

PUBLIC MATTER

FILED

MAR 21 2016

1 STATE BAR OF CALIFORNIA
2 OFFICE OF CHIEF TRIAL COUNSEL
3 JAYNE KIM, No. 174614
4 CHIEF TRIAL COUNSEL
5 GREGORY P. DRESSER, No. 136532
6 ASSISTANT CHIEF TRIAL COUNSEL
7 DONALD R. STEEDMAN, No. 104927
8 SUPERVISING SENIOR TRIAL COUNSEL
9 180 Howard Street
10 San Francisco, California 94105-1639
11 Telephone: (415) 538-2000

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

STATE BAR COURT

HEARING DEPARTMENT - SAN FRANCISCO

11 In the Matter of:

12 DAPHNE MACKLIN,
13 No. 117189,

14 A Member of the State Bar

) Case No. 15-O-13786 [15-O-14055;
15-O-14613; 16-O-10164]

) NOTICE OF DISCIPLINARY CHARGES

NOTICE - FAILURE TO RESPOND!

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

- 19 (1) YOUR DEFAULT WILL BE ENTERED;
- 20 (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU
WILL NOT BE PERMITTED TO PRACTICE LAW;
- 21 (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN
THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION
AND THE DEFAULT IS SET ASIDE, AND;
- 22 (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
23 ORDER RECOMMENDING YOUR DISBARMENT WITHOUT
24 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. Daphne Macklin (“respondent”) was admitted to the practice of law in the State of
4 California on December 10, 1984, was a member at all times pertinent to these charges, and is
5 currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 15-O-13786
8 Rules of Professional Conduct, rule 3-110(A)
9 [Failure to Perform with Competence]

10 2. On or about August 1, 2014, Robert Solla employed respondent to perform legal
11 services, namely to represent Mr. Sola in a lawsuit against Quenta Givens, which respondent
12 intentionally, recklessly, and repeatedly failed to perform with competence, in willful violation
13 of Rules of Professional Conduct, rule 3-110(A), by: (1) failing to respond to the opposing
14 party’s discovery requests, (2) failing to respond to the opposing party’s motions to compel
15 discovery and motion for sanctions and to strike, (3) failing to initiate discovery, (4) failing to
16 diligently prosecute the lawsuit once it was filed, and (5) failing to diligently attempt to obtain
17 compensation for the client after the lawsuit was filed.

18 COUNT TWO

19 Case No. 15-O-13786
20 Rules of Professional Conduct, rule 3-700(A)(1)
21 [Failure to Obtain Court Permission to withdraw]

22 3. On or about August 1, 2014, Robert Solla employed respondent to perform legal
23 services, and thereafter, respondent appeared as counsel of record for the client in *Solla v.*
24 *Givens*, case number 34-2014-00167533-CU-PA-GDS, Sacramento County Superior Court.
25 Respondent took no further action on behalf of the client after on or about October 29, 2014, and
26 effectively withdrew from the employment. At that time, respondent did not obtain the
27 permission of the court to withdraw from the client’s representation in the case before that court

1 when the rules of the court required that he do so, and respondent withdrew from employment in
2 a proceeding before a tribunal without its permission, in willful violation of the Rules of
3 Professional Conduct, rule 3-700(A)(1).

4 COUNT THREE

5 Case No. 15-O-13786
6 Rules of Professional Conduct, rule 3-700(A)(2)
7 [Improper Withdrawal from Employment]

8 4. Respondent failed, upon termination of employment, to take reasonable steps to avoid
9 reasonably foreseeable prejudice to respondent's client, Robert Sola in a lawsuit entitled *Sola v.*

10 *Givens*, by:

11 (1) constructively terminating respondent's employment on or about October 29, 2014,
12 by failing to take any action on the client's behalf after on or about October 29, 2014, and
13 thereafter failing to inform the client that respondent was withdrawing from employment, in
14 willful violation of Rules of Professional Conduct, rule 3-700(A)(2); and

15 (2) failing to inform the client that respondent's law license had been placed on inactive
16 status on or about July 1, 2015, and respondent would therefore perform no further services, all
17 in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

18 COUNT FOUR

19 Case No. 15-O-13786
20 Business and Professions Code, section 6068(m)
21 [Failure to Respond to Client Inquiries]

22 5. Respondent failed to respond promptly to about 30 telephonic, reasonable status
23 inquiries made by respondent's client, Robert Solla, between in or about August, 2014 and the
24 end of October 2015, that respondent received, in a matter in which respondent had agreed to
25 provide legal services, in willful violation of Business and Professions Code, section 6068(m).
26 Respondent received but failed to promptly respond to additional reasonable status inquiries in
27 the form of email and text messages sent by Elana Norlie on behalf of Mr. Solla between on ora

1 about April 11, 2014, and on or about May 2, 2014, in further willful violation of Business and
2 Professions Code, section 6068(m).

3 COUNT FIVE

4 Case No. 15-O-13786
5 Business and Professions Code, section 6068(m)
6 [Failure to Inform Client of Significant Development]

7 6. Respondent failed to keep respondent's client, Robert Solla, reasonably informed of
8 significant developments in a matter in which respondent had agreed to provide legal services, in
9 willful violation of Business and Professions Code, section 6068(m), by failing to inform the
10 client of the following: (1) that the opposing party served discovery on or about April 24, 2015;
11 (2) that respondent was placed on inactive status on or about July 1, 2015; (3) that on or about
12 September 30, 2015, the court scheduled a trial date in Mr. Solla's case; (4) that the opposing
13 party filed a motion to compel discovery on or about October 1, 2015; (5) that respondent had
14 not opposed the motion; (6) that the court granted the motion on or about November 13, 2015;
15 (7) that the opposing party had scheduled depositions for Mr. Solla and Mr. Solla's wife on or
16 about December 3, 2015; (8) that the opposing party had filed a motion to strike the complaint to
17 take place on or about December 8, 2015; (9) that on or about January 14, 2016 the court had
18 made a further order compelling discovery; and (10) that respondent had stopped pursuing the
19 case after on or about October 29, 2014.

20 COUNT SIX

21 Case No. 15-O-13786
22 Business and Professions Code, section 6068(a)
23 [Failure to Comply With Laws – Unauthorized Practice of Law]

24 7. On or about September 8 and December 3, 2015, respondent held herself out as
25 entitled to practice law and. on December 3, 2015, actually practiced law when respondent was
26 not an active member of the State Bar, by representing her client, Robert Sola, during the course
27 of telephone conversations with her opposing counsel in *Solla v. Givens*, case number 34-2014-
28 00167533-CU-PA-GDS, Sacramento County Superior Court, in violation of Business and

1 Professions Code, sections 6125 and 6126, and thereby willfully violated Business and
2 Professions Code, section 6068(a).

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4 COUNT SEVEN

5 Case No. 15-O-13786
6 Business and Professions Code, section 6106
7 [Moral Turpitude]

8 8. On or about September 8 and December 3, 2015, respondent held herself out as
9 entitled to practice law and, on December 3, 2015, actually practiced law when respondent knew,
10 or was grossly negligent in not knowing, that respondent was not an active member of the State
11 Bar by representing her client, Robert Sola, during the course of telephone conversations with
12 her opposing counsel in *Solla v. Givens*, case number 34-2014-00167533-CU-PA-GDS,
13 Sacramento County Superior Court, and thereby committed acts involving moral turpitude,
14 dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

15 COUNT EIGHT

16 Case No. 15-O-13786
17 Business and Professions Code, section 6068(i)
18 [Failure to Cooperate in State Bar Investigation]

19 9. Respondent failed to cooperate and participate in a disciplinary investigation pending
20 against respondent by failing to respond to the State Bar's letters of August 20, 2015, September
21 4, 2015, and January 20, 2016, which respondent received, that requested respondent's response
22 to the allegations of misconduct being investigated in case number 15-O-13786, in willful
23 violation of Business and Professions Code, section 6068(i).

24 COUNT NINE

25 Case No. 15-O-14055
26 Rules of Professional Conduct, rule 3-110(A)
27 [Failure to Perform with Competence]

28 10. On or about September 10, 2014, Delva McFarland employed respondent to perform
legal services, namely to represent Ms. McFarland in a lawsuit against Jose Garcia Alvarez,

1 which respondent intentionally, recklessly, and repeatedly failed to perform with competence, in
2 willful violation of Rules of Professional Conduct, rule 3-110(A), by: (1) failing to file a case
3 management statement as ordered by the court on or about December 23, 2014; (2) failing to
4 appear at the April 10, 2015 court conference; (3) failing to diligently prosecute the lawsuit once
5 it was filed; and (4) failing to diligently take action to obtain compensation for the client.

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7 COUNT TEN

8 Case No. 15-O-14055
9 Rules of Professional Conduct, rule 3-700(A)(1)
[Failure to Obtain Court Permission to withdraw]

10 11. In or about September, 2014, Delva McFarland employed respondent to perform
11 legal services, and thereafter, respondent appeared as counsel of record for the client in *Delva*
12 *McFarland v. Jose Garcia Alvarez*, case number 34-2014-00168650, Sacramento County
13 Superior Court. Respondent took no further action on behalf of the client after on or about
14 September 9, 2014, and effectively withdrew from the employment. At that time, respondent did
15 not obtain the permission of the court to withdraw from the client's representation in the case
16 before that court when the rules of the court required that he do so, and respondent withdrew
17 from employment in a proceeding before a tribunal without its permission, in willful violation of
18 the Rules of Professional Conduct, rule 3-700(A)(1).

19 COUNT ELEVEN

20 Case No. 15-O-14055
21 Rules of Professional Conduct, rule 3-700(A)(2)
[Improper Withdrawal from Employment]

22 12. Respondent failed, upon termination of employment, to take reasonable steps to
23 avoid reasonably foreseeable prejudice to respondent's client, Delva McFarland, in a lawsuit
24 entitled *McFarland v. Alvarez*, case number 34-2014-00168650, Sacramento County Superior
25 Court, by:
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1 (1) constructively terminating respondent's employment on or about October 1, 2014, by
2 failing to take any action on the client's behalf after on or about October 1, 2014, and thereafter
3 failing to inform the client that respondent was withdrawing from employment, in willful
4 violation of Rules of Professional Conduct, rule 3-700(A)(2); and

5 (2) failing to inform the client that respondent had been placed on inactive status on or
6 about July 1, 2015, and that respondent would therefore perform no further services, all in wilful
7 violation of Rules of Professional Conduct, rule 3-700(A)(2).

8
9 COUNT TWELVE

10 Case No. 15-O-14055
11 Business and Professions Code, section 6068(m)
[Failure to Respond to Client Inquiries]

12 13. Respondent failed to respond promptly to multiple weekly telephonic, reasonable
13 status inquiries made by respondent's client, Delva McFarland, between in or about September,
14 2014 and approximately May, 2015, that respondent received in a matter in which respondent
15 had agreed to provide legal services, in willful violation of Business and Professions Code,
16 section 6068(m). Respondent received but failed to promptly respond to additional reasonable
17 status inquiries in the form of text messages sent by Elana Norlie on behalf of Ms. McFarland
18 between on or about April 11, 2014, and April 23, 2014, in further willful violation of Business
19 and Professions Code, section 6068(m).

20 COUNT THIRTEEN

21 Case No. 15-O-14055
22 Business and Professions Code, section 6068(m)
23 [Failure to Inform Client of Significant Development]

24 14. Respondent failed to keep respondent's client, Delva McFarland, reasonably
25 informed of significant developments in a matter in which respondent had agreed to provide
26 legal services, in willful violation of Business and Professions Code, section 6068(m), by failing
27 to inform the client of the following: (1) that respondent stopped working on the case after on or
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1 about October 1, 2014 and (2) that respondent was placed on inactive status on or about July 1,
2 2015.

3 COUNT FOURTEEN

4 Case No. 15-O-14055
5 Business and Professions Code, section 6068(i)
6 [Failure to Cooperate in State Bar Investigation]

7 15. Respondent failed to cooperate and participate in a disciplinary investigation pending
8 against respondent by failing to respond to the State Bar's letters of August 27, 2015, and
9 September 14, 2015, which respondent received, that requested respondent's response to the
10 allegations of misconduct being investigated in case number 15-O-14055, in willful violation of
11 Business and Professions Code, section 6068(i).

12 COUNT FIFTEEN

13 Case No. 16-O-10164
14 Business and Professions Code, section 6068(i)
15 [Failure to Cooperate in State Bar Investigation]

16 16. Respondent failed to cooperate and participate in a disciplinary investigation pending
17 against respondent by failing to respond to the State Bar's letters of January 25, 2016, and March
18 9, 2016, which respondent received, that requested respondent's response to the allegations of
19 misconduct being investigated in case number 16-O-10164, in willful violation of Business and
20 Professions Code, section 6068(i).

21 COUNT SIXTEEN

22 Case No. 15-O-14613
23 Business and Professions Code, section 6068(a)
24 [Failure to Comply With Laws – Unauthorized Practice of Law]

25 17. Respondent both held herself out as entitled to practice law and on actually practiced
26 law when respondent was not an active member of the State Bar during the course of
27 representing the defendant in a criminal case entitled *People v. William Anthony Coker*, case
28 number 1468109, Stanislaus County Superior Court, by: (1) on July 8, 2015, filing a motion to
withdraw as counsel and (2) on August 5, 2015, sending a letter to the court concerning matters

1 at issue the criminal case; all in violation of Business and Professions Code, sections 6125 and
2 6126, and thereby willfully violated Business and Professions Code, section 6068(a).

3 COUNT SEVENTEEN

4 Case No. 15-O-14613
5 Business and Professions Code, section 6106
6 [Moral Turpitude]

7 18. Respondent both held herself out as entitled to practice law and actually practiced
8 law when respondent knew, or was grossly negligent in not knowing, that respondent was not an
9 active member of the State Bar during the course of representing the defendant in a criminal case
10 entitled *People v. William Anthony Coker*, case number 1468109, Stanislaus County Superior
11 Court, by: (1) on July 8, 2015, filing a motion to withdraw as counsel and (2) on August 5, 2015,
12 sending a letter to the court concerning matters at issue the criminal case; and thereby committed
13 acts involving moral turpitude, dishonesty or corruption in willful violation of Business and
14 Professions Code, section 6106.

15 COUNT EIGHTEEN

16 Case No. 15-O-14613
17 Rules of Professional Conduct, rule 3-700(A)(1)
18 [Failure to Obtain Court Permission to withdraw]

19 19. Prior to on or about July 8, 2015, William Anthony Coker employed respondent to
20 perform legal services, and thereafter, respondent appeared as counsel of record for the client in
21 *People v. William Anthony Coker*, case number 1468109, Stanislaus County Superior Court.
22 Respondent took no further action on behalf of the client after on or about August 5, 2014, and
23 effectively withdrew from the employment. At that time, respondent did not obtain the
24 permission of the court to withdraw from the client's representation in the case before that court
25 when the rules of the court required that he do so, and respondent withdrew from employment in
26 a proceeding before a tribunal without its permission, in willful violation of the Rules of
27 Professional Conduct, rule 3-700(A)(1).
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COUNT NINETEEN

Case No. 15-O-14613
Business and Professions Code, section 6103
[Failure to Obey a Court Order]

20. Respondent disobeyed or violated an order of the court requiring respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear by failing to comply with the order filed on August 18, 2015 in *People v. William Anthony Coker*, case number 1468109, Stanislaus County Superior Court, requiring respondent to personally appear in court on September 7, 2015, to show cause why she should not be sanctioned for her failure to appear in court on August 13, 2015, all in willful violation of Business and Professions Code, section 6103.

COUNT TWENTY

Case No. 15-O-14613
Business and Professions Code, section 6068(i)
[Failure to Cooperate in State Bar Investigation]

21. Respondent failed to cooperate and participate in a disciplinary investigation pending against respondent by failing to respond to the State Bar's letters of September 30, 2015 and October 19, 2015, which respondent received, that requested respondent's response to the allegations of misconduct being investigated in case number 15-O-14613, in willful violation of Business and Professions Code, section 6068(i).

NOTICE - INACTIVE ENROLLMENT!

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

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

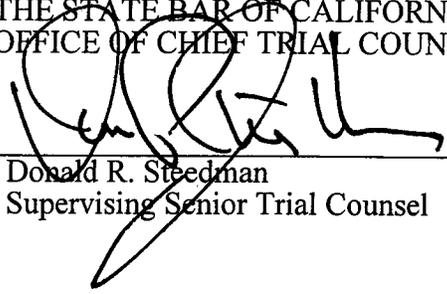
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AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6086.10.

Respectfully submitted,

THE STATE BAR OF CALIFORNIA
OFFICE OF CHIEF TRIAL COUNSEL

DATED: March 21, 2016

By: 
Donald R. Steedman
Supervising Senior Trial Counsel

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DECLARATION OF SERVICE BY CERTIFIED AND REGULAR MAIL

DAPHNE MACKLIN
CASE NO.: 15-O-13786 [15-O-14055; 15-O-14613; 16-O-10164]

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that I am not a party to the within action; that 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; that in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day; that I am aware that on motion of 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; and that in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of San Francisco, on the date shown below, a true copy of the within

NOTICE OF DISCIPLINARY CHARGES

in a sealed envelope placed for collection and mailing as *certified mail, return receipt requested*, and in an additional sealed envelope as *regular mail*, at San Francisco, on the date shown below, addressed to:

Article No. 9414 7266 9904 2042 4852 53

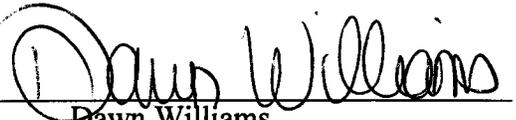
Daphne Lori Macklin
PO Box 661702
Sacramento, CA 95866

in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

N/A

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Francisco, California, on the date shown below.

DATED: March 21, 2016

Signed: 
Dawn Williams
Declarant