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ORIGINAL

State Bar Court of California
Hearing Department
Los Angeles
ACTUAL SUSPENSION

<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-J-00075</p> <p>PUBLIC MATTER</p>	<p>For Court use only</p> <p>FILED</p> <p>AUG 3 2017 </p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Ricky James Inokuchi P.O. Box 645 94211 Gauntlett St. Gold Beach, OR 97444-0645 (541) 247-7003</p> <p>Bar # 122685</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p>	
<p>In the Matter of: RICKY JAMES INOKUCHI</p> <p>Bar # 122685</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>ACTUAL SUSPENSION</p> <p><input checked="" type="checkbox"/> PREVIOUS STIPULATION REJECTED</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 22, 1986**.
- (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 **12** 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."



WT
8-15-17 (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.

- (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. Please see "Attachment to Stipulation," at page eight.
- (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:

**Please see "No Prior Discipline" in "Attachment to Stipulation," at page eight.
Please see "Prefiling Stipulation" in "Attachment to Stipulation," at page nine.**

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 **30 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: **Please see section "F(5)" below.**
- (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:

- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

(1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**

No MPRE recommended. Reason:

(2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

(3) **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

(4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:

(5) **Other Conditions:**

As a further condition of probation, because respondent lives out of state, respondent must either 1) attend a session of the State Bar Ethics School, pass the test given at the end of that session, and provide proof of same satisfactory to the Office of Probation within one year of the effective date of the discipline herein, or 2) complete six hours of live, in-person, or live online-webinar Minimum Continuing Legal Education ("MCLE") approved courses in legal ethics offered through a certified MCLE provider in Oregon or California, and provide proof of same satisfactory to the Office of Probation within six months of the effective date of the discipline.

9. In January 2016, the DCO sent respondent a follow up letter via first class and certified mail. Respondent knowingly failed to respond the DCO's follow-up letter.

10. On April 18, 2016, the Oregon Disciplinary Board administratively suspended respondent because he failed to respond to the DCO.

11. On April 20, 2016, respondent filed a Compliance Affidavit. In the affidavit, respondent admitted that he engaged in the practice of law while suspended by making court appearances on behalf of nine clients on April 19, 2016, and April 20, 2016. However, the Stipulation for Discipline filed in the Oregon Supreme Court notes that respondent immediately contacted and cooperated with the Oregon State Bar after respondent learned of his suspension on April 20, 2016.

12. Respondent admitted that by failing to respond to his client's reasonable requests for information, he violated Oregon Rules of Professional Conduct: 1.4(a) [duty to promptly comply with client's reasonable requests for information]; 1.4(b) [duty to explain matter to client to the extent reasonably necessary to permit client to make informed decisions]; 5.5(a) [unlawful practice of law]; and 8.1(a)(2) [failure to respond to lawful demand for information from a disciplinary authority].

CONCLUSIONS OF LAW:

13. As a matter of law, respondent's culpability for professional misconduct, determined in the proceeding in the State of Oregon, warrants the imposition of discipline under the laws and rules binding upon respondent in the State of California at the time respondent committed the misconduct in the other jurisdiction, pursuant to Business and Professions Code section 6049.1, subdivision (a).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent's misconduct in the State of Oregon violated the following California statutes or rules: Business and Professions Code section 6068(a) for his violations of sections 6125 and 6126 [failure to comply with laws – unauthorized practice of law]; section 6068(m) [failure to respond promptly to reasonable status inquiries of clients and to keep clients reasonably informed of significant developments in matter]; and section 6068(i) [failure to cooperate and participate in any disciplinary investigation]. Respondent's multiple acts of misconduct are a significant aggravating circumstance.

MITIGATING CIRCUMSTANCES.

No Prior Discipline: On September 14, 1984, the Oregon State Bar admitted respondent to the practice of law in Oregon. On May 22, 1986, the State Bar of California admitted respondent to the practice of law in California. Respondent has no prior record of discipline in Oregon prior to this matter, and respondent has no prior record of discipline in California, though since January 1, 1993, respondent has been inactive member of the State Bar of California. At the time of the misconduct, respondent had practiced law in the State of Oregon for 31 years without discipline, which is a significant mitigating factor. (See *In the Matter of Smithwick* (2014) 5 Cal. State Bar Ct. Rptr. 320 [attorney's 30-year discipline-free practice warranted significant weight in mitigation].)

Prefiling Stipulation: By entering into a stipulation, respondent acknowledges his 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 the Supreme Court gave an attorney mitigating credit 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).)

In this matter, the Oregon Supreme Court found respondent culpable of professional misconduct in the State of Oregon, and to determine the appropriate sanction in this proceeding, it is necessary to consider the equivalent rule or statutory violation under California law. Specifically, respondent’s misconduct in the State of Oregon demonstrates violations of California Business and Professions Code, section 6068(a) [failure to comply with laws] via sections 6125 and 6126 [unauthorized practice of law]; section 6068(m) [failure to respond promptly to reasonable status inquiries of clients and to keep clients reasonably informed of significant developments in matter]; and section 6068(i)[failure to cooperate and participate in a disciplinary investigation].

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

The most severe sanction available is found in both standard 2.7(c) and 2.10(b), both of which provide for a suspension or a reproof for respondent’s violations of sections 6068(a) and section 6068(m).

To determine the appropriate level of discipline, consideration must also be given to the aggravating and mitigating circumstances. In aggravation, respondent committed multiple statutory violations. Specifically, respondent failed to communicate, failed to cooperate with a State Bar investigation, and engaged in the unauthorized practice of law. However, respondent's 31 years of discipline-free practice merit significant mitigating weight.

In the instant matter, respondent failed to communicate with a single client over a brief period regarding strategy related to private investigators and subpoenas. He also engaged in the unauthorized practice of law over a two-day period, and though he reported his misconduct to the DCO in his declaration, he also failed to cooperate in the initial stages of a disciplinary investigation.

In light of respondent's misconduct, the aggravating and mitigating circumstances surrounding the misconduct, and the relevant standards and case law, the appropriate level of discipline will include a one-year stayed suspension and a one-year probation with conditions, including 30 days actual suspension. This discipline is sufficient to achieve the purposes of discipline expressed in Standard 1.1, including protection of the public, maintenance of high professional standards, and preservation of public confidence in the legal profession.

This level of discipline is consistent with prior cases. In *In the Matter of Johnston* (1997) 3 Cal. State Bar Ct. Rptr. 585, an attorney knowingly engaged in the unauthorized practice of law while suspended for failure to pay State Bar member dues. The attorney also failed to communicate with a client, misrepresented the status of the client's underlying case to the client, failed to perform competently and failed to cooperate in the State Bar's investigation. Though the attorney lacked a prior record of discipline in 12 years of practice, the attorney's misconduct significantly harmed the client. The Review Department recommended a 60-day actual suspension.

When we compare *Johnston* to the instant matter, this respondent committed similar misconduct, has less compelling aggravation, and more compelling mitigation. Therefore, the slightly lower level of discipline here is appropriate to the current facts and circumstances.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of August 3, 2017, the discipline costs in this matter are \$3,215. 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 Continuing Legal Education in General Legal Ethics (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: RICKY JAMES INOKUCHI	Case Number(s): 17-J-00075
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ACTUAL SUSPENSION ORDER

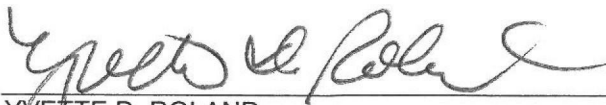
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

This order approves both the Stipulation Re Facts, Conclusions Of Law And Disposition, and Supplement to Stipulation Re Facts, Conclusions Of Law And Disposition submitted by the parties on August 15, 2017.

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.)**

August 31, 2017
Date



YVETTE D. ROLAND
Judge of the State Bar Court

ORIGINAL

FILED

AUG 3 | 2017 *AC*

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

1 STATE BAR OF CALIFORNIA
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2 STEVEN J. MOAWAD, No. 190358
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STATE BAR COURT
HEARING DEPARTMENT - LOS ANGELES

In the Matter of:) Case No. 17-J-00075
)
) SUPPLEMENT TO STIPULATION RE
RICKY JAMES INOKUCHI,) FACTS, CIRCUMSTANCES OF LAW
) AND DISPOSITION
No. 122685,)
)
)
A Member of the State Bar)


On June 28, 2017, the parties submitted to the Court a Stipulation Re Facts,
Conclusions of Law and Disposition ("Stipulation") in the above-entitled matter. On July
24, 2017, the Court served the parties with an Order rejecting the received Stipulation.
The Court requested the parties to file a new stipulation that identifies, authenticates, and
attaches (1) a certified copy of Oregon's disciplinary findings and final order imposing
discipline (including, if any, the Supreme Court order imposing discipline); and (2) a
copy of the Oregon court orders, rules, or statutes found to have been violated by
respondent.

1 In response to the Court's request, the parties, by and through the Office of Chief
2 Trial Counsel of the State Bar of California ("State Bar"), Deputy Trial Counsel Esther
3 Fallas and Respondent Ricky James Inokuchi ("respondent") submit the following
4 Supplement to Stipulation Re Facts, Conclusions of Law and Disposition ("Supplement")
5 and stipulate to the authenticity of the following attached documents:

- 6 1) the Oregon Supreme Court Stipulation for Discipline entered on November 2,
7 2016 (attached hereto as Exhibit 1); and
- 8 2) the Oregon Supreme Court Order Approving Stipulation for Discipline entered on
9 November 4, 2016 (attached hereto as Exhibit 2); and
- 10 3) the Oregon statutes, rules or court orders found to have been violated by respondent,
11 including specifically, Oregon Rules of Professional Conduct: RPC 1.4(a); RPC
12 1.4(b); RPC 5.5(a) and RPC 8.1(a)(2) (attached hereto as Exhibit 3).

13
14
15
16 Respectfully submitted,
17 THE STATE BAR OF CALIFORNIA
18 OFFICE OF CHIEF TRIAL COUNSEL

19
20 DATED: 8/15/17

21 By: 
22 Esther Fallas
23 Deputy Trial Counsel

24 DATED: 8-9-17

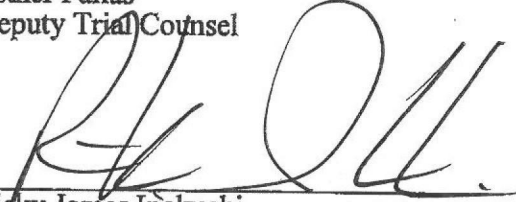
25 By: 
26 Ricky James Inokuchi
27 Respondent

EXHIBIT 1

certify that this document is a true copy of the original and the whole thereof.

[Handwritten signature]

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IN THE SUPREME COURT
OF THE STATE OF OREGON

In re:)	Case No. 16-29
Complaint as to the Conduct of)	STIPULATION FOR DISCIPLINE
RICK INOKUCHI,)	
Accused.)	

Rick Inokuchi, attorney at law ("Inokuchi"), and the Oregon State Bar ("Bar") hereby stipulate to the following matters pursuant to Bar Rule of Procedure 3.6(c).

1.

The Bar was created and exists by virtue of the laws of the State of Oregon and is, and at all times mentioned herein was, authorized to carry out the provisions of ORS Chapter 9, relating to the discipline of attorneys.

2.

Inokuchi was admitted by the Oregon Supreme Court to the practice of law in Oregon on September 14, 1984, and has been a member of the Bar continuously since that time, having his office and place of business in Curry County, Oregon.

3.

Inokuchi enters into this Stipulation for Discipline freely, voluntarily, and with the opportunity to seek advice from counsel. This Stipulation for Discipline is made under the restrictions of Bar Rule of Procedure 3.6(h).

4.

On September 10, 2016, the State Professional Responsibility Board ("SPRB") authorized formal disciplinary proceedings against Inokuchi for alleged violations of RPC 1.4(a) [duty to promptly comply with client's reasonable requests for information]; RPC 1.4(b) [duty to explain

1 a matter sufficient to permit the client to make informed decisions]; RPC 5.5(a) [unlawful practice
2 of law]; and RPC 8.1(a)(2) [failure to respond to DCO inquiries]. The parties intend that this
3 stipulation set forth all relevant facts, violations and the agreed-upon sanction as a final
4 disposition of this proceeding.

5

6

Facts

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5.

8 On March 4, 2015, Inokuchi was appointed to represent Randy Joe Cummings
9 ("Cummings") in a criminal matter. During his representation, Inokuchi did not respond to
10 Cummings's multiple requests for information regarding his case, including defense issues
11 related to funding for a private investigator and subpoenas for trial witnesses.

12

6.

13 In December 2015, Disciplinary Counsel's Office ("DCO") received a complaint from
14 Cummings about Inokuchi's conduct. Thereafter, DCO requested Inokuchi's response to
15 Cummings's complaint by first-class mail and email. Inokuchi knowingly did not respond to either
16 correspondence. Inokuchi similarly knowingly failed to respond to January 2016 follow-up
17 correspondence from DCO, sent by both first class and by certified mail, return receipt requested.
18 As a result, Inokuchi was administratively suspended on April 18, 2016, pursuant to BR 7.1.

19

7.

20 On April 20, 2016, Inokuchi filed a Compliance Affidavit that admitted that during the time
21 he was suspended on April 19 and 20, 2016, he engaged in the practice of law; specifically, he
22 made court appearances for nine clients.

23

24

25

1 **Violations**

2 8.

3 Inokuchi admits that by failing to respond to Cummings's reasonable requests for
4 information and provide him necessary information, he violated RPC 1.4(a) & (b). Inokuchi also
5 admits that by practicing law while he was suspended pursuant to BR 7.1, he violated RPC 5.5(a).
6 Inokuchi further admits that by knowingly failing to respond to lawful demands for information
7 from a disciplinary authority, he violated RPC 8.1(a)(2).

8
9 **Sanction**

10 9.

11 Inokuchi and the Bar agree that in fashioning an appropriate sanction in this case, the
12 Disciplinary Board should consider the ABA *Standards for Imposing Lawyer Sanctions*
13 ("*Standards*"). The *Standards* require that Inokuchi's conduct be analyzed by considering the
14 following factors: (1) the ethical duty violated; (2) the attorney's mental state; (3) the actual or
15 potential injury; and (4) the existence of aggravating and mitigating circumstances.

16 a. **Duty Violated.** Inokuchi violated his duty to Cummings to represent him diligently
17 by failing to communicate with him over the course of the representation.
18 *Standards* § 4.0. Inokuchi violated his duties to the profession to refrain from
19 unlawful practice and to cooperate in the investigation of professional misconduct
20 by the Bar. *Standards* § 7.0.

21 b. **Mental State.** There are three recognized mental states under the *Standards*.
22 "Intent" is the conscious objective or purpose to accomplish a particular result.
23 *Standards* at 9. "Knowledge" is the conscious awareness of the nature or
24 attendant circumstances of the conduct but without the conscious objective or
25 purpose to accomplish a particular result. *Id.* "Negligence" is the failure of a lawyer

1 to heed a substantial risk that circumstances exist or that a result will follow, which
2 failure is a deviation from the standard of care that a reasonable lawyer would
3 exercise in the situation. *Id.*

4 Inokuchi did not act intentionally, rather Inokuchi's conduct in this matter
5 was negligent and knowing. Initially, Inokuchi may have negligently failed to
6 communicate with his client. However, by remaining unresponsive to repeated
7 requests for information, Inokuchi knowingly failed to communicate with both his
8 client and DCO.

9 c. **Injury.** An injury need not be actual, but only potential, to support the imposition
10 of a sanction. *Standards* at 6; *In re Williams*, 314 Or 530 (1992). The lack of
11 communication caused actual injury in the form of client anxiety and frustration.
12 *See, In re Knappenberger*, 337 Or 15, 23 (2004); *In re Obert*, 336 Or 640 (2004); *In*
13 *re Cohen*, 330 Or 489, 496 (2000) (client anxiety and frustration as a result of the
14 attorney neglect can constitute actual injury under the *Standards*). Inokuchi's
15 knowing refusal to cooperate during the Bar's investigation of his conduct caused
16 actual injury to both the legal profession and to the public by wasting the Bar's
17 time and resources, and prevented the Bar from fulfilling its responsibility to
18 protect the public. *In re Schaffner*, 325 Or 421, 426-27 (1997); *In re Miles*, 324 Or
19 218, 222-23 (1996); *In re Haws*, 310 Or 741, 753 (1990); *see also In re Gastineau*,
20 317 Or 545, 558 (1993) (Court concluded that, when a lawyer persisted in his
21 failure to respond to the Bar's inquiries, the Bar was prejudiced, because the Bar
22 had to investigate in a more time-consuming way, and the public respect for the
23 Bar was diminished, because the Bar could not provide a timely and informed
24 response to complaints).

1

11.

2 Oregon cases hold that a reprimand would likely be the sufficient result if Inokuchi's only
3 violations involved client communication. *See, e.g., In re Maloney*, 24 DB Rptr 194 (2010)
4 (attorney reprimanded for failing to communicate with criminal appellate client despite
5 numerous inquiries from him asking about the status of his legal matter); *In re Langford*, 19 DB
6 Rptr 211 (2005) (attorney reprimanded for filing a motion to withdraw that disclosed confidential
7 client communications and personal judgments about the client's honesty and the merits of the
8 client's legal matter); *In re Gregory*, 19 DB Rptr 150 (2005) (attorney reprimanded when he ignored
9 requests from his former client and her new counsel for the client's file and the unearned portion
10 of her retainer, until the client filed a complaint with the Bar).

11

12.

12 Although relatively short periods of unlawful practice can sometimes result in
13 reprimands, where the lawyer has been willfully ignorant to the Bar's attempts to communicate
14 with him, or otherwise defiantly engages in the practice of law, a suspension is more common.
15 *See, e.g., In re Foster*, 29 DB Rptr 35 (2015) (30-day suspension when, after a trial panel decision
16 suspending her for unlawful practice and at a time when attorney was also administratively
17 suspended, she held herself out to the public in television and internet advertising as an attorney
18 at law and otherwise expressed or implied to the public that she was authorized to practice law
19 in Oregon).

20

13.

21 The Court has repeatedly held that the "failure to cooperate with a disciplinary
22 investigation, standing alone, is a serious ethical violation." *In re Parker*, 330 Or 541, 551 (2000);
23 *In re Bourcier*, 325 Or 429, 434 (1997). The Court has also emphasized that it has no patience for
24 violations of this rule. *In re Miles*, 324 Or 218, 222-23 (1996) (although no substantive charges
25 were brought, attorney was suspended for 120 days for non-cooperation with the Bar); *see also*,

PAGE 6 – STIPULATION FOR DISCIPLINE – RICK INOKUCHI

1 *In re Schaffner*, 323 Or 472 (1996) (attorney suspended for 120 days; 60 each for his neglect and
2 his failure to cooperate with the Bar).

3 14.

4 Consistent with the *Standards* and Oregon case law, and taking into account that
5 Inokuchi's mitigation outweighs his aggravation, the parties agree that Inokuchi shall be
6 suspended for 60 days for his violations of RPC 1.4(a), RPC 1.4(b), RPC 5.5(a) and RPC 8.1(a)(2);
7 the sanction to be effective November 21, 2016, or 10 days after approval by the Disciplinary
8 Board, whichever is later.

9 15.

10 Inokuchi acknowledges that he has certain duties and responsibilities under the Rules of
11 Professional Conduct and BR 6.3 to immediately take all reasonable steps to avoid foreseeable
12 prejudice to his clients during the term of his suspension. In this regard, Inokuchi has arranged
13 for M. John Spicer (94211 Gauntlett Street, P.O. Box 645, Gold Beach, OR 97444), an active
14 member of the Bar, to either take possession of or have ongoing access to Inokuchi's client files
15 and serve as the contact person for clients in need of the files and appearances by counsel during
16 the term of his suspension. Inokuchi represents that M. John Spicer has agreed to accept this
17 responsibility.

18 16.

19 Inokuchi acknowledges that reinstatement is not automatic on expiration of the period
20 of suspension. He is required to comply with the applicable provisions of Title 8 of the Bar Rules
21 of Procedure. Inokuchi also acknowledges that he cannot hold himself out as an active member
22 of the Bar or provide legal services or advice until he is notified that his license to practice has
23 been reinstated.

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17.


Inokuchi acknowledges that he is subject to the Ethics School requirement set forth in BR 6.4 and that a failure to complete the requirement timely under that rule may result in his suspension or the denial of his reinstatement.

18.

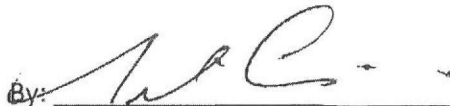
Inokuchi represents that, in addition to Oregon, he also is admitted to practice law in the jurisdictions listed in this paragraph, whether his current status is active, inactive, or suspended, and he acknowledges that the Bar will be informing these jurisdictions of the final disposition of this proceeding. Other jurisdictions in which Inokuchi is admitted: California.

19.

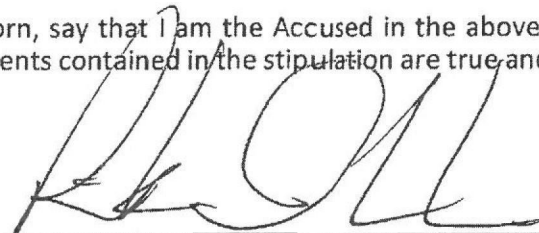
This Stipulation for Discipline is subject to review by Disciplinary Counsel of the Bar and to approval by the SPRB. If approved by the SPRB, the parties agree the stipulation is to be submitted to the Disciplinary Board for consideration pursuant to the terms of BR 3.6.

EXECUTED this 31 day of October, 2016.

Rick Inokuchi
OSB No. 842536

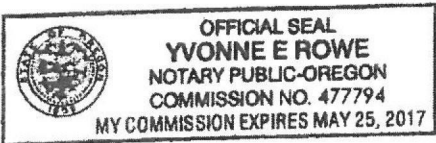
EXECUTED this 2nd day of November, 2016.

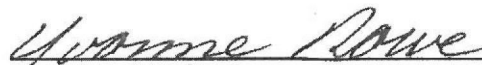
OREGON STATE BAR

By: Nik T. Chourey
OSB No. 060478
Assistant Disciplinary Counsel

1 I, Rick Inokuchi, being first duly sworn, say that I am the Accused in the above-entitled
2 proceeding and that I attest that the statements contained in the stipulation are true and correct
3 as I verily believe.


4 
5 Rick Inokuchi

6 Subscribed and sworn to before me this 31st day of October, 2016.

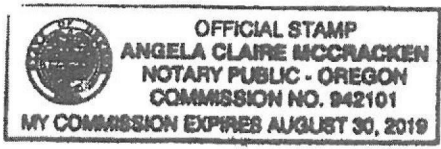


9 
Notary Public for Oregon
My commission expires: 5/25/17

10 I, Nik T. Chourey, being first duly sworn, say that I am Assistant Disciplinary Counsel for
11 the Bar and that I attest that I have reviewed the foregoing Stipulation for Discipline and that the
12 sanction was approved by the SPRB for submission to the Disciplinary Board on the 10th day of
13 September, 2016.

14 
Nik T. Chourey

15 Subscribed and sworn to before me this 2nd day of November, 2016.



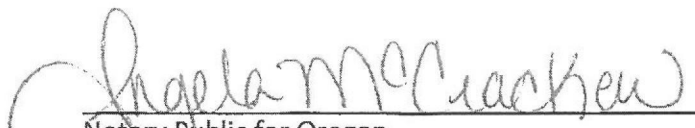
18 
Notary Public for Oregon
My commission expires: August 30, 2019

EXHIBIT 2

certify that this document is a true copy of the original and the whole thereof.

[Handwritten signature]

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IN THE SUPREME COURT
OF THE STATE OF OREGON

In re:) Case No. 16-29
Complaint as to the Conduct of)
RICK INOKUCHI,) ORDER APPROVING STIPULATION
Accused.) FOR DISCIPLINE

This matter having been heard upon the Stipulation for Discipline entered into by Rick Inokuchi and the Oregon State Bar, and good cause appearing,

IT IS HEREBY ORDERED that the stipulation between the parties is approved and Rick Inokuchi is suspended for 60 days, effective November 21, 2016, or 10 days after approval by the Disciplinary Board, whichever is later, for violation of RPC 1.4(a), RPC 1.4(b), RPC 5.5(a) and RPC 8.1(a)(2).

DATED this 4TH day of NOV, 2016.

[Signature of Robert A. Miller]
Robert A. Miller
State Disciplinary Board Chairperson

[Signature of John E. Davis]
John E. Davis, Region 3
Disciplinary Board Chairperson

EXHIBIT 3

West's Oregon Revised Statutes Annotated
Oregon Rules of Professional Conduct
Client-Lawyer Relationship

Rules of Prof. Conduct, Rule 1.4

Rule 1.4 Communication

Currentness

(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Credits

[Adopted effective January 1, 2005. Amended effective November 30, 2005.]

Notes of Decisions (9)

Rules of Prof. Conduct, Rule 1.4, OR R PROF COND Rule 1.4

The Oregon Rules of Appellate Procedure, Uniform Trial Court Rules, and Oregon Rules of Professional Conduct are current with amendments received through 6/1/17. The Rules of Civil Procedure are current with 2016 Regular Session of the 78th Oregon Legislative Assembly legislation effective through July 1, 2016. All other State Court Rules are current with amendments received through 6/1/17. Local court rules are current with amendments received through 3/15/17.

West's Oregon Revised Statutes Annotated
Oregon Rules of Professional Conduct
Law Firms and Associations

Rules of Prof. Conduct, Rule 5.5

Rule 5.5. Unauthorized Practice of Law; Multijurisdictional Practice

Currentness

(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

(b) A lawyer who is not admitted to practice in this jurisdiction shall not:

(1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or

(2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

(c) A lawyer admitted in another jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction that:

(1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;

(2) are in or reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction, if the lawyer, or a person the lawyer is assisting, is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized;

(3) are in or reasonably related to a pending or potential arbitration, mediation, or other alternate dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice and are not services for which the forum requires pro hac vice admission;

(4) are not within paragraphs (c)(2) or (c)(3) and arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice; or

(5) are provided to the lawyer's employer or its organizational affiliates and are not services for which the forum requires pro hac vice admission.

(d) A lawyer admitted in another jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services in this jurisdiction that are services that the lawyer is authorized to provide by federal law or other law of this jurisdiction.

(e) A lawyer who provides legal services in connection with a pending or potential arbitration proceeding to be held in his jurisdiction under paragraph (c)(3) of this rule must, upon engagement by the client, certify to the Oregon State Bar that:

(1) the lawyer is in good standing in every jurisdiction in which the lawyer is admitted to practice; and

(2) unless the lawyer is in-house counsel or an employee of a government client in the matter, that the lawyer

(i) carries professional liability insurance substantially equivalent to that required of Oregon lawyers, or

(ii) has notified the lawyer's client in writing that the lawyer does not have such insurance and that Oregon law requires Oregon lawyers to have such insurance.

The certificate must be accompanied by the administrative fee for the appearance established by the Oregon State Bar and proof of service on the arbitrator and other parties to the proceeding.

Credits

[Adopted effective January 1, 2005. Amended effective November 30, 2005; January 1, 2012; February 19, 2015.]

Rules of Prof. Conduct, Rule 5.5, OR R PROF COND Rule 5.5

The Oregon Rules of Appellate Procedure, Uniform Trial Court Rules, and Oregon Rules of Professional Conduct are current with amendments received through 6/1/17. The Rules of Civil Procedure are current with 2016 Regular Session of the 78th Oregon Legislative Assembly legislation effective through July 1, 2016. All other State Court Rules are current with amendments received through 6/1/17. Local court rules are current with amendments received through 3/15/17.

West's Oregon Revised Statutes Annotated
Oregon Rules of Professional Conduct
Maintaining the Integrity of the Profession

Rules of Prof. Conduct, Rule 8.1

Rule 8.1 Bar Admission and Disciplinary Matters

Currentness

(a) An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:

(1) knowingly make a false statement of material fact; or

(2) fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

(b) A lawyer admitted to practice in this state shall, within 30 days after receiving notice thereof, report in writing to the disciplinary counsel of the Oregon State Bar the commencement against the lawyer of any disciplinary proceeding in any other jurisdiction.

(c) A lawyer who is the subject of a complaint or referral to the State Lawyers Assistance Committee shall, subject to the exercise of any applicable right or privilege, cooperate with the committee and its designees, including:

(1) responding to the initial inquiry of the committee or its designees;

(2) furnishing any documents in the lawyer's possession relating to the matter under investigation by the committee or its designees;

(3) participating in interviews with the committee or its designees; and

(4) participating in and complying with a remedial program established by the committee or its designees.

Credits

[Adopted effective January 1, 2005. Amended effective November 30, 2005.]

Notes of Decisions (3)

Rules of Prof. Conduct, Rule 8.1, OR R PROF COND Rule 8.1

The Oregon Rules of Appellate Procedure, Uniform Trial Court Rules, and Oregon Rules of Professional Conduct are current with amendments received through 6/1/17. The Rules of Civil Procedure are current with 2016 Regular Session of the 78th Oregon Legislative Assembly legislation effective through July 1, 2016. All other State Court Rules are current with amendments received through 6/1/17. Local court rules are current with amendments received through 3/15/17.

End of Document

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DECLARATION OF SERVICE

by
U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): **17-J-00075**

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 845 South Figueroa Street, Los Angeles, California 90017, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION AND SUPPLEMENT TO STIPULATION RE FACTS, CIRCUMSTANCES OF LAW AND DISPOSITION WITH EXHIBITS 1, 2 AND 3

- By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))** **By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))**
 - 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 Los Angeles.
- By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))**
 - I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ('UPS').
- By Fax Transmission: (CCP §§ 1013(e) and 1013(f))**
 Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.
- By Electronic Service: (CCP § 1010.6)**
 Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

- (for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at Los Angeles, addressed to: (see below)
- (for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested, Article No.: _____ at Los Angeles, addressed to: (see below)
- (for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS, Tracking No.: _____ addressed to: (see below)

Person Served	Business-Residential Address	Fax Number	Courtesy Copy to:
RICKY JAMES INOKUCHI	PO Box 645 94211 Gauntlett St Gold Beach, OR 97444-0645		
		Electronic Address rinokuchi7@gmail.com	

via inter-office mail regularly processed and maintained by the State Bar of California addressed to:

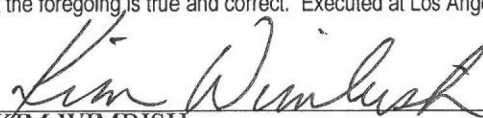
N/A

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, and overnight delivery by the United Parcel Service ('UPS'). 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, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the 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.

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

DATED: August 15, 2017

SIGNED: 
 KIM WIMBISH
 Declarant

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 August 31, 2017, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; SUPPLEMENT TO STIPULATION RE FACTS, CIRCUMSTANCES OF LAW AND DISPOSITION

in a sealed envelope for collection and mailing on that date as follows:

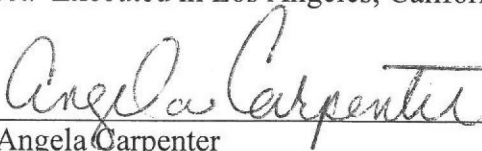
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

RICKY J. INOKUCHI
PO BOX 645
94211 GAUNTLETT ST
GOLD BEACH, OR 97444 - 0645

- 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 August 31, 2017.



Angela Carpenter
Case Administrator
State Bar Court