

PUBLIC MATTER

FILED

OCT 29 2013

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL
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STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of:) Case No. 12-O-16459
RAYMUNDO PACELLO, Jr.,)
No. 207694,) NOTICE OF DISCIPLINARY CHARGES
A Member of the State Bar.)

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.

The State Bar of California alleges:

JURISDICTION

1. Raymundo Pacello, Jr. (Respondent) was admitted to the practice of law in the State
of California on June 9, 2000, was a member at all times pertinent to these charges, and is



1 currently a member of the State Bar of California.

2 COUNT ONE

3 Case No. 12-O-16459
4 Rules of Professional Conduct, rule 3-110(A)
5 [Failure to Perform with Competence]

6 2. On or about May 14, 2012, Esther Edwards employed Respondent to perform legal
7 services, namely represent her in a personal injury matter against a defendant represented by
8 Allstate Insurance Inc., which Respondent intentionally, recklessly, or repeatedly failed to
9 perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A),
10 by the following:

11 After Edwards' PI matter settled, between on or about July 16, 2012 and in or about
12 November 2012, Respondent made no attempt to reduce Edwards' medical liens or to pay
13 any of her medical liens despite having knowledge of the liens.

14 COUNT TWO

15 Case No. 12-O-16459
16 Business and Professions Code, section 6106
17 [Moral Turpitude - Forgery]

18 3. On or about July 16, 2012, Respondent, or someone at Respondent's direction, placed
19 the signature of Esther Edwards on Edwards' settlement check without Edwards' knowledge
20 and/or consent and placed the signature of James Parziale on Edwards' settlement check without
21 James Parziale's knowledge and/or consent, and deposited the settlement check, or caused it be
22 deposited, into Respondent's client trust account maintained at US Bank when Respondent
23 knew, or was grossly negligent in not knowing, that neither Edwards nor Parziale signed the
24 settlement check nor gave their permission for Respondent or anyone else to sign their names to
25 the settlement check, thereby committing an act involving moral turpitude, dishonesty or
26 corruption in willful violation of Business and Professions Code, section 6106.

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COUNT THREE

Case No. 12-O-16459
Rules of Professional Conduct, rule 4-100(A)
[Commingle Personal Funds in Client Trust Account]

4. From in or about August 2012 through October 2012, Respondent did not promptly remove funds which Respondent had earned as fees from Respondent's client trust account at US Bank, account no. xxxx xxxx 0842 and during the same period issued the following checks from those funds in said account for the payment of personal expenses, in willful violation of Rules of Professional Conduct, rule 4-100(A):

<u>Check</u>	<u>Payee</u>	<u>Check Date</u>	<u>Check Amount</u>
0000 ¹	Wilow Tia Ann Perys	8/13/12	\$1,000
0000	Janine Menhennet	8/15/12	\$373
0000	7 th Avenue Cleaners	8/15/12	\$102.97
0000	Adrian Rowe	8/15/12	\$97.50
0000	Stephanie Kelley	9/20/12	\$91.22
0004	Clerk of the Court	10/15/12	\$435
0006	Clerk of the Court	10/15/12	\$435

COUNT FOUR

Case No. 12-O-16459
Business and Professions Code, section 6104
[Appearing for Party without Authority]

5. On or about October 16, 2012, Respondent corruptly or willfully, and without authority, appeared as attorney for a party to an action or proceeding, namely Esther Edwards, by filing a lawsuit against James Parziale for tortious interference with prospective economic advantage, among other things, in *Edwards v. Parziale et al.*, San Diego Superior Court, 37-2012-53577, in willful violation of Business and Professions Code, section 6104.

COUNT FIVE

Case No. 12-O-16459
Business and Professions Code, section 6090.5(a)(2)
[Attorney/Client Agreement Not to File Complaint]

6. In or about October 2012, Respondent, while acting as a party sought agreement from James Parziale, the complaining witness, that in order for Respondent to agree to mediate their

¹ The first four checks in this list did not have printed check numbers on their face and the bank records refer to them as check numbers 0000.

1 legal dispute, James Parziale shall withdraw a disciplinary complaint or shall not cooperate with
2 an investigation or prosecution conducted by the State Bar in willful violation of Business and
3 Professions Code, section 6090.5(a)(2).

4 COUNT SIX

5 Case No. 12-O-16459
6 Rules of Professional Conduct, rule 4-100(B)(3)
[Failure to Render Accounts of Client Funds]

7 7. On or about July 16, 2012, Respondent received on behalf of Respondent's client,
8 Esther Edwards, a settlement check from Allstate Insurance Co. made payable to Respondent,
9 Esther Edwards, and James Parziale, in the sum of \$250,000. Respondent thereafter failed to
10 render an appropriate accounting to the client regarding those funds following the termination of
11 Respondent's employment on or about November 21, 2012, in willful violation of the Rules of
12 Professional Conduct, rule 4-100(B)(3).

13 COUNT SEVEN

14 Case No. 12-O-16459
15 Rules of Professional Conduct, rule 4-100(B)(4)
[Failure to Pay Client Funds Promptly]

16 8. On or about July 16, 2012, Respondent received on behalf of Respondent's client,
17 Esther Edwards, a settlement check from Allstate Insurance Co. made payable to Respondent,
18 Esther Edwards, and James Parziale in the sum of \$250,000. Of this sum, Esther Edwards was
19 entitled to approximately \$167,500. On or about November 21, 2012, Esther Edwards requested
20 that Respondent deliver the funds to her new attorney. From that date until in or about
21 September 2013, Respondent failed to pay promptly, as requested by Respondent's client, any
22 portion of the \$167,500 that were in Respondent's possession in willful violation of Rules of
23 Professional Conduct, rule 4-100(B)(4).

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COUNT EIGHT

Case No. 12-O-16459
Rules of Professional Conduct, rule 3-700(D)(1)
[Failure to Release File]

9. Respondent failed to release promptly, after termination of Respondent's employment on or about November 21, 2012, to Respondent's client, Esther Edwards, all of the client's papers and property following the client's request for the client's file on or about November 21, 2012, in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

NOTICE - INACTIVE ENROLLMENT!

YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE 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 INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE RECOMMENDED BY THE COURT.

NOTICE - COST ASSESSMENT!

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

Respectfully submitted,

THE STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL

DATED: October 29, 2013

By: _____

Anthony Garcia
Senior Trial Counsel

DECLARATION OF SERVICE

by

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

CASE NUMBER(s): 12-O-16459

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 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) to:
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.: 7160-3901-9844-3984-1025 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 via US Mail to:
Raymundo Pacello Jr	LEGAL BALLER LAW PARTNERS, RLLP 832 5th Ave # 2-5 San Diego, CA 92101		CC via Electronic Address

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

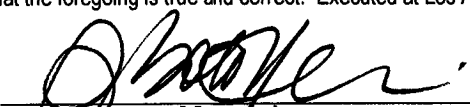
I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ('UPS'). In the ordinary course of the State Bar of California's practice, correspondence 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: October 29, 2013

SIGNED:


Ana Botosaru Nercessian
Declarant