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DEC 20 2017

STATE BAR COURT OF CALIFORNIA

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HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of	)	Case No. 16-O-12069-PEM
	)	
DIDDO RUTH CLARK,	)	DECISION
	)	
A Member of the State Bar, No. 79876.	)	
_____	)	

**Introduction**<sup>1</sup>

In this disciplinary proceeding, respondent Diddo Ruth Clark (respondent) is charged with three counts of professional misconduct. The charged misconduct includes: (1) appearing for a party without authority; (2) seeking to mislead a judge; and (3) falsely misrepresenting herself in pleadings submitted to an appellate court. The Office of Chief Trial Counsel of the State Bar of California (State Bar) has the burden of proving the charges by clear and convincing evidence.<sup>2</sup>

The court finds, by clear and convincing evidence, that respondent is culpable of a single count of misconduct – appearing for a party without authority. In light of the nature of respondent’s conduct, and the aggravating and mitigating factors, the court recommends that

<sup>1</sup> Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.

<sup>2</sup> Clear and convincing evidence leaves no substantial doubt and is sufficiently strong to command the unhesitating assent of every reasonable mind. (*Conservatorship of Wendland* (2001) 26 Cal.4th 519, 552.)



respondent be suspended from the practice of law in California for one year, that execution of that period of suspension be stayed, and that respondent be placed on probation for a period of one year subject to a 60-day actual suspension.

### **Significant Procedural History**

The State Bar initiated this proceeding by filing a Notice of Disciplinary Charges (NDC) on March 10, 2017. On June 5, 2017, respondent filed a response to the NDC.

A trial was held from October 10, 2017, to October 13, 2017, and on October 17, 2017. The State Bar was represented by Supervising Attorney Susan Kagan and Deputy Trial Counsel Jennifer Roque. Respondent represented herself. On October 27, 2017, following closing argument and respondent's submission of exhibits, the court took this matter under submission.

### **Findings of Fact and Conclusions of Law**

Respondent was admitted to the practice of law in California on June 23, 1978, and has been a member of the State Bar of California at all times since that date.

#### **Case No. 16-O-12069 – The Clark Children Trust**

##### **Facts**

##### ***Background***

For years there has been significant hostility, antagonism and conflict between Peter Clark (Peter) and respondent on one side, and their four siblings on the other. The family discord involved a variety of issues including management and administration of family trusts, partnerships and LLCs. The antagonism has led to more than a dozen lawsuits filed by and between the Clark siblings.

In December 2012, Candice Clark Wozniak (Candice), Charles Clark (Charles), Steve Clark (Steve), and Johnson Clark (Johnson)<sup>3</sup> filed an amended petition to confirm the Clark

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<sup>3</sup> First names are used for the sake of clarity; no disrespect is intended.

Children Trust co-trustees and to approve the liquidation and monthly distribution of Peter's and respondent's beneficial interest. The amended petition was tried before the Honorable Susanne Fenstermacher (Judge Fenstermacher) in Contra Costa County Superior Court.

On August 13, 2014, Judge Fenstermacher found that under the Probate Code, Peter and respondent were disqualified to act as co-trustee and that Charles was the next in order to act as co-trustee. Judge Fenstermacher also found that the Clark Children Trust instrument did not permit the liquidation by the co-trustee of the interests of Peter and respondent. Moreover, the court found that Peter and respondent had a right to object to the liquidation as not being in their best interest as there was clear evidence that their interest was an appreciating asset.<sup>4</sup> The judgment was entered in favor of respondent and Peter in *In Re Clark Children Trust*, Contra Costa County Superior Court case No. MSP11-00688.

***Respondent's Appeal of Judgment***

On July 3, 2008, in Contra Costa County Superior court respondent was found to be a vexatious litigant pursuant to California Code of Civil Procedure section 391, subdivision (b)(2) and (3). Respondent was prohibited from filing any new litigation in the courts of this state in propria persona without first obtaining the leave of the presiding judge of the court where the litigation was proposed to be filed.

On October 24, 2014, respondent attempted to file a cross-appeal in pro per in *Clark v. Clark*, case No. A143327.<sup>5</sup> The court issued an order dated November 4, 2014, denying respondent, a vexatious litigant, permission to file her own cross-appeal. Consequently, the

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<sup>4</sup> Counsel for the petitioners sought to persuade the trial court that the trust asset was worth \$8.5 million. Respondent later discovered that Steve and Charles sold some aspect of the trust asset for \$19.5 million.

<sup>5</sup> This was an appeal of the judgment *In Re Clark Children Trust*, Contra Costa County Superior Court Case No. MSP11-00688.

court found respondent was not an appellant or cross-appellant in the appeal. However, the court found that respondent was a party to the appeal, as well as counsel for Peter.

***Peter Clark's Appeal***

On August 6, 2014, Peter, in pro per, appealed the trial court's decision in *In Re Clark Children Trust*, Court of Appeal of the State of California, First Appellate Division, Division Three, case No. A142642. (Clark appeal).<sup>6</sup> On January 16, 2015, the court denied without prejudice a motion construed as a request to augment the record on appeal by Peter. The court order provided that any renewed motion must comply with the applicable rules of court.

On February 19, 2015, pursuant to a fee agreement with Peter, respondent substituted in as counsel for Peter in the Clark appeal. On October 26, 2015, the appellate court determined that respondent was a party to the appeal, as well as counsel for Peter.

On March 16, 2015, respondent filed various motions, including a motion to extend the time to file the appellate brief. On the court's own motion, the time for filing Peter's opening brief was extended to April 13, 2015. On April 14, 2015, respondent filed an application for extension of time to file the opening brief. The application was rejected because it was incomplete. On April 14, 2015, respondent filed a notice of illness and requested additional time to submit a motion to augment and an extension of time to file the opening brief. The court ordered the appeal dismissed unless respondent filed an opening brief or an application for an extension of time to file the opening brief supported by a showing of good cause.

On August 12, 2015, Peter's appeal was dismissed for failure to file an opening brief that was due August 5, 2015. On August 21, 2015, respondent filed a motion to modify the decision

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<sup>6</sup> It appears that notwithstanding a favorable judgment, Peter and respondent objected to the trial's court finding that petitioners were not acting in bad faith and sought to financially assist Peter and respondent and the disqualification of Peter and respondent from acting as co-trustees.

which the court construed as a motion to vacate the dismissal. The unopposed motion was granted and the appeal was reinstated to active status.

On October 13, 2015, respondent attempted to file an opening brief. On October 16, 2015, the court rejected the opening brief because it exceeded the word count permitted by the Rules of Court. In addition, the court ordered that the brief be limited to arguments that seek relief on Peter's behalf because Peter lacked standing to assert a claim only affecting respondent. The court permitted respondent to file a revised opening brief within 10 days in a length no more than 14,000 words and limited to arguments on behalf of Peter. Respondent received the order.

On October 20, 2015, Peter asked respondent to sign a substitution of attorney form. Peter thought that the best way respondent and he could be heard was through a substitution of attorney. Respondent refused to sign the substitution of attorney form. On October 25, 2015, Peter emailed opposing counsel and respondent his signed substitution of counsel and proof of service form in the Clark appeal. Respondent had not been served with the substitution of counsel form by October 25, 2015. The opening brief was due by October 26, 2016.

On October 26, 2015, Peter filed a substitution of counsel substituting himself into the Clark appeal in pro per. Peter credibly testified at the trial in this matter that when he signed this substitution of attorney he did not believe that he had terminated respondent's services as his attorney. He decided to sign a substitution of counsel form because he believed that the court was prejudiced against respondent.

Respondent submitted the following documents for filing in the Clark litigation as counsel for Peter:

<u>Date Filed</u>	<u>Document</u>	<u>Respondent's Designation</u>
10/26/15	Peter Clark's Appellate Brief	Attorney for Appellant Peter Clark
12/27/15	Respondent/Appellant's Counsel Attorney for Diddo Clark Motion for Judicial Notice	Respondent in Pro Per and Appellant Peter Clark

03/27/16	Appellant's Counsel/ Respondent Diddo Clark's Motion to Strike All of Appellate Respondents' Counsel Gregory Brandt's Appellate Pleadings	Respondent in Pro Per and Attorney for Appellant Peter Clark
04/04/16	Appellant's Counsel/ Respondent Diddo Clark's Motion for Sanctions (Amended Motion to Strike All of Appellate Respondents' Counsel Gregory Brandt's Appellate Pleadings	Respondent in Pro Per and Attorney for Appellant Peter Clark
4/5/16	Respondent/ Appellant's Counsel Diddo Clark's Motion for Judicial Notice of the Facts that Candi Clark is Not a Party and that her Attorney Lied to the Court about this Material Fact	Respondent in Pro Per and Attorney for Appellant Peter Clark
08/23/16	Respondent Diddo Clark's Urgent Motion To Vacate Dismissal and to be Heard on the Merits	Respondent in Pro Per and, perhaps, Attorney for Appellant Peter Clark
09/02/16	Petition for Review (California Supreme Court)	Past and, perhaps, present Appellate Attorney for Appellant Peter Clark

On October 29, 2015, the opposing parties in the Clark appeal filed a motion to dismiss on the basis that respondent was not authorized to file a brief on behalf of Peter after she was relieved as counsel of record. Respondent received a copy of the motion to dismiss.

On November 9, 2015, Peter filed a response to the motion to dismiss in pro per. Respondent received a copy of Peter's response. Thereafter, Peter continued to file pleadings in pro per in the Clark appeal. Respondent received copies of these pleadings.

Finally on July 26, 2016, the court in the Clark appeal issued an order dismissing the appeal as a result of Peter's failure to file an opening brief. In the order, the court found: "Diddo Clark is not authorized to act on behalf of appellant Peter Clark in this appeal after he discharged

her and filed a substitution of counsel. Diddo Clark has presented no valid grounds for this court to disregard the substitution of counsel.” The court further stated: “we shall disregard any submissions presented by Diddo Clark on behalf of appellant Peter Clark after the date he filed his substitution of counsel.”

On August 23, 2016, respondent filed an Urgent Motion to Vacate Dismissal and to Be Heard on the Merits.” On the title page of that motion respondent wrote: “Respondent in Pro Per and, perhaps attorney for Appellant Peter Clark.” In the motion, respondent argued that the order dismissing the appeal must be vacated because the court should not have allowed Peter to substitute respondent out as his counsel, and should therefore, have allowed her to file an opening brief on his behalf.

On August 25, 2016, the court filed an order denying respondent’s motion in its entirety. The court found that respondent’s motion did not raise any new facts or meritorious argument that would require the court to revisit its prior order accepting Peter’s substitution of counsel and rejecting the opening brief respondent submitted on Peter’s behalf. On September 2, 2016, respondent petitioned for review in the Supreme Court. On the title page of that petition she wrote: “Respondent; Petitioner in pro per; and past and, perhaps, present Appellant Counsel to Appellant Peter Clark.”

### **Conclusions**

#### ***Count One - (§ 6104 [Appearing Without Authority])***

Section 6104 states, “Corruptly or willfully and without authority appearing as attorney for a party to an action or proceeding constitutes a cause for disbarment or suspension.” From October 26, 2015, through September 2, 2016, respondent willfully and without authority, appeared as attorney for a party, Peter Clark, to an action or proceeding, namely *In Re Clark Children Trust*, Court of Appeal of the State of California, First Appellate Division, Division

Three, case No. A142642. By submitting the following pleadings to the court as a representative for Peter, respondent willfully violated section 6104.

<u>Date Filed</u>	<u>Document</u>	<u>Respondent's Designation</u>
10/26/15	Peter Clark's Appellate Brief	Attorney for Appellant Peter Clark
12/27/15	Respondent/Appellant's Counsel Attorney for Diddo Clark Motion for Judicial Notice	Respondent in Pro Per and Appellant Peter Clark
03/27/16	Appellant's Counsel/ Respondent Diddo Clark's Motion to Strike All of Appellate Respondents' Counsel Gregory Brandt's Appellate Pleadings	Respondent in Pro Per and Attorney for Appellant Peter Clark
04/04/16	Appellant's Counsel/ Respondent Diddo Clark's Motion for Sanctions (Amended Motion to Strike All of Appellate Respondents' Counsel Gregory Brandt's Appellate Pleadings	Respondent in Pro Per and Attorney for Appellant Peter Clark
04/04/16	Respondent/ Appellant's Counsel Diddo Clark's Motion for Judicial Notice of the Facts that Candi Clark is Not a Party and that her Attorney Lied to the Court about this Material Fact	Respondent in Pro Per and Attorney for Appellant Peter Clark <sup>7</sup>

***Count Two - (§ 6068, subd. (d) [Attorney's Duty to Employ Means Consistent with Truth])***

The State Bar charged respondent with seeking to mislead a judge or judicial officer, in willful violation of section 6068, subdivision (a). The State Bar alleged that from October 26, 2015, through September 2, 2016, respondent falsely represented herself in pleadings submitted to the court of appeal as counsel of record for Peter when respondent knew she was not authorized to represent Peter. Section 6068, subdivision (d), provides that an attorney has a duty to employ those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of law or fact. There is no clear and

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<sup>7</sup> Respondent made no affirmative assertion that she was Peter's attorney after July 26, 2016.

convincing evidence that respondent sought to mislead the judge or any judicial officer by an artifice or false statement.

The Supreme Court has explained that whether an attorney has violated section 6068, subdivision (d), “depends first upon whether his representation to the . . . court was in fact untrue, and secondly, whether he knew that his statement was false and he intended thereby to deceive the court.” (*Vickers v. State Bar* (1948) 32 Cal.2d 247, 252-253; accord, *In the Matter of Chesnut* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166, 174.) Here, respondent honestly, though mistakenly believed that she had a right to represent Peter when he filed a substitution of attorney in the court of appeal. When Peter asked respondent to substitute out of the case she refused to sign the form. She believed that under Code of Civil Procedure section 284 she remained his attorney because she had not agreed to the substitution.<sup>8</sup> Respondent argued that Code of Civil Procedure section 284 required the consent of the attorney and the client or that a substitution of attorney in litigation is not effective unless based on a court order. In this case there was no court order. Moreover, the court never rejected any of respondent’s pleadings filed on Peter’s behalf.

Respondent also argued that while *Fracasse v. Brent* (1972) 6 Cal.3d 784, stood for the proposition that a client has an absolute right to fire an attorney, there is an exception to that proposition. Respondent contended that an attorney may be discharged at any time unless the attorney has a vested interest in the subject-matter of litigation. She claims it was apparent that she had a vested interest in the subject matter of the litigation. Respondent took this position as

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<sup>8</sup> Code of Civil Procedure section 284 provides, “The attorney in an action or special proceeding may be changed at any time before or after judgment or final determination, as follows: ¶1. Upon the consent of both client and attorney, filed with the clerk, or entered upon the minutes; ¶ 2. Upon the order of the court, upon the application of either client or attorney, after notice from one to the other.”

early as November 13, 2015, in an opposition to a motion to dismiss in the appellate court where the opposing parties argued that respondent was not Peter's attorney.

The appellate court did not make a definitive ruling that respondent was not Peter's counsel of record until July 26, 2016. After that ruling, respondent acknowledged in later pleadings to the Supreme Court that she was past and "perhaps" present appellate attorney for Peter.<sup>9</sup> She made no affirmative assertion that she was Peter's attorney after July 26, 2016. Based on respondent's honest but mistaken belief that she was Peter's attorney until she signed the substitution form or as ordered by the court, and because respondent did not affirmatively assert that she was Peter's attorney after July 26, 2016, the court finds a lack of clear and convincing evidence that respondent willfully violated section 6068, subdivision (d), as charged in Count Two. Count Two is dismissed with prejudice.

***Count Three - (§ 6106 [Moral Turpitude])***

The State Bar charged respondent with willfully violating section 6106. The State Bar alleged that from October 26, 2015, through September 2, 2016, respondent falsely represented herself in pleadings submitted to the court as counsel of record for Peter when respondent knew she was not authorized to represent Peter. Section 6106 provides, in part, that the commission of any act involving dishonesty, moral turpitude, or corruption constitutes cause for suspension or disbarment. For the reasons stated above, respondent is not culpable of willfully violating section 6106.

When respondent filed pleadings as Peter's counsel after Peter filed a substitution of counsel on October 26, 2016, respondent sincerely and honestly believed that she remained his counsel based on Code of Civil Procedure section 284. There was no dishonesty, fraud or otherwise wrongful intent in respondent's representations to the court that she was Peter's

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<sup>9</sup> At the trial in this matter, Peter maintained that respondent was and remains his attorney. He insists he never terminated respondent's representation.

attorney. As such, respondent is not culpable of violating section 6106. (See *In the Matter of Klein* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 1, 10-11 [no moral turpitude where attorney acts upon beliefs and understandings which, although mistaken and unreasonable, are honestly held].) Respondent is not culpable of willfully violating section 6106, and Count Three is dismissed with prejudice.

**Aggravation<sup>10</sup>**

The State Bar must establish aggravating circumstances by clear and convincing evidence. (Std. 1.5.) The court finds a single aggravating circumstance.

**Prior Record of Discipline (Std. 1.5(a).)**

Respondent has one prior discipline record. On April 14, 2011, the Supreme Court ordered respondent suspended for two years, stayed, with three years of probation subject to a 30-day actual suspension (Supreme Court order No. S190329). Respondent stipulated to two ethical violations arising out of her failure to file a brief in the California Court of Appeal. After respondent received two extensions of time, respondent filed her appellate brief five days late. The court rejected the brief for the failure to comply with the Rules of Court, but gave respondent additional time to file a corrected brief. Respondent failed to file the corrected brief by the deadline. Instead, she sent a letter to the court clerk stating that she had mailed the brief by priority mail but used the incorrect zip code on the envelope. Respondent's statement was false – she had not mailed the brief to the court and in fact, she had not completed her brief. After the clerk notified respondent that the brief had not been received, respondent sent a letter to the clerk admitting that she had lied about mailing the brief and apologizing for her lack of candor. Respondent was culpable of willfully violating sections 6068, subdivision (d) (seeking

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<sup>10</sup> All references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

to mislead a judge), and 6106 (moral turpitude) for making false statements to the clerk of the court.

### **Mitigation**

It is respondent's burden to prove mitigating circumstances by clear and convincing evidence. (Std. 1.6.) The court finds respondent has established three mitigating factors.

#### **Good Faith (Std. 1.6(b).)**

Respondent's good faith belief that she remained Peter's attorney until she agreed and signed the substitution form or the court issued an order relieving her of Peter's representation is a mitigating circumstance. Respondent honestly believed that Code of Civil Procedure section 284 supported her position. This court does not find that respondent's belief was unreasonable because the appellate court did not determine that respondent was not Peter's counsel of record until July 26, 2016, and the court never rejected any of respondent's pleadings after Peter filed the substitution of attorney form. The court affords moderate weight to respondent's good faith.

#### **Good Character (Std. 1.6(f).)**

Respondent is afforded mitigating credit for good character. Respondent presented the testimony of three character witnesses and declarations from five other individuals who attested to respondent's good character. Three of the witnesses were attorneys; therefore, serious consideration is given to their testimony because they have a "strong interest in maintaining the honest administration of justice." (*In the Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 319.) The attorneys described respondent as an "admirable person" with "good character" who had a "commitment to others and the law." They also indicated that she had a record of community service.

The remaining witnesses included a local agency commissioner, retired president of a nonprofit agency, priest, grade-school friend, and chairperson of the board of the Hispanic

Chamber of Commerce. These witnesses explained that respondent has extraordinary good character, is compassionate, honest and trustworthy. All but one of the witnesses knew about the charges against respondent, but those who knew about the charges indicated that their high opinion about respondent was not altered. The mitigating weight of respondent's good character is significant.

### **Community Service**

Respondent has been a member of the Democratic Party Central Committee of Contra Costa since 2001. She was a pro tem judge in Contra Costa and Alameda Counties from 1992 through 2006. In addition, she read to children in the Head Start program in Concord, California. Currently, she volunteers twice-a-week to take a walk with a 93 year-old man. Respondent is afforded modest weight for her community service endeavors because an ample part of her service occurred before the misconduct in this matter, and the level of some of her service cannot be quantified from the record. (See *In the Matter of Dyson* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 280, 287 [little weight given to pro bono activities where respondent testified but evidence lacking regarding level of involvement].)

Overall, respondent's mitigating circumstances outweigh the aggravating factors.

### **Discussion**

The State Bar argues that the appropriate level of discipline for respondent's misconduct is a one-year actual suspension. Respondent maintains that she is not culpable of any misconduct and that this case should be dismissed. The court finds that respondent's misconduct warrants an actual suspension of 60 days.

The purpose of attorney discipline is not to punish the attorney, but to protect the public, the courts, and the legal profession; to preserve public confidence in the profession; and to maintain high professional standards for attorneys. (Std. 1.1.) The discipline analysis begins

with the standards, which promote the consistent and uniform application of disciplinary measures and are entitled to great weight. (*In re Silverton* (2005) 36 Cal.4th 81, 91 [Supreme Court will not reject recommendation arising from standards unless grave doubts as to propriety of recommended discipline].) Standards 2.18 and 1.8(a) are the applicable standards to this case.

Standard 2.18 provides for disbarment or actual suspension “for any violation of a provision of Article 6 of the Business and Professions Code, not otherwise specified in these Standards.” The facts and circumstances surrounding Respondent’s violation of section 6104 is misconduct that falls at the lower range of seriousness; thus, a period of actual suspension rather than disbarment is appropriate.

Standard 1.8(a) provides “[i]f a member has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust.” Respondent’s prior misconduct does not fall within the exception of standard 1.8(a). Her prior discipline occurred six years ago and the wrongdoing involved dishonesty, which is serious. However, standard 1.8(a) is not always rigidly applied. (*In the Matter of Friedman* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 527, 534 [30-day actual suspension despite prior five-month suspension].) “The standards are not to be followed in a talismanic fashion [citation], particularly where there is not a common thread or course of conduct through the past and present misconduct to justify increased discipline. [Citation.]” (*Ibid.*) But, any deviation from the standards must be clearly articulated. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Although respondent’s mitigation consisting of good faith, good character, and community service outweighs the single aggravating factor of her prior discipline record, it does not provide a basis to depart from standard 1.8(a). Thus, application of standards 2.18 and 1.8(a)

warrants a period of actual suspension greater than the 30-day actual suspension respondent received in her prior discipline.

In addition to the standards, case law is considered to determine the appropriate level of discipline. The court is guided by *In the Matter of Regan* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844. In *Regan*, the attorney, James Carlisle Regan, made appearances for clients and pursued an appeal even though the clients explicitly told him that he did not have their authority to proceed. At one point, the clients terminated Regan's services, but he continued to represent them before the court of appeal. Regan also committed an act of moral turpitude in attempting to mislead a judge, failed to communicate with his clients, and failed to promptly return his clients' file. Regan's misconduct was aggravated by multiple acts of wrongdoing, bad faith, significant harm to his clients, and lack of insight, but tempered by 17 years of discipline-free practice. Regan received a 75-day actual suspension.

As in *In the Matter of Regan, supra*, 4 Cal. State Bar Ct. Rptr. 844, respondent's misconduct involved making an appearance without authority. However, unlike *Regan*, respondent's representation was never terminated by her client, and respondent was not culpable of attempting to mislead a judge. And, while the attorney in *Regan* had 17 years of discipline-free practice, he also had much more aggravation than respondent. Although respondent has a prior record of discipline, her misconduct was far less serious than the misconduct in *Regan*, which warrants a lower level of discipline.

Based on the standards, case law, and mitigating factors that outweigh the aggravating circumstances in this matter, the court finds that a 60-day actual suspension is the appropriate sanction to protect the public, the courts and the legal profession; to maintain high professional standards; and to preserve public confidence in the legal profession. (Std. 1.1.)

### **Recommendations**

It is recommended that respondent Diddo Ruth Clark, State Bar Number 79876, be suspended from the practice of law in California for one year, that execution of that period of suspension be stayed, and that respondent be placed on probation<sup>11</sup> for a period of one year subject to the following conditions:

1. Respondent Diddo Ruth Clark is suspended from the practice of law for the first 60 days of probation.
2. Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of respondent's probation.
3. Within 10 days of any change in the information required to be maintained on the membership records of the State Bar pursuant to Business and Professions Code section 6002.1, subdivision (a), including respondent's current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, respondent must report such change in writing to the Membership Records Office and the State Bar's Office of Probation.
4. Within 30 days after 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 of the conditions of respondent's probation during the preceding calendar quarter. In addition to all quarterly reports, a final report, containing the same information, is due no earlier than 20 days before the last day of the probation period and no later than the last day of the probation period.
6. Subject to the assertion of applicable privileges, respondent must answer fully, promptly, and truthfully, any inquiries of the Office of Probation or any probation monitor that are directed to respondent personally or in writing, relating to whether respondent is complying or has complied with respondent's probation conditions.

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<sup>11</sup> The probation period will commence on the effective date of the Supreme Court order imposing discipline in this matter. (See Cal. Rules of Court, rule 9.18.)

7. Within one year after the effective date of the discipline herein, she must submit to the Office of Probation satisfactory evidence of completion of the State Bar's Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and she shall not receive MCLE credit for attending Ethics School. (Rules Proc. of State Bar, rule 3201.)

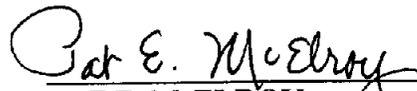
### **Multistate Professional Responsibility Examination**

It is recommended that respondent be ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) within one year after the effective date of the Supreme Court order imposing discipline in this matter, or during the period of respondent's suspension, whichever is longer and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period.

### **Costs**

It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

Dated: December 20, 2017

  
PAT E. McELROY  
Judge of the State Bar Court

**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 December 20, 2017, I deposited a true copy of the following document(s):

DECISION

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:

DIDDO RUTH CLARK  
LAW OFFICE OF DIDDO CLARK  
3527 MT DIABLO BLVD # 131  
LAFAYETTE, CA 94549

- 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:

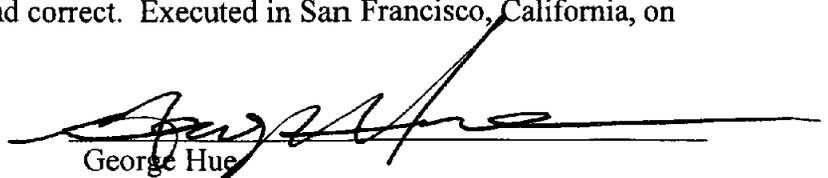
- by fax transmission, at fax number . No error was reported by the fax machine that I used.

- 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:

Susan I. Kagan, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on December 20, 2017.



George Hue  
Case Administrator  
State Bar Court