Bar that, on or about May 14, 2010, Respondent
18 sent letters to David's medical providers and Miguel's medical providers advising that a
19 settlement was reached, but that the medical bills for both David and Miguel exceeded the
20 amount of the settlement reached. Respondent requested that David's medical providers and
21 Miguel's medical providers contact Respondent to discuss the reduction of the medical bills.

22 18. In or about June 2010, on behalf of David and Miguel, attorney Michael Millen
23 ("Millen") contacted Respondent and requested a status of the remaining funds. Or about June
24 17, 2010, Respondent sent a letter to Millen claiming that he was "diligently working to
25 negotiate major reductions on each outstanding medical bill."

26 19. On or about July 14, 2010, on behalf of David and Miguel, Millen sent a letter to
27 Respondent requesting an accounting of the remaining settlement funds and copies of
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1 Respondent's correspondence with David's medical providers and Miguel's medical providers.
2 On or about July 22, 2010, Respondent sent a response letter to Millen stating that he was in the
3 process of negotiating with David's medical providers and Miguel's medical providers and that it
4 was likely that Respondent would be required to file an interpleader in order to distribute the
5 remaining funds. Respondent did not enclose any copies of correspondence with any of David's
6 medical providers or Miguel's medical providers.

7 20. Respondent represented to the State Bar that, on or about August 17, 2010,
8 Respondent sent follow-up letters to David's medical providers and Miguel's medical providers
9 proposing a pro-rata distribution of the remaining settlement funds. Respondent advised that he
10 would file an interpleader action if an agreement could not be obtained from David's medical
11 providers or Miguel's medical providers.

12 21. Respondent represented to the State Bar that, on or about April 5, 2011, Respondent
13 sent follow-up letters to David's medical providers and Miguel's medical providers once again
14 proposing a pro-rata distribution of the remaining settlement funds. Respondent repeated that he
15 would file an interpleader action if an agreement could not be obtained from David's medical
16 providers and Miguel's medical providers.

17 22. On or about June 23, 2011, Respondent issued check number 14216 from his CTA
18 payable to Sunnyvale for full and final payment of the medical bill incurred by David, in the
19 amount of \$1,000.

20 23. To date, Respondent has not disbursed any further funds to David or Miguel or to
21 anyone else on their behalf.

22 24. After on or about April 5, 2011, Respondent took no further action to negotiate the
23 remaining medical bills for David or Miguel or otherwise resolve the matter on behalf of David
24 and Miguel.

25 25. On or about December 7, 2012, Respondent filed an interpleader action in Santa
26 Clara County Superior Court, case number 112CV237374 ("interpleader") to determine how the
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1 remaining settlement funds should be distributed between David's medical providers, Miguel's
2 medical providers, David, and Miguel.

3 26. Prior to filing the interpleader, Respondent did not notify either David or Miguel that
4 he intended to file the interpleader to determine how the remaining settlement funds should be
5 distributed between David's medical providers, Miguel's medical providers, David, and Miguel.
6 Respondent did not notify Miguel that he filed the interpleader until on or about May 31, 2013.
7 To date, Respondent has not notified David that he filed the interpleader.

8 27. By failing to take further action to negotiate the remaining medical bills for David
9 and Miguel after on or about April 5, 2011 and by failing to file the interpleader until on or about
10 December 7, 2012 to determine how the remaining settlement funds should be distributed,
11 Respondent intentionally, recklessly, or repeatedly failed to perform legal services with
12 competence.

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14 COUNT TWO

15 Case No. 12-O-16226
16 Business and Professions Code, section 6068(m)
[Failure to Inform Client of Significant Development]

17 28. Respondent wilfully violated Business and Professions Code, section 6068(m), by
18 failing to keep a client reasonably informed of significant developments in a matter in which
19 Respondent had agreed to provide legal services, as follows:

20 29. The allegations of Count One are incorporated by reference.

21 30. By failing to notify David and Miguel that he intended to file the interpleader to
22 determine how the remaining settlement funds should be distributed, by failing to notify Miguel
23 that he filed the interpleader until on or about May 31, 2013, and by failing to notify David that
24 he filed the interpleader, Respondent failed to keep a client reasonably informed of significant
25 developments in a matter in which Respondent had agreed to provide legal services.

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2 COUNT THREE

3 Case No. 12-O-16226
4 Business and Professions Code, section 6068(m)
[Failure to Respond to Client Inquiries]

5 31. Respondent wilfully violated Business and Professions Code, section 6068(m), by
6 failing to respond promptly to reasonable status inquiries of a client in a matter in which
7 Respondent had agreed to provide legal services, as follows:

8 32. The allegations of Count One are incorporated by reference.

9 33. By failing to respond to David's and Miguel's repeated status inquiries between in or
10 about March 2010 and in or about June 2010, Respondent failed to respond promptly to
11 reasonable status inquiries of a client in a matter in which Respondent had agreed to provide
12 legal services.

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14 COUNT FOUR

15 Case No. 12-O-16226
16 Rules of Professional Conduct, rule 3-310(C)(2)
[Potential Conflict - Representing Multiple Clients]

17 34. Respondent wilfully violated Rules of Professional Conduct, rule 3-310(C)(1), by
18 accepting and continuing representation of more than one client in a matter in which the interests
19 of the clients actually conflicted without the informed written consent of each client, as follows:

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

21 36. On or about May 25, 2007, the responding police officers found that David was under
22 the influence of narcotics while operating a motor vehicle at the time David and Miguel were
23 involved in the car accident.

24 37. There was an actual conflict between David's interests and Miguel's interests at the
25 time David and Miguel hired Respondent.

26 38. Prior to accepting representation of both David and Miguel, Respondent failed to
27 obtain informed written consent from David and Miguel.

1 39. By failing to obtain informed written consent from David and Miguel, Respondent
2 accepted representation of more than one client in a matter in which the interests of the clients
3 actually conflicted without the informed written consent of each client.

4
5 COUNT FIVE

6 Case No. 12-O-16226
7 Rules of Professional Conduct, rule 4-100(A)
[Failure to Maintain Client Funds in Trust Account]

8 40. Respondent wilfully violated Rules of Professional Conduct, rule 4-100(A), by failing
9 to maintain the balance of funds received for the benefit of a client and deposited in a bank
10 account labeled "Trust Account," "Client's Funds Account" or words of similar import, as
11 follows:

12 41. The allegations of Count One are incorporated by reference.

13 42. By signing the medical liens of Cervantes, Sunnyvale, and Bay Area, Respondent
14 assumed fiduciary duties to those medical providers to maintain David's settlement funds in trust
15 until the liens were paid or otherwise resolved. However, Respondent failed to do that and
16 instead disbursed \$7,000 to David before the medical liens were paid or otherwise resolved.

17 43. By failing to maintain \$18,712.86 in the CTA for the benefit of David and his
18 medical lien holders, Cervantes, Sunnyvale, and Bay Area, and by disbursing \$7,000 of the
19 remaining \$18,712.86 in settlement funds to David before paying or otherwise resolving the
20 outstanding bills totaling \$77,176 of David's medical lien holders Cervantes, Sunnyvale, and
21 Bay Area, Respondent failed to maintain the balance of funds received for the benefit of a client
22 and deposited in a bank account labeled "Trust Account," "Client's Funds Account" or words of
23 similar import.

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25 NOTICE - INACTIVE ENROLLMENT!

26 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR**
27 **COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE**
28 **SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL**
THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO
THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN

1 INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE
2 ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE
3 RECOMMENDED BY THE COURT.

4 **NOTICE - COST ASSESSMENT!**

5 IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC
6 DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS
7 INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING
8 AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND
9 PROFESSIONS CODE SECTION 6086.10.

10 Respectfully submitted,

11 THE STATE BAR OF CALIFORNIA
12 OFFICE OF THE CHIEF TRIAL COUNSEL

13 DATED: June 28, 2013

14 By:

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16 Lara Bairamian
17 Deputy Trial Counsel
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DECLARATION OF SERVICE

by

U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): **12-O-16226**

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 1149 South Hill Street, Los Angeles, California 90015, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

NOTICE OF DISCIPLINARY CHARGES

☐

By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))

- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles.

☒

By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))

☐

By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))

- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ("UPS").

☐

By Fax Transmission: (CCP §§ 1013(e) and 1013(f))

Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.

☐

By Electronic Service: (CCP § 1010.6)

Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☐

(for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at Los Angeles, addressed to: *(see below)*

☒

(for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested,

Article No.: 7160 3901 9845 4873 0005 at Los Angeles, addressed to: *(see below)*

☐

(for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS,

Tracking No.: addressed to: *(see below)*

Person Served	Business-Residential Address	Fax Number	Courtesy Copy to:
James I. Ham	Pansky Markle Ham LLP 1010 Sycamore Avenue Suite 308 South Pasadena, California 91030	Electronic Address	

☐

via inter-office mail regularly processed and maintained by the State Bar of California addressed to:

N/A

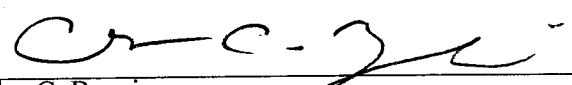
I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ("UPS"). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

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

DATED: June 28, 2013

SIGNED:


Charles C. Bagai
Declarant