

1 STATE BAR OF CALIFORNIA  
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FILED

APR 21 2016

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

**PUBLIC MATTER**

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

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13 In the Matter of: ) Case No. 14-O-00247; 15-O-13013  
14 MICHAEL WILLIAM NEWCOMB, )  
No. 188321, ) NOTICE OF DISCIPLINARY CHARGES  
15 )  
16 A Member of the State Bar. )

**NOTICE - FAILURE TO RESPOND!**

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

- 20 (1) **YOUR DEFAULT WILL BE ENTERED;**  
21 (2) **YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU  
22 WILL NOT BE PERMITTED TO PRACTICE LAW;**  
23 (3) **YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN  
24 THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION  
25 AND THE DEFAULT IS SET ASIDE, AND;**  
26 (4) **YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.  
SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE  
OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN  
ORDER RECOMMENDING YOUR DISBARMENT WITHOUT  
FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,  
RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.**

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1 The State Bar of California alleges:

2 JURISDICTION

3 1. MICHAEL WILLIAM NEWCOMB ("respondent") was admitted to the practice of  
4 law in the State of California on June 5, 1997, was a member at all times pertinent to these  
5 charges, and is currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 14-O-00247  
8 Rules of Professional Conduct, rule 3-110(A)  
9 [Failure to Perform with Competence]

10 2. On or about May 16, 2013, Susanne Holenstein employed respondent to perform  
11 legal services, namely to prepare and file articles of organization for a California Limited  
12 Liability Corporation, which respondent intentionally, recklessly, or repeatedly failed to perform  
13 with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A), by not  
14 filing articles of organization for the client's proposed California Limited Liability Corporation.

15 COUNT TWO

16 Case No. 14-O-00247  
17 Rules of Professional Conduct, rule 4-100(B)(3)  
18 [Failure to Render Accounts of Client Funds]

19 3. On or about May 16, 2013, respondent received on behalf of his client, Susanne  
20 Holenstein, the sum of \$7,000 as advanced fees for legal services to be performed. Respondent  
21 thereafter failed to render an appropriate accounting to the client regarding those funds following  
22 the client's request for a refund of unearned fees on July 26, 2015, in willful violation of the  
23 Rules of Professional Conduct, rule 4-100(B)(3).

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COUNT THREE

Case No. 14-O-00247  
Business and Professions Code, section 6068(m)  
[Failure to Respond to Client Inquiries]

4. Respondent failed to respond promptly to two written reasonable status inquiries, sent via e-mail by respondent's client, Susanne Holenstein, on June 19, 2014 and September 9, 2014, that respondent received in a matter in which respondent had agreed to provide legal services, in willful violation of Business and Professions Code section 6068(m).

COUNT FOUR

Case No. 15-O-13013  
Rules of Professional Conduct, rule 3-110(A)  
[Failure to Perform with Competence]

5. On or about April 8, 2014, Audrey Cilurzo and Vincent Cilurzo employed respondent to defend them in a civil action entitled *Cziraki v. Cilurzo*, Riverside County Superior Court, case number MCC1300007, which respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A), by not filing an answer in response to a second amended complaint filed against defendants Audrey Cilurzo and Vincent Cilurzo and not filing a motion to set aside a default judgment.

COUNT FIVE

Case No. 15-O-13013  
Business and Professions Code, section 6068(m)  
[Failure to Keep Client Informed of Significant Developments]

6. Respondent failed to keep respondent's client, Audrey Cilurzo, reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services, in willful violation of Business and Professions Code section 6068(m), by failing to inform the client of the December 15, 2014, order issued by the California Court of Appeals in the matter of *Cziraki v. Cilurzo*, case number MCC1300007, denying the client's writ of mandate and the

1 January 26, 2015 entry of default against respondent's client in the matter of *Cziraki v. Cilurzo*,  
2 Riverside County Superior Court, case number MCC1300007.

3  
4 COUNT SIX

5 Case No. 15-O-13013  
6 Rules of Professional Conduct, rule 3-700(D)(1)  
7 [Failure to Release File]

8 7. Respondent failed to release promptly, after termination of respondent's employment  
9 on April 15, 2015, to the new attorney for respondent's clients, Audrey Cilurzo and Vincent  
10 Cilurzo, all of the clients' papers and property following the new attorney's request for the  
11 clients' file on April 15, 2015, May 1, 2015, June 22, 2015, July 1, 2015, July 13, 2015 and July  
12 16, 2015, in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).  
13

14 NOTICE - INACTIVE ENROLLMENT!

15 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR  
16 COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE  
17 SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL  
18 THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO  
19 THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN  
20 INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE  
21 ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE  
22 RECOMMENDED BY THE COURT.**

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**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 CHIEF TRIAL COUNSEL

DATED: 4/21/2016

By:   
Jamie Kim  
Deputy Trial Counsel

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DECLARATION OF SERVICE

by

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

CASE NUMBER(s): 14-O-00247; 15-O-13013

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, 845 South Figueroa Street, Los Angeles, California 90017, 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))
By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))
By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))
By Fax Transmission: (CCP §§ 1013(e) and 1013(f))
By Electronic Service: (CCP § 1010.6)

(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.: 9414 7266 9904 2010 0725 60 at Los Angeles, addressed to: (see below)

(for Ground 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, Courtesy Copy to. Row 1: MICHAEL W. NEWCOMB, Michael W Newcomb, Attorney at Law, 45089 Vine Cliff St, Temecula, CA 92592, 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).

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: April 21, 2016

SIGNED: [Signature] LAURA JETT Declarant