

<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>REPROVAL</b>		
<b>Counsel For The State Bar</b>  Eli D. Morgenstern Supervising Senior Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1334  Bar # 190560	<b>Case Number(s):</b> 13-O-11595	<b>For Court use only</b>  <div style="text-align: center;"> <b>PUBLIC MATTER</b>   <b>FILED</b>  <b>SEP 25 2013</b>  STATE BAR COURT  CLERK'S OFFICE  LOS ANGELES </div>
<b>Counsel For Respondent</b>  Donald Conway, Esq. 11664 National Blvd. #312 Los Angeles, CA 90064-3082 (310) 729-8523  Bar # 123911	Submitted to: <b>Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>PUBLIC REPROVAL</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
<b>In the Matter of:</b> <b>STANLEY ALARI</b>  Bar # 53058  A Member of the State Bar of California (Respondent)		

**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 14, 1972.
- (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 10 pages, not including the order.
- (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: two (2) billing cycles following the effective date of the reproof. (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

(Do not write above this line.)

- (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. See attachment page 7.
- (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.
- (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 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:**

No Prior Record of Discipline, and Prefiling Stipulation. (See attachment 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 Professional Conduct, and all conditions of the reproof 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:                      STANLEY ALARI

CASE NUMBER:                          13-O-11595

**FACTS AND CONCLUSIONS OF LAW.**

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

Case No. 13-O-11595 (Complainant: Vida Blue S. Zarzuela)

**FACTS:**

1. On April 21, 2012, Vida Blue S. Zarzuela ("Zarzuela") employed Respondent to represent her with respect to a speeding ticket that she received on April 3, 2012. On April 23, 2012, pursuant to their oral agreement, Zarzuela paid Respondent \$750 for his representation.
2. On July 3, 2012, Respondent mailed a letter to the traffic court informing the court that he was Zarzuela's attorney and entering a not guilty plea on her behalf. In the letter, Respondent also waived time, requested a trial date, and an own recognizance release on behalf of Zarzuela.
3. On July 23, 2012, a clerk of the court served Respondent with notice that Zarzuela's traffic matter was set for a court trial on January 7, 2013, at 1:00 p.m. Respondent received the notice.
4. On November 21, 2012, and December 13, 2012, Zarzuela telephoned Respondent's office and left voice mail messages inquiring about the status of the traffic matter. Respondent received the messages. But, he did not respond to them. On January 3, 2013, Zarzuela sent Respondent an e-mail inquiring about the status of the traffic matter. Respondent received the e-mail. But, he did not respond to it. Respondent never informed Zarzuela of the trial date of her traffic matter. On January 3, 2013, Zarzuela telephoned the traffic court and was informed by an employee of the court of the January 7, 2013 trial date.
5. On January 7, 2013, neither Respondent nor Zarzuela appeared in traffic court for Zarzuela's traffic matter. The court did not rule on Zarzuela's citation, but ordered her to pay a civil assessment fee of \$590. Respondent never informed Zarzuela that he failed to appear on her behalf at the trial of her traffic matter. On January 9, 2013, Zarzuela telephoned the traffic court and was informed by an employee of the court that Respondent failed to appear on her behalf at the court trial.
6. Respondent did not perform any services of value on behalf of Zarzuela.
7. On January 10, 2013, a new attorney appeared in traffic court on behalf of Zarzuela. The court vacated the civil assessment fee and set a new trial date of May 8, 2013.

8. On May 8, 2013, the California Highway Patrol Officer who issued the traffic citation to Zarzuela did not appear for the trial, and the court dismissed the citation.

9. In July 2013, Respondent provided Zarzuela with a refund of the \$750 in legal fees that she paid to him.

#### CONCLUSIONS OF LAW:

10. By failing to appear in traffic court on behalf of Zarzuela at the January 7, 2013 court trial, Respondent intentionally, recklessly, or repeatedly failed to perform competently in willful violation of Rules of Professional Conduct, rule 3-110(A).

11. By failing to respond to Zarzuela's status inquiries, and by failing to inform her of the January 7, 2013 trial and that he failed to appear for the trial, Respondent failed to respond promptly to reasonable status inquiries of a client, and failed to keep a client reasonably informed of significant developments in a matter in which he had agreed to provide legal services in willful violation of Business and Professions Code section 6068(m).

12. By failing to refund any portion of the unearned attorney's fees that he received from Zarzuela until July 2013, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

#### ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

**Multiple Acts of Misconduct (Std 1.2(b)(ii)):** During his representation of Zarzuela, Respondent failed to perform and communicate adequately. Respondent also failed to refund promptly the unearned attorney's fees that he received from Zarzuela. Respondent's multiple acts of misconduct are an aggravating circumstance.

#### ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

**No Prior Discipline (Std. 1.2(e)(i)):** Although Respondent's conduct cannot be deemed "not serious," at the time that he committed the misconduct herein, Respondent had practiced law for 40 years with no prior record of discipline. Respondent is entitled to substantial mitigation for having practiced law for 40 years without discipline. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 39 [attorney's practice of law for more than 17 years considered to be mitigating circumstance].)

**Prefiling Stipulation:** Respondent is entitled to mitigation for entering into a full stipulation with the Office of the Chief Trial Counsel prior to the filing of a Notice of Disciplinary Charges, thereby saving the State Bar Court time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative 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 Silvertown* (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.)

Respondent admits to committing three acts of professional misconduct during his representation of Zarzuela. Standard 1.6 (a) requires that where a Respondent acknowledges two or more acts of misconduct, and different sanctions are prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards.

Standard 2.4(b) applies to Respondent’s violations of Rules of Professional Conduct, rule 3-110(A) [failure to perform], and Business and Professions section 6068(m) [failure to communicate], and provides that when an attorney fails to perform and/or communicate in an individual matter, the appropriate level of discipline is a reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.

There is no standard specifically applicable to Respondent’s violation of Rules of Professional Conduct, rule 3-700(D)(2) [failure to return unearned fee]. Standard 2.10 provides that culpability of an attorney of a willful violation of any Rule of Professional Conduct not specified in the standards shall result in reproof or suspension according to the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.

Here, Respondent failed to perform for, and communicate with, Zarzuela in connection with her traffic matter. He also failed to refund promptly the unearned attorney’s fees that he received from Zarzuela. This is significant misconduct. However, Respondent’s 40 years of discipline-free practice suggest that the misconduct herein was an anomaly. Moreover, by entering into this stipulation, Respondent has acknowledged his misconduct, and saved the State Bar Court resources and time. Further, Respondent’s misconduct did not cause irreparable harm to Zarzuela: the traffic court dismissed the speeding ticket. Further still, Respondent has refunded the unearned, attorney’s fees that he received from Zarzuela.

In light of the misconduct, the appropriate standards, and the aggravating and mitigating circumstances surrounding the misconduct, a public reproof accomplishes the purpose of attorney discipline as set forth in standard 1.3

## **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed him that as of August 15, 2013, the prosecution costs in this matter are \$2,925. The costs are to be paid in equal

amounts prior to February 1 for the following two billing cycles following the effective date of this Reproval. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

#### **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.)

(Do not write above this line.)

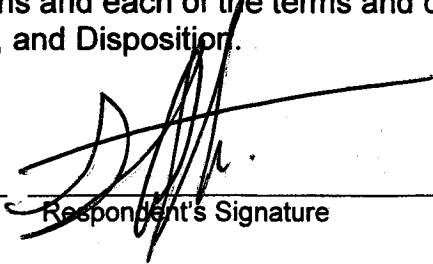
In the Matter of <b>STANLEY ALARI</b> <b>Member #53058</b>	Case number(s): <b>13-O-11595</b>
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### SIGNATURE OF THE PARTIES

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

8/26/13

Date



Respondent's Signature

**Stanley Alari**

Print Name

Date

Respondent's Counsel Signature

**Donald Conway**

Print Name

Date

Supervising Senior Trial Counsel's Signature

**Eli D. Morgenstern**


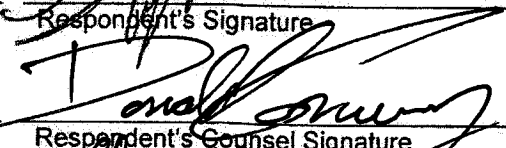
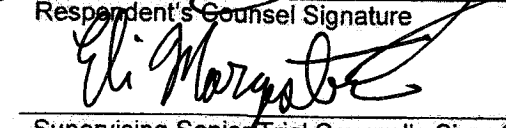
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In the Matter of <b>STANLEY ALARI</b> <b>Member #53058</b>	Case number(s): <b>13-O-11595</b>
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By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

8/26/13		<b>Stanley Alari</b>
Date	Respondent's Signature	Print Name
9-9-13		<b>Donald Conway</b>
Date	Respondent's Counsel Signature	Print Name
9-12-13		<b>Eli D. Morgenstern</b>
Date	Supervising Senior Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of <b>STANLEY ALARI</b> <b>Member #53058</b>	Case number(s): <b>13-O-11595</b>
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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

9-25-13

  
**GEORGE E. SCOTT, Judge Pro Tem**  
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 Los Angeles, on September 25, 2013, 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:

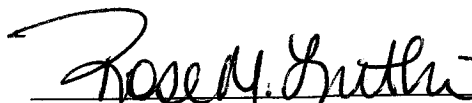
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

DONALD CONWAY  
11664 NATIONAL BLVD #312  
LOS ANGELES, CA 90064 - 3082

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

ELI MORGENSTERN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 25, 2013.



Rose M. Luthi  
Case Administrator  
State Bar Court