



1 LINDA SOMERS SMITH, SBN 125542
 2 **ADAMSKI MOROSKI MADDEN CUMBERLAND & GREEN LLP**
 3 *Mailing Address:* Post Office Box 3835
 4 San Luis Obispo, CA 93403-3835
 5 *Physical Address:* 6633 Bay Laurel Place
 6 Avila Beach, CA 93424
 7 Telephone: (805) 543-0990
 8 Facsimile: (805) 543-0980
 9 Attorneys for Respondent, Gerald I. Sugarman

FILED

JAN 04 2016

**STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES**

8 **THE STATE BAR COURT OF CALIFORNIA**
 9 **HEARING DEPARTMENT - LOS ANGELES**

11 In the Matter of
 12 GERALD I. SUGARMAN,
 13 Member No. 84730,
 14 A Member of the State Bar

Case No.: 15-O-12224

**ANSWER TO NOTICE OF
 DISCIPLINARY CHARGES AND
 MOTION TO REQUEST PLACEMENT
 ON INVOLUNTARY INACTIVE
 ENROLLMENT**

Initial Status Conference: 01/25/2016
Time: 10:30 AM

Trial Date: None set
Case Filed: 12/18/2015

*Assigned for all Purposes to Hon. Donald
F. Miles – Hearing Department*

20 In lieu of admitting or denying the allegations generally and as specified in Counts One through
 21 Seven set forth in the Notice of Disciplinary Charges filed against Respondent on December 18,
 22 2015, Respondent requests enrollment in inactive status as follows.

23 The State Bar Board of Trustee shall enroll a member of the State Bar as an inactive member if:

24 (1) *A member asserts a claim of...mental incompetence in any pending action or*
 25 *proceeding, alleging his or her inability to understand the nature of the action or proceeding or*
 26 *inability to assist counsel in representation of the member.*


27 Gerald Sugarman has recently had a series of health issues, with complications,
 28 including viral meningitis, spinal stenosis surgery, a secondary surgery, which was then

ADAMSKI MOROSKI MADDEN CUMBERLAND & GREEN LLP
 Attorneys at Law

1 followed by bacterial meningitis. He has since been diagnosed with heart failure, for which he is
2 waiting for his health to improve so he can have heart valve replacement surgery. As a result of
3 these health conditions, which are confirmed by the attached physician's declaration, he is
4 physically unable to participate in any proceedings, and must avoid all stress so his condition
5 can be stabilized to allow heart surgery. Based on the impact of his physical conditions and his
6 need to avoid stress, he has been advised to avoid any stressors, including travel, and is unable
7 to participate physically or mentally in his defense at this time. His physical limitations and
8 their impact on his mental processes and his need to avoid stress are the reason for this motion.

9 Accordingly, through this answer/motion we ask the Board to place him on involuntary
10 inactive enrollment with the State Bar until further notice or until his health improves to the
11 point where he can cooperate.

12
13 DATED: December 29, 2015

14 Submitted by: 
15 Lida Somers Smith,
16 Attorney for Respondent

17
18
19
20
21
22
23
24
25
26
27
28

PHYSICIAN'S DECLARATION

**Supporting Motion to Request Placement on Involuntary Inactive Enrollment
Pursuant to Business and Professions Code Section 6007(b) (1)**

DECLARATION

State of California
County of Santa Barbara

Dr. Edward A. Smith, being first sworn, deposes and says:

1. I am a practicing physician licensed by the state of California as a medical doctor and specialize as a Surgical Specialist, Neurological Surgeon with 44 years of experience.
2. On multiple dates over the last three years, including weekly in November and December of 2015, I have evaluated Gerald I. Sugarman with regard to multiple medical conditions.
3. In addition to my evaluations, I have reviewed medical information from other health care providers, including information concerning a required heart procedure.
4. Gerald Sugarman's physical condition is impaired significantly and has deteriorated over the last two years. It is critical that he avoid stress and activities that impact his physical condition, in particular so his health is stabilized to allow him to continue with his heart surgery as he is in current heart failure.
5. Based on my evaluations and review of records, Gerald Sugarman suffered neurological impairment, resulting in associated temporary mental impairment in 2014, and was subsequently diagnosed with viral meningitis, for which treatment was not immediately effective. Since that time, he has been confined to a wheelchair with assistance for walking.
6. Later in 2014, Gerald Sugarman was diagnosed with chronic lymphocytic leukemia (CLL), also weakening his physical condition and delaying his recovery.
7. In 2014, a lumbar spine MRI showed severe cervical and lumbar compression, and he was referred for cervical compression surgery.
8. On November 11, 2014, Gerald Sugarman presented at Cottage Hospital for labs and a stress test. He failed the stress test and was admitted to the ER for an angiogram. Thereafter, given the severity of his spinal weakness, he had spinal Cervical decompression surgery at Cottage

- Hospital in Santa Barbara followed an acute stay in Arroyo Grande Acute Rehab for twenty-five (25) days, after which he was referred to a home health nurse.
9. In December 2014, he returned to the Hospital with an infection, diagnosed as bacterial meningitis, affecting his physical condition and impacting his mental condition.
 10. On or about August of 2015, Mr. Sugarman was diagnosed with heart failure, and advised to undergo transaortic valve implantation procedure (TAVR) procedure for severe aortic stenosis.
 11. Contrast MRI and CT of Mr. Sugarman's Abdomen and upper extremities have been scheduled at UCLA on December 18, 2015.
 12. TAVR Surgery has been scheduled for January 13, 2016 at UCLA.
 13. Surgery will be performed by Drs. William Suh and Chief of Cardiothoracic Surgery Richard Shemin at UCLA Medical Center.
 14. Based on Mr. Sugarman's health, and his current heart failure, it is my medical opinion that Gerald Sugarman must avoid all physical and mental stress prior to surgery, through surgery and during recovery.
 15. In addition, based on Mr. Sugarman's health, recent health diagnosis and his current heart failure, it is my medical opinion that Gerald Sugarman must avoid all travel out of San Luis Obispo County except for medical care.
 16. Based on his health, recent health diagnosis and his progressive heart failure, Gerald Sugarman is unable to participate in detailed research, case presentation or to provide assistance to others to aid his defense.
 17. Based on his physical incapacity and associated mental impact, he is unable to participate in adversarial situations at this time, and has been advised to discontinue all legal work.
 18. All the facts and opinions stated in this declaration are true and correct to the best of undersigned's knowledge and belief.

Witness my signature this 16 day of December, 2015.



Dr. Edward A. Smith, M.D.

PROOF OF SERVICE
[C.C.P. §1013(a)]

I am employed in the County of San Luis Obispo, State of California. I am over the age of 18 and not a party to the within action; my business address is P.O. BOX 3835, San Luis Obispo, CA 93403. Hand and overnight deliveries should be directed to our physical location at 6633 Bay Laurel Place, Avila Beach, CA 93424.

On December 29, 2015, I served a copy of the attached "**ANSWER TO NOTICE OF DISCIPLINARY CHARGES AND MOTION TO REQUEST PLACEMENT ON INVOLUNTARY INACTIVE ENROLLMENT**" on the interested parties in this action by placing same in a sealed envelope, addressed as follows:

Charles T. Calix, SBN 146853
State Bar of CA/OCTC
845 S Figueroa St
Los Angeles, CA 90017
Fax: (213) 765-1383
Email: Charles.Calix@calbar.ca.gov

Deputy Trial Counsel of the Office of
the Chief Trial Counsel, State Bar

BY MAIL – Following ordinary business practice, I placed said envelope(s) for collection and mailing at the offices of Adamski Moroski Madden Cumberland & Green LLP, located at 6633 Bay Laurel Place Avila Beach, CA 93424. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid, at Paso Robles, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

BY ELECTRONIC COPY (as noted above) – I caused the above-described document(s) to be transmitted to the interested parties at the e-mail addresses indicated on the Service List, per the stipulation of counsel for the parties in the above-captioned matter.

BY FACSIMILE at ___:___ o'clock – The receiving party consented to this method of service. I caused the above-described document(s) to be transmitted to the interested parties at the facsimile number(s) indicated on the Service List and the activity report(s) generated by facsimile number (805) 543-0980 indicated all pages were transmitted. Pursuant to Rule 5.26(g), service by fax is equal to service by overnight mail

BY OVERNIGHT – I caused the envelope(s) to be delivered to an authorized courier or driver authorized to receive documents with delivery fees provided for.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct and that this declaration was executed on December 29, 2015, at Avila Beach, California.



ANNE BASHAW