

ORIGINAL

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State Bar Court of California
Hearing Department

Los Angeles
ACTUAL SUSPENSION **PUBLIC MATTER**

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| <p>Counsel For The State Bar</p> <p>Esther Fallas Deputy Trial Counsel 845 S. Figueroa St. Los Angeles, CA 90017 (213) 765-1071</p> <p>Bar # 307348</p> | <p>Case Number(s): 17-C-02392-CV</p> | <p>For Court use only</p> <p>FILED <i>ES</i> NOV 29 2017 STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> |
| <p>Counsel For Respondent</p> <p>David C. Carr Law Office of David C. Carr 525 B Street, Suite 1500 San Diego, CA 92101 (619) 696-0526</p> <p>Bar # 124510</p> | <p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p> | |
| <p>In the Matter of: DAVID THADDEUS ACHORD</p> <p>Bar # 200703</p> <p>A Member of the State Bar of California (Respondent)</p> | | |

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 **May 3, 1999**.
- (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 **13** 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."



(Effective July 1, 2015)

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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: (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.
- (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.
- (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.

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- (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. See page 10.
- (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:

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 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.

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- (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.
- (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 page 10.
Pretrial Stipulation, see page 10.**

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of **one year**.
- 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 **one year**, 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 **90 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: .
- (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.

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(10) The following conditions are attached hereto and incorporated:

Substance Abuse Conditions

Law Office Management Conditions

Medical Conditions

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: **August 14, 2017.**

(5) **Other Conditions:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: DAVID THADDEUS ACHORD

CASE NUMBER: 17-C-02392

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 17-C-02392 (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 December 5, 2016, the San Diego County District Attorney filed a criminal complaint in San Diego County Superior Court. The charges stem from two incidents that occurred on September 6, 2016 and November 26, 2016. The San Diego County District Attorney charged respondent with violating (1) Penal Code section 422 [making a criminal threat], a felony, with special allegation Penal Code 1192.7(c)(23) [personally used a dangerous and deadly weapon] "a knife" and Penal Code section 12022(b)(1) [personally used a dangerous and deadly weapon], "a knife"; (2) Penal Code section 245(a)(1) [assault with a deadly weapon], a felony, with special allegation Penal Code 1192.7(c)(23) [personally used a dangerous and deadly weapon, a knife] and Penal Code section 12022(b)(1) [personally used a dangerous and deadly weapon, a knife]; (3) Penal Code section 71 [threats to a public officer], a felony; (4) Penal Code section 148(a)(1) [resisting an officer], a misdemeanor; (5) Penal Code section 653x(a) [telephoning 911 to annoy or harass], a misdemeanor; (6) Penal Code section 422 [making a criminal threat], a felony; (7) Penal Code section 236/237(a) [false imprisonment by violence, menace, fraud, deceit], a felony; (8) Penal Code section 273.5(a), [corporal injury to spouse and/or roommate], a felony.

3. On March 21, 2017, respondent pled guilty to violating (1) California Penal Code section 273.5(A) [inflict corporal injury resulting in traumatic condition upon a spouse], a felony, and (2) California Penal Code section 148(A)(1) [unlawfully resist, delay and obstruct a public peace officer, and emergency medical technician in the discharge of a duty of employment], a misdemeanor.

4. On April 26, 2017, the court imposed a suspended sentence of three years, three years formal probation with conditions including commitment to the San Diego County Sheriff's Office for 270 days to be served on County Parole and Alternative Custody ("C-PAC") using a home detention and monitoring device, with credit for five days served. The court also ordered respondent to participate in treatment, therapy or counseling; attend and successfully complete an individual/group/substance abuse counseling program approved by the probation office if directed by the probation office, and complete a program of residential treatment and aftercare, if directed by the probation office. The court also ordered respondent to not knowingly possess any controlled substances without a valid prescription, and

to submit specimen samples for testing when required by the Probation Office. The court also ordered respondent to not unlawfully use force, threats, or violence on another person; to attend and successfully complete the Probation Dept. Certified 52-week Batterer's Program per Penal Code 1203.097(a)(5); and to comply with restraining orders and a "no negative contact" order which required respondent to not knowingly contact or attempt to contact, annoy, or molest either an involved sheriff's deputy or the victim and to not knowingly possess a firearm, ammunition, or a deadly weapon. The court also ordered respondent to pay total of \$1,944 in fines.

5. On August 2, 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 offense(s) for which respondent was convicted involved moral turpitude or other misconduct warranting discipline.

FACTS:

September 6, 2016 arrest

6. On September 6, 2016, at 4:43 p.m., San Diego County Sheriff's Department received a call to investigate an argument at 7337 San Miguel Road, Bonita, CA. At 5:03 p.m. a sheriff's deputy arrived at the location. The sheriff's deputy contacted the respondent, who was the reporting party during this visit. Respondent was standing behind the wall that borders his property behind a locked automatic gate to the driveway. Respondent stated that he got into a verbal argument with two individuals who were tending to their horses in stalls that border respondent's property. Respondent appeared to the sheriff's deputy to be under the influence of alcohol. Respondent slurred his speech, and he was loud and boisterous. The two individuals ultimately agreed to leave the area, and respondent agreed to go back inside his home. The sheriff's deputy left respondent at the home.

7. At 5:16 p.m. on the same day, respondent called 911 about an argument he had with his wife, the victim. Respondent called 911 several times, but was unwilling to answer the call-takers' questions and instead became belligerent while using derogatory language. The call-takers warned respondent about abusing the 911 service and instructed respondent to call the non-emergency number. However, respondent continued to call 911. Between 4:37 pm and 6:44 p.m., respondent called 911 24 times.

8. The sheriff's deputy arrived at the location for the second time at 7:18 p.m. that same day, and walked around the wall that bordered the property to gain access to the home. Respondent exited the home to speak with the sheriff's deputy. Respondent yelled derogatory language at the sheriff's deputy from a distance while respondent stood in his front yard.

9. While respondent yelled at the sheriff's deputy, 911 dispatch received a call from the victim. The victim told dispatch call-takers that respondent threatened her with a knife. The sheriff's deputy already on-scene advised the 911 call-takers to direct the victim to leave the property, which prompted the victim to meet the sheriff's deputy outside the walls of the property.

10. The victim stated that shortly after the sheriff's deputy left the property after the first incident that day, respondent had a knife in his hand and jabbed it towards the victim's face one time, coming about 6 inches from her face. Respondent told the victim "I'm going to slit your throat!" and "Do you

want me to slit your throat.” The victim began to record respondent as he threatened her with physical violence. The victim feared for her life, but did not suffer any physical injuries.

11. While the sheriff’s deputy spoke to the victim, respondent yelled at them both from behind the wall of his property. Two other sheriff deputies responded to assist the first sheriff’s deputy, who was already on the scene. The dispatcher advised the two deputies that the victim stated that her husband, the respondent, had been drinking and was swinging a knife in her face. The victim believed respondent was going to kill her, and she was hiding in her bedroom. The two additional sheriff deputies arrived at the location, and the victim gave the deputies the code to open the gate to the driveway. The two deputies contacted respondent at the top of his driveway.

12. The first sheriff’s deputy saw respondent throw an unknown item into a nearby planter, which the sheriff’s deputy later identified as a utility knife. The deputies instructed respondent to get on the ground and lay on his stomach facing away from them. Instead, respondent stopped, knelt down on the ground, then stood up lowering his hands to his waist. A second deputy believed that respondent was reaching for a weapon, so he deployed his dog. Soon after, the deputies arrested respondent.

13. Two of the sheriff’s deputies transported respondent to UCSD Medical Center. While transporting respondent to the hospital, respondent made derogatory statements to one deputy and threatened that deputy with violent retaliation.

14. While at the hospital, respondent yelled derogatory terms at the nurses and doctor. Respondent also continued to tell one of the deputies that he would “catch up with [the deputy] in the civilian world.”

15. Later, one of the deputies booked respondent into San Diego County Jail. The victim later obtained an Emergency Protective Order (“EPO”) against respondent.

November 26, 2016 arrest

16. On November 26, 2016, at 8:05 a.m., the San Diego County Sheriff’s Department received a call to investigate a domestic violence complaint. The same sheriff’s deputy that first visited the location on September 6, 2016 returned to respondent’s residential address in Bonita, California alongside a second deputy. The victim opened the door and spoke with the returning sheriff’s deputy while the second deputy stood with respondent inside the house.

17. The victim told the returning sheriff’s deputy that at 7:30 a.m. respondent woke her up by turning the TV on really loud and yelling at her. The victim went to the kitchen to take her insulin. Respondent stood close to the victim and made her feel threatened and fearful. The victim pulled out her cell phone and called 911, and respondent grabbed her arm and took the cell phone out of her hand. Respondent ended the call and deleted previous recordings that the victim made of other incidents. Respondent threw the victim on the ground and dragged her to the couch where he hit her in stomach an estimated 30 times. Respondent demanded that the victim say she was “sorry,” and once she did he let her go. The victim fled the home as respondent told the victim that he would drown her dog if she left. The victim went to the neighbor’s home and called 911. When the victim returned to get her dog, respondent gave her a flower and said he was sorry. Throughout the incident and in the previous evening, respondent told the victim that he would kill her.

18. Respondent told the sheriff's deputy that the argument was purely verbal. Respondent had no injuries. The sheriff's deputy obtained another EPO on the victim's behalf and served respondent with a copy of the EPO.

19. The victim had bruising to her knee, two red marks on her left forearm, and complained of pain to her head, neck, and ankle.

CONCLUSIONS OF LAW:

20. The facts and circumstances surrounding the above-described violation(s) did not involve moral turpitude but did involve other misconduct warranting discipline.

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent's conviction referral proceeding pursuant to Business and Professions Code sections 6101 and 6102 and California Rules of Court, rule 9.10, stems from his criminal conviction proceeding from March 21, 2017 (Case Number CS290537) where he pled guilty to violating California Penal Code section 148(A)(1), [unlawfully resist, delay and obstruct a public officer peace officer, peace officer, and emergency medical technician in the discharge of a duty of employment], a misdemeanor, and California Penal Code section 273.5(A), [inflict corporal injury resulting in traumatic condition upon a spouse], a felony. Respondent's multiple acts of wrongdoing constitute an aggravating circumstance under Standard 1.5(b).

MITIGATING CIRCUMSTANCES.

No Prior Discipline: Respondent was admitted to the State Bar of California on May 3, 1999, and has no prior record of discipline. Respondent's 17 years of discipline free practice prior to misconduct is a significant mitigating factor. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 39 [attorney's practice of law for more than 17 years considered to be mitigating circumstance even though misconduct at issue was considered serious].)

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. (See *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].)

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).)

Standard 1.7(a) states, “If a member commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed.”

In this case, the most severe sanction is actual suspension pursuant to standard 2.16(a), the applicable standard for respondent’s violation of Business and Professions Code section 6102. Standard 2.16(a) indicates that actual suspension is the presumed sanction for final conviction of a felony not involving moral turpitude, but involving other misconduct warranting discipline. Inflicting corporal injury resulting in traumatic condition upon a spouse does not involve moral turpitude *per se* and, even upon viewing the facts and circumstances, has generally not been held to rise to the level of moral turpitude. (See, e.g., *In re Otto* (1989) 48 Cal.3d 970, *In re Hickey* (1990) 50 Cal.3d 571, 579 [infliction of corporal punishment on a cohabitant of the opposite sex resulting in a traumatic condition constituted misconduct warranting discipline].) However, the Supreme Court has held that it constitutes “other misconduct warranting discipline.”

Respondent’s offenses do not involve moral turpitude, but do involve other misconduct warranting discipline. Respondent has a felony conviction for inflicting corporal injury resulting in traumatic condition upon a spouse and a misdemeanor conviction for unlawfully resisting, delaying and obstructing a public officer peace officer, peace officer, and emergency medical technician in the discharge of a duty of employment.

To determine the appropriate level of discipline, we must also consider the aggravating and mitigating circumstances. In aggravation, the conviction stems from multiple acts of wrongdoing, specifically, two separate incidents of repeated misconduct on September 6, 2016 and November 26, 2016. Respondent’s misconduct also demonstrates a disregard for both the law and for the safety of others. In mitigation, respondent has no prior record of discipline since his 1999 admission, and respondent did cooperate with the State Bar in entering into a pretrial stipulation, thereby saving State Bar resources.

Given the facts and circumstances surrounding the misconduct, the mitigation and aggravation, a one year stayed suspension, one year probation with conditions including 90 days actual suspension is sufficient to achieve the purposes of discipline expressed in Standard 1.1, including protection of the public, and preservation of public confidence in the legal profession.

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Case law supports a 90-day actual suspension. In *In re Otto* (1989) 48 Cal.3d 970, the court ordered a two-year suspension, and two years probation, with 6 months actual suspension for an attorney who was initially convicted by a jury of two felonies for violation of California Penal Code section 245(a) [assault by means likely to produce great bodily injury] and California Penal Code section 273.5 [infliction of corporal punishment on a cohabitant of the opposite sex resulting in a traumatic condition.] The trial court reduced the convictions to misdemeanors, and sentenced the attorney to two-years probation, including a 90-day jail sentence, a requirement to abstain from alcohol, and 100 hours of community service.

During the evening of the incident, the attorney and the victim in *Otto* consumed alcohol. The attorney later struck the victim numerous times with his fists and kicked her. As a result of the physical abuse, the victim was treated at the hospital for multiple bruises to her face, eyes, mouth, breasts, and back. In mitigation, the court indicated that the attorney had a serious alcohol and valium-dependency, and participated in various community activities. In aggravation, the court indicated that respondent continued to consume alcohol on a regular basis. There was no evidence that the incident in question was one of a series of events, and the injury to the victim was not permanent in nature. Additionally, respondent lacked remorse and acknowledgement of wrongdoing.

Similar to *Otto*, respondent's misconduct here arose from domestic violence incidents. Here, the court convicted respondent of a felony for inflicting corporal injury resulting in traumatic condition upon a spouse, and a misdemeanor for unlawfully resisting, delaying and obstructing a public officer, peace officer, peace officer, and emergency medical technician. As in *Otto*, this respondent willfully and unlawfully used violence upon the victim, causing physical injuries, but unlike *Otto*, this respondent has recognized his wrongdoing by entering into a pretrial stipulation.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of November 17, 2017, the discipline costs in this matter are \$2,629. 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.

EXCLUSION FROM MINIMUM CONTINUING LEGAL EDUCATION ("MCLE") CREDIT

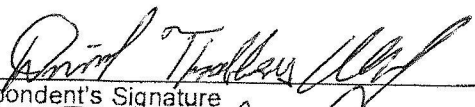
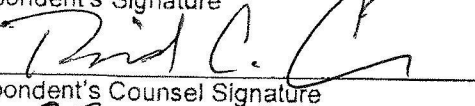
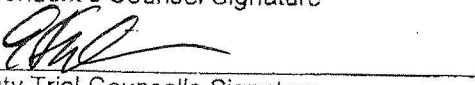
Respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

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| In the Matter of: DAVID THADDEUS ACHORD | Case number(s): 17-C-02392 |
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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 Facts, Conclusions of Law, and Disposition.

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|-------------------------|---|--|
| <u>11-17-17</u> Date | <u></u> Respondent's Signature | <u>David Thaddeus Achord</u> Print Name |
| <u>11/18/17</u> Date | <u></u> Respondent's Counsel Signature | <u>David C. Carr</u> Print Name |
| <u>11/20/17</u> Date | <u></u> Deputy Trial Counsel's Signature | <u>Esther Fallas</u> Print Name |

(Do not write above this line.)

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|---|---|
| In the Matter of: DAVID THADDEUS ACHORD | Case Number(s): 17-C-02392-CV |
|---|---|

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.
1. In the caption on page 1 of the Stipulation, "Settlement Judge" is deleted, and in its place is inserted "Assigned Judge".
 2. On page 6 of the Stipulation, the "X" in the box at paragraph F.(2) is deleted. Pursuant to Evidence Code section 452, subdivision (d), the court takes judicial notice of its records which reflect that respondent was ordered by the Review Department of the State Bar Court to comply with rule 9.20 of the California Rules of Court in connection with his interim suspension. Furthermore, respondent will receive credit for his period of interim suspension toward his period of actual suspension. Therefore, respondent will not serve any period of prospective actual suspension after the effective date of the Supreme Court order in this matter. Accordingly, the court will not recommend a rule 9.20 requirement in this matter.
 3. On page 11 of the stipulation, paragraph 4, line 2, "Business and Professions Code section 6102" is deleted, and in its place is inserted "a felony not involving moral turpitude but which involves other misconduct warranting discipline."

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.)**

November 29, 2017
Date

Cynthia Valenzuela
CYNTHIA VALENZUELA
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 Los Angeles, on November 29, 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 Los Angeles, California, addressed as follows:

**DAVID C. CARR
LAW OFFICE OF DAVID C. CARR
525 B ST
STE 1500
SAN DIEGO, CA 92101 - 4417**

- by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

ESTHER FALLAS, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 29, 2017.



Erick Estrada
Case Administrator
State Bar Court