

**PUBLIC MATTER****FILED****SEP 18 2018****STATE BAR COURT
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LOS ANGELES**

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

In the Matter of)	SUPREME COURT ORDER NO. S226123
)	
)	State Bar Court Case No. 12-C-15595
)	18-V-16358-CV
MARK DANIEL WENZEL)	
Member No. 96673)	VERIFIED PETITION FOR RELIEF FROM
)	ACTUAL SUSPENSION PURSUANT TO
)	STANDARD 1.2(c)(1); Rules 5.400-5.411, Rules
<u>A Member of the State Bar</u>)	Proc. State Bar

**TO: THE HEARING DEPARTMENT OF THE STATE BAR COURT AND
THE STATE BAR OF CALIFORNIA (OFFICE OF CHIEF TRIAL COUNSEL)**

PLEASE TAKE NOTICE that MARK DANIEL WENZEL, hereinafter "Petitioner", hereby petitions the State Bar Court for relief from actual suspension pursuant to a disciplinary order which requires, pursuant to Standard 1.2(c)(1)¹, as a condition of resuming practice, that he demonstrate, to the satisfaction of the State Bar Court, his rehabilitation, present fitness to practice and his

¹ Petitioner's actual suspension was ordered to continue until he showed satisfactory proof of compliance with the provisions of Standard 1.2(c)(1).

1 present learning and ability in the general law. Petitioner asserts that he has met all of the
2 requirements of Standard 1.2(c)(1), and that he should therefore be relieved from his actual
3 suspension from the practice of law.

4
5 This petition is brought pursuant to the provisions of rules 5.400-5.411, Rules Proc. State
6 Bar, which provide in relevant part that:

7 “The petitioner must verify the petition for relief and state with particularity
8 the facts alleged to demonstrate the petitioner’s rehabilitation, present fitness to
9 practice, and present learning and ability in the general law.”²

10 In these proceedings, the nature of the underlying misconduct determines the point from
11 which to measure a petitioner’s rehabilitation and present fitness to practice.³

12 “[I]t is appropriate to consider the nature of the misconduct, as well as the aggravating
13 and mitigating circumstances surrounding the misconduct ... in determining the amount
14 and nature of rehabilitation that may be required to comply with standard [1.2(c)(1).]”⁴

15 Here, Petitioner’s misconduct and the aggravating and mitigating circumstances surrounding
16 that misconduct are set forth in *In the Matter of Wenzel* (Review Dept. 2015) 5 Cal. State Bar Ct.
17 Rptr. 380.⁵ The opinion discusses the nature of the misconduct, and the concerns of the Review
18 Department in raising the Hearing Judge’s recommended discipline from a one year period of actual
19 suspension, to two years of actual suspension, and adding the requirement of this Std. 1.2(c)(1)
20 proceeding, as these excerpts on page 383, show:

21 “On four separate occasions during a two-month period, respondent Mark Daniel Wenzel
22 hid a small video camera in a unisex public restroom at Coffee Bean restaurants in
23 Los Angeles. Each time, the camera was found by a patron or employee and turned over
24 to the police, but not before it recorded individuals using the toilet. Wenzel was convicted
25 of a misdemeanor violation of Penal Code section 647, subdivision (j)(1) (viewing into
26 a restroom by means of an instrumentality), and the criminal court imposed a

27 ² Rule 5.401(A), Rules Proc. of the State Bar.

28 ³ *In the Matter of Murphy* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 571, 578.

⁴ *Ibid.*

⁵ A copy of this opinion is attached hereto as Exhibit 1001.

1 “suspended sentence and probation with conditions.”⁶

2 ...
3 After independently reviewing the record (Cal. Rules of Court, rule 9.12), we agree
4 with the hearing judge that Wenzel’s conviction involves moral turpitude and that
5 several aggravating circumstances are present. But we do not agree that the mitigation
6 evidence establishes Wenzel is unlikely to commit further misconduct, particularly in
7 light of his longstanding substance abuse problem. We note that he had a relapse
8 involving methamphetamines in 2013, just two months before his disciplinary trial.
9 Although the criminal court has punished Wenzel for his criminal acts, significant
professional discipline is also warranted to protect the public and preserve the integrity
of the legal profession. We recommend increasing Wenzel’s discipline to include a
two-year suspension that is to continue until he proves his rehabilitation and fitness
to practice law – a heavy burden that is necessary to address his egregious misconduct
and ongoing substance abuse problems.

10 ...
11 Wenzel has been a member of the State Bar since 1980. He is an accomplished trial
12 attorney who has practiced law for decades. Beyond his practice, he has a record of
13 service to the legal profession, particularly to the American Board of Trial Advocates
14 (ABOTA). In 2010, he was honored with a civility award given by the Los Angeles
15 ABOTA chapter. Wenzel has published articles in legal journals and has participated
16 in many pro bono activities. He is co-founder and chairman of a University of California
17 law school and scholarship fund.”

18 The amount and the nature of rehabilitation evidence necessary to justify granting a petition
19 for relief from actual suspension, by the standard of a preponderance of the evidence, varies
20 according to the nature and seriousness of the misconduct underlying the suspension.⁷ In this
21 proceeding, Petitioner’s misconduct was serious, and he has taken serious steps to address and meet
22 the concerns of the Review Department and demonstrate that he is rehabilitated and has met all of
the requirements of Std. 1.2(c)(1). This petition sets forth the necessary evidence of rehabilitation,
including proof of Petitioner’s sobriety and recovery from substance abuse, which was a major

23 ⁶ Petitioner successfully completed his criminal probation, and on October 20, 2014, an Order for Dismissal
24 was filed in the case. A copy of this order is attached hereto and marked Exhibit 1002.

25 ⁷ *In the Matter of Murphy, supra.*, at pp. 571, 581:

26 “In addition, a key distinction between ‘reinstatement’ proceedings after disbarment or
27 resignation and the present ‘relief from suspension’ proceeding is the standard of proof
in the latter is by ‘preponderance of the evidence’ (rule 634), as contrasted with ‘clear and
convincing evidence’ in ‘reinstatement’ proceedings.”

28 Former rule 634, Rules of Proc. of State Bar, has been replaced with rule 5.404: “The petitioner has
the burden of proving by a preponderance of the evidence that the petitioner has satisfied the conditions of
standard 1.2(c)(1).”

1 concern of the Review Department regarding whether Petitioner would reoffend. This evidence
2 includes, *inter alia*, Petitioner's declaration, the declaration of his psychiatrist, the declarations of
3 his sponsors in Alcoholics Anonymous, and additional character reference declarations of a wide
4 range of witnesses who are knowledgeable of the misconduct and his rehabilitation therefrom
5 (including the declaration of Roderick Smith⁸). The petition also attaches his MCLE certificates of
6 completion of the required continued education hours, establishing that he is current in his learning
7 in the law. Accordingly, he has met all of the requirements of Std. 1.2(c)(1), his petition should be
8 granted, and he should be relieved from the ongoing period of actual suspension, which passed the
9 two year milestone on July 26, 2017.
10

11
12 **PETITIONER'S STATEMENT OF FACTS IN SUPPORT**
13 **OF HIS PETITION FOR RELIEF FROM SUSPENSION**

14 **A. Petitioner Has Complied With All Conditions Of Probation And**
15 **The Supreme Court's Order In His Case**

16 A significant factor in measuring an attorney's showing of rehabilitation pursuant to Std.
17 1.2(c)(1), is his or her compliance with the Supreme Court order and the conditions of probation in

18 ⁸ Roderick Smith was the Coffee Bean "twice victimized patron" of Petitioner's misconduct described in the
19 Review Department's opinion on pages 384 and 387 thereof, as follows:

20 "The Coffee Bean Regional Service testified that the employees feared for their safety during the
21 time of the incidents. Consequently, the company spent considerable resources to protect employee
22 and customer safety. Later, the company was sued because of the recordings. In addition, the
23 twice victimized patron testified he 'was very disappointed that one of such responsibility [an
attorney] had abused that responsibility in this way.' He testified that he stopped going to the
Coffee Bean restaurants, which caused him to lose a place that he cherished: 'I just don't feel
comfortable going there anymore specifically because of this incident.'" (p. 384.)

24 "Finally, we assign some mitigation credit to Wenzel's remorse and recognition of his
25 wrongdoing. (Std. 1.6(g) [mitigation for prompt objective steps that demonstrate spontaneous
26 remorse and recognition of wrongdoing and timely atonement].) He expressed genuine
27 contrition to his wife and his wife's friend. Due to legal considerations, he was not able to
do the same for the Coffee Bean Company or the victims. Overall, he stated he was remorseful,
although his focus was primarily on his and his family's suffering and not that of his victims."
(p. 387.)

28 Roderick Smith's declaration supporting Petitioner's relief from suspension is attached hereto as
Exhibit 1003.

1 the case. Here, Petitioner has complied with both the Supreme Court order in his case, and his
2 probation conditions (which were part of that order), as is now discussed.

3
4 The California Supreme Court filed its June 26, 2015, order (effective date July 26, 2015),
5 regarding Petitioner, which it later amended on September 10, 2015, to read as follows:

6 "The order filed on June 26, 2015, suspending Mark Daniel Wenzel is hereby amended to
7 read in its entirety:

8 'The court orders that Mark Daniel Wenzel, State Bar Number 96673, is suspended from
9 the practice of law in California for two years, execution of that period of suspension is
10 stayed, and he is placed on probation for three years subject to the following conditions:

- 11 1. Mark Daniel Wenzel is suspended for the minimum of the first two years of
12 probation, and he will remain suspended until he provides proof to the State Bar
13 Court of his rehabilitation, fitness to practice law and learning and ability in the
14 general law. (Rules Proc. of State Bar, tit. IV, Stds for Atty. Sanctions for Prof.
15 Misconduct, std. 1.2(c)(1).)
- 16 2. Mark Daniel Wenzel must also comply with the other conditions of probation
17 recommended by the Review Department of the State Bar Court in its Opinion
18 filed on January 26, 2015.
- 19 3. At the expiration of the period of probation, if Mark Daniel Wenzel has complied
20 with all conditions of probation, the period of stayed suspension will be satisfied and
21 that suspension will be terminated.

22 Mark Daniel Wenzel must also take and pass the Multistate Professional Responsibility
23 Examination during the period of his suspension and provide satisfactory proof of
24 such passage to the State Bar's Office of Probation in Los Angeles within the same
25 period.⁹ Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

26 Mark Daniel must also comply with California Rules of Court, rule 9.20, and perform
27 the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days,
28 respectively, after the effective date of this order.¹⁰ Failure to do so may result in
disbarment or suspension.

Costs are awarded to the State Bar in accordance with Business and Professions Code
section 6086.10 and are enforceable both as provided in Business and Professions Code
section 6140.7 and as a money judgment."¹¹

⁹ Petitioner passed the Multistate Professional Responsibility Examination administered on August 13, 2016. A copy of the MPRE test results are attached hereto as Exhibit 1004. See also, Petitioner's Quarterly Report of October 10, 2016, in which Petitioner reported the results to the Office of Probation. This report is one of Petitioner's Quarterly Reports filed to date, all of which are attached hereto as Exhibit 1005.

¹⁰ A copy of Petitioner's August 10, 2015, Rule 9.20 Compliance Declaration, along with his transmittal email to his Probation Deputy, Ivy Cheung, the Office of Probation, and his letter to the State Bar Court with the original compliance declaration, all of the same date, as Exhibit 1006.

1
2 Petitioner has complied with all conditions in this Supreme Court order, and with all of the
3 conditions of his probation conditions to date.¹² In addition to passing the MPRE, and reporting
4 that action to the Office of Probation, Petitioner also registered for and completed the State Bar
5 Ethics School on December 10, 2015, and, as required, furnished a copy of the certificate of
6

7
8 ¹¹ The Supreme Court order filed June 26, 2015, is attached hereto as Exhibit 1007; The Supreme Court order
9 filed September 10, 2015, amending the June 26, 2015, order is attached hereto as Exhibit 1008.

10 ¹² Petitioner's three (3) year probation period was completed on or about July 26, 2018. A petition for relief
11 from actual suspension may be, and usually is, granted prior to the completion of the petitioner's period of
probation. (See, *In the Matter of Murphy, supra*, (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 571, 581.

12 Petitioner has not paid the disciplinary costs of his disciplinary proceeding due to the lack of his financial
13 ability to do so. Petitioner understands that should he prove that he has complied with the requirements of
rule 1.2(c)(1), and be relieved of his actual suspension, these disciplinary costs must be paid before he can
14 resume the practice of law, unless the State Bar Court permits an installment plan (via stipulation or motion).
See, Bus. & Prof. Code sections 6086.10, 6140.7, Rule 5.130, Rules of Proc. State Bar.

15 In August 2015, Petitioner filed a motion seeking relief from payment of the disciplinary costs due to
16 financial hardship. On September 3, 2015, the Hearing Department denied the motion with this order,
attached hereto as Exhibit 1009:

17 "After careful consideration of the pleadings, the court orders that Respondent's motion is
18 **DENIED**. However, Respondent has established sufficient hardship to be granted an extension.
of time to pay the disciplinary costs in three annual installments. Accordingly, the court orders
19 that Respondent's time to pay the costs imposed on him in the above-captioned matter is extended.
(Bus. & Prof. Code, sec. 6086.10, subd. (c); Rules Proc. of State Bar, rule 5.130(B).)

20 Respondent Mark Daniel Wenzel is ordered to pay one-third of the costs with his State Bar of
21 California membership fees for each of the years 2017, 2018, and 2019. If Respondent fails to
22 pay any installment as described above, or as may be hereafter modified by the State Bar Court,
the remaining unpaid balance of the costs is due and payable immediately. Until they are paid
23 in full, the costs remain enforceable both as provided in Business and Professions Code section
6140.7 and as a money judgment. All other terms and conditions remain the same. Any other
24 aspects of Respondent's motion are **DENIED**."

25 Petitioner had not requested an installment payment plan because he was truly financially unable to
26 pay the disciplinary costs. As a result, he was unable to pay the first of these installments, for 2017, due to
his continuing financial hardship, and so the entire disciplinary cost bill in this case became "due and payable
27 immediately", again, and until "paid in full, remain enforceable both as provided in Business and Professions
Code section 6140.7 and as a money judgment." Petitioner owes \$18,124.75 for 2018, on his State Bar
28 annual fee bill for 2018, almost all of which is for the disciplinary cost of his proceeding. A copy of this
annual fee bill is attached hereto and marked Exhibit 1010. According to the State Bar's website, Petitioner
was administratively suspended on September 1, 2017, for failure to pay Bar membership fees – this is not a
disciplinary offense or suspension, of course, and resulted from Petitioner's financial inability to pay.

1 completion to the Office of Probation.¹³ Petitioner's probation conditions did not include a
2 requirement that he take any MCLE courses, however, when he was late in complying with his
3 MCLE requirements, Petitioner stated on his Quarterly Report of April 10, 2017:
4

5 "I have not completed my MCLE requirements for period ending Feb. 2017. I am
6 enrolled in courses & will complete all hours by May 1, 2017."¹⁴

7 Petitioner also points out in his declaration¹⁵ that two of his Quarterly Reports were slightly
8 late, one of those submitted on time but, due to his error in not putting the year in or properly
9 signing his April 7, 2017, Quarterly Report (due on April 10), it was rejected for that reason and
10 immediately resubmitted.¹⁶ The other late one was submitted on July 13, 2017, when it was due on
11 July 10, and he wrote on this Quarterly Report on the first page thereof: "This Quarterly Report is
12 Late". No action was taken against Petitioner by the Office of Probation for these slightly late
13 Quarterly Reports.

14 Indeed, the purpose of probation terms is to serve as "rehabilitative sanctions", and to permit
15 the rehabilitation of errant attorneys:
16

17 "Absent the provisions of standard 1.4)(c)(ii), upon a showing of compliance with the
18 terms of his probation, petitioner would have been entitled to be returned to practice on
19 on August 21, 1996. That standard, when imposed, requires 'proof satisfactory to the
20 State Bar Court of the member's rehabilitation, present fitness to practice and present
21 learning and ability in the general law ...' ...

22 We also note that standard 1.3 uses the term 'rehabilitative sanctions' in referring to,
23 inter alia, terms of probation. As we have concluded, an attorney with actual suspension
24 is entitled to seek relief from suspension under standard 1.4(c)(ii), during his or her
25 period of rehabilitative sanctions. The purpose of disciplinary probation is the protection

26
27 ¹³ A copy of Petitioner's certificate of completion of the State Bar Ethics School is attached hereto as Exhibit
28 1011, and was reported in the Quarterly Reports, Exhibit 1005, beginning with the first one, submitted for the
quarter ending October 10, 2015.

¹⁴ Attached as Exhibit 1012 are copies of Petitioner's MCLE certificates of completion for 26.5 hours of
courses completed from February 26, 2017, through May 23, 2017.

¹⁵ Petitioner's declaration is attached hereto as Exhibit 1013.

¹⁶ A copy of Petitioner's April 13, 2017, email exchange with Ivy Cheung of the Office of Probation
regarding this subject, is attached as Exhibit 1014.

1 “of the public, the profession, and the courts and rehabilitation of the errant attorney. (*In*
2 *the Matter of Marsh* (Review Dept. 2990) 1 Cal. State Bar Ct. Rptr. 291, 298-299; cf.
3 *Rodgers v. State Bar* (1989) 48 Cal.3d 300, 319.)

4 These factors, combined with the lower standard of proof required in relief from
5 suspension proceedings (rule 634 [preponderance of the evidence]) and the summary
6 nature of the proceedings must be measured by a different standard than in reinstatement
7 proceedings. ...”¹⁷

8 Additionally, Petitioner’s passage of the MPRE, his attendance and passage of the test given
9 him at the State Bar Ethics School is also a strong indication of rehabilitation:

10 “We noted in our opinion that the CPRE, when appropriately ordered, does assist in the
11 rehabilitation of an errant attorney. We agree with the Office of Trials that, as a general
12 proposition, the examination is an effective tool to measure a respondent’s understanding
13 and appreciation of the rules and statutes which are designed to protect the public and the
14 best interests of the profession.”¹⁸

15 Petitioner’s successful performance of the conditions of his probation, and his completing
16 the necessary MCLE courses to maintain his present learning in the law while on suspension, is
17 significant, but it is only part of his showing of rehabilitation and present fitness to resume the
18 practice of law.

19 **B. Petitioner Has Demonstrated His Rehabilitation**
20 **And His Present Fitness To Practice Law**

21 Petitioner has further demonstrated his rehabilitation from the misconduct which resulted in
22 his discipline, and his present fitness to practice law, and has, therefore, satisfied those requirements
23 of rule 1.2(c)(1) :

24 “...we look to the nature of that prior misconduct to determine the point from
25 which we must measure the member’s rehabilitation, present fitness to practice and
26 present learning and ability in the general law before the member shall be relieved of
27 the actual suspension under standard 1.4(c)(ii). ...

28 This said, it is appropriate to consider the nature of the misconduct, as well as the

¹⁷ *In the Matter of Murphy* (1997) 3 Cal. State Bar Ct. Rptr. 571, 581.

¹⁸ *In the Matter of Respondent G* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 181, 183. Please note that the “CPRE” was the “California Professional Responsibility Examination”, which was a derivative of the national “MPRE”, the “Multi-State Professional Responsibility Examination”, at the time of *Respondent G*, and many years ago was replaced by the MPRE as the required examination for California attorneys.

1 “aggravating and mitigating circumstances surrounding that misconduct for which
2 petitioner was disciplined in determining the amount and nature of rehabilitation that
3 may be required to comply with standard 1.4(c)(ii). ...

4 ...Presumptively, petitioner’s compliance with the terms of his probation (discussed
5 *post*) has satisfied the discipline required to permit him to become a productive attorney.
6 However, it must be noted that, in addition to compliance with petitioner’s actual
7 suspension and the terms of his probation, petitioner must affirmatively show, by a
8 preponderance of the evidence (rule 634)¹⁹ his ‘rehabilitation, present fitness to practice
9 and present learning in the general law before [he] shall be relieved of the actual
10 suspension.’ (Std. 1.4(c)(ii).) That showing must be measured from the time of the
11 last prior discipline.”²⁰

12 **1. Petitioner’s Background Facts**

13 As is set forth in his attached declaration, Petitioner was born in 1955 and was the second
14 oldest of nine children. He received his undergraduate degree at UCLA in 1977, and thereafter
15 graduated from Loyola Law School in 1980, with honors, having been on the Dean’s Honor List
16 every semester of law school. He was admitted to the State Bar of California on December 16,
17 1980. His first employment as an associate attorney was with the law firm of Belcher, Henzie and
18 Biegenzahn, in Los Angeles. He received excellent legal training at this law firm for several years,
19 and his mentor, J. Gary Hastings, became a California Appellate Court Justice.

20 In 1984, Petitioner sought a position that would provide him with more trial experience, and
21 he was then hired as an associate attorney by Stone & Dolinger in Los Angeles, where he later
22 became a partner. Petitioner was with this law firm for 28 years until his February 2012, arrest for
23 the criminal misconduct which formed the basis of his disciplinary proceeding:

24 “9. In February 2012, after I was arrested and charged with 4 misdemeanor counts of
25 attempting to invade the privacy of another with a camera or other instrument, in
26 violation of section 647(j) of the California Penal Code, my partners were stunned,
27 shocked, surprised and in disbelief. I was extremely ashamed and disgusted with myself.
28 Initially they kept me on at the law firm on certain conditions, including random
alcohol/drug testing. Unfortunately, when news of my misconduct became public, on

¹⁹ Former rule 634, Rules of Proc. of State Bar, has been replaced with rule 5.404: “The petitioner has the burden of proving by a preponderance of the evidence that the petitioner has satisfied the conditions of standard 1.2(c)(1).

²⁰ *In the Matter of Murphy* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 571, 578.

1 "September 21, 2012, the potential harm to the firm was simply too much to absorb, and
2 on September 24, 2012, I was asked to resign from the firm, which I immediately did.
3 I was ashamed of myself and guilt ridden over what I had done and who I had hurt."

4 10. During over 30 years of practicing law I have served my clients well. I was active
5 in numerous professional organizations for the local, state and national bar, and I
6 enjoyed a very good reputation. These 'accomplishments' were detailed during the
7 trial and hearing on review in this case and need no repetition here.²¹

8 As Petitioner's declaration further describes, the humiliation and the significant financial
9 loss caused by his criminal behavior, resulted in his wife, Gail, deciding to end their marriage in
10 March 2015. Gail Wenzel's declaration is attached, and reads in part:

11 "10. We were both trying hard, but ultimately, I moved out in March of 2015. It has
12 been rough for both of us, but I know it has been harder on Mark. For a while he was
13 miserable. However, he kept going to Alcoholics Anonymous meetings, and got very
14 involved at the church we both went to. I would see him at church most Sundays, and
15 some months after his suspension started in the summer of 2015, I would see him
16 occasionally on days other than Sundays.

17 11. I've known Mark for over 17 years now, and I lived, loved and traveled with him
18 for about 14 of those years. Thus, I consider myself very qualified to speak about Mark's
19 current condition and extent of his rehabilitation. Here is what I have to say: These
20 past years have been brutally hard on Mark. Yes, they have been hard on me too, but I
21 am doing well. However, I wasn't sure that Mark was going to survive the loss of his
22 career, the loss of his wife, the loss of his reputation, etc., but he has. Not only has he
23 survived, but he is emerging out of this experience a very different person. He is much
24 more at ease and accepting of all that he lost. He blames himself – and nobody else for
25 what has happened. He has apologized to me for what he's done to me and our
26 financial security and our relationship. He tells me that he will be making living amends
27 to me for years to come.

28 12. I understand that he has made amends to the man who sued him for what he did,
and that they are friends. That's kind of amazing, though I know that Mark has a very
good sense of right and wrong and it has been very important to him to right the wrongs
of his former life. Since we attend the same church, I know what a wonderful pastor we
have in Brad Johnson. I know that Pastor Brad has counselled Mark and has helped him

²¹ Exhibit 1013. The Review Department found on this subject:

"Wenzel has been a member of the State Bar since 1980. He is an accomplished trial attorney who has practiced law for decades. Beyond his practice, he has a record of service to the legal profession, particularly to the American Board of Trial Advocates (ABOTA). In 2010, he was honored with a civility award given by the Los Angeles ABOTA chapter. Wenzel has published articles in legal journals and has participated in many pro bono activities. He is co-founder and chairman of a University of California law school and scholarship fund."

1 “see where Mark may be able to use his earlier wrong-doing for good someday.

2 13. I am happy to see Mark grow spiritually and become a man of character, or as our
3 pastor says, become the person God intended us to be.

4 14. Mark was an excellent lawyer before, and he’s still very sharp. I know he can be
5 an excellent attorney again. I do not believe he will re-offend again in the future. His
6 sobriety is important to him, as is the life he has developed within the church community.
7 He is always serving at church in one capacity or another. He’s out front greeting people
8 most Sundays; feeds the homeless with the church compassion ministry. He’s an usher,
9 and says yes whenever he’s asked for whatever is asked of him. I know he really loves
10 being of service. Its in those moments when he is helping an elderly person carry her
11 groceries or bringing a meal to someone in a homeless shelter, that he really seems most
12 content.

13 15. I sincerely believe that Mark has paid his debt to society, and should now be allowed
14 to practice law once again.”²²

15 **C. Petitioner’s History of Alcohol And Substance Abuse Was A Significant Factor**
16 **In His Criminal Conduct, And His Recovery Therefrom Is A Most Significant**
17 **Factor Proving His Rehabilitation**

18 In raising the Hearing Judge’s recommended period of actual suspension from one year to
19 two, and adding this standard 1.2(c)(1) proceeding to its recommended discipline, the biggest
20 concern of the Review Department was that Petitioner might reoffend because of his “longstanding
21 substance abuse problem”, which was a factor in his criminal conduct, and was “ongoing” as of
22 2013, when Petitioner relapsed and used methamphetamines, “just two months before his
23 disciplinary trial”.²³ This was a valid concern, and in response to it, Petitioner candidly discusses

24 ²² Gail Wenzel’s declaration is attached hereto and marked Exhibit 1015.

25 ²³ *In the Matter of Wenzel, supra*, (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 380, 383. As discussed in
26 his declaration, Exhibit 1013, Petitioner suffered this relapse after eleven (11) months of sobriety following
27 his arrest:

28 “44. Though I strived persistently, with my reputation in ruins, I could not generate enough
business to make ends meet. Additionally, the State Bar disciplinary proceedings got under way
before the end of 2012, an approximately five additional people sued me, responding to an
advertisement about my behavior and hoping to receive compensation. After some preliminary
discovery it was determined that none of them had been victimized and those cases were dismissed
for a waiver of costs by me.

45. By early 2013, it was apparent that my wife and I were broke and would have to sell our
beautiful home in Calabasas which I had purchased in 2001. In all sincerity, I was dizzy by the

1 his history of alcohol and substance abuse in his declaration, Exhibit 1014, along with the insight
2 that he has gained into understanding the effect of that history on his criminal conduct, and his
3 personal path to recovery therefrom:
4

5 “14. Because my conduct was so wrong on so many levels, without excuse or rational
6 explanation, it is obviously incumbent upon me to demonstrate to the State Bar Court
7 that I have gained insight on why I did what I did. Without having any such insight,
8 how can I confidently claim that I am fully rehabilitated and not at risk for re-offense?
9

10 15. As the Court and the Office of Chief Trial Counsel knows, I am an alcoholic
11 who has at various times used or abused other substances, including Ritalin and
12 meth-amphetamine. Although I had enjoyed a period of sobriety in the late 1990’s
13 and early 2000’s, after I got remarried, my new wife being someone who enjoyed
14 social drinking, over time I drifted away from AA. As sure as day follows night when
15 alcoholics stop going to AA meetings – one can predict that drinking will eventually
16 follow. Thus, I, like others before and after me, had a SLIP. That is, I started drinking
17 again. The word SLIP is here and in AA because of the truth of the acronym of Sobriety
18 Loses Its Priority.
19

20 16. What I had not realized when I started drinking again, and eventually started misusing
21 Ritalin, prescribed for ADD, was that I lost my moral compass, or values. I was brought
22 up in a very good family, and have had the good fortune to work with people of the
23 highest character and integrity. I knew right from wrong, and had had fine role models.
24 Nevertheless, when a alcoholic drinks, over time their thinking gets distorted, and mine,
25 for a time, was, I am sorry to say, very distorted.
26

27 17. When I started drinking again, after a period of sobriety, I hadn’t realized that I
28 was putting myself, and everyone around me, at risk for the behavior often characteristic
of a person who becomes self-centered in the extreme, selfish and manipulative. These
are the hallmark traits, or ‘character defects’, of the practicing alcoholic. Prior to
drinking again in about 2003, I must have thought I wasn’t truly alcoholic and that’s
why I figured I could ‘get away’ with drinking again. I truly know better now.

22 speed with which everything I had worked for over the previous 32 years was gone. My life lay
23 in ruins around me, and I was incurring attorney fees in multiple forums: The State Bar
24 proceedings and the civil actions. At this point, I had no idea what the outcome of the
25 disciplinary proceedings would be, but I despaired of my very reason to live. It was while
26 I was in this mindset that I sought to escape my fear and depression, even for a brief period,
27 and I relapsed briefly after 11 months of sobriety.
28

46. My relapse consisted of using meth-amphetamine on three occasions. It was at that point
that I realized that whatever else happened in my life, I owed it to my children, my wife and my
family, not to let this horrible mistake I made define me. The thought that despite having had a
wonderful career as an attorney, I would always be remembered for what I did over an eight week
period in 2011 and 2012, and not the legacy I wanted to leave my children. And that notion, along
with the fact that I had still not apologized to and made amends to everyone hurt by my actions has
been motivation enough to keep me sober since then and go to any lengths to come out of this
process a better person.”

1
2 "18. My experience with alcohol and drugs, confirmed by countless testimonies of other
3 recovering alcoholics, is that the distorted thinking, or perceptions, that drinking alcoholics
4 have is very insidious. It creeps into the mind rather slowly, is typically characterized by
5 some childish, boorish or overly-selfish antics or behaviors in the early years, but if not
6 interrupted at this stage, the thinking gets worse and over time the behavior does as well.

7
8 19. It is also commonly accepted that the disease of alcoholism progresses even while
9 the alcoholic is sober. Thus, if an alcoholic drinks again, he will, within a short period
10 of time, not only be right back where he was when he quit drinking the first time, he will
11 be where he would have been had he never stopped drinking. It progresses whether we
12 drink or are sober.

13
14 20. Applying these truisms to myself, by about 2009, after drinking again for five or six
15 years, I had become selfish, and started to view life from the perspective of – what will I
16 get out of it. This is not a positive admission I make about myself, and I need to temporize
17 it a little bit. I hadn't lost all my moral upbringing, training and values. I had not
18 resorted to, nor had I ever contemplated – stealing, assaulting anyone, defrauding anyone,
19 plotting revenge on anyone, or anything like that. However, in the one area of my life –
20 being stimulated, by the female form, I compromised my values, and engaged in conduct
21 that I knew to be wrong.

22
23 21. Each of the times I secreted the cameras in the unisex restrooms at Coffee Bean
24 or at my home to spy on my wife and on that one occasion, her close friend, I felt
25 terrible afterwards. Why I yielded to such base temptations on the occasions I did, I
26 believe was related to the extent of my drinking during that general time frame. By
27 this I don't mean to say that I was 'drunk at the time', although I was drunk that time
28 at my home when my wife's friend was spending the night. What I mean is that –
during the holiday season I generally drank more and thus had somewhat more
distorted thinking day in and day out at such times."²⁴

Under the section of his declaration entitled "Atonement", Petitioner discusses how his
behavior changed following his arrest:

"29. I have regretted my behavior since before I was caught.

30. Right after I got caught, I stopped drinking. That was a major wake up call. In
AA we call it a 'moment of clarity'. I asked myself over and over: what was I
thinking? Why did I do that? In that moment, though I didn't have the insights I have
now, I sensed that my drinking had something to do with it. For sure I was immediately
aware that I had strayed very far from being the person I wanted to be, and that I had
seriously compromised my values. I knew that my thinking would improve if I went
back to AA and worked the 12 steps.

31. Because I had been in AA before, I understood the basics of recovery and the power
of AA's 12 (twelve) steps. On the other hand, I hadn't remembered that while the disease

²⁴ Exhibit 1013.

1 “of alcoholism ‘centers in the mind’, most AA’s believe that alcoholics really suffer from
2 a spiritual malady, a ‘soul sickness’. Having become reacquainted with the idea that I
3 had a soul sickness, I measured my life the past several years against my spiritual ideals,
4 and realized I was way off my ideal. Therefore, I knew the solution to my many problems
5 had to be spiritual reconstruction of the whole person. Fortunately, AA’s 12 steps are
perfectly designed, in my opinion, to reconnect me to God, and treat my soul sickness
step by step.

6 32. Upon returning to AA in February 2012, I quickly found someone to sponsor me and
7 take me through the steps. My sponsor was Billy Martin, who submitted one of the
character reference declarations accompanying these papers²⁵. I told Billy everything I

8 ²⁵ Billy Martin’s declaration is attached hereto as Exhibit 1016. Mr. Martin is a multi-E Emmy nominated
9 Executive Producer and writer for a well-known and highly rated weekly television show, and his wife is the
former Mayor of Calabasas. He describes his sponsorship of Petitioner in Alcoholics Anonymous:

10 “3. I first met Mark Wenzel about 5½ years ago at a meeting of Alcoholics Anonymous. As I
11 recall it was February 2012. Mark came up to me after the evening meeting in Encino, CA, and
12 asked me if I would be his sponsor. I was approximately 4½ years sober at the time, and Mark
told me that he needed someone smart and tough, someone who would hold him accountable to
keep his word and honor his commitments.

13 4. I didn’t agree at our first encounter, but suggested he meet me the following evening at a
14 meeting, and we would discuss the matter. When I met with Mark the next evening, he seemed
15 to be in significant distress, and he told me that he was anxious to tell me his story, short for –
life story, particularly as it pertained to alcohol and/or drug abuse.

16 5. Mark proceeded to tell me what he did, how he did it, and how awful he felt about it. I
17 agreed to be Mark’s sponsor that night, and we began intensive work on the 12 steps of recovery
in A.A. Mark was extremely candid in his account of himself, and I was direct with him.

18 6. During the process of working the steps with Mark, we became friends. He was extremely
19 remorseful for his conduct, as evidenced by his desire to get to the 9th step, where we make amends
20 to those we have harmed, as soon as possible. He knew he was wrong, admitted that he had lost
something of his spirit in his life before recovery, and he wanted to apologize and make things right.

21 7. When Mark was approximately 8 months sober, I decided he was ready to begin his 9th step.
22 We met and planned how he would approach the various people on his list of ‘those he had harmed’.
I can’t overstate the importance of, or value to the recovering alcoholic of the 9th step. This vital
step, when done thoroughly, does restore us to right relationship with our fellow man and woman.

23 8. On Mark’s list of amends were many family members, his wife, his 3 children, 2 step
24 children, his mom, 7 brothers and sisters, his former law partners and others, but the most
25 important people he had to make amends to were the 2 identified victims of his illegal conduct,
Roderick Smith and Bridgette W. (whose last name I know, but omit for her anonymity.). It
26 seemed a very daunting task to face those individuals, apologize to them and then answer their
27 questions about why he did what he did, but Mark knew he had to change, and this process is
key to changing a person from one who depends on alcohol or drugs to get through his day, to
a person who depends upon God for strength, inspiration and guidance.

28 9. The process of going through the 12 steps with Mark took over a year, and I saw a great deal
of improvement in Mark. He was clear headed, patient, throwing himself into service opportunities,
and I began to appreciate his abilities as an attorney. Thus, when my wife, Lucy, was involved in a

1 "had done the night after I asked him to be my sponsor. He told me that what I did was
2 seriously wrong. I agreed with him, of course, and we went to work. In steps four
3 through seven I was able to identify my own defects of character and what triggers them.²⁶

4
5 serious motor vehicle accident, suffering significant injuries to multiple parts of her body, I asked
6 Mark if he would represent Lucy. This was in approximately November of 2012.

7 "...

8 12. As far as what I know about Mark's conduct that led to his 2-year suspension, I'm sure I
9 know it all. He was very forthright and candid with me. He wanted healing and knew he could
10 not heal, or recover, unless he told somebody everything. I, being his sponsor at the time, was
11 that person. Additionally, Mark has provided me with a copy of the opinion from the Review
12 Department of the State Bar to make sure there were no gaps in my knowledge.

13 13. Close to 3 years ago, Mark and I both decided that he would ask my sponsor, Greg Ekizian
14 to be his sponsor. ... I was overwhelmed with the need to attend to the affairs of my family and
15 extended family, and was not available to provide hands on sponsorship for that time. I thus turned
16 Mark over to my own sponsor, and Greg remains his sponsor to this day.

17 14. I see Mark on average 1-2 times a week at A.A. meetings. We have lunch together
18 occasionally as well. I consider Mark a good friend. I know him to be active in A.A., attending
19 meetings, volunteering for service commitments. He has worked hard to become a better person,
20 and in my opinion, Mark is a man of high moral character. He has exhibited humility, honesty
21 and integrity. He does what he says he's going to do, and I don't believe he'll ever again engage
22 in the conduct that gave rise to these proceedings before the Bar.

23 "15. About his fitness to practice law, let me put it this way. I was ready to hire Mark to represent
24 my wife and I before I knew him that well. Having come to know him well, and having seen how
25 hard he has worked to own up to and put this episode in his life behind him, I would feel even more
26 confident hiring him to represent me or a close member of my family in a legal dispute."

27 (Emphasis added.)

28 ²⁶ Gregory Ekizian, D.D.S., became Petitioner's second sponsor, taking over that role from Mr. Martin, and
Dr. Ekizian's declaration is attached hereto as Exhibit 1017. He describes this experience with Petitioner and
his belief that Petitioner has made tremendous progress since 2012, both in maintaining his sobriety with the
help of A.A. and others, and in his life:

"4. It is my understanding that Mark had come into AA sometime in February of 2012, and he
was being sponsored by one of the men I sponsored, Billy Martin. After a few months, I learned
that Mark like to play golf, as did I, and it was during a golf outing that Mark shared with me the
behavior he engage in before coming to AA, which led to his being arrested and charged with a
crime. Mark's confession of this conduct to me occurred in September 2012.

5. I have also been provided with a copy of the State Bar Review Department's decision on Mark's
case, and have reviewed it. The recitation of facts set forth in the decision is consistent with Mark's
account of events.

6. I took over as Mark's Sponsor from Billy Martin in late 2014. Up to that time, Mark had been
a friend and fellow member of AA. However, being a sponsor is quite different. A sponsor is
generally someone who has been sober (free of alcohol and all mind altering drugs) for a
significant length of time; is familiar with and has worked the 12 steps of alcoholics anonymous;
has incorporated the core principles of the steps into his or her own life; and has become changed

1
2 "by this process such that he/she has been able to successfully navigate life's challenges, (loss and
3 gain), calmly and without needing to seek a chemical solution to deal with life, no matter how
4 difficult it can sometimes be. This is what we mean when we refer to sobriety.

5 7. I am aware that Mark had had a brief relapse since coming into AA in 2012, and while
6 relapses need not occur, early on in recovery, before one has had time enough to fully incorporate
7 the AA principles into their lives, it is not surprising that someone facing losses of just about
8 everything that defined them, might not be strong enough to weather all the challenges without a
9 stumble.

10 8. Within a couple of months after taking over as his sponsor, he was hit with two more
11 'consequences of his actions' that proved painful and challenging. The first was the news of
12 State Bar Review Department's decision to increase his suspension from 1 to 2 years. In
13 speaking with him after he read the decision it was clear that the shame he had originally felt
14 whenever he thought about what he did, was back, and he expressed dread at having to share
15 this news with his wife, Gail. Because Mark and I spoke every day, or nearly so at that time,
16 I knew that he had a lot of fear and anxiety over how he was going to be able to support his wife
17 and 2 step children without being able to practice law.

18 9. The second blow came approximately 3-4 weeks after the Review Department decision, when
19 his wife announced that she was moving out. When mark shared this with me, his distress was so
20 great that I was concerned for his overall welfare as well as his sobriety.

21 10. Mark weathered these two blows without taking a drink or drug. At the time of these events,
22 I had been taking Mark through the steps again, and we redoubled our efforts to improve and
23 strengthen Mark's sobriety and spiritual life.

24 11. Since those early days of sponsoring Mark, he has grown strong in his sobriety, and in
25 enlarging his spiritual life. Alcoholics Anonymous teaches that for us to live happy, productive
26 sober lives we must develop a spiritual way of living. It has been very gratifying to me to be a
27 part of Mark's growth over these last almost 3 years. I know that Mark has gotten very
28 involved in his church, serving in various capacities. He discusses these various activities with
me, including feeding the homeless, volunteering to paint schools out in Thousand Oaks,
helping at church on Sundays, etc.

12. In addition to the service work he does with his church, he is very active in service in
Alcoholics Anonymous. He volunteers his time on Saturday evenings to answer phones at the
AA Central Office in Van Nuys, CA. In performing this service, he talks to people who want help;
sometimes gives information to close family members of alcoholics who are looking for help; and
makes himself available to go to people's homes if needed. Mark also goes to hospitals and 'rehab'
facilities on A panels which bring AA meetings and the message to patients who have problems with
drugs or alcohol. In addition to attending these hospital and institutions panels, Mark now leads a
panel that goes to Southern California Hospital in Van Nuys, CA, (an inpatient psychiatric facility)
once a month. He is enthusiastic about working with newcomers to AA, and is generous with his
time.

15. Mark's volunteer service work has served him well. He is much changed from when I
first started working with him. He is sorry for what he has done, and has expressed regret and
remorse from the beginning. He has also made amends to the people he has harmed through
his behavior, and this has brought about a change in his character. Mark has faced great
challenges the past several years, but I believe he is coming out of this process a better man.
He is honest, responsible and trustworthy. He presents as someone who is humble yet
confident and capable.

1
2 "33. In step eight I made a list of all persons I had hurt and needed to make amends to.
3 The list included everyone in my family, my former law partners, my attorney friends,
4 especially those in the American Board of Trial Advocates, of which I was a member and
5 office holder, and other personal friends. The most important people on my list, were
6 Roderick Smith, my wife, Gail, and her best friend, Bridgette W., because these people
7 were direct victims of my conduct.

8 ...
9 **Rehabilitation**

10 52. While I believe that the actions I have taken to accept responsibility, acknowledge
11 wrongdoing and make amends to those harmed, evidence rehabilitation, there is more
12 to it than that. As stated earlier, I believe my behavior was a result of a loss of the moral
13 compass that should always govern my actions. Alcoholism, as I have stated and believe,
14 causes warped thinking, which, over time, leads to bad behavior. I believe, however, that
15 simply removing alcohol does not constitute rehabilitation. In my case, the path to
16 rehabilitation required more and included:

17 i. Maintaining sobriety, that is – complete abstinence from alcohol & drugs, active
18 participation in Alcoholics, taking the twelve steps; taking on service commitments; and
19 helping other alcoholics achieve sobriety.

20 ii. Continuing treatment with my psychiatrist.

21 iii. Commitment to increase my faith and serve others.

22 53. I have discussed my sobriety and participation in AA to some extent already, but
23 there is more to be said as relates to my rehabilitation. The twelve steps of AA are an
24 intense, transformative process that addressed my mal-adjustments to life. I have taken
25 the twelve steps more than once since returning to AA in 2012. Here is how the steps work:
26 The first three steps force the alcoholic to admit he is not in control anymore, (if he ever
27 was). His/My way of life didn't work; and that if I want to succeed in life I must find a
28 power greater than myself (God) to direct me. Steps four through seven seek to uncover
character defects, and personality traits that have caused him to drink excessively and
respond to life in self-destructive ways. Included in these steps are writing down our own
part in every single interaction we've had in life which has left us feeling hurt, resentful

23 "16. Mark and I still talk on a regular basis, see each other at AA meetings. I know that before he
24 got involved in the behavior that led to his suspension, he was a good lawyer and enjoyed a fine
25 reputation. In my opinion, he is now equipped and prepared to be an even better attorney. There
26 have been many times over these past 2 years when I would have liked to ask him for some legal
27 advice or service, but knew he wouldn't give any because of his status with the Bar. I look forward
28 to the day when I can ask for his advice or help on a legal matter.

17 17. I sincerely believe that Mark has learned his lesson, and is not going to repeat the conduct
18 that gave rise to these disciplinary proceedings. Working with him and studying him closely, he
19 is just a much different person than the one I met in 2012."

(Emphasis added.)

1 “or victimized. By focusing on our own part in every negative interaction, we get away
2 from blaming others and instead we accept responsibility for our own failures.

3 54. The step four written inventory also includes a sex industry. In doing the sex
4 inventory we review our life’s history pertaining to sex. We search ourselves with the
5 help/prodding of our sponsor and list where we have been selfish, manipulative, aroused
6 suspicion or jealousy and other dysfunctional behavior of a sexual nature. After listing
7 these improper sexual motives, actions or ideations, we develop and write down a healthy
8 sexual ideal. We/I set a new standard for myself to be rid of selfish and inconsiderate
9 sexual conduct, motives and thoughts, and to live harmoniously with others and to respect
10 and avoid conflict in these matters at every level.

11 55. In the 5th step, we confess to another person all our wrongs, and I have done this,
12 holding nothing back. Steps six and seven and are about our own willingness to be rid of
13 all the defects of character and traits which had been so ruinous, and to see God’s help to
14 shape ourselves to live according to higher principles, the first of which is humility.
15 Alcoholics, and I always include myself in these references, often suffer from an
16 arrogance that leads to all sorts of bad behavior. As both the Hearing Dept. and the
17 Review panel observed in my case, I did things I knew were wrong when I did them.
18 That disregard of known moral principles is arrogance.

19 56. The antidote for arrogance is humility, although with most alcoholics, it usually
20 comes in the form of humiliation. Learning humility compels us (me) to respect others, seek
21 to do only good for others, live according to the rules of society, and treat others as I would
22 have them treat me. Simply stated: The Golden Rule.

23 57. I have already discussed my process of making amends to those I hurt by my
24 conduct.²⁷ Steps eight and nine are the amends steps, and they forge our willingness to face
25 our wrongs and do something corrective about them. Thus, we become restored to right
26 relationship with our fellow man/woman and with society.

27 58. Step ten is an ongoing checklist/maintenance step, requiring consistent reviewing of
28 daily actions, to look out for selfishness, dishonesty and other self-centered actions and
motives. If we stumble and offend or transgress the rights of anyone along the way, we
are to immediately recognize our wrongs and promptly admit and correct them. If we
have any doubt about any situation, we call someone – usually our sponsors – immediately
to discuss and get perspective on any situation.

59. Step eleven is the step that provides me with the strength and desire to live right and
do right. The step instructs me (daily) to seek through prayer and meditation to develop my
relationship with God, and to also seek the knowledge of his will and the power to carry it
out in all situations. This is the step that has been most responsible for the changes in my
life and has led me to become so involved with my church.

60. Step twelve instructs us to help other alcoholics achieve sobriety and to practice all

²⁷ The paragraphs of Petitioner’s declaration are not quoted in sequence here, as they are presented in the
declaration, and so the topic of his making amends to the victims of his crime is presented, and will be fully
discussed, *infra*, in this petition.

1 “principles I have just discussed in all my affairs.

2 61. I have taken these steps as instructed and I have taken them to heart. I attend at
3 least five meetings a week, and I serve my meetings in numerous capacities. Currently,
4 I am the secretary of the meeting I attend Friday nights. I attend ‘board meetings’ on
5 behalf of my Tuesday night meeting to apprise the Tuesday night group of events going
6 on in the San Fernando Valley as concerns AA. I also take a panel of AA members from
7 my Monday night group to a psychiatric hospital once a month to bring AA meetings and
8 hope to the patients of the hospital. I am also called upon to lead meetings from time to
9 time. I also sponsor men who are new to sobriety and need to take the steps.

10 62. The things I do in AA have taught me the joy of service, the practical benefits of
11 thinking of and doing things for others, and giving of myself without thought or desire to
12 receive anything in return. Perhaps most gratifying of all to me is helping a newcomer get
13 sober and have him come to believe in God that really cares about him and has power
14 available to help him stay sober and make all the other necessary changes in his life.
15 I have used this when discussing working with others because In only work with male
16 alcoholics and drug addicts. Serious recovery frowns on men trying to sponsor women
17 or vice versa.”²⁸

18 A number of Petitioner’s character witnesses know him from his very active participation in
19 Alcoholics Anonymous (“AA”), his dedication to sobriety, and his recovery program, and fully
20 support his petition for relief from suspension:

21 Attorney Paul Crilley states in his declaration²⁹ that he first knew Petitioner over 20 years
22 ago when both were then participating in AA meetings, but Petitioner stopped coming and Mr.
23 Crilley lost contact with him for many years. Mr. Crilley next saw Petitioner in 2012, when he
24 came back to the AA meetings and Petitioner’s “physical appearance shocked those of us
25 previously acquainted with him.” He found Petitioner to be quiet and withdrawn at that time.
26 Petitioner spoke at the AA meetings, describing his criminal conduct in speaking to the group and
27 accepting personal responsibility for his misconduct, without minimizing it or blaming others:

28 “13. Mark is very enthusiastic about working his 12-step program. He regularly attends the
29 meetings, and he has taken numerous commitments to be of service. He was recently the
30 treasurer of our Friday night meeting and he has just been elected secretary of that
31 meeting. He has his own panel, which provides meeting to people in hospitals and
32 institutions. I would classify him as an active member who spends a lot of his time

²⁸ Exhibit 1013.

²⁹ Mr. Crilley’s declaration is attached hereto as Exhibit 1018.

1 “serving others, inside. He works with others and sponsors people.

2 14. Mark also attends church regularly. We have lively discussions on this subject
3 and he speaks often of the pastor at his church. It is my understanding that Mark helps
4 in quite a few ministries at his church.

5 15. Physically & emotionally Mark has improved greatly over the person I saw come back
6 in 2012. More pronounced and of more importance is the way Mark has developed and
improved his spiritual outlook and his approach to life.

7 16. Since the allegations became known, I have witnessed Mark slowly emerge from the
8 ashes of his life with a sense of personal dignity and grace (unlikely as it is to imagine). I
9 like to believe we have become friends. We spend time occasionally with each other
10 outside of our program. In my opinion, Mark has strived to become a man of good moral
11 character since coming back to our programs in 2012. As far as the future holds, I believe
12 the following is true – he hasn’t re-offended since he was first arrested in February 2012.
Given the efforts I have seen to make amends and actively participate in our program, I am
disinclined to believe he would reengage in the behavior outlined in the Opinion &
Decision.”

13 Michael Alan Rubin³⁰ is a licensed public insurance adjuster with his own business, and
14 who has held numerous elected offices within the insurance industry. He met Petitioner in 2014, in
15 an AA meeting in Woodland Hills. Mr. Rubin was the Hospitals and Institutions representative in
16 their Monday night AA meeting, and it was his responsibility to bring an AA meeting to Southern
17 California Hospital, which is a locked psychiatric facility in Van Nuys; the reason to do this was
18 due to the large percentage of patient/inmates with alcohol and drug problems. Mr. Rubin relates
19 that Petitioner volunteered for this event, repeatedly participated in it, and eventually took over as
20 the Hospital and Institutions representative. Mr. Rubin adds:

21
22 “16. Mark works a good program of recovery in AA. He takes his sobriety seriously,
23 and our program teaches that it is essential to live according to the spiritual principles
24 of honesty, integrity, unselfishness and compassion for others. I know that Mark has
embraced these principles. His daily walk includes demonstrations of these principles
in how he conducts himself and interacts with others.

25 17. Upon restoration of his privilege to practice law, I would not hesitate to retain him
26 to represent me in a legal matter should the need arise. I am proud to be Mark’s friend....”
27
28

³⁰ Mr. Rubin’s declaration is attached hereto as Exhibit 1019.

1 Toby Near³¹ is a commercial truck driver who was an alcoholic and drug abuser who could
2 not quit drinking and abusing drugs, to the extent that he could not hold a job, and he could barely
3 read or write, when he was introduced to Petitioner by a mutual friend. Petitioner was asked to
4 become his sponsor in AA and agreed. Petitioner spent considerable time with Mr. Near, making
5 sure that he remained dedicated to his sobriety and recovery, and he helped improve his reading and
6 writing skills to the point where Mr. Near could study for and obtain his commercial truck driver's
7 license:
8

9 "10. Mark helped me so much. He was working on his own at that time, and he gave me
10 a great deal of his time. He used to pick me up in Thousand Oaks and take me to AA
11 meetings, and often we would meet at the house he and his wife, Gail were renting in
12 Simi Valley. We would sit in his backyard and he would read the AA Big Book with me,
13 helping me understand what it said in there. After a while, I was understanding what we
14 read, and Mark even helped me improve my reading skills to the point where I was not
15 so afraid to read, and would read on my own at night for the first time ever.

16 11. We started working on the steps of AA, and now Mark was challenging me to write.
17 Oh, I hated that at first, but, like reading, Mark had so much patience with me, and he would
18 teach me about spelling and grammar. ..."³²

19 Mr. Near then describes how Petitioner encouraged him to pursue his dream of becoming a
20 commercial truck driver, helping him to study for the series of tests involved, and he obtained that
21 license:
22

23 "14. As I said at the beginning of this statement, I had no encouragement growing up, nor
24 did anyone help me with school. My teachers lost interest in me, and I was lost. I had no
25 confidence in myself. Nobody believed in me, and that's all I had to go on. What Mark
26 did for me was so valuable. I could never repay him. He encouraged me; he coached me;
27 he tutored me; he was a cheerleader for me; and most important of all, he believed in me.
28 He kept telling me: 'You can do this, Toby. I know you can do it.' But Mark didn't just
say those things and leave me to it. He followed those words up with action. 'Come on
Toby, when's your next test, let's test you now', and we would.

15. I know what Mark did that got him in trouble, and caused him to have his license
suspended. He has discussed some of the details with me in the time since then, and he
gave me a copy of the State Bar Review Department decision to review to make sure I
knew everything. I know what he did was wrong, and he knows it. What I also know
is that - he is not that person anymore. The Mark I have known has given of himself

³¹ Mr. Near's declaration is attached hereto as Exhibit 1020.

³² Exhibit 1020.

1 "patiently and repeatedly. We still go to the same church, and I see Mark helping in
2 many ministries. I am now almost 4 years sober, and Mark's sponsorship was so
3 vital in helping me get a strong foundation in sobriety early on."³³

4 Dr. Jerry Moss, M.D., is a distinguished surgeon as his declaration details.³⁴ However, as
5 he also relates:

6 "4. I have cited the above educational training and professional background for the purpose
7 of identifying how all that experience and accomplishment has paled in comparison to the
8 accomplishment of my own recovery. A lapse in judgment led me down a course of
9 self-medication (for the depression/anxiety and fear resulting from the loss of function
10 and loss of a career that had meant so much to me), followed by a course of active
11 addiction, until reaching a point of active recovery through the 12-step program of
12 alcoholics anonymous, that began on March 9, 1998, and which continues now nearly
13 20 years later.

14 ...

15 7. Against this background, I first met Mark Wenzel at an alcoholics anonymous meeting
16 in 2012. I was attending this meeting 5-6 days a week, and noted that Mark had begun
17 attending that meeting on a regular basis. Over the course of a couple of months we struck
18 up an acquaintance, which led in time to a friendship/fellowship that has deepened over the
19 ensuing years. It was Mark's attraction to my spiritual program of recovery that I believe
20 best defines the relationship between the two of us. Recognizing his own need for a
21 spiritual solution to his problems, Mark told me about his drinking and substance abuse
22 history and also about the behavior he engaged in that led to the State Bar filing disciplinary
23 charges against him.

24 8. ...Throughout the disciplinary proceedings, Mark talked to me frequently, sometimes
25 seeking advice; sometimes using me as a sounding board; and sometimes he would ask
26 me to help him gain perspective on the over-all process. He knew he was guilty of conduct
27 warranting discipline, and he consistently told me he accepted responsibility for his actions.
28 I was aware that Mark had a brief relapse during the pendency of the disciplinary
proceedings, and I will not make any excuse for Mark about that. However, since then,
Mark has worked diligently to remain sober and live according to the spiritual principals
that underlie the 12 steps of Alcoholics Anonymous.

...

10. Essentially, what I have observed is that as the challenges in his life have increased,
Mark has responded by leaning into his AA work and his religious faith. He has changed
a great deal since I met him in 2012. He was sincere and earnest back then, but he was
frustrated, anxious and reactive. Now he is calm and rather serene. Things do not get to
him like they used to. It's obvious that he has undergone a profound change in his
perception of life and what he views as his life's purpose.

11. From the time Mark first told me about the things he did that got him in trouble, he
also told me how sorry he was and how anxious he was to apologize and make direct
amends to everyone harmed by his behavior. Mark has done much to change the things

³³ Exhibit 1020.

³⁴ Dr. Jerry Moss's declaration is attached hereto as Exhibit 1021.

1 “about himself that needed changing and to pay for his mistakes. While I consider Mark
2 to be a friend of mine today, I can state that he would not be my friend if he did not
3 consistently demonstrate the qualities of trustworthiness, integrity, and moral character
4 in his daily walk. I’ve observed his decision-making process, he consistently chooses to
do what is right, and I believe he has had a true spiritual experience, as written about in
the Big Book of Alcoholics Anonymous.

5 12. As far as Mark’s rehabilitation is concerned, I am confident that his misconduct was
6 extensively related to his spiritual bankruptcy that is defined by active alcoholism/addiction.
7 I am equally confident that the risk for any repeat misconduct is mitigated by his
8 transformation from the spiritual bankruptcy of active alcoholism/addiction, to his ongoing
spiritual journey within an active recovery program.”³⁵

9 Further supporting Petitioner’s devotion to his recovery from alcoholism/addiction and his
10 good moral character, is the declaration of Steve Lewis³⁶, who first met Petitioner in or about March
11 or April of 2012, at an AA meeting in Encino, California. Mr. Lewis recalls that Petitioner
12 befriended him at that meeting and helped him “to come to believe that there is a power greater than
13 myself out there in the universe which has helped me get sober and live a happy productive life.”³⁷
14 Mr. Lewis further declared:

15 “15. Mark’s attitude about his suspension has been that of acceptance. I know it has
16 been financially brutal for him, but he accepts that as being – nothing more than the
17 consequence of his own behavior. To go from owning a home in Calabasas to being
18 homeless and penny-less a couple of years later, and to maintain an attitude like that –
is commendable.

19 16. Mark has expressed remorse for his behavior since the beginning. I can also
20 attest to how hard Mark has worked to become a better person. He volunteers to perform
21 a lot of extra service in AA, including answering phones in San Fernando Valley Central
22 Office of AA on Saturday nights on a recurring basis. Additionally, I know that once a
month he heads a group that carries the AA message to patients at a psychiatric hospital
in Van Nuys, CA.

23 17. I am also aware that Mark is very committed to his Church. I know that he attends
24 church regularly and he is involved in several church service groups. There have been

25 ³⁵ Exhibit 1021.

26 ³⁶ Mr. Lewis’s declaration is attached hereto as Exhibit 1022. Mr. Lewis is retired from his 50 plus year
27 career in the television and film industry, directing and producing television programs and commercials. In
28 1974, he founded Film Core, Inc., which became the largest commercial post production service company in
Los Angeles. In 1985, he founded The Directors Network/TDN Artists, a talent agency which represents
film and television Directors to commercial production companies all over the world.

³⁷ Exhibit 1022, p. 3, para 8.

1 “many times Mark has been unable to accept an invitation to go to lunch, play golf or
2 come over for a visit, because he’s feeding the homeless or other similar activity.

3 18. It is my opinion that Mark is a fine person, a person who can be trusted to do
4 what he says he will do. He is a person of upstanding moral character. He is sober,
5 kind, humble, honest and self-sacrificing. From my personal experience, I can say that
6 Mark is a fine lawyer, and I would not hesitate to hire him myself or recommend him to
7 a close family member or friend.”³⁸

8 As the evidence in this proceeding demonstrates, Petitioner has diligently pursued his
9 recovery from substance of abuse and has maintained his sobriety from his relapse in early 2013.
10 Moreover, he has become deeply involved in the activities of AA, performing numerous volunteer
11 services for that organization, while at the same time attending meetings regularly and working the
12 twelve steps of AA. In the process, he has also recovered spiritually, supported by his renewed
13 participation in his church and its activities. In this regard, Petitioner has met the Review
14 Department’s “heavy burden that is necessary to address his egregious misconduct and ongoing
15 substance abuse problems.”³⁹

16 **D. Petitioner Maintains Appropriate Psychiatric Care**

17 Petitioner has been under the care of Dr. Lewis Engel, M.D., with Board certification in
18 psychiatry and neurology, “from April 2009, to the present for the treatment of Bipolar Disorder
19 Type II, History of organic affective disorder-predisone induced, History of alcohol abuse.”⁴⁰ Dr.
20 Engel is very confident that Petitioner is committed to maintaining his sobriety, is compliant in
21 taking his medications, and is not likely to reoffend, as he states in his declaration:

22 “5. Please be advised that Mr. Wenzel has continued under my care for medication
23 management since the imposition of discipline by the California State Bar, and he
24 has been compliant in taking his medications.

25 6. In addition, Mr. Wenzel appears to be fully committed to his sobriety, self-
26 awareness and recovery, attends AA meetings regularly, and is an active participant

27 ³⁸ Exhibit 1022.

28 ³⁹ *In the Matter of Wenzel* (Review Dept. 2015), *supra*, 5 Cal. State Bar Ct. Rptr. 380, at p. 383.

⁴⁰ The declaration of Lewis Engel, M.D., and its attached medical report letter dated “3/25/13”, is attached hereto as Exhibit 1023. The above quote can be found on page one of the medical report letter.

1 "in the program.

2 7. Mr. Wenzel's mood has remained stable with no evidence of elevated mood
3 since the addition of the anticonvulsant mood stabilizer Depakote. There have
4 been no relapses of any of the type of behavior for which he was charged criminally,
5 and disciplined therefor by the State Bar.

6 8. I remain confident of my earlier stated opinion that Mr. Wenzel will not likely
7 repeat illegal conduct, and is not a risk to the public. This opinion is bolstered by Mr.
8 Wenzel's continual compliance with the treatment plan, and the fact that it has been
9 almost 6 years since Mr. Wenzel was arrested, and there has been no recurrence of
10 the behavior."⁴¹

11 Petitioner believes that his on-going treatment for his Bi-Polar disorder is a vital element on
12 his path to rehabilitation:

13 "52. While I believe that the actions I have taken to accept responsibility, acknowledge
14 wrongdoing and make amends to those harmed evidence rehabilitation, there is more to
15 it than that. As stated earlier, I believe my behavior was a result of a loss of the moral
16 compass that should always govern my actions. Alcoholism, as I have stated and believe,
17 causes warped thinking, which over time, leads to bad behavior. I believe, however,
18 that simply removing alcohol does not constitute rehabilitation. In my case, the path to
19 rehabilitation required more and included:

20 i. Maintaining sobriety, that is – complete abstinence from alcohol & drugs, active
21 participation in Alcoholics Anonymous, taking the twelve steps; taking on service
22 commitments; and helping other alcoholics achieve sobriety.

23 ii. Continuing treatment with my psychiatrist.

24 iii. Commitment to increase faith and serve others.

25 ...
26 63. The second element of my path of rehabilitation is my continued treatment with my
27 Psychiatrist, Dr. Lewis Engel. I am aware of and do not quarrel with the State Bar Courts'
28 disagreement with Dr. Engel's opinions and their determination that he was not qualified
to render certain opinions. Nevertheless, from a treatment standpoint, I believe he has
been helpful.

64. As stated earlier, I have gained insight into my behavior. I do not justify it. I know
I was wrong. I also know that I will not engage in that type of behavior in the future.
Dr. Engel has been important in helping me understand things that can affect my brain,
such as sleep deprivation, alcohol, drugs and certain medications.

65. Regarding medication, I am currently maintained on Lamictal, 100 mg. per day,
and Depakote, 250 mg. per day. This medication helps me stay on an even keel, mood

⁴¹ Exhibit 1023.

1 “wise. I have suffered from time to time since my suspension began, with rather severe
2 depression, but I understand that this was related more to my circumstances than anything
3 organically wrong with me. I have not and do not mention ‘depression’ as an excuse
4 for anything.

5 66. I have had no episodes of hypo-mania or clinical ‘elevated mood’ since the
6 proceedings in the State Bar Court began. Relevant to my sobriety, I was hospitalized
7 with acute appendicitis in January 2015. I had emergency appendectomy, with minor
8 rupture of appendix, otherwise no surgical complications. I was discharged from the
9 hospital with a prescription for thirty (30) Percocet tablets for pain. The prescription
10 said ‘take 1 every 6 hours for pain as needed’. I am aware that Percocet is a strong
11 narcotic pain medicine with addictive properties. I called my AA sponsor, Greg Ekizian,
12 and upon his recommendation, I disposed of the medicine without taking a single pill.
13 What discomfort I had following the surgery, I managed with over the counter remedies,
14 Tylenol or Advil.

15 67. I have been a good patient in continuing to treat with my psychiatrist, take
16 medicine prescribed, don’t engage in any improper behavior and know to report any
17 unusual feelings.”⁴²

18 Petitioner has clearly been diligent in maintaining his appropriate medical treatment for his
19 Bi-polar disorder, just as he has been diligent in maintaining his commitment to sobriety. The third
20 and final element of his personal path to rehabilitation is “Commitment to increase faith and serve
21 others”, which he has also achieved, as is now discussed.

22 **E. Petitioner’s Commitment To Increase Faith And Serve Others**

23 Petitioner has gained insight and perspective into the value of faith in his recovery from
24 alcoholism and substance abuse, and in the reconstruction of his life:

25 “55. In the 5th step, we confess to another person all our wrongs, and I have done this,
26 holding nothing back. Steps six and seven are about our own willingness to be rid of
27 all the defects of character and traits which had been so ruinous, and to seek God’s help
28 to shape ourselves to live according to higher principles, the first of which is humility.
Alcoholics, and I always include myself in these references, often suffer from an
arrogance that leads to all sorts of bad behavior. As both the Hearing Department and
the Review Department Panel observed in my case, I did things I knew were wrong when
I did them. That disregard of known moral principles is arrogance.

56. The antidote for arrogance is humility, although with most alcoholics, it usually
comes in the form of humiliation. Learning humility compels us (me) to respect others,
seek to do only good for others, live according to the rules of society, and treat others

⁴² Exhibit 1013.

1 “as I would have them treat me. Simply stated: The Golden Rule.”⁴³

2 Petitioner describes his commitment to increase faith and serve others in his declaration, as
3 follows:
4

5 “68. The third component of my rehabilitation, is my increased faith life. This has been
6 wonderful for me, and I only wish I had pursued this this path earlier. I have always had
7 some faith, or rather – belief in God, but it was very much dormant during the years that
8 I was drinking between 2004 to 2012. Reaching absolute rock bottom toward the end
9 of 2012, I needed something to help me get up and move forward. AA reminded me of
10 God’s power and availability, and that reminder caused me to seek a closer relationship
11 with God.

12 69. Fortuitously, or more likely – Providentially, some good friends of my wife and I,
13 knowing how badly I had messed up, invited us to a new church being started by a
14 minister they thought was particularly inspiring. They were right. Brad Johnson was very
15 inspiring indeed, and his own personal story included sin, failure, loss of job and
16 reputation, and redemption. He offered a message of hope. After a brief period of
17 checking the church out, I decided that I needed it. My redemption in life depended on
18 my spiritual redemption, and I went all in.

19 70. At least since mid-2013, I have been attending church every Sunday, unless out
20 of town. The church I attend is California Community Church in Agoura Hills, CA, and the
21 Pastor is Brad Johnson. It is a non-denominational Christian church. I absolutely love my
22 church, and it has been a huge part of my rehabilitation. I serve in multiple ministries there,
23 including the mission and compassion ministry – which serves the poor at Hope of the
24 Valley Rescue Shelter in Van Nuys, and through various community outreach programs.
25 I am also an usher every Sunday, a greeter every Sunday and part of the crew that sets up
26 and takes down tables, chairs, sound system, etc., whenever the church is having an event.
27 Particularly gratifying, I was asked by our Pastor to give testimony to the congregation on
28 how my life has changed since coming to California Community Church. The testimony
was filmed and is to be played for the congregation right at the beginning of both Sunday
services in the next couple months. I say yes to whatever I am asked to do there, and my
faith and belief in God has been enhanced by my participation in men’s fellowship groups,
Bible study and taking a course in the Bible for spiritual growth.

71. Pastor Brad Johnson’s declaration in support of my petition corroborates the claims of
rehabilitation through church.

72. I submit that the foregoing demonstrates my rehabilitation and the development of
good moral character.”⁴⁴

⁴³ Exhibit 1013.

⁴⁴ *Ibid.*

1 Brad Johnson, the Pastor of California Community Church in Agoura Hills, submitted his
2 declaration in support of Petitioner's petition for relief from suspension, in which he describes his
3 relationship with Petitioner and the extent of Petitioner's renewal of faith and participation in
4 church activities:
5

6 "4. In addition to our one on one meetings, we talk after services on Sundays, visit during
7 church social events and regularly correspond through email. Mark frequently emails me
8 to comment on that Sunday's teaching, telling me how helpful, inspiring or challenging it
9 is to him, as he strives to improve his journey of faith. On occasion, he has poured his
10 heart out to me over his life challenges, including the suspension of his license to practice
11 law; the loss of his job of many years, the loss of his home; loss of reputation in the legal
12 community, his inability to earn a living; and, ultimately, the collapse of his marriage to
13 Gail.

14 5. Mark has shared with me the behavior he was engaging in that led to all these losses.
15 Additionally, Mark has provided me with the copy of the State Bar Review Panel's
16 decision to be certain I was aware of everything I did. He is deeply ashamed and
17 remorseful for his past behavior. In our talks together, I have stressed that with his
18 repentance, comes forgiveness, and ultimately, if he perseveres, redemption. When
19 I was first getting to know Mark, he was in serious need of mental, emotional and
20 spiritual healing. By his own account he had done wrong, and had hurt people. He
21 has never blamed anyone or anything other than himself for his difficulties.

22 6. What I would most like to tell you about Mark, is how his actions have helped shape
23 him into a new man. Mark has openly admitted that he is a recovering alcoholic, and that
24 he also had problems with drug use. I understand that he is very active in Alcoholics
25 Anonymous, but there are others who are more knowledgeable about that. To be sure,
26 Mark has always presented himself sober and clear headed the entire time I have known
27 him. I have witnessed many lives saved through AA and other 12 step programs, and
28 have profound respect for those who practice their program.

7. It is most gratifying to me to see the servant's heart that has developed in Mark.
Mark serves in many of our Church ministries, and has been an enthusiastic volunteer
since he began attending. He serves as a member of our greeting team on Sundays, one
of our front-line ambassadors to all those attending church, especially visitors and those
new to our church community. He is also an usher, helping with the collections and
setting up and taking down chairs and tables for various events we have.

8. Mark is a regular member of our mission and compassion ministry. As such he serves
meals to the homeless at Hope of the Valley Rescue Mission in Van Nuys, CA; serves at
the Conejo Valley Christmas Shoppe, bringing a loving Christmas experience to poor and
struggling families in the community; and he is a pen pal to a young boy in Africa as part
of one of our outreach ministries.

9. Mark has served as a 'team leader' for Conejo Valley Annual Service Day, each of the
past 3 years, working with a team of volunteers painting and beautifying one of the public

1 “schools in our community. Last December he served as a ‘Butler’ at our annual holiday
2 season ladies’ tea.

3 10. Mark never says no to a service request, and he has a genuine heart for the less
4 fortunate among us.

5 ...
6 15. I have truly enjoyed watching Mark grow in his faith as a Christian. He has an
7 insightful, inquisitive mind and has become a diligent student of the Bible. We talk in
8 person and by email, and his comments, questions and encouraging words are welcome
9 and appreciated. While the losses he has suffered on the temporal realm because of his
10 own behavior have been extensive, he has gained spiritual attributes and strength of
11 character that are far more enduring and valuable and cannot be purchased, except
12 through humility, an earnest desire to change and perseverance.

13 16. Mark has worked hard to become a different and better person. I am confident that
14 Mark has experienced tremendous healing, and will not, to the best of my ability to say so,
15 re-engage in the type of activity that brought about his discipline by the State Bar
16 Association. Mark is not that person anymore. I have found him to be honest, trustworthy,
17 knowledgeable, diligent and personable, I would not hesitate to hire him to represent me
18 or a member of my family in the future, should a need arise. In my opinion, society needs
19 more attorneys like Mark.”⁴⁵

20 Many of the character witness declarations quoted, *supra*, also address and corroborate
21 Petitioner’s description of his continuing efforts on his spiritual reconstruction and his deep
22 involvement in his church and its activities, many of which activities are pro bono and benefit the
23 less fortunate. All of the character witnesses who commented on these activities, and events, are
24 convinced of Petitioner’s sincerity, and that he will not reoffend.

25 There is still additional significant evidence of Petitioner’s rehabilitation, as follows.

26 **F. Petitioner Has Atoned To The Victims Of His Misconduct**

27 The Review Department reduced the amount of mitigating credit given to Petitioner for
28 remorse and recognition of his wrongdoing in this discussion:

“The Coffee Bean Regional Service testified that the employees feared for their safety during the time of the incidents. Consequently, the company spent considerable resources to protect employee and customer safety. Later, the company was sued because of the recordings. **In addition, the twice victimized patron testified that he ‘was very disappointed that one of such responsibility [an attorney] had abused that responsibility in this way.’ He testified that he stopped going to the Coffee Bean**

⁴⁵ Brad Johnson’s declaration is attached hereto as Exhibit 1024.

1 **“restaurants, which caused him to lose a place he cherished: ‘I just don’t feel**
2 **comfortable going there anymore specifically because of this incident.”⁴⁶**

3 Finally, we assign some mitigation credit to Wenzel’s remorse and recognition of his
4 wrongdoing. (Std. 1.6(g) [mitigation for prompt objective steps that demonstrate
5 spontaneous remorse and recognition of wrongdoing and timely atonement].) **He expressed**
6 **‘genuine contrition to his wife and his wife’s friend. Due to legal considerations, he**
7 **was not able to do the same for the Coffee Bean Company or the victims. Overall,**
8 **he stated he was remorseful, although his focus was primarily on his and his family’s**
9 **suffering and not that of his victims.”⁴⁷**

10 Roderick Smith was the Coffee Bean’s “twice victimized patron” of Petitioner’s misconduct
11 described in the above paragraphs, and still he has offered his declaration⁴⁸ in support of Petitioner:

12 “2. I should like to state that although I was the complaining victim of Mark Wenzel’s
13 actions, I am submitting this declaration on his behalf, in the hope that his privileges to
14 practice law will be restored. I will state my reasons for giving this declaration below,
15 but first I would like to provide a little background information about myself.

16 3. I was born on the 3rd of August 1969, and was raised in Glasgow, Scotland, UK.
17 I studied The Royal Conservative, and received a Degree in Film Production. On
18 graduation, I worked for the BBC in the camera department. I am now a permanent
19 resident in the USA, Green Card holder. ...

20 4. I now run my own business, DrinkyDraw, Inc. I am the CEO and employ around
21 5 people bringing art workshops to the Craft Brewery community. I am still very much
22 involved in the community and teach at The Mid Valley YMCA from time to time.

23 5. Now, about my knowledge, experience and opinion of Mark Wenzel. Back in
24 2011 and part of 2012, I was a regular patron of the Coffee Bean & Tea Leaf café on
25 Ventura Blvd. in Encino, CA. I would go there in the mornings, buy my coffee
26 beverage and a bite to eat, and spend a couple of hours there, talking to other patrons,
27 working on my laptop. I really enjoyed it. It was like an informal office for me. On
28 two separate occasions: once in December 2011, and once in January 2012, I believe,
 while using the unisex bathroom at the Coffee Bean, I noticed an unusual item located
 under the sink. I retrieved it, and believed it to be a camera of some type in the shape
 of a writing pen. Each time, I turned the device into the store employees, and gave my
 name and information.

 6. I was thoroughly stunned and rather disturbed by these events, and over time, I
 experienced some emotional distress over having my privacy violated in such a manner.
 Eventually, I learned that an attorney by the name of Mark Wenzel was the person who

⁴⁶ *In the Matter of Wenzel, supra*, (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 380, at p. 384; **emphasis added.**

⁴⁷ *Ibid.*, at p. 387; **emphasis added.**

⁴⁸ Roderick Smith’s declaration is attached hereto as Exhibit 1003.

1 “put the camera in the bathroom, and I hired an attorney to represent me in a personal
2 injury claim against Wenzel. A lawsuit was filed, and went on for a couple of years.
3 During this time, I learned that the State Bar called Mark Wenzel up on disciplinary
4 charges, and I testified on behalf of the State Bar in the trial against him. I recall the
5 State Bar trial took place in April of 2013.

6 7. In addition to testifying against Mark Wenzel at the State Bar trial, I gave a
7 deposition in the civil lawsuit against him. Eventually, the civil case was approaching
8 ‘trial, and the Judge handling the case ordered that we have a settlement conference.
9 I was not really interested in attending a settlement conference, and I was certainly
10 not interested in meeting Wenzel face to face. However, I was obliged to follow the
11 court’s order, and thus I was formally introduced to him on December 6, 2014, in the
12 jury room of Judge Judith Johnson’s courtroom of the Los Angeles County Superior
13 Courthouse located at 600 South Commonwealth Ave., Los Angeles, CA.

14 8. Mark was present with lawyer Carey Caruso, and at that time I was in pro per, having
15 previously parted ways with my attorneys. Though technically I was in pro per, I was
16 receiving advice from my brother, who is a very successful trial attorney in London, is a
17 member of Queen’s Counsel, and was planning to fly to Los Angeles, seek to be admitted
18 ‘pro hac vice’ for the trial, associating in local counsel. Thus, my brother, was available
19 by phone on the day of the settlement conference.

20 9. Up until that moment in time, I had nothing but contempt for Mark Wenzel. I
21 thought what he did was sick and disgusting. However, after spending an hour with
22 him in the jury room that day, my opinion of him began to change. It helped that as
23 soon as he could say something, he apologized for his behavior, he accepted
24 responsibility for what he did and the consequences that resulted from his behavior,
25 and told me that he wanted to compensate me for the harm he caused me.

26 10. We discussed the matter for a while, and it was clear that he had lost just
27 about all the assets he had, but it was also clear that he was intent on doing the
28 right thing. One of the things that struck me about Mark Wenzel on that day was
his commitment to sobriety and the program of Alcoholics Anonymous. I was
impressed with this because the man that I met that day was nothing like the person
I envisioned him to be. He was sincere, honest, humble and remorseful. More than
that, he was repentant. By that I mean that he seemed intent on doing whatever it
would take to atone for his wrongs.

11. I am pleased and gratified to say that we reached a settlement that day, the terms
of which required an initial payment of \$5,000.00 by Mark Wenzel no later than
January 6, 2015, followed by 11 payments of \$1,000 each payable on the 6th of each month
for 11 months. **To his credit, Mark made every one of his payments to me on time.**
I know this was very difficult for him some months.

...
13. **My respect for Mark continued to grow as we became regular email pen-pals**
after we settled the lawsuit against him. In fact, I have reviewed the lengthy email
chain between us to refresh my recollection as I prepared to write this declaration. **After**
several months of regularly keeping in touch, I trusted him enough to ask him to
help me with a legal dispute I was involved in with my Landlord. This dispute was

1 **“raging during the spring months of 2015, and Mark’s help resulted in a surprising**
2 **peaceful resolution of the dispute between my landlord and me.** The dispute was
3 resolved before Mark’s formal suspension began in July of 2015.

4 14. From time to time we have talked on the phone, and have lunch occasionally. I
5 would inquire about his program of recovery, and he would always report positive news
6 on that front, and we would both share about the volunteer work we both engaged in for
7 the joy that comes with serving others and serving the community.

8 15. **Strange as it may seem, Mark and I have become pretty good friends. He is**
9 **genuinely interested in what’s going on in my life, and we’ve developed a mutual**
10 **respect and fondness for each other. Thus, it was, that when Mark contacted me**
11 **to ask for a character reference for his Petition to the Bar to be able to practice**
12 **law, I said – of course.**

13 16. **I can say with confidence that the Mark I’ve grown to know is not the same**
14 **man he was back in late 2011/2012. When I finally met him, he was not at all how I**
15 **expected him to be, and since that time he has become more and more a changed man.**
16 **I do not believe he would ever re-offend. The Mark Wenzel I know is a man who has**
17 **integrity and humility. Plus, though our correspondence and personal interactions,**
18 **I would have no hesitation to hire him to represent me once my suspension is lifted.”**⁴⁹

19 Petitioner addresses the subject in his declaration, when discussing his working of the 12
20 steps of the AA recovery program:

21 “33. In step eight I made a list of all persons I had hurt and needed to make amends to.
22 The list included everyone in my family, my former law partners, my attorney friends,
23 especially those in the American Board of Trial Advocates, of which I was a member and
24 an office holder, and other personal friends. **The most important people on my list,**
25 **were Roderick Smith, my wife, Gail, and her best friend, Bridgette W., because those**
26 **people were the direct victims of my conduct.**⁵⁰

27 ...
28 38. The other direct victim of my behavior was Roderick Smith, and I learned his name
sometime in the spring of 2012. I wanted to contact him, meet him and apologize to him as
soon as I learned his identity. However, due to the pendency of the criminal case against
me, my attorney advised me to ‘hold off’ on that for now.

⁴⁹ Exhibit 1003; **emphasis added.**

⁵⁰ Petitioner discusses his how he apologized to his wife, and to her best friend, Bridgette W., in his
declaration, Exhibit 1013, at paragraphs 34-37; and as the Review Department found, Petitioner had:

“expressed genuine contrition to his wife and his wife’s friend. Due to legal considerations, he
was not able to do the same for the Coffee Bean Company or the victims. Overall, he stated he was
remorseful, although his focus was primarily on his and his family’s suffering and not that of his
victims.”

(*In the Matter of Wenzel, supra*, (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 380, 387; **emphasis**
added.

1
2 "39. Within a fairly short time after I entered my plea in the criminal case, a civil lawsuit
3 was filed against me by attorney Brian Kabatack on behalf of Roderick Smith in
4 Los Angeles Superior Court. Mr. Kabatack's office issued a press release the same day
5 the lawsuit was filed, September 20, 2012, informing the public of my behavior and inviting
6 other victims to contact his office to join as plaintiffs in the 'class action' lawsuit he had
7 filed.

8
9 40. News of the lawsuit and press release spread through the Los Angeles legal
10 community and through my community of family, friends and acquaintances like wildfire
11 September 21, 2012.

12
13 41. September 21, 2012, was a difficult day for me. Fielding telephone calls from my
14 mom, my three children, my brothers and sisters and others, trying to explain the
15 unexplainable to all these disappointed and worried loved ones was most humiliating and
16 heartbreaking.

17
18 ...
19 44. Though I strived personally, with my reputation in ruins, I could not generate
20 enough business to make ends meet. **Additionally, the State Bar disciplinary proceedings
21 got under way before the end of 2012, and approximately five additional people sued
22 me, responding to an advertisement about my behavior and hoping to receive
23 compensation. After some preliminary discovery it was determined that none of them
24 had been victimized and those cases were dismissed for a waiver of costs to me.**

25
26 ...
27 47. I finally had the chance to meet Roderick Smith face to face, when, during a status
28 conference in his civil suit against me, the Court ordered us to meet in her jury deliberation
room and discuss settlement. At first, Mr. Smith had no interest in meeting or talking to me.
To him I was a creep, and I don't blame him for feeling that way. However, during that
meeting, he finally agreed to listen to me. I looked him in the eyes, and I told him how
sorry I was for invading his privacy and violating him in that manner. I told him how much
I regretted my actions, and I wanted to make things right with him. That it wasn't important
whether he ever forgave me or wanted anything to do with me, but it was important for me
to do whatever I could to make him whole.

29
30 48. The result of that meeting between Mr. Smith, myself, and my attorney, Carey
31 Caruso,⁵¹ was a settlement whereby I agreed to pay Mr. Smith \$16,000.00, payable
32 \$5,000.00 within one month, and \$1,000.00 per month thereafter until paid in full.
33 I made every payment to Mr. Smith on time, and he signed appropriate settlement and
34 release documents, thus ending all litigation against me arising out of my actions at the
35 Coffee Bean and Tea Leaf stores.

36
37 49. Mr. Smith and I have become friends since the settlement. He has given a declaration
38 of support in this proceeding, and that is extremely gratifying to gain his forgiveness,
39 trust and friendship. If anyone had the right and inclination to have a resentment against me
40 and not believe my sincerity, it would be Roderick Smith.

41
42 50. In approximately March of 2013, I arranged to meet with my former employers,

⁵¹ The Declaration of attorney Carey Caruso is attached hereto as Exhibit 1025.

1 “Robert Stone and Charles Dolginer. I apologized to them for hurting the firm and them
2 personally. I offered to perform whatever gesture of goodwill they would like to repair
3 the harm done. They accepted my apology, and Mr. Stone expressed genuine gratitude
4 for my apology. Mr. Stone and I stay in contact, and he remains in my life.

5 51. There are several employees of the Coffee Bean who reported being frightened,
6 having nightmares and anxiety because of my conduct. As with Roderick Smith, I am
7 very sorry for causing harm to these innocent people. I have wanted to apologize to them,
8 but I am, understandably, persona non-grata at Coffee Bean stores. The subject of making
9 amends to these people has come up with my current AA sponsor, Greg Ekizian, Greg has
10 advised me to ‘leave I alone’. During the pendency of the litigation against me, I could
11 not contact them, and it has now been almost six years since the last offense. According to
12 Greg, given the passage of time, it may be more upsetting to remind them of the events,
13 than to leave them alone. In any event, I am willing to make more formal amends if
14 requested.”⁵²

15 At mentioned, *supra*, Petitioner was represented by Carey Caruso in both his criminal and
16 civil cases arising from his misconduct.⁵³ The criminal case came first, and Mr. Caruso declared
17 that Petitioner accepted responsibility for his criminal conduct early on, was cooperative with the
18 prosecutor, and that Petitioner’s “performance throughout the proceedings and post disposition
19 provided the grounds for the Court to grant his P.C. 1203.4 Petition, dismissing the one count
20 conviction at the end of the probationary period.”⁵⁴ About two months after Petitioner’s plea in the
21 criminal case, a Class Action lawsuit was filed against Petitioner and the Coffee Bean Company,
22 accompanied by a press release from the Plaintiff’s attorney.⁵⁵ However, the Class could not be
23 certified due to the lack of a large enough group, a minimum of five (5) people are required, and
24 only the original Plaintiff, Roderick Smith, continued with the litigation.⁵⁶ Coffee Bean was

25 ⁵² Exhibit 1013.

26 ⁵³ Exhibit 1025, para. 11.

27 ⁵⁴ *Ibid.*, para. 16.

28 ⁵⁵ *Ibid.*, paras. 18-20.

⁵⁶ *Ibid.*, paras. 25-29.

1 represented by Pillsbury, Madison & Sutro and settled confidentially with Roderick Smith.⁵⁷

2 Mr. Caruso's declaration confirms the descriptions of Petitioner and Mr. Smith of the
3 settlement conference that resulted in settlement of the case, and that the settlement was timely paid
4 by Petitioner through Mr. Caruso's trust account until paid in full.⁵⁸ He also confirms Petitioner's
5 acceptance of responsibility and remorse for his misconduct, and taking on constructive measures to
6 build a more productive future.⁵⁹ Additionally, Mr. Caruso is an alcoholic who has been sober for
7 25 years, and is familiar with Petitioner's sobriety and active participation in the AA community,
8 seeing Petitioner regularly at AA meetings, and knowing of his volunteer work there.⁶⁰ Based on
9 his professional and personal relationship with Petitioner, Mr. Caruso believes that his petition for
10 relief from suspension should be granted and that: "I have rarely seen a person go through such
11 emotional trauma both personally and publically, and make it through to the other side like Mark."⁶¹

14 **G. Petitioner's Employment History After His Actual Suspension Began**

15 As Petitioner describes in his declaration, he has had a difficult time obtaining employment
16 ever since his period of actual suspension began:

17 "76. I found it extremely difficult to find employment in the legal field during my
18 suspension. I applied for many positions, but was turned down again and again.
19 Chief among the reasons given were the requirements of notifying clients of my hire
20 per RPC 3-111, and the nature of the misconduct itself. As time went on, I applied for
positions requiring less experience and offering less compensation.

21 77. Finally, at the end of November 2016, the Estate Planning & Elder Law firm of
22 **Goldfarb & Luu, PC**, gave me a chance to work as a clerical assistant. It was only
23 part time, for low pay, but I was happy for the chance. I told them about my history of
24 alcoholism and substance abuse, and I provided them with a copy of the Review
Department's Decision in my case. However, Rebecca Goldfarb, has a close family
member who has been sober in AA for many years, and she believed in the program,

25 ⁵⁷ *Ibid.*, para. 30.

26 ⁵⁸ *Ibid.*, paras. 31-38.

27 ⁵⁹ *Ibid.*, para. 39.

28 ⁶⁰ *Ibid.*, paras. 6, 40-43.

⁶¹ *Ibid.*, paras. 47, 48.

1 “and thus they hired me.

2 78. As stated, my tasks were simple: filing, word processing, occasional messenger
3 errands, but this changed in September of this year. My boss, Dinh Luu, was set to start
4 a trial on September 20, 2017. She hadn’t much trial experience, and so she asked me to
5 help her prepare for trial. The nature of my employment changed at that point, and Dinh
6 Luu advised the clients of my status and submitted the proper documents pursuant to
7 RPC 1-311. From early September until the first week of October, I worked n Ms. Luu’s
trial. The case involved California Probate law, California Family Law, an International
Treaty and India’s Marriage and Succession Laws. It was a fantastic intellectual challenge,
and I loved it.

8 79. In addition to working for Goldfarb & Luu, in late January 2017, an attorney I knew
9 in AA, arranged for an interview at the law firm he worked at, Law Offices of Stephen A.
Ebner, and they offered me a job as well. My AA acquaintance, Steve L., is a lawyer who
10 has been sober for over 30 years. I had applied for work at this firm when my suspension
11 began, but I was turned down. Unbeknownst to me, Steve L. had been watching me since
that time, and my own work in recovery impressed him enough to give me a chance.

12 80. I worked for the Law Offices of Stephen A. Ebner in Calabasas, from late January
13 2017 until August 15, 2017. The job had been a good one for the first five months, but
14 then the owner, or Senior Partner, retired unexpectedly. Almost all the firm’s business
15 derived from his efforts. After a couple of months without his efforts, I did not have
enough work, and as the firm was clearly slowing down, I elected to leave, having become
aware that Dinh Luu would be needing me full time in September.

16 81. My learning and knowledge in the general law has been significantly enhanced by
17 my job at the Law Office of Stephen A. Ebner. They are a plaintiff’s employment
18 discrimination, sexual harassment and racial discrimination firm with cases in State and
19 Federal Court. I learned a great deal about the law in those practice fields, and assisted
the proper notices pursuant to RPC 1-311.”⁶²

20 Attorney Dinh Luu, partner in the law firm of Goldfarb & Luu, PC, and described, *supra*, as
21 Petitioner’s employer, has submitted her declaration in support of his petition to be relieved from
22 actual suspension.⁶³ Ms. Luu states that her firm specializes in Estate Planning and Elder Law, and
23 that she first met Petitioner in late November 2016, when he responded to an ad placed “for a part-
24 time clerical-type worker”, “an entry level position for someone to perform routine office tasks at
25

26
27
28 ⁶² Exhibit 1013.

⁶³ Dinh Luu’s declaration is attached hereto as Exhibit 1026.

1 the office”, including “transcribing, typing, copying, occasional messenger type tasks and filing.”⁶⁴

2 Ms. Dinh relates that Petitioner provided his resume and complete information about his
3 misconduct, and suspension from practice, including the Review Department’s opinion, and
4 expressed his shame and embarrassment.⁶⁵ He also told them of his alcoholism and his involvement
5 in Alcoholics Anonymous:
6

7 “7. Painfully providing Rebecca Goldfarb and me with the facts of his behavior and
8 subsequent consequences, it was clear that he was remorseful, accepted total responsibility
9 for his prior conduct, and was hoping for another chance. We were impressed with Mark’s
10 candor and humility. My partner has a close family member who has been sober and active
in Alcoholics Anonymous for over 25 years, and thus she has a significant amount of
experience in assessing alcoholics’ and addicts’ commitment to society.”⁶⁶

11 Ms. Dinh’s declaration describes how Petitioner’s duties changed into assisting her with
12 preparing for a trial:

13 “Being an estate attorney, I did not have much trial experience, and Mark’s resume
14 included significant trial experience. Thus, in early September of this year, Mark started
15 working many hours at our firm, performing research, assisting me with trial briefs, trial
motions and exhibit preparation.”⁶⁷

16 Ms. Dinh also confirms her compliance with Rule 1-311, when Petitioner’s duties changed
17 and included some covered by subsection “C” of that rule; she also declared that Petitioner “has not
18 at any time performed any of the tasks proscribed in subsection “B” of Rule 1-311.”⁶⁸ Ms. Dinh
19 further declared that Petitioner did an excellent job of assisting her in preparing the case for trial,
20 and that his legal research skills are excellent, and his writing and legal reasoning skills are in the
21 “very good to superior range”.⁶⁹ She also praised Petitioner’s work ethic, and his conduct in her
22

23
24 ⁶⁴ Exhibit 1026, para. 4.

25 ⁶⁵ *Ibid.*, para. 6.

26 ⁶⁶ Exhibit 1026.

27 ⁶⁷ *Ibid.*

28 ⁶⁸ *Ibid.*, para. 14.

⁶⁹ *Ibid.*, para. 15.

1 office:

2 "16. Throughout the time he has been at our office, Mark has demonstrated a solid
3 work ethic, readily willing to do whatever was asked of him. At all times he has
4 conducted himself respectfully, with an air of humble confidence and is always a
5 gentleman. Although I do not know what prompted the behavior leading to his
6 discipline, I know that he is remorseful for what he did and remains actively engaged
in recovery through Alcoholics Anonymous. On no occasion, had he been the least bit
inappropriate or given us any reason to doubt his sobriety."⁷⁰

7 Ms. Dinh also indicates in her declaration that her firm would offer employment to
8 Petitioner as an attorney when he is relieved from his suspension from the practice of law:

9 "17. ... I want to make clear that I would not hesitate to make Mark an offer to join our
10 firm as a full-time attorney based on his skills, our trust in him, our admiration for his
11 acceptance of the consequences of his actions (his life and career brought to nothing)
12 and his steadfast efforts to rebuild his life brick by brick. During the past 11 months,
13 I have gotten to know Mark quite well. We have worked closely together, shared some
14 meals together, and talked about personal matters on many occasions. As stated, he
served me very well during my recent trial. Based on these experiences, it is my opinion
that Mark is a man of integrity & good moral character, and he has paid a sufficient
penalty for his misconduct. I do not believe he is a threat to re-offend, and I therefore
believe that he should be allowed to practice law again, and relieved from suspension."⁷¹

15
16 **H. Petitioner's Supporting Character Reference Declarations Provide**
17 **Compelling Evidence Of His Rehabilitation And Present Fitness**
18 **To Practice Law, And Confirm His Extraordinary Performance of**
19 **Pro Bono Services**

20 Favorable character testimony, whether by declaration or otherwise, is a significant
21 indication of rehabilitation and present fitness to practice law, whether it is presented in a
22 reinstatement proceeding or in a proceeding under Standard 1.2(c)(1) where the attorney is seeking
23 relief from actual suspension. (*In the Matter of Murphy*, *supra*, (Review Dept. 1997) 3 Cal. State
24 Bar Ct. Rptr. 571, 581-582; *In the Matter of Miller* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr.
25 423, 431-432.) Here, Petitioner attaches a total of thirteen (13) supporting character reference
26 declarations to his petition, including those from the victims of his misconduct, his wife, Gail

27
28 ⁷⁰ Exhibit 1026, para. 16.

⁷¹ Exhibit 1026.

1 Wenzel⁷², and Roderick Smith,⁷³ and three (3) of which are from attorneys, Paul Crilley⁷⁴, Carey
2 Caruso⁷⁵ and Dinh Luu⁷⁶. All of the character witnesses were very familiar with Petitioner's
3 misconduct, and significant parts of each of their declarations are quoted in this petition. Particular
4 credence is given to the favorable character testimony of attorneys in disciplinary, reinstatement,
5 and relief from suspension cases because attorneys "have a strong interest in maintaining the honest
6 administration of justice." (*In the Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr.
7 309, 319.)
8

9 All of the character witnesses recommended that this petition be granted, and in their
10 declarations they supported their recommendations by setting forth their detailed history with
11 Petitioner, including how they learned of his misconduct and misdemeanor conviction, and what
12 have been their observations of him thereafter. All of the character witness declarations were
13 credible and knowledgeable, and all vouched, without reservation, for Petitioner's integrity,
14 humility, profound remorse for his criminal conduct, and his devoted efforts at rehabilitating
15 himself from that situation.
16

17 The character witnesses were also either directly involved in Alcoholics Anonymous and
18 knew firsthand about Petitioner's active participation in that program, his commitment to sobriety,
19 and his helping others in the program with similar problems with alcohol and substance abuse, or
20 they were aware of those activities, and were also aware of Petitioner's commitment to increase his
21 faith and serve others through the teachings and charitable programs of his church. His pro bono
22 efforts in that regard, both in Alcoholics Anonymous and with his church, are also significant
23

24 ⁷² Exhibit 1015.

25 ⁷³ Exhibit 1003.

26 ⁷⁴ Exhibit 1018.

27 ⁷⁵ Exhibit 1025.

28 ⁷⁶ Exhibit 1026.

1 indicators that Petitioner is rehabilitated and is presently morally fit to resume the practice of law:
2 “Post-misconduct pro bono work and community service are factors evidencing rehabilitation and
3 present moral qualifications.” (*In the Matter of Miller, supra*, (Review Dept. 1993) 2 Cal. State Bar
4 Ct. Rptr. 423, 430.)
5

6 In summary, this petition presents overwhelming evidence of Petitioner’s rehabilitation,
7 present moral fitness to practice and his present learning and ability in the law, and, accordingly,
8 Petitioner meets all of the requirements to comply with Standard 1.2(c)(1).

9 **I. Petitioner Is Current In His Learning And Ability In The Law**

10 Petitioner has demonstrated that he is current in his ability and learning in the general law,
11 as is set forth in his declaration, and the declaration of Dinh Luu, *supra*, among others, and the
12 exhibits attached to his petition. In his attached declaration, Petitioner declares that he has
13

14 “continued to perform legal research and follow legal developments due to my interest in the
15 law and my desire to practice again when my suspension is over. Additionally, I read the
16 Daily Journal online and read new cases dealing with discovery in civil litigation, evidence
and certain areas of the law.”⁷⁷

17 Petitioner further declares that he has completed 26 hours of MCLE courses⁷⁸ covering a
18 wide range of legal subjects. Moreover, his employment with two law firms, described *supra*, has
19 added to his knowledge of the law during the time of his actual suspension from the practice of law.
20 In addition, Petitioner took and passed the MPRE⁷⁹ and completed the State Bar Ethics School⁸⁰
21 required by his probation, both of which are educational events.
22

23 This record clearly demonstrates that Petitioner has complied with the requirement of
24 Standard 1.2(c)(1) that he have “present learning and ability in the general law”.
25

26 ⁷⁷ Exhibit 1013, para. 74.

27 ⁷⁸ Exhibit 1013, para. 75; Petitioner’s MCLE completion certificates are attached hereto as Exhibit 1012.

28 ⁷⁹ Exhibit 1004.

⁸⁰ Exhibit 1011.

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DAVID A. CLARE
Attorney for Petitioner

DAVID A. CLARE
Attorney for Petitioner

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VERIFICATION

I, Mark Daniel Wenzel, am the Petitioner in this proceeding, Supreme Court Order No. S226123 (State Bar Court Case Nos. 12-C-15595). I have read the attached "Verified Petition For Relief From Actual Suspension Pursuant To Standard 1.2(c)(1); Rules 5.400-5.411, Rules Proc. State Bar." The matters stated therein are true to the best of my knowledge except those matters which are stated on information or belief and, as to those matters, I believe them to be true.

I sign this Verification under penalty of perjury. Executed on September 14, 2018 at Long Beach, California.



MARK DANIEL WENZEL
Petitioner - Declarant

1
2 **PROOF OF SERVICE BY FEDEX - Next Day Delivery**

3 STATE OF CALIFORNIA)
4) SS
5 COUNTY OF LOS ANGELES)

6 I, DAVID A. CLARE, declare and state that I am, and was at all times mentioned, a citizen
7 of the United States and employed in the County aforesaid, over the age of eighteen years and not
8 a party to the within action; my business address is:

444 West Ocean Blvd., Suite 800, Long Beach, CA 90802

9 That on September 14, 2018, I served the within:

10 *In the Matter of Mark Daniel Wenzel,*
11 Supreme Court Order No. S226123
12 State Bar Court Case No. 12-C-15595

13 VERIFIED PETITION FOR RELIEF FROM ACTUAL SUSPENSION
14 PURSUANT TO STANDARD 1.2(c)(1); Rules 5-400-5.411, Rules Proc. State Bar

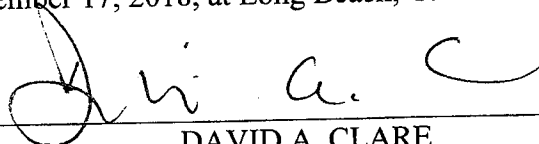
15 on interested parties herein by depositing a true and correct copy thereof in a sealed envelope with
16 payment guaranteed, in the Fedex deposit box, at 444 W. Ocean Blvd., Long Beach, California,
addressed to the interested parties as follows:

17 STATE BAR OF CALIFORNIA
18 845 South Figueroa Street
19 Los Angeles, CA 90017-2515

20 ATTENTION: BRANDON TADY
Senior Trial Counsel

21 I declare under penalty of perjury under the laws of the State of California, that the
22 foregoing is true and correct to the best of my knowledge and belief.

23 Executed on September 17, 2018, at Long Beach, California.

24 
25 _____

26 DAVID A. CLARE
27 Declarant
28