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State Bar Court of California Hearing Department San Francisco ACTUAL SUSPENSION		
Counsel For The State Bar LAUREN WILLIAMS Deputy Trial Counsel 180 Howard St. San Francisco, CA 94105 415-538-2527 Bar # 245948	Case Number(s): 15-C-15374-PEM	For Court use only PUBLIC MATTER FILED <i>df</i> JUN 05 2017 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent GLORIA MARIA MAS 4096 Hensley Circle El Dorado Hills, CA 95762 (916) 337-7499 Bar # 132429	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: GLORIA MARIA MAS Bar # 132429 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 11, 1987**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **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 discipline.** (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. **See Attachment to Stipulation, page 11.**
- (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.
- (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.
- (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:

Position of Higher Expectation and Responsibility. See Attachment to Stipulation, page 11.

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

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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 to Stipulation, 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 Record of Discipline. See Attachment to Stipulation, page 11.

Pretrial Stipulation. See Attachment to Stipulation, page 12.

D. Discipline:

(1) ☒ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of **two (2) years**.

- 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 **three (3) 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 **60 days**.
- 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 checked="" 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:**

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Substance Abuse Conditions

- a. ☒ Respondent must abstain from use of any alcoholic beverages, and shall not use or possess any narcotics, dangerous or restricted drugs, controlled substances, marijuana, or associated paraphernalia, except with a valid prescription.
- b. ☒ Respondent must attend at least three (3) meetings per month of:
- ☐ Alcoholics Anonymous
 - ☐ Narcotics Anonymous
 - ☐ The Other Bar
- ☒ Other program Respondent recognizes that a repeat conviction for DUI suggests an alcohol and/or drug problem that needs to be addressed before it affects respondent's legal practice. Respondent agrees to take the steps necessary to control the use of alcohol and/or drugs such that it will not affect respondent's law practice in the future. Respondent's agreement to participate in an abstinence-based self-help group (as defined herein), as a condition of discipline, is part of respondent's efforts to address such concerns.

As a condition of probation, and during the period of probation, respondent must attend a minimum of three (3) meetings per month of any abstinence-based self-help group of respondent's choosing, including AA, NA, LifeRing, S.M.A.R.T., S.O.S., etc. Other self-help maintenance programs are acceptable if they include a subculture to support recovery, including abstinence-based group meetings. (See O'Connor v. State of California (C.D. Cal. 1994) 855 F.Supp. 303 [no First Amendment violation where probationer given a choice between AA and a secular program]) Respondent is encouraged, but not required, to obtain a sponsor during the term of participation in these meetings.

The program called "Moderation Management" is not acceptable because it is not abstinence-based and allows the participant to continue consuming alcohol.

Respondent must contact the Office of Probation and obtain written approval for the program that respondent has selected, prior to attending the first self-help group meeting. If respondent wants to change groups, respondent must first obtain the Office of Probation's written approval prior to attending a meeting with the new self-help group.

Respondent must provide to the Office of Probation satisfactory proof of attendance of the meetings set forth herein with each Quarterly Report submitted to the Office of Probation. Respondent may not sign as the verifier of his or her own attendance.

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Respondent is encouraged but is not required to participate in the Lawyer's Assistance Program, to abstain from alcohol and illegal drugs, and to undergo random urinalysis testing to complement abstinence.

As a separate reporting requirement, Respondent must provide to the Office of Probation satisfactory proof of attendance during each month, on or before the tenth (10th) day of the following month, during the condition or probation period.

- c. ☒ Respondent must select a license medical laboratory approved by the Office of Probation. Respondent must furnish to the laboratory blood and/or urine samples as may be required to show that Respondent has abstained from alcohol and/or drugs. The samples must be furnished to the laboratory in such a manner as may be specified by the laboratory to ensure specimen integrity. Respondent must cause the laboratory to provide to the Office of Probation, at the Respondent's expense, a screening report on or before the tenth day of each month of the condition or probation period, containing an analysis of Respondent's blood and/or urine obtained not more than ten (10) days previously.
- d. ☒ Respondent must maintain with the Office of Probation a current address and a current telephone number at which Respondent can be reached. Respondent must return any call from the Office of Probation concerning testing of Respondent's blood or urine within twelve (12) hours. For good cause, the Office of Probation may require Respondent to deliver Respondent's urine and/or blood sample(s) for additional reports to the laboratory described above no later than six hours after actual notice to Respondent that the Office of Probation requires an additional screening report.
- e. ☒ Upon the request of the Office of Probation, Respondent must provide the Office of Probation with medical waivers and access to all of Respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court who are directly involved with maintaining, enforcing or adjudicating this condition.

Other:

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: GLORIA MARIA MAS

CASE NUMBER: 15-C-15374-PEM

FACTS AND CONCLUSIONS OF LAW

Respondent admits that the following facts are true and that the facts and circumstances surrounding the offense for which she was convicted involved other misconduct warranting discipline.

Case No. 15-C-15374 (Conviction Proceedings)

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:

1. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.
2. On June 24, 2015, the El Dorado County District Attorney's Office filed a criminal complaint in El Dorado County Superior Court, docket no. P15CRM0507, charging respondent with violating one count of Vehicle Code section 23152(a) [driving under the influence of alcohol] and one count of Vehicle Code section 23152(b) [driving with a blood alcohol content of .08 percent or more blood alcohol content], alleged to have occurred on May 31, 2015. The complaint further alleged enhancements for driving with a blood alcohol content of .20 percent or more and having a prior conviction for driving under the influence.
3. On September 25, 2015, respondent pled open to the court to all counts and allegations of the filed complaint. The court found respondent guilty on all counts and found all of the allegations to be true.
4. On October 2, 2015, the court sentenced respondent to 70 days in the county jail and placed her on five years of summary misdemeanor probation.
5. On January 5, 2017, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department finds that the facts and circumstances surrounding the offenses for which respondent was convicted involved moral turpitude or other misconduct warranting discipline.

BACKGROUND FACTS AND CIRCUMSTANCES

1. On July 25, 2011, respondent was employed as an Assistant District Attorney with the El Dorado County District Attorney's Office.
2. As an Assistant District Attorney, respondent possessed specialized knowledge about the laws and dangers relating to driving under the influence of alcohol.
3. Between 12:00 pm and 1:00 pm on the afternoon of July 25, 2011, before returning to work at the District Attorney's Office following lunch, respondent consumed multiple vodka tonics.

4. At or around 1:30 pm on July 25, 2011, respondent drove her 2002 BMW X5 from her home to the parking lot of the El Dorado County District Attorney's Office.

5. Soon after arriving at her workplace, respondent was contacted by police officers investigating whether she had driven to work while under the influence of alcohol.

6. At approximately 1:50 pm, CHP Sergeant Todd Brown contacted respondent and asked her to cooperate with a DUI evaluation.

7. During Sergeant Brown's initial questioning, respondent admitted to drinking two vodka tonics with her lunch.

8. Respondent failed to successfully perform the field sobriety tests administered by Sergeant Brown.

9. Respondent consented to a preliminary alcohol screening, providing two breath samples with results of .124 percent and .126 percent blood alcohol content.

10. After completing his evaluation, Sergeant Brown placed respondent under arrest for driving under the influence.

11. After her arrest, respondent consented to a formal Breathalyzer test, providing two breath samples. Both samples contained .12 percent blood alcohol content.

12. On September 2, 2011, respondent was charged in El Dorado County Superior Court, docket no. P11CRM0964, with violating Vehicle Code section 23152(a) [driving under the influence] and Vehicle Code section 23152(b) [driving with a blood alcohol content of .08 percent or higher].

13. Respondent pled no contest to a violation of Vehicle Code section 23152(b) on December 20, 2011, and was placed on four years summary misdemeanor probation.

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14. On May 31, 2015, at approximately 8:30 am, respondent caused a traffic collision at the intersection of El Dorado Hills Blvd. and Serrano Parkway.

15. On or about that time and date, respondent rear-ended a vehicle stopped at a traffic light, resulting in a second collision involving a third car stopped at that light.

16. Approximately ten minutes later, CHP Officer Jason Kiersey responded to the scene and contacted respondent.

17. Officer Kiersey conducted a DUI evaluation on respondent at the scene.

18. During the evaluation, Officer Kiersey asked respondent if she had consumed any alcohol prior to driving her vehicle and causing the collision.

19. Respondent denied drinking alcohol prior to the collision.

20. At the conclusion of the DUI evaluation, respondent consented to a preliminary alcohol screen at the scene.

21. The results of two preliminary alcohol screens were both greater than .40 percent blood alcohol content.

22. After completing the preliminary alcohol screens, respondent was placed under arrest for driving under the influence and transported to Marshall Hospital for medical clearance due to the collision.

23. At Marshall Hospital, respondent provided a blood sample for testing.

24. On June 10, 2015, the Department of Justice tested respondent's blood sample for its blood alcohol content, with results of .42 percent.

25. On June 24, 2015, respondent was charged in El Dorado County Superior Court, docket no. P15CRM0507, with two counts of driving under the influence, Vehicle Code sections 23152(a) and 23152(b), along with special allegations of driving with a blood alcohol content of .20 percent or more, and having a prior DUI conviction.

26. On September 25, 2015, respondent pled open to the court to all counts and allegations of the filed complaint. The court found her guilty on all counts and found all allegations to be true.

27. On October 2, 2015, respondent was sentenced to 70 days in county jail and five years summary misdemeanor probation.

CONCLUSIONS OF LAW:

28. The facts and circumstances surrounding the above-described violations did not involve moral turpitude but did involve other misconduct warranting discipline.

AGGRAVATING CIRCUMSTANCES.

Intentional Misconduct, Bad Faith or Dishonesty (Std. 1.5(d)): When questioned during Officer Kiersey's investigation, respondent was dishonest about consuming alcohol prior to the vehicle collision.

Position of Higher Expectation, Awareness and Responsibility: Respondent holds a special position of higher expectations awareness, and responsibility due to her previous employment as a criminal prosecutor for the State of California. (See *Seide v. State Bar* (1989) 49 Cal.3d 933, 938 [experience prosecuting drunk drivers demonstrated general awareness of the issue and exacerbated the impact of the misconduct]; *In the Matter of Anderson* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 208, 216) [special awareness of the requirements of the law aggravated former prosecutor's fraud conviction].

MITIGATING CIRCUMSTANCES.

No Prior Discipline: Respondent was admitted to practice on December 11, 1987, practicing 24 years before suffering her first conviction for driving under the influence, and 28 years before suffering the transmitted conviction in this case. Here, this mitigation is minimal given that a discipline-free record is most relevant when the misconduct is aberrational and unlikely to recur. (*Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1029-1030.)

No Harm (Std. 1.6(c)): Respondent did not harm the client, the public, or the administration of justice.

Cooperation/Candor (Std. 1.6(e)): Respondent displayed spontaneous candor and cooperation with the State Bar during the proceedings.

Good Character (Std. 1.6(f)): Respondent provided four character letters from a range of references in the legal and general communities who are aware of the full extent of the misconduct.

Pretrial Stipulation: By entering into this stipulation, respondent has acknowledged misconduct and is entitled to mitigation 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 mitigative 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 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

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 Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) 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).)

In this matter, respondent was convicted of a misdemeanor where the facts and circumstances surrounding the offense do not involve moral turpitude, but do involve misconduct warranting discipline. Standard 2.16(b) applies and provides: "Suspension or reproof is the presumed sanction for final conviction of a misdemeanor not involving moral turpitude but involving other misconduct warranting discipline."

The case law is clear that for a single misdemeanor crime not involving moral turpitude and unrelated to the practice of law, actual suspension is appropriate when aggravating factors exist. (*In the Matter of Jensen* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 283, 293.) There are few cases published by the Review Department in recent years where the issue of misdemeanor driving under the influence convictions is addressed under circumstances where no moral turpitude is established. However, the

California Supreme Court has addressed the issue in several cases since the promulgation of the Standards in 1986.

In *In Re Carr* (1988) 46 Cal.3d 1089, the California Supreme Court considered a case where respondent suffered two misdemeanor driving under the influence convictions. The court adopted the Review Department's recommendation of two years stayed suspension with a six month actual suspension and five years probation without an analysis of the facts of the case, or the aggravating and mitigating factors. Despite the truncated form of the opinion, a recent Review Department decision, *In the Matter of Guillory* (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 402, acknowledged the relevancy of *Carr*, citing the case as one in a line of cases addressing misdemeanor driving under the influence convictions that do not involve moral turpitude.

The California Supreme Court has also found a public reproof appropriate in a case involving two misdemeanor convictions for driving under the influence. (*In Re Kelley* (1990) 52 Cal.3d 487.) In *Kelley*, respondent suffered two convictions for driving under the influence over the course of two years. The first conviction involved respondent driving her car into an embankment while driving with a blood alcohol content of .10 percent. The second conviction involved an arrest while the respondent was on probation for the first case. In the second case, respondent was stopped and arrested after driving with a blood alcohol of .16/.17. The *Kelley* court's analysis concluded that discipline was warranted despite the lack of moral turpitude due to the nexus between respondent's misconduct and her fitness to practice law. (*Id.* at p. 495.) The court found the nexus two ways: first, by looking at respondent's demonstrated disregard for the law and safety of the public, and second, by considering the convictions as evidence of alcohol abuse. (*Ibid.*)

Both nexus exist in the present case. First, respondent demonstrated a complete disregard for the safety of the public by driving a motor vehicle with a blood alcohol content level over five times the legal limit. As a result, she caused a collision resulting in property damage and harm to other citizens. The nexus between her disregard and her fitness to practice is particularly clear here because of respondent's experience and knowledge of criminal law stemming from her career as a criminal prosecutor. As a result, this misconduct is particularly aggravated because of her awareness and familiarity of the laws surrounding driving under the influence. Respondent possessed specialized knowledge of the dangers and impact of driving under the influence on the public. Thus a more severe discipline than that imposed in *Kelley* is warranted in this case. (See *In the Matter of Anderson* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 208, 216 [experience prosecuting drunk drivers demonstrated general awareness of the issue and exacerbated the impact of the misconduct]; *Seide v. State Bar* (1989) 49 Cal.3d 933, 938 [special awareness of the requirements of the law aggravated former prosecutor's fraud conviction].)

Consideration of a respondent's convictions as evidence of alcohol abuse was the second nexus *Kelley* used to explain the need for discipline in the absence of moral turpitude or a direct connection between misconduct and the attorney's fitness to practice. In the present case, that nexus is apparent. Respondent was driving a vehicle, causing auto collisions, at 8:30 in the morning, with a blood alcohol content over five times the legal limit. This, after her first conviction where she was drinking during the day, while at work as a criminal prosecutor. Respondent's conduct clearly demonstrates a substance abuse issue that the State Bar must acknowledge and address in order to protect the public and the integrity of the legal profession.

The *Kelley* nexus analysis is helpful to articulate the need for significant discipline in this case. But the facts and circumstances surrounding this case require a more severe discipline than what was ultimately imposed in that case. Respondent's disregard for the safety of the public, her extraordinarily high blood

alcohol content, and her history of drinking while employed as an attorney representing the State of California are all clear indicators of a significant substance abuse problem with great potential to impact respondent's practice of law, if it has not already.

A more severe discipline than that recommended by the *Kelley* court is justified and necessary in this case because of respondent's specialized knowledge and awareness of the law and her dishonesty in response to law enforcement's inquiry into whether she had consumed alcohol prior to causing the collision. Based on the totality of the facts and circumstances in this case, discipline more similar to that imposed in *Carr* is appropriate and recommended: 60 days actual suspension, two years stayed suspension, with five years of probation to include substance abuse treatment.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of May 19, 2017, the discipline costs in this matter are \$7,403. 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.

(Do not write above this line.)

In the Matter of GLORIA MARIA MAS	Case number(s): 15-C-15374-PEM
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SIGNATURE OF THE PARTIES

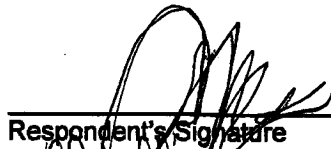
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

5/23/2017

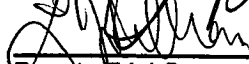
Date

5/25/2017

Date



Respondent's Signature



Deputy Trial Counsel's Signature

GLORIA MARIA MAS

Print Name

LAUREN WILLIAMS

Print Name

(Do not write above this line.)

In the Matter of: GLORIA MARIA MAS	Case Number(s): 15-C-15374-PEM
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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.

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.)

Date

Jan 5, 2017

Judge of the State Bar Court

LUCY ARMENDARIZ

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 San Francisco, on June 5, 2017, 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 San Francisco, California, addressed as follows:
- GLORIA M. MAS
GLORIA MAS LAW
4096 HENSLEY CIR
EL DORADO HILLS, CA 95762 - 4275
- ☐ by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:
- ☐ by overnight mail at , California, addressed as follows:
- ☐ by fax transmission, at fax number . No error was reported by the fax machine that I used.
- ☐ By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:
- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Lauren Williams, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on June 5, 2017.


George Hue
Case Administrator
State Bar Court