



ORIGINAL

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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>ACTUAL SUSPENSION</b>		
Counsel For The State Bar  <b>Sue Hong</b> <b>Deputy Trial Counsel</b> <b>Office of Chief Trial Counsel</b> <b>845 S. Figueroa St.</b> <b>Los Angeles, CA 90017</b> <b>(213) 765-1161</b>  Bar # <b>285852</b>	Case Number(s): <b>14-O-01968-DFM</b>	For Court use only  <div style="text-align: center; font-size: 2em; font-weight: bold;">PUBLIC MATTER</div>  <div style="text-align: center;"> <b>FILED</b>  <b>APR 01 2016</b>          STATE BAR COURT          CLERK'S OFFICE          LOS ANGELES       </div>
In Pro Per Respondent  <b>Julia S. Swanson</b> <b>Swanson &amp; Peluso</b> <b>1861 N. Topanga Canyon Blvd.</b> <b>Topanga, CA 90290</b> <b>(310) 455-2100</b>  Bar # <b>165039</b>	Submitted to: <b>Assigned Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: <b>JULIA SUSANNA SWANSON</b>  Bar # <b>165039</b>  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 **June 15, 1993**.
- (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 **15** 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."

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- (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):
- ☐ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
  - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: **three billing cycles following the effective date of the Supreme Court order.** (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.

**B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are required.**

- (1) ☐ **Prior record of discipline**
- (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
  - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) ☐ **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) ☐ **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) ☐ **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5) ☐ **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.
- (6) ☐ **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.

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- (7) ☐ **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.
- (8) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice. **See Attachment at Page 12.**
- (9) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) ☐ **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) ☒ **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See Attachment at Page 12.
- (12) ☐ **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) ☐ **Restitution:** Respondent failed to make restitution.
- (14) ☐ **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) ☐ **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standards 1.2(i) & 1.6]. 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 likely to recur. .
- (2) ☐ **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps demonstrating spontaneous 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 with a good faith belief that was honestly held and objectively reasonable.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental 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 the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.

- (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 extraordinarily 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. **See Attachment at Page 12.**
- (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 Discipline:** See Attachment at Page 12.

**Pretrial Stipulation:** See Attachment at Page 12.

#### **D. Discipline:**

- (1) ☒ **Stayed Suspension:**
- (a) ☒ Respondent must be suspended from the practice of law for a period of **one year**.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:
- (b) ☒ The above-referenced suspension is stayed.
- (2) ☒ **Probation:**
- Respondent must be placed on probation for a period of **two years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)
- (3) ☒ **Actual Suspension:**
- (a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of **six months**.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct

- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:

**E. Additional Conditions of Probation:**

- (1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and present learning and ability in the general law, pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- (2) ☒ During the probation period, 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 period of probation. 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 probation during the preceding calendar quarter. Respondent must also state 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 days, that report must be submitted on the next 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 period of probation and no later than the last day of probation.

- (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 to the monitor 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 probation 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 probation conditions.
- (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: .

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- (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) ☐ 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:**

- (1) ☒ **Multistate Professional Responsibility Examination:** 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 during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- ☐ No MPRE recommended. Reason: .
- (2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) ☐ **Other Conditions:**

**ATTACHMENT TO**

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

IN THE MATTER OF:                      JULIA SWANSON

CASE NUMBER:                          14-O-01968

**FACTS AND CONCLUSIONS OF LAW.**

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

Case No. 14-O-01968 (State Bar Investigation)

**FACTS:**

1. Julia Susanna Swanson ("Respondent") was admitted to the practice of law in the State of California on June 15, 1993, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.
2. Beginning in December 2009, Respondent received calls from Utility Tractor Rigs ("UTR") drivers at the Port of Los Angeles and Port of Long Beach complaining about injuries they suffered due to what they believed was carbon monoxide poisoning from the UTRs they drove. By March 2010, ten Longshoremen UTR drivers had retained Respondent. Respondent realized that given the potentially large number of Longshoremen that could become plaintiffs in a lawsuit, her small two-attorney firm could not handle this matter alone and needed to associate another firm as co-counsel. Subsequently, many additional Longshoremen were added as plaintiffs.
3. Stephen H. Heller and his firm Heller LaChapelle, APC were associated into the case as Respondent's co-counsel and together they began to draft a civil complaint.
4. On May 26, 2011, Respondent and Mr. Heller filed a "mass tort" civil complaint on behalf of ten plaintiffs in the Superior Court of Los Angeles County in a case entitled *Carlos Trevino, et al. v. Cummins, Inc., et al.* ("Trevino"), case no. BC462323. Defendants were the manufacturers of the UTR engine, the diesel particulate filter ("DPF") and other UTR components as well as other defendants allegedly involved in causing the injuries sustained by the plaintiffs. The Trevino complaint alleged causes of action against these defendants for products liability based on negligence, products liability based on strict liability, and loss of consortium.
5. On February 10, 2012, defendants jointly served on Respondent, Mr. Heller and the other plaintiffs' counsels a Product Identification Questionnaire ("PIQs") which consisted of questions which sought information including: the employment history of each individual plaintiff, the identity and description of the UTR that each individual plaintiff operated when the claimed injury occurred, the current owner and location of each injury-causing UTR, the injury-causing UTR's engine make, model, identification number and the DPF's make, model, identification number.
6. The plaintiffs' responses to the PIQs were to be verified.

7. Heller, Respondent and the other plaintiffs' counsels took responsibility for different aspects of the Trevino matter. Respondent was solely responsible for preparing individual responses and verifications to the PIQs for each plaintiff and then using the "LEXIS-NEXIS File and Serve" to electronically serve them on the defendants. Assisting Respondent with the PIQ responses and verifications was C.B. who was Respondent's paralegal employee at that time. No other plaintiffs' counsels participated or had any input in the preparing and filing of the PIQ responses and verifications by Respondent.

8. Between June 2012 and July 10, 2013, Respondent obtained PIQ responses and signed verifications from many, but not all clients. Respondent served PIQ responses and verifications on the defendants, many of which bore the actual signature of a Plaintiff.

9. Between January and July 2013, Respondent simulated the signatures of four plaintiffs on the verifications attached to the PIQ responses served on defendants.

10. In January 2013, Respondent directed C.B. to simulate the signatures of seven plaintiffs on those plaintiffs' PIQ response verifications. C.B. thereafter simulated the signatures as directed and served them on defendants using the "LEXIS-NEXIS File and Serve."

11. On July 10, 2013, Respondent served the remaining 101 individual plaintiff responses and verifications to the PIQs on the defendants using the "LEXIS-NEXIS File and Serve."<sup>1</sup> Of the 101 verifications, Respondent directed C.B. to simulate 71 signatures. C.B. thereafter simulated the signatures as directed by respondent.

12. On August 2, 2013, during a status conference in the Trevino matter, Mr. Allen Schlinsog, lead counsel for defendants, stated on the record that the verifications submitted with plaintiff's responses to the PIQs looked like they were all signed by the same person.

13. On August 28, 2013, Respondent filed a Declaration with the Court, stating in pertinent part, as follows:

An unfortunate situation has arisen with respect to a number of Verifications of Product I.D. discovery responses that were recently filed by my office and had not been signed by clients. Until it was pointed out by defense counsel at the last CMC on August 2, 2013 that many Verifications appeared to have been signed by the same person, *I was entirely unaware such an improper filing had taken place.* Upon immediate investigation thereafter, I found that the signatures on a significant number of the Verifications had indeed been handwritten by my staff member and filed at the conclusion of the Product I.D. responses. *This was never at my direction or with my knowledge.* The purpose of this Declaration is to set forth in detail before the Court how this occurred, and to request the Court's willingness to excuse what was an inadvertent but entirely unintentional mistake on my part caused by neglectful failure to properly oversee all documents leaving my office. The mistake has now been corrected and I hereby request the

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<sup>1</sup> The verifications all stated as follows:

I, [Plaintiff's name] am a Plaintiff in the above captioned matter. I am familiar with the contents of the foregoing RESPONSES TO PRODUCT I.D. QUESTIONNAIRE. This information supplied therein is based on my own personal knowledge and/or has been supplied by my attorneys or other agents and/or compiled from available documents and is therefore provided as required by law. The information contained in the foregoing document is true, except as to the matters which were provided by my attorneys or other agents or compiled from available documents, including all contentions and opinions, and, as to those matters, I am informed and believe that they are true.



Court's permission to replace these documents with Verifications properly signed by each client. (Emphasis added.)

14. In her August 28, 2013 Declaration, Respondent further stated that after 106 responses were filed in January 2013, there remained 146 responses that needed to be prepared and verified by the plaintiff clients. Regarding these remaining 146 responses, Respondent stated in relevant part:

I was aware that we did not have Verifications from all of the 146 people as we had been trying to reach some of them with no success. Nevertheless, I had instructed my paralegal from the outset to reach out to the clients and obtain their Verifications, and then to serve them. After we had posted the 146 responses in June of this year, she was to serve the Verifications we had, and to continue trying to obtain them from people we had a hard time getting in touch with. She advised me on July 10<sup>th</sup> that she had served the Verifications. Unfortunately, due to a very busy office schedule, I did not check what she had served, but rather took it for granted that she had served the originals we had on file plus others she had since obtained and was continuing to reach out to those people we had trouble contacting.

15. In her August 28, 2013 Declaration, Respondent then discussed the statements made by Mr. Schlinsog at the August 2, 2013 case management conference. Respondent stated it "was a shock to hear" about the appearance of the 150 Verifications having been signed by the same person. Respondent stated that she recalled Mr. Heller asking her at the hearing whether this was true, and her response that "it could not be the case, as [Respondent] believed [her] office would not have done such a thing." Respondent claimed that she "was *totally unaware* that this had taken place and would never had told Steve Heller that the Verifications had not been signed by one person had [she] known this to be the case." Respondent further stated that she "never had any intention to defraud the defendants with false Verifications" and that she "simply had not knowledge this had been done." Respondent also stated that had she "seen what was being filed, [she] would never have allowed it to happen." (Emphasis added.) Respondent further stated that because of the July 10, 2013 filing of Verifications and other unrelated instances, Respondent was forced to terminate C.B.'s employment. Respondent also "deeply apologize[d]" for all of this, and requested "that the 71 handwritten and 30 blank Verifications served on July 10, 2013 be deleted on the ground they are not Verifications at all." Respondent further stated that once she learned of the mishandling of the Verifications Respondent began "diligently pursuing those named individuals and obtaining their original Verifications."

16. On September 12, 2013, Mr. Heller filed his motion to withdraw as counsel on behalf of himself and his law firm pursuant to California Rules of Professional Conduct, rule 3-700.

17. On November 20, 2013, the hearing on Mr. Heller's motion to withdraw was held before Judge Freeman. As stated in the declaration attached to his motion to withdraw, Mr. Heller requested an *in camera* hearing to explain the grounds for his withdrawal.

18. During the *in camera* hearing, respondent testified that she was entirely unaware that improper verifications for responses to special interrogatories ("Product Identification Questionnaires") had been served on opposing counsel until after August 2, 2013; testified that she had no involvement in and did not direct her employee's simulation of client signatures on the verifications; and testified that she had not personally simulated client signatures on the verifications.

19. On December 17, 2013, the Court issued its Order to Show Cause re: Why Sanctions should not be imposed on Plaintiffs and/or each of their counsel. In addition, the Court ordered

counsel to file separate briefs responding to the OSC with accompanying declarations under penalty of perjury. Finally, the Court stated that it would be conducting the hearing by way of declaration but that it would grant the parties an opportunity to augment their declarations through live testimony.

20. On March 19, 2014, the Court filed its ruling regarding its OSC re: sanctions. In its ruling, the Court found that based on the record before it, that Respondent's actions with respect to the Verifications may have violated Rules of Professional Conduct, rule 5-200(A) & (B), Business and Professions Code section 6068(d) and may not have complied with her duty to supervise the work of an employee, but did not make any findings that any rules or statutes were violated. While recognizing that Respondent was contrite for her conduct, the Court was compelled to refer the record of these events to the State Bar for further review with a letter attaching its ruling regarding the OSC re: sanctions (with copies served on Respondent's firm).

21. The Court concluded its ruling by stating that it believes that Respondent's actions may have compromised the ability of Plaintiffs to litigate the Trevino matter:

Of particular concern is the August 8, 2013 email correspondence from [Respondent] to Mr. Heller (and the statements within the e-mail that the verifications were signed on behalf of those Plaintiffs her office could not reach). If the statements in the e-mail are true, this may indicate that certain of the verifications were forged. Contrary to [Respondent's] statements in the August 8, 2013 e-mail to Mr. Heller that these Plaintiffs "are going to be dismissed anyway" and that the issue was somehow "moot" – after potentially fraudulent verifications were obtained – is not persuasive, and may constitute a breach of [Respondent's] professional obligations under California Rules of Professional Conduct 5-200(A) and (B), Business and Professions Code §6068(d), and her duty to properly supervise her nonlawyers employees.

22. C.B. had signed a total of 78 verifications in the name of plaintiffs without indicating that someone other than the plaintiff was signing. Specifically, C.B. was instructed by Respondent to sign 7 verifications in January 2013 and 71 verifications in July 2013. Ultimately, of these 78 plaintiffs, 48 were dismissed, 9 had originally-signed verifications in Respondent's case file and were consequently re-served on defendants and 31 originally-signed verifications were subsequently obtained by Respondent and re-served on defendants.

23. After the dismissal of plaintiffs was completed, the total number of plaintiffs in the Trevino matter was 142.

### **CONCLUSIONS OF LAW:**

25. Between January and July 2013, by simulating 4 plaintiff clients' signatures on verifications for responses to special interrogatories ("Product Identification Questionnaires") which she then served or caused to be served on opposing counsel in a matter entitled *Carlos Trevino, et al. v. Cummins, Inc., et al.*, Los Angeles Superior Court case no. BC462323, when Respondent knew that each of the responses to special interrogatories contained allegations of fact purportedly attributed to each of her clients when said clients had not seen, reviewed, approved or confirmed the accuracy of those allegations prior to their service on opposing defendants counsels, and when Respondent knew that each of the simulated signatures on the verifications constituted a false representation that each client named on said verifications had in fact signed a verification for a response to the special interrogatories prior to service on opposing defendants counsels, Respondent committed an act or acts involving dishonesty in willful violation of Business and Professions Code, section 6106.

26. Between January and July 2013, by instructing, directing and causing her employee to simulate as many as 78 plaintiff clients' signatures on verifications for responses to special interrogatories ("Product Identification Questionnaires") which Respondent then instructed, directed and caused her employee to serve on opposing counsel in a matter entitled *Carlos Trevino, et al. v. Cummins, Inc., et al.*, Los Angeles Superior Court case no. BC462323, when Respondent knew that each of the responses to special interrogatories contained allegations of fact purportedly attributed to each of her clients when said clients had not seen, reviewed, approved or confirmed the accuracy of those allegations prior to their service on opposing defendants counsels, and when Respondent knew that each of the simulated signatures on the verifications constituted a false representation that each client named on said verifications had in fact signed a verification for a response to the special interrogatories prior to service on opposing defendants counsels, Respondent committed an act or acts involving dishonesty in willful violation of Business and Professions Code, section 6106.

27. In a declaration filed on August 28, 2013, by stating that respondent was entirely unaware that improper verifications for responses to special interrogatories ("Product Identification Questionnaires") had been served on opposing counsel until after August 2, 2013, stating that she had no involvement in and did not direct her employee's simulation of client signatures on the verifications and omitting the fact that she had also personally simulated client signatures on the verifications when in fact Respondent knew of the service of improper verifications before August 2, 2013, instructed, directed and caused her employee to simulate client signatures on the verifications; and personally simulated client signatures on the verifications, Respondent, knowing that these statements in her August 28, 2013 declaration were false and contained material omissions of fact, sought to mislead the judge or judicial officer by an artifice or false statement of fact or law, in willful violation of Business and Professions Code, section 6068(d).

28. During an *in camera* hearing held on November 20, 2013, by: testifying that respondent was unaware that improper verifications for responses to special interrogatories ("Product Identification Questionnaires") had been served on opposing counsel until after August 2, 2013; testifying that she had no involvement in and did not direct her employee's simulation of client signatures on the verifications; and testifying that she had not personally simulated client signatures on the verifications, when Respondent knew of the service of improper verifications before August 2, 2013; instructed, directed and caused her employee to simulate client signatures on the verifications; and personally simulated client signatures on the verifications, Respondent, knowing that these statements during her testimony were false, sought to mislead the judge or judicial officer by an artifice or false statement of fact or law, in willful violation of Business and Professions Code, section 6068(d).

29. During a hearing held on March 10, 2014, by testifying that respondent was entirely unaware that improper verifications for responses to special interrogatories ("Product Identification Questionnaires") had been served on opposing counsel until after August 2, 2013; testifying that she had no involvement in and did not direct her employee's simulation of client signatures on the verifications; and omitting the fact that she had also personally simulated client signatures on the verifications, when Respondent knew of the service of improper verifications before August 2, 2013, instructed, directed and caused her employee to simulate client signatures on the verifications; and personally simulated client signatures on the verifications, Respondent, knowing that these statements during her testimony were false and involved material omissions of fact, sought to mislead the judge or judicial officer by an artifice or false statement of fact or law, in willful violation of Business and Professions Code, section 6068(d).

## AGGRAVATING CIRCUMSTANCES.

**Significant Harm (Std. 1.5(j)):** Respondent's misconduct caused significant harm to her clients and the administration of justice in this matter. First, Respondent's action of independently supplying her client's verified responses to the PIQs and presenting them to opposing counsel and the Court as if they were the product of her client's memory and personal knowledge created a situation where any such client would have a very high risk of being impeached by the defense when later they testified at trial truthfully regarding their claimed injuries and knowledge of its causation but the plaintiff's testimony was nevertheless inconsistent or at variance with the responses attributed to them in the PIQ responses. Further, this conduct by Respondent actually harmed the credibility Plaintiffs' claims in the Trevino case with the Court and opposing counsel. (*In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 646 [loss of case constitutes significant harm, even if the amount of damages would have been relatively modest].)

In addition, as an officer of the court, Respondent's was duty-bound to be scrupulously honest and forthright with the Court and opposing counsel regarding her inability to obtain verified responses from many of clients. Instead, Respondent concealed the truth of her inability to obtain verified responses by attempting to simulate the signatures of at least 4 of her clients and causing her paralegal to simulate the signatures of 78 of Respondent's clients in a wide-scale attempt to overcome this obstacle through subterfuge. These intentional acts by Respondent harmed the administration of justice in that they created the need for several additional hearings and caused the parties to file additional pleadings which was an entirely avoidable waste of court resources and time.

**Multiple Acts of Misconduct [Standard 1.5(b)]:** Respondent's misconduct herein involves five counts of misconduct involving 78 clients and 78 false signatures, including acts of moral turpitude-misrepresentation and misleading the court. (*In the Matter of Elkins* (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 160, 168 [multiple acts of misconduct are an aggravating factor].)

## MITIGATING CIRCUMSTANCES.

**No Prior Discipline:** Respondent had been in practice for 20 years without a prior record when the first misconduct in this matter occurred. Although the misconduct in this matter is serious, involving misrepresentations of material fact, the significant period of time without discipline is entitled to some limited mitigation. (*In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, fn.13.; *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.)

**Good Character (Std. 1.6(f)):** Respondent's extraordinarily good character is attested to by a wide range of 13 references in the legal and general communities who are aware of the full extent of her misconduct.

**Pretrial Stipulation:** By entering into this stipulation, respondent has acknowledged her misconduct and is entitled to mitigating credit for recognition of wrongdoing and saving the State Bar significant resources and time. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigating credit was given for entering into a stipulation as to facts and culpability]; *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521).

## **AUTHORITIES SUPPORTING DISCIPLINE.**

The Standards for Attorney Sanctions for Professional Misconduct “set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

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.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given standard, in addition to the factors set forth in the specific standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member’s willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

Here, Respondent has intentionally committed misrepresentations of material fact in violation of Business and Professions Code section 6106, sought to mislead the judge through false misleading testimony to Judge Freeman, and filed declarations and other pleadings that contained material misstatements or omissions of fact which significantly damaged her clients’ ability to prove their injuries and that the named defendants’ defective products were liable for said injuries. Standards 1.7(b) and (c) require that where a Respondent has committed 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.

In this matter, the most severe sanction applicable to Respondent’s misconduct is found in Standard 2.11, which applies to Respondent’s violations of Business and Professions Code, section 6106. Standard 2.11 provides that “[d]isbarment or actual suspension is the presumed sanction for an act of moral turpitude, dishonesty, fraud, corruption, intentional or grossly negligent misrepresentation, or concealment of a material fact. The degree of sanction depends on the magnitude of the misconduct; the extent to which the misconduct harmed or misled the victim, which may include the adjudicator; the impact on the administration of justice, if any; and the extent to which the misconduct related to the member’s practice of law.” Here, the magnitude of respondent’s misconduct is extensive and serious. Further respondent’s misconduct was related to the practice of law and significantly aggravated as she committed multiple acts of misconduct which caused significant harm to her clients and the administration of justice. Therefore, discipline consisting of a significant period of actual as prescribed by Standard 2.11 is warranted.

However, as this is respondent's first misconduct in 20 years of practice, the lack of discipline should be given significant weight in mitigation. In addition, respondent has provided 10 good character letters from witnesses who attest to respondent's good character despite the charges alleged in the NDC. Further, respondent has expressed her desire to enter into a stipulation without proceeding to trial. These factors mitigate the discipline somewhat. (Std. 1.7(c).) Accordingly, the appropriate level of discipline under Standard 2.11 that best serves the protection of the public, the courts and the profession, as well as the maintenance of high professional standards for attorneys and the preservation of public confidence in the legal profession is a one year stayed suspension, two years' probation on standard terms and conditions, including a six month actual suspension, passage of State Bar Ethics School and the MPRE as well as compliance with rule 9.20, California Rule of Court.

A six month actual suspension is also supported by case law. In *Aronin v. State Bar*, *supra*, the Supreme Court imposed a 9 month actual suspension against an attorney that had no prior record of discipline and had been in practice for 17 years when he committed the misconduct at issue in that case. However, *Aronin* is distinguishable from the current matter. Unlike *Aronin*, which involved four client matters, the current matter involves a single matter. Although it is true that Respondent's misconduct affected at least 78 clients, the misconduct still occurred as the result of a single transaction serving 78 verifications with simulated signatures. Moreover, the Supreme Court's level of discipline analysis explicitly included a consideration of the fact that four client matters were involved in that case stating: "In view of his repeated and serious misconduct in multiple matters, petitioner must be suspended for a significant period of time to protect the public." (*Id.* at p. 292.) In addition, the Supreme Court in *Aronin* found the attorney culpable of eight counts of misconduct primarily consisting of client trust account violations as well as other violations including moral turpitude, whereas in this current matter, the State Bar is only seeking culpability on five counts of moral turpitude and misleading the court. Accordingly, given the fact that the misconduct in the current matter involves a single matter, somewhat less misconduct, not involving client funds, a six month actual suspension is supported by the disciplinary analysis of *Aronin* although not the actual disciplinary outcome.

## **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of Chief Trial Counsel has informed Respondent that as of March 3, 2016, the prosecution costs in this matter are \$5,418. 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, and/or any other educational course(s) to be ordered as a condition of suspension]. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of  
**JULIA SUSANNA SWANSON**

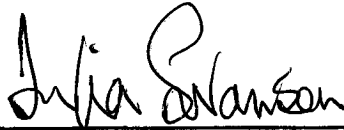
Case number(s):  
**14-O-01968-DFM**

### 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 Fact, Conclusions of Law and Disposition.

3-11-16

Date



Respondent's Signature

JULIA SUSANNA SWANSON

Print Name

Date

3/15/16

Date

Respondent's Counsel Signature



Deputy Trial Counsel's Signature

Print Name

SUE HONG

Print Name

(Do not write above this line.)

In the Matter of: JULIA S. SWANSON	Case Number(s): 14-O-01968
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### ACTUAL SUSPENSION ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, 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 DISCIPLINE RECOMMENDED to the Supreme Court.
- ☒ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☐ All Hearing dates are vacated.

1. On page 1 of the Stipulation, the right side of the caption, after "Submitted to:", "Assigned Judge" is deleted, and in its place is inserted "Settlement Judge Pro Tempore".
2. On page 12 of the Stipulation, first paragraph regarding significant harm, line 4, after "personal knowledge" the following is inserted "or were provided by the client's attorneys or agents or compiled from documents, and the clients were informed and believed those matters to be true." Thereafter, "This" is inserted before "created . . . ."
3. On page 12 of the Stipulation, paragraph 3, regarding multiple acts of misconduct, line 2, "78 clients and 78 false signatures" is deleted, and in its place is inserted "82 clients and 82 false signatures". (See page 8 of the Stipulation, paragraphs 9, 10 and 11.)
4. On page 12 of the Stipulation, paragraph 4 regarding no prior discipline, line 4, "some limited mitigation" and the citations which follow are deleted, as it conflicts with the language on page 14 of the Stipulation, first paragraph, lines 1-2. In place of this deleted language, the following is inserted: "significant mitigation. (Hawes v. State Bar (1990) 51 Cal.3d 587, 596 [10 years of discipline-free practice entitled to significant weight as mitigation])."
5. On page 14 of the Stipulation, first paragraph, line 2, "10" is deleted, and in its place is inserted "13". (See page 12 of the Stipulation, Good Character, line 2.)
6. On page 14 of the Stipulation, first paragraph, line 5, "These factors mitigate the discipline somewhat" is deleted, and in its place is inserted "These factors impact the discipline recommendation in this matter."
7. On page 14 of the Stipulation, second paragraph, the last sentence is deleted, and in its place is inserted "Accordingly, given the fact that the misconduct in the current matter was committed in a single matter and did not involve the misuse or mishandling of client funds and was mitigated by 20 years of misconduct-free practice, good character, and acknowledgement of wrongdoing, a six-month actual suspension is appropriate in this matter."



(Do not write above this line.)

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8. On page 14 of the Stipulation, at the bottom of the page, the following language is added: "The parties request that Count Three of the Notice of Disciplinary Charges filed in case No. 14-O-01968 be dismissed in the interest of justice."

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.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

March 30, 2016  
Date

Rebecca Meyer Rosenberg  
REBECCA MEYER ROSENBERG, JUDGE PRO TEM

## 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 April 1, 2016, 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:

JULIA S. SWANSON  
SWANSON & PELUSO  
1861 N TOPANGA CANYON BLVD  
TOPANGA, CA 90290

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

SUE HONG, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 1, 2016.



Rose M. Luthi  
Case Administrator  
State Bar Court