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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>REPROVAL</b>			<b>NOT FOR PUBLICATION</b>
<b>Counsel For The State Bar</b>  Lara Bairamian Deputy Trial Counsel 1149 South Hill Street Los Angeles, CA 90015 (213) 765-1338  Bar # 253056	<b>Case Number(s):</b>  12-0-17941-DFM	<b>For Court use only</b>  <div style="text-align: center;"> <b>PUBLIC MATTER</b>   <b>FILED</b>   <b>JAN 10 2014</b>  STATE BAR COURT  CLERK'S OFFICE  LOS ANGELES </div>	
<b>In Pro Per Respondent</b>  John Francis Shellabarger 928 Garden Street #3 Santa Barbara, CA 93101 (805) 962-4150  Bar # 132805	Submitted to: <b>Assigned Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING		
<b>In the Matter of:</b> <b>JOHN FRANCIS SHELLABARGER</b>  Bar # 132805  A Member of the State Bar of California (Respondent)	<b>PRIVATE REPROVAL</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED		

**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, 1987.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 9 pages, not including the order.

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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):
- ☐ Costs are added to membership fee for calendar year following effective date of discipline (public reproof).
  - ☒ Case ineligible for costs (private reproof).
  - ☐ Costs are to be paid in equal amounts prior to February 1 for the following membership years: (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.
- (9) The parties understand that:
- (a) ☐ A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
  - (b) ☒ A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
  - (c) ☐ A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

**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

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- (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (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.
- (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. See Attachment at page 7.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (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

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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.
- (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 at page 7.

**D. Discipline:**

- (1) ☒ **Private reproof (check applicable conditions, if any, below)**
- (a) ☐ Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b) ☒ Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).
- or
- (2) ☐ **Public reproof (Check applicable conditions, if any, below)**

**E. Conditions Attached to Reproval:**

- (1) ☒ Respondent must comply with the conditions attached to the reproof for a period of one (1) year.
- (2) ☒ During the condition period attached to the reproof, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (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 condition period attached to the reproof. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of

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Professional Conduct, and all conditions of the reprobation during the preceding calendar quarter. Respondent must also state in each report 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 (thirty) days, that report must be submitted on the next following 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 condition period and no later than the last day of the condition period.

- (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 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 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 conditions attached to the reprobation.
- (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) ☒ Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year of the effective date of the reprobation.
- ☐ No MPRE recommended. Reason: .
- (11) ☐ The following conditions are attached hereto and incorporated:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input type="checkbox"/> Financial Conditions             |

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

**ATTACHMENT TO**

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:                      JOHN FRANCIS SHELLABARGER

CASE NUMBER:                              12-0-17941

**FACTS AND CONCLUSIONS OF LAW.**

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

Case No. 12-0-17941 (State Bar Investigation)

**FACTS:**

1. Beginning in December 2009, Respondent represented the defendant in a civil case in the United States District Court (the "civil case").
2. On June 18, 2010, the parties in the civil case reached a settlement agreement.
3. On July 9, 2010, by order of United States District Court, the pretrial conference in the civil case was scheduled for August 30, 2010. Respondent received notice of the pretrial conference.
4. On August 30, 2010, Respondent did not appear for the pretrial conference in the civil case. The Court issued an order to show cause why Respondent should not be sanctioned for willfully failing to make an appearance at the August 30, 2010 pretrial conference ("OSC"). Respondent was ordered to file a written response to the OSC with the Court no later than September 10, 2010. Respondent received notice of the OSC.
5. On September 10, 2010, Respondent filed a response to the OSC, wherein he stated that his failure to appear at the pretrial conference was due to an undiagnosed medical condition.
6. On October 5, 2010, the Court scheduled a status conference regarding proposed sanctions and proposed order regarding judgment in the civil case for October 12, 2010.
7. On October 12, 2010, Respondent and plaintiffs' counsel appeared at the status conference. The Court took the matter of the proposed sanctions and proposed order regarding judgment under submission.
8. On November 22, 2010, counsel for plaintiffs filed an Application for Monetary Sanctions against Respondent with the Court in the civil case citing, in part, that counsel for plaintiffs incurred fees and costs in the amount of \$3,888 attendant to the August 30, 2010 pretrial conference.
9. On December 2, 2010, the Court filed an order regarding monetary sanctions ("sanction order"), pursuant to Federal Rules of Civil Procedure, rule 16(f), awarding plaintiffs monetary sanctions

in the amount of \$3,888 against Respondent. The Court ordered Respondent to pay the sanctions to plaintiffs' counsel no later than January 1, 2011. Respondent received the sanction order.

10. Respondent failed to pay the sanctions in the amount of \$3,888 imposed by the sanction order by January 1, 2011.

11. On October 25, 2013, after the initiation of the State Bar disciplinary matter, Respondent paid the sanctions in the amount of \$3,888.

#### CONCLUSIONS OF LAW:

12. By failing to timely comply with the sanction order, Respondent wilfully disobeyed or violated an order of the court requiring him to do or forbear an act connected with or in the course of Respondent's profession which he ought in good faith to do or forbear, in willful violation of Business and Professions Code, section 6103.

#### ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

**No Prior Discipline (Std. 1.2(e)(i)):** Respondent was admitted to the practice of law in December 1987 and has no prior record of discipline in twenty-six years of practice. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41.)

**Pretrial Stipulation:** Respondent is entitled to mitigation for entering into a full stipulation with the Office of Chief Trial Counsel prior to trial, thereby avoiding the necessity of a trial and saving the State Bar Court time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal. 3d 1071, 1079 [where mitigation credit was given for entering into a stipulation as to facts and culpability].)

#### 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 Silverton* (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.)

The sanction applicable to Respondent's misconduct is found in standard 2.6, which provides that a violation of Business and Professions Code, section 6103 "shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim."

In this case, Respondent's misconduct occurred in a single matter in which Respondent failed to timely pay sanctions ordered by the Court. Although Respondent's misconduct did cause the Court administrative inconvenience, Respondent's misconduct did not harm his client or cause any significant harm to the plaintiffs in the civil matter and was not otherwise serious. Albeit untimely, Respondent has paid the sanction order.

Standard 1.6(b)(2) provides that the appropriate sanction shall be the sanction imposed unless mitigating circumstances are found to surround the particular act of misconduct found or acknowledged and the net effect of those mitigating circumstances, by themselves and in balance with any aggravating circumstances found, demonstrates that the purposes of imposing sanctions set forth in standard 1.3 will be properly fulfilled if a lesser degree of sanction is imposed. In that case, a lesser degree of sanction than the appropriate sanction shall be imposed or recommended. Respondent's misconduct is mitigated by his lack of prior discipline in over twenty-three years of practice at the time of the misconduct. As a result, Respondent is entitled to significant weight in mitigation. (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596.) In addition, Respondent's misconduct is mitigated by Respondent's willingness to enter into a full stipulation with the Office of Chief Trial Counsel prior to trial. There are no aggravating circumstances present in this matter. Thus, with due regard to the purposes of imposing discipline, a deviation from the standards is appropriate.

A private reproof with public disclosure will adequately protect the public, the court and the legal profession, as well as maintain high professional standards by attorneys and preserve public confidence in the legal profession.

#### **EXCLUSION FROM MCLE CREDIT**

Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)



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In the Matter of:  
JOHN FRANCIS SHELLABARGER

Case number(s):

12-0-17941

**SIGNATURE OF THE PARTIES**

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the stipulations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

Date

12/9/13

Respondent's Signature



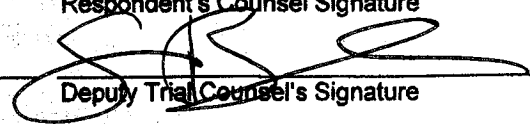
John Francis Shellabarger

Print Name

Date

12/12/13

Respondent's Counsel Signature



Print Name

Lara Bairamian

Print Name

Deputy Trial Counsel's Signature

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In the Matter of: <b>JOHN FRANCIS SHELLABARGER</b>	Case Number(s): 12-0-17941
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### REPROVAL ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, 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 REPROVAL IMPOSED.
- ☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- ☐ All court dates in the Hearing Department are vacated.

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.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

**Failure to comply with any conditions attached to this reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.**

Date

1/10/14

  
**DONALD F. MILES**  
Judge of the State Bar Court

# DECLARATION OF SERVICE

by

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

CASE NUMBER(s): **12-O-17941-DFM**

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:

## STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING PRIVATE REPROVAL



**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.: \_\_\_\_\_ 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:
JOHN FRANCIS SHELLABARGER	928 Garden Street #3 Santa Barbara, CA 93101	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: December 16, 2013

SIGNED:

Charles C. Bagai  
Declarant

## 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 January 10, 2014, I deposited a true copy of the following document(s):

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

in a sealed envelope for collection and mailing on that date as follows:

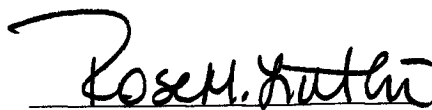
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JOHN F. SHELLABARGER  
LAW OFC JOHN SHELLABARGER  
928 GARDEN ST #3  
SANTA BARBARA, CA 93101 - 7400

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

LARA BAIRAMIAN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 10, 2014.



Rose M. Luthi  
Case Administrator  
State Bar Court