

# PUBLIC MATTER

FILED

1 STATE BAR OF CALIFORNIA  
OFFICE OF THE CHIEF TRIAL COUNSEL  
2 JAYNE KIM, No. 174614  
CHIEF TRIAL COUNSEL  
3 JOSEPH R. CARLUCCI, No. 172309  
DEPUTY CHIEF TRIAL COUNSEL  
4 ALAN B. GORDON, No. 125642  
ASSISTANT CHIEF TRIAL COUNSEL  
5 WILLIAM TODD, No. 259194  
DEPUTY TRIAL COUNSEL  
1149 South Hill Street  
6 Los Angeles, California 90015-2299  
Telephone: (213) 765-1491  
7

AUG 09 2013  
STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

8 STATE BAR COURT

9 HEARING DEPARTMENT - LOS ANGELES

10  
11 In the Matter of: ) Case No. 13-O-10421, 13-O-11565  
12 MYAVA R. ESCAMILLA, )  
13 No. 268834, ) NOTICE OF DISCIPLINARY CHARGES  
14 )  
15 A Member of the State Bar. )

## 16 NOTICE - FAILURE TO RESPOND!

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

- 19 (1) YOUR DEFAULT WILL BE ENTERED;  
20 (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU  
WILL NOT BE PERMITTED TO PRACTICE LAW;  
21 (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;  
22 (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.  
SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE  
23 OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN  
ORDER RECOMMENDING YOUR DISBARMENT WITHOUT  
24 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. Myava R. Escamilla ("Respondent") was admitted to the practice of law in the State  
4 of California on January 19, 2010, was a member at all times pertinent to these charges, and is  
5 currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 13-O-10421  
8 Rules of Professional Conduct rule 3-110(A)  
9 [Failure to Perform with Competence]

10 2. Respondent willfully 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 January 26, 2012, Ricardo Nuno and Martha Fanning ("the clients")  
14 employed Respondent to represent them in a Chapter 7 Bankruptcy proceeding. Respondent  
15 agreed to represent the clients for a flat fee of \$1,000, which the clients promptly paid.

16 4. On April 9, 2012, after the Bankruptcy Court dismissed two previous bankruptcy  
17 petitions Respondent filed on the clients' behalf, Respondent filed a third Chapter 7 Bankruptcy  
18 Petition on the clients' behalf which became case no. 6:12-bk-18765-WJ ("the Chapter 7  
19 Bankruptcy proceeding"). However, Respondent failed to file all required statements and  
20 schedules and failed to communicate with the clients, so the clients worked directly with the  
21 Bankruptcy Trustee and provided the missing statements and schedules to the Trustee in an  
22 attempt to resolve the Chapter 7 Bankruptcy proceeding on their own.

23 5. Despite being the attorney of record in the Chapter 7 Bankruptcy proceeding and  
24 receiving notice of the creditors' meeting, Respondent failed to appear at the creditors' meeting  
25 on or about January 31, 2013. Clients appeared on their own behalf, and the meeting was  
26 completed.

27 6. On February 4, 2013, the Chapter 7 Bankruptcy was discharged.  
28



1 14. On or about February 5, 2013, the Clients made a complaint to the State Bar against  
2 Respondent.

3 15. On or about both February 15, 2013 and April 11, 2013, a State Bar investigator  
4 mailed letters to Respondent addressed to her membership records address regarding the clients'  
5 complaint. The letters requested that Respondent respond in writing to allegations of misconduct  
6 described in the letters by no later than March 1, 2013 and April 25, 2013, respectively. Though  
7 the first letter was returned as undeliverable, the second letter was received by Respondent.  
8 Respondent did not respond to the investigator's letter or otherwise cooperate in the  
9 investigation.

10 16. By failing to provide a written response to the investigator's letter, Respondent failed  
11 to cooperate and participate in a disciplinary investigation pending against Respondent.

12  
13 COUNT FOUR

14 Case No. 13-O-11565  
15 Business and Professions Code section 6103  
16 [Failure to Obey a Court Order]

17 17. Respondent willfully violated Business and Professions Code section 6103 by  
18 wilfully disobeying or violating an order of the court requiring him to do or forbear an act  
19 connected with or in the course of Respondent's profession which he ought in good faith to do or  
20 forbear, as follows:

21 18. Respondent represented the plaintiff in a matter titled *Pineda v. Leonie Berzack*,  
22 Orange County Superior Court case no. 30-2011-00523125-CU-PA-CJC ("the Pineda matter").

23 19. On November 14, 2012, the court in the Pineda matter conducted a status conference.  
24 Respondent did not appear. The court ordered opposing counsel to serve notice on Respondent of  
25 an order to show cause ("OSC") re monetary sanctions hearing scheduled for January 8, 2013.  
26 The court specifically advised opposing counsel to advise Respondent that Respondent was  
27 required to appear personally at the January 8, 2013 OSC, and that no appearances via  
28 "CourtCall" or specially appearing counsel would be permitted. Opposing counsel was also

1 instructed to advise Respondent that failure by Respondent to personally appear at the January 8,  
2 2013 OSC would result in the issuance of sanctions against Respondent of an amount between  
3 \$1,000 and \$2,500, and that sanctions would be reported to the State Bar if ordered.

4 20. On or about November 14, 2012, opposing counsel served notice consistent with the  
5 court's instructions on Respondent via mail at Respondent's membership records address.

6 Respondent received the notice.

7 21. On January 8, 2013, the court in the Pineda matter conducted the OSC re monetary  
8 sanctions. Respondent did not appear. The court ordered sanctions in the amount of \$1,000,  
9 payable to the court by February 7, 2013. The basis for the sanction order was Respondent's  
10 failure to appear on November 14, 2012 and subsequent failure to appear on January 8, 2013.

11 The order was served on Respondent. Respondent received the order.

12 22. To date, Respondent has failed to pay the sanctions.

13 23. To date, Respondent has not taken any action to modify or vacate the January 8, 2013  
14 sanction order.

15 24. By failing to appear as ordered on January 8, 2013 and failing to pay the sanctions  
16 ordered by the court, Respondent willfully disobeyed or violated an order of the court requiring  
17 her to do or forbear an act connected with or in the course of Respondent's profession which she  
18 ought in good faith to do or forbear.

19  
20 COUNT FIVE

21 Case No. 13-O-11565  
22 Business and Professions Code section 6068(o)(3)  
[Failure to Report Judicial Sanctions]

23 25. Respondent willfully violated Business and Professions Code section 6068(o)(3) by  
24 failing to report to the agency charged with attorney discipline, in writing, within 30 days of the  
25 time Respondent had knowledge of the imposition of any judicial sanctions against Respondent,  
26 as follows:

27 26. The factual allegations of Count Four are incorporated by reference.

1 27. Respondent failed to advise the State Bar that sanctions were imposed on her in the  
2 lawsuit.

3 28. On or about March 25, 2013, the court notified the State Bar of the sanctions imposed  
4 on Respondent in the lawsuit. By failing to advise the State Bar of sanctions imposed on her,  
5 Respondent failed to report to the agency charged with attorney discipline, in writing, within 30  
6 days of the time Respondent had knowledge of the imposition of any judicial sanctions against  
7 Respondent.

8 COUNT SIX

9 Case No. 13-O-11565  
10 Business and Professions Code section 6068(i)  
[Failure to Cooperate in State Bar Investigation]

11 29. Respondent willfully violated Business and Professions Code section 6068(i) by  
12 failing to cooperate and participate in a disciplinary investigation pending against Respondent, as  
13 follows:

14 30. The factual allegations of Counts Four and Five are incorporated by reference.

15 31. On or about both April 24, 2013 and June 10, 2013, a State Bar investigator mailed  
16 letters to Respondent regarding the court's report of sanctions. The letters requested that  
17 Respondent respond in writing to specific allegations of misconduct under investigation by the  
18 State Bar raised by the court's notice by no later than May 8, 2013 and June 17, 2013,  
19 respectively. Respondent received the letters. Respondent did not respond to the investigator's  
20 letters or otherwise cooperate in the investigation.

21 32. By failing to provide a written response to either of the investigator's letters,  
22 Respondent failed to cooperate and participate in a disciplinary investigation pending against  
23 Respondent.

24 **NOTICE - INACTIVE ENROLLMENT!**

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

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

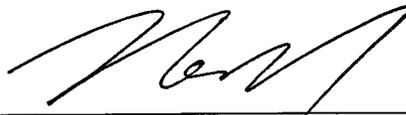
**NOTICE - COST ASSESSMENT!**

**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: August 9, 2013

By:   
\_\_\_\_\_  
William Todd  
Deputy Trial Counsel

DECLARATION OF SERVICE

by

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

CASE NUMBER(s): 13-O-10421, 13-O-11565

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 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))

- 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)

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.: 7196 9008 9111 6410 1321 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)

Table with 4 columns: Person Served, Business-Residential Address, Fax Number, and Courtesy Copy to. Row 1: Myava R. Escamilla, 171 S. Anita Dr., Ste. 104 Orange, CA 92868, 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: August 9, 2013

SIGNED: [Signature] Sandra Reynolds Declarant