

# Public Matter

1 STATE BAR OF CALIFORNIA  
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**FILED**  
 6/13/2019 *ys*  
**STATE BAR COURT**  
**CLERK'S OFFICE**  
**LOS ANGELES**

8  
 9 STATE BAR COURT  
 10 HEARING DEPARTMENT - LOS ANGELES

11  
 12 In the Matter of: ) SBC Case No. **SBC-19-O-30284**  
 13 JEFFREY STEPHAN BENICE, )  
 No. 81583, ) NOTICE OF DISCIPLINARY CHARGES  
 14 )  
 15 A Member of the State Bar. ) [OCTC Case No. 18-O-12335]

16 **NOTICE - FAILURE TO RESPOND!**

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

- 19 (1) **YOUR DEFAULT WILL BE ENTERED;**  
 20 (2) **YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU**  
**WILL NOT BE PERMITTED TO PRACTICE LAW;**  
 21 (3) **YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER**  
**IN THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY**  
**MOTION AND THE DEFAULT IS SET ASIDE, AND;**  
 22 (4) **YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.**  
 23 **SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET**  
 24 **ASIDE OR VACATE YOUR DEFAULT, THIS COURT WILL**  
 25 **ENTER AN ORDER RECOMMENDING YOUR DISBARMENT**  
**WITHOUT FURTHER HEARING OR PROCEEDING. SEE RULE**  
**5.80 ET SEQ., RULES OF PROCEDURE OF THE STATE BAR OF**  
**CALIFORNIA.**

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1 The State Bar of California alleges:

2 JURISDICTION

3 1. Jeffrey Stephan Benice ("respondent") was admitted to the practice of law in the  
4 State of California on November 29, 1978, was a member at all times pertinent to these  
5 charges, and is currently a member of the State Bar of California.

6 COUNT 1

7 Case No. 18-O-12335  
8 Business and Professions Code, section 6068(c)  
9 [Maintaining an Unjust Action]

10 2. On or about September 27, 2017, respondent failed to counsel or maintain such  
11 action, proceedings, or defenses only as appear to respondent legal or just by filing a Motion  
12 for Reconsideration of Motion to Set Aside Default in *Freid and Goldsman APLC v.*  
13 *Rappaport*, Los Angeles County Superior Court, case no. BC602819, which was found by the  
14 court to be frivolous and filed in bad faith, in willful violation of Business and Professions  
15 Code, section 6068(c).

16 COUNT 2

17 Case No. 18-O-12335  
18 Business and Professions Code, section 6068(d)  
19 [Seeking to Mislead a Judge]

20 3. On or about September 27, 2017, respondent filed a declaration under penalty of  
21 perjury in support of his Motion for Reconsideration of Motion to Set Aside Default in *Freid*  
22 *and Goldsman APLC v. Rappaport*, Los Angeles County Superior Court, case no. BC602819,  
23 in which respondent claimed that he represented the defendant (his client) since in or about late  
24 December 2016 and that he had no communication with his client between in or about mid-  
25 January 2017 to approximately June 2017. When respondent made these statements, they were  
26 not supported by the record in the action or by respondent's previous actions in the matter.

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1 Respondent knew or should have known these statements were false, and thereby sought to  
2 mislead the judge or judicial officer by an artifice or false statement of fact or law, in willful  
3 violation of Business and Professions Code, section 6068(d).

4  
5 COUNT 3

6 Case No. 18-O-12335  
7 Business and Professions Code, section 6106  
8 [Moral Turpitude - Misrepresentation]

9 4. On or about September 27, 2017, respondent stated in writing in his declaration  
10 filed in support of his Motion for Reconsideration of Motion to Set Aside Default in *Freid and*  
11 *Goldsmann APIC v. Rappaport*, Los Angeles County Superior Court, case no. BC602819, that  
12 he represented the defendant (his client) since in or about late December 2016 and that he had  
13 no communication with his client between in or about mid-January 2017 to approximately June  
14 2017, when respondent knew or should have known that these statements were false and  
15 misleading. Respondent thereby committed an act involving moral turpitude, dishonesty or  
16 corruption in willful violation of Business and Professions Code, section 6106.

17 5. A violation of section 6106 may result from intentional conduct or grossly negligent  
18 conduct. Respondent is charged with committing intentional misrepresentation. However,  
19 should the evidence at trial demonstrate that respondent committed misrepresentation as a  
20 result of gross negligence, respondent must still be found culpable of violating section 6106  
21 because misrepresentation through gross negligence is a lesser included offense of intentional  
22 misrepresentation.

23 COUNT 4

24 Case No. 18-O-12335  
25 Business and Professions Code, section 6068(o)(3)  
26 [Failure to Report Judicial Sanctions]

27 6. Respondent failed to report to the agency charged with attorney discipline, in  
28 writing, within 30 days of the time respondent had knowledge of the imposition of judicial  
sanctions against respondent by failing to report to the State Bar over \$2000 in sanctions the

1 court imposed on respondent on or about November 8, 2017 in connection with *Freid and*  
2 *Goldsmen APLC v. Rappaport*, Los Angeles County Superior Court, case no. BC602819, in  
3 willful violation of Business and Professions Code, section 6068(o)(3).

4 **NOTICE - INACTIVE ENROLLMENT!**

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

13 **NOTICE - COST ASSESSMENT!**

14 IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC  
15 DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS  
16 INCURRED BY THE STATE BAR IN THE INVESTIGATION,  
17 HEARING AND REVIEW OF THIS MATTER PURSUANT TO  
18 BUSINESS AND PROFESSIONS CODE SECTION 6086.10.

19 Respectfully submitted,

20 THE STATE BAR OF CALIFORNIA  
21 OFFICE OF CHIEF TRIAL COUNSEL

22 DATED: 6/13/19

23 By: 

24 Brian B. Baghai  
25 Deputy Trial Counsel  
26  
27  
28

DECLARATION OF SERVICE

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

CASE NUMBER(s):

[OCTC Case No. 18-O-12335]

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

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

NOTICE OF DISCIPLINARY CHARGES

By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))
By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))

By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))
I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service (UPS)

By Fax Transmission: (CCP §§ 1013(e) and 1013(f))
Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.

By Electronic Service: (CCP § 1010.6) - COURTESY COPY ONLY
Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

(for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at Los Angeles, addressed to (see below)

(for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested
Article No 9414 7266 9904 2111 0117 96 at Los Angeles addressed to (see below)

(for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS
Tracking No addressed to (see below)

Table with 4 columns: Person Served, Business-Residential Address, Fax Number, Courtesy Copy to via e-mail to. Includes Art Barsegyan and Pansky Markle Attorneys at Law.

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

N/A

I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service (UPS) in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

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

DATED: June 13, 2019

SIGNED: Charles C. Bagai, Declarant