PUBLIC MATTER – NOT DESIGNATED FOR PUBLICATION

REVIEW DEPARTMENT OF THE STATE BAR COURT

In the Matter of **JOEL A. DRUM,** A Member of the State Bar.	**98-O-03791** **OPINION ON REVIEW**

THE COURT:*

Respondent Joel A. Drum was found culpable of various charges related to his refusal to return hundreds of litigation files to two clients after he was fired by the clients. Respondent refused to return the files until the clients agreed to pay him. The hearing judge found that respondent's actions were nothing less than a greedy and illegal attempt to force his clients into paying his fees by holding the files hostage. Finding significant aggravating circumstances surrounding this misconduct, the hearing judge recommended disbarment.[1]

Respondent requested review, arguing that the case should be remanded to the hearing department for a new trial because he was denied a fair trial, or in the alternative, that the discipline should be a public reproval because he was acting in good faith. The State Bar supports the hearing judge's disbarment recommendation. We have independently reviewed the record and find no merit to respondent's arguments. We conclude that the hearing judge's factual findings and legal conclusions are supported by the record with the minor modifications

* Stovitz, P. J., Watai, J., and Epstein, J., participating.

[1] The hearing judge also ordered respondent's involuntary inactive enrollment as a member of the State Bar, effective July 11, 2003, pursuant to Business and Professions Code section 6007, subdivision (c)(4) (all further references to sections are to this Code unless otherwise noted). Respondent has remained on inactive status since then.

noted below, and that the misconduct warrants significant discipline. Nevertheless, the record and analogous case law do not support disbarment. Instead, we recommend that respondent be suspended from the practice of law for five years, that execution of that suspension be stayed, and that he be placed on probation for five years on conditions, including that he be actually suspended from the practice of law for three years and until he makes restitution as set forth below.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In 1993, respondent was hired by Farmers Insurance Exchange (Farmers) to represent it in subrogation matters pursuant to a contingent fee agreement. In July 1998, Farmers fired respondent and requested the return of its approximately 175 files. Respondent refused to return the files until an agreement was reached for his compensation. Farmers, through counsel, made several further demands for return of the files, citing relevant authority showing that retention of the files was unethical. Failing in these attempts, Farmers sued respondent in October 1998.

Shortly thereafter, Farmers filed an application for a temporary restraining order to compel respondent to return the files. The superior court granted the application and ordered respondent to return all of the files. Respondent appealed. In May 1999, the Court of Appeal dismissed the appeal and imposed sanctions against respondent in the amount of $3,320 for filing a frivolous appeal solely for the purpose of delay. Respondent's petition for review to the California Supreme Court was denied in July 1999. Shortly thereafter respondent returned all but 16 of the files, which he claimed he did not have to return because they were closed files.

Respondent continued to represent Farmers in the subrogation cases after he was fired. Although respondent eventually paid the sanctions imposed against him, he did not pay them

timely and did not report them to the State Bar. Farmers incurred litigation expenses of approximately $81,000 in order to recover its files "and continue litigating with Respondent."[2]

In 1995, Midland Risk Insurance Company (Midland) hired respondent to represent it in subrogation matters pursuant to a contingent fee agreement. In February 1999, Midland fired respondent and requested the return of its files.[3] Respondent refused to return the files until an agreement was reached for his compensation. Midland, through counsel, made further demands for return of the files, citing relevant authority showing that retention of the files was unethical. Failing in these attempts, Midland sued respondent in March 1999.

Shortly thereafter, Midland filed an application for a writ of possession, which was granted by the superior court. Respondent was ordered to return all of Midland's files. In April 1999, Midland and respondent stipulated to a court order requiring respondent to return all the files. Respondent returned the files. Respondent continued to represent Midland in the subrogation cases after he was fired. Midland paid $8,865 in attorney fees and $988 in costs to recover its files from respondent.[4]

In both the Farmers and Midland matters respondent admitted that he did not return the files and that he continued to represent the clients after he was discharged. In the Farmers matter, respondent admitted that he did not report the sanctions to the State Bar, that he did not pay the sanctions timely, and that he did not return the 16 files.

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[2] Respondent sued Farmers for his fees for the work he performed on the subrogation cases. The $81,000 apparently included fees and costs related to this additional litigation. This lawsuit is not part of the record before us.

[3] The evidence regarding the precise number of files in respondent's possession at the time he was terminated by Midland was vague. Respondent testified that he received approximately 350 files from Farmers and approximately 275 files from Midland during the time he represented them, and that when the files were "taken from" him by Farmers and Midland he had closed approximately 275 files for both clients.

[4] We add this finding to those made by the hearing judge.

In the Farmers matter, respondent was found culpable of violating rule 3-700(D)(1) of the Rules of Professional Conduct[5] for failing to return promptly client files and property upon his termination; section 6068, subdivision (o)(3), for failing to report within 30 days to the State Bar the imposition of judicial sanctions; section 6103 for failing to obey court orders by failing to return the Farmers files as ordered,[6] and by failing to pay timely the sanctions; and section 6104 for appearing as an attorney for Farmers without authority after he was fired. In the Midland matter, respondent was found culpable of violating rule 3-700(D)(1) for failing to return promptly client files and property upon termination; and section 6104 for appearing as an attorney for Midland without authority after he was fired.

In mitigation, the hearing judge found that respondent had practiced for 22 years without prior discipline.[7] (Std. 1.2(e)(i), Rules Proc. of State Bar, tit IV, Stds. for Atty. Sanctions for Prof. Misconduct (std.).) In aggravation, the hearing judge found that respondent engaged in multiple acts of misconduct (std. 1.2(b)(ii)); that his misconduct was surrounded by bad faith and dishonesty in that his failure to return the files was done in bad faith for the sole purpose of extracting money from the clients, and in that respondent was dishonest in testifying that he did not know he had to report the imposition of judicial sanctions to the State Bar (std. 1.2(b)(iii)); that respondent's misconduct harmed his clients and the administration of justice in that the clients had to pay significant amounts to get the files back and because judicial time was wasted dealing with frivolous actions (std. 1.2(b)(iv)); and that respondent demonstrated indifference

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[5] All further references to rules are to these Rules unless otherwise noted.

[6] Respondent argued below that he was not culpable of failing to obey the court order to return the files because he appealed the order and filed an undertaking. We do not reach this issue as the superior court ordered respondent to return *all* of the files and respondent admits that he did not return the 16 files.

[7] We modify this finding to reflect that respondent practiced for 19 years before the present misconduct began.

toward rectification of, or atonement for, the consequences of his misconduct in that respondent is unrepentant (std. 1.2(b)(v)).

DISCUSSION

Respondent argues on review that he was denied a fair trial because the hearing judge was biased against him and his witnesses. Specifically, respondent asserts that the hearing judge prejudged the evidence and made "disparaging remarks" about respondent and his witnesses. In order to prevail with this argument, respondent must show that a person in possession of all relevant facts would reasonably conclude that the hearing judge was biased or prejudiced against respondent. (*In the Matter of Aguiluz* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32, 41.)

As noted by the hearing judge and as we discuss below, the legal reasoning underlying respondent's claimed good faith defies logic. The specific comments noted by respondent as demonstrating prejudgment and prejudice were the result of the hearing judge's understandable disbelief of the legal assertions made by respondent and his witnesses, and the financial ties between respondent and his witnesses that were relevant to their credibility. The hearing judge's comments were an expression of his reasonable opinion of the evidence and the credibility of the witnesses, which the hearing judge, sitting without a jury, is entitled to express even during the trial. (*In the Matter of Wright* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 219, 227.) Upon our independent review of the record as a whole, we find that no reasonable person would conclude that the hearing judge was biased or prejudiced against respondent.

We also note that respondent does not argue that he was precluded from introducing relevant evidence in defense of the charges. Our review of the record confirms that the hearing judge gave respondent every opportunity to present evidence and introduce exhibits in his defense. Rather, respondent asserts that a proper evaluation of the evidence presented was not made by the hearing judge as a result of bias and prejudice. We have, as we must, conducted a de novo review of the evidence presented.

Respondent next argues that the hearing judge improperly admitted an exhibit which resulted in the denial of a fair trial. The exhibit is a letter respondent wrote to an arbitrator in one of the Farmers subrogation cases. The letter begins with the salutation "Dear Asshole" and continues in a similarly disparaging vein from there. Respondent argues that the letter was not relevant and unduly prejudicial. Respondent asserted throughout this proceeding that he could be discharged by Farmers only for cause. The testimony at trial established that this letter was the reason why Farmers decided to fire respondent. We find no error in the admission of the letter.

We also reject respondent's final argument that the discipline in this case should be a public reproval. Respondent asserts that he believed in good faith that he had a right to keep the files in the face of his discharge and the clients' demand for their return. He reached this conclusion based on the "unique" nature of subrogation cases, the advice of two "experienced" attorneys, and "his personal evaluation of the law." He maintains that he had a legitimate basis to seek an extension or modification of "prior cases that restricted the right of a client to terminate an attorney," and that he could only pursue his legal theory by withholding the files.

According to respondent, subrogation cases are unique in that there is a low likelihood of recovery in these small value cases and that in order to pursue the cases at a profit, the subrogation attorney must rely on the aggregate recovery in a high volume of cases. If the files are taken from the subrogation attorney after some work has been done but before full recovery on all cases, the "full amount of compensation for all efforts is not obtained." Respondent asserts that Midland and Farmers knew this and therefore there was an implied covenant that the clients would not take the files from him so long as he "performed and recovered a reasonable percentage on the whole of the cases." In other words, respondent argues that for those cases he was assigned, the clients could not discharge him without cause.

We first note that no retainer agreement signed by either client was produced in this proceeding. Respondent submitted an exemplar of a letter that he testified he sent to the clients

outlining the fee agreement. That exemplar did not contain any provision restricting the clients' right to discharge respondent. We also note that respondent produced no evidence showing that the clients agreed, impliedly or otherwise, that he could keep the files until he was paid.

In *Fracasse v. Brent* (1972) 6 Cal.3d 784, an attorney entered into a contingent fee contract with a client to represent her as a plaintiff in a personal injury lawsuit. The client discharged the attorney before any recovery in the case. The attorney sued for breach of the contingent fee contract, seeking a judgment for his one-third contingency fee. The Supreme Court held that a client has the absolute right to discharge his or her attorney at any time, with or without cause. Such a discharge is not a breach of contract because it is a basic term implied by law in every fee contract between an attorney and client. Further, the court held that the discharged attorney's claim against the client was limited to the reasonable value of services rendered prior to discharge.

Respondent acknowledges the holding in *Fracasse*, but asserts that *General Dynamics Corp. v. Superior Court* (1994) 7 Cal.4th 1164, and *Chyten v. Lawrence & Howell Investments* (1994) 23 Cal.App.4th 607, provided him with a reasonable ground to argue that he was "exempt" from discharge without cause. Neither case even remotely supports his position.

The issue in both cases was the consequences that followed from the discharge of an employee in-house counsel by his employer. In *General Dynamics*, the Supreme Court held that the discharged employee attorney could sue his employer for wrongful termination. In *Chyten*, the court held that the discharged employee attorney could sue his employer to enforce the termination provisions of the negotiated employment contract (which set the compensation due upon discharge). The issue resolved in these cases was not whether the employers could discharge the attorneys, but the cost to be paid by the employers for such action. In fact, the courts in both cases ***expressly*** acknowledged that the clients in those cases had an **absolute** right to remove the in-house attorneys at any time and for any reason. (*General Dynamics Corp. v.*

Superior Court, *supra*, 7 Cal.4th at pp. 1174-1175, 1176-1177; *Chyten v. Lawrence & Howell Investments*, *supra*, 23 Cal.App.4th at p. 615.) In *General Dynamics* the Supreme Court ***expressly*** reaffirmed its holding in *Fracasse*, noting that the case established as "bedrock law what remains probably *the* central value of the lawyer-client relationship - the primacy of fiducial values and its corollary: the unilateral right of the client to sever the professional relationship at any time and for any reason." (*General Dynamics Corp. v. Superior Court*, *supra*, 7 Cal.4th at p. 1174.) The court further noted that although the attorney could pursue a wrongful discharge claim, "a judgment ordering his reinstatement is *not* an available remedy." (*Id.* at p. 1177.)

To argue that *General Dynamics* or *Chyten* abrogated or limited his clients' right to discharge respondent at any time for any reason was not only patently unreasonable, it bordered on misleading. (See § 6068, subd. (d) [duty of an attorney to never seek to mislead a judge or judicial officer by artifice or false statement of fact or law].) No plausible ground existed from which respondent could conclude that these cases provided authority for him to refuse to be fired and to refuse to return the files. Any reliance on these cases was clearly unreasonable and does not mitigate the misconduct here. (*Sternlieb v. State Bar* (1990) 52 Cal.3d 317, 331; *In the Matter of Davis* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576, 589; *In the Matter of Rose* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 646, 653.)

We also note that there was simply no reason respondent could not have sought just compensation for the work he performed through litigation after he returned the files. In fact, respondent pursued just such a course against Midland. Although the outcome of that litigation is not part of the record before us, respondent asserts that he obtained a significant recovery. Further, there was simply no reason respondent could not have pursued his alleged claim for an extension or modification of existing law through litigation after he returned the files. In short, respondent's justification for refusing to return the clients' files defies logic.

Respondent asserted below that he fought to keep the files because he was fearful that he would be "cheated out of the fees that he earned." This admission coupled with the complete lack of any reasonable justification for refusing to return the files and with the complete lack of any legal authority even arguably authorizing his actions provide strong circumstantial evidence that respondent's motivation was to extract a compensation agreement from his clients by holding the files hostage. Based upon our review of the record, we agree with the hearing judge and the appellate court that concluded that respondent's "objective was unmistakably delay aimed solely to protect his own pocketbook."[8]

Turning to the appropriate degree of discipline, we note that neither the hearing judge nor the parties cite to analogous case law. In our view, the gravamen of this case is the oppressive method respondent used to collect his fees. Prior cases involving improper fee collection methods have resulted in actual suspension. In *Bluestein v. State Bar* (1974) 13 Cal.3d 162, the attorney was suspended for six months for, among other misconduct, offering to drop criminal charges against his client's husband if the client paid the fees allegedly owed the attorney. The Supreme Court found Bluestein's conduct was oppressive and involved moral turpitude. The fact that Bluestein may have been entitled to fees was not a defense. In *McGrath v. State Bar* (1943) 21 Cal.2d 737, the attorney intentionally withheld his client's funds in an attempt to coerce the client into paying his fee. Finding significant mitigation, the Supreme Court reduced the State Bar's recommended two-year suspension to three months. In *Lindenbaum v. State Bar* (1945) 26 Cal.2d 565, the attorney was suspended for six months for, among other things,

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[8] We also reject respondent's claim that subrogation cases are unique. Respondent's compensation situation differed in no material aspect from that of any other attorney working on a contingent fee basis. The risks inherent in litigating these cases, including the risk that there will be no recovery in some of the cases, are accepted and are "the raison d'etre for the contingent fee." (*Cazares v. Saenz* (1989) 208 Cal.App.3d 279, 287-288.)

threatening to report his client's wife to immigration authorities unless his fee was paid. The Supreme Court found that Lindenbaum's conduct amounted to the crime of attempted extortion.

Respondent not only withheld the clients' files in order to obtain his fees, he also attempted to defend his actions through frivolous litigation. In *In the Matter of Varakin* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179, the attorney, representing himself, repeatedly filed frivolous motions and appeals over a lengthy period of time against his ex-wife and others for the purpose of delay and harassment. Varakin was disbarred. In *In the Matter of Lais* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112, the attorney was suspended for two years for, among other misconduct, filing a patently frivolous appeal on behalf of a client. In *Sorensen v. State Bar* (1991) 52 Cal.3d 1036, the attorney was suspended for 30 days for suing the owner of a court reporting firm for fraud and deceit, seeking $14,000 in punitive damages in connection with a simple $45 billing dispute. The court reporter incurred $4,375 in legal fees and expenses. The Supreme Court found that Sorenson pursued the action out of spite and vindictiveness.

We recognize that several of the above cases involved misconduct that was more extensive than is present here. Nevertheless, there are comparable elements of respondent's misconduct in each of these cases and they accordingly provide guidance. The cases show that respondent's misconduct is serious and warrants a significant period of actual suspension.

The discipline here must reflect the harm to the victims, the lack of insight and remorse shown by respondent, and assurance to the public and bar that such misconduct will not be tolerated. (See *Sorensen v. State Bar, supra*, 52 Cal.3d at p. 1044.) The harm to the clients and the administration of justice was substantial. The clients paid substantial sums to get their files back and significant trial and appellate court time was expended resolving frivolous litigation.

Respondent's lack of insight and remorse are very troubling and are a strong indicator that the risk of future misconduct is great. Undeterred by any of his failed attempts to advance his patently unfounded legal theory and the imposition of substantial sanctions, he continues to

assert that he has acted in good faith and that he has done nothing for which to atone. Respondent was adamant as recently as at oral argument before us that he was not contrite and asserted that he should not suffer any public discipline in this case.

Further, respondent seeks to justify his conduct by blaming others. He asserted that the sanctions were not due and that he did not have to report them because the judges who imposed them were biased; and that he did not have to return the 16 files because they were closed files and the clients could have sued him for their return, even though he had been ordered to return all files. Respondent's conduct reflects an unwillingness to even consider that his interpretation of the law may have been incorrect or to acknowledge that at some point his position was wrong to any extent. Respondent's conduct also reflects an unwillingness to acknowledge the harm he caused his clients and the courts in his zeal to insure collection of his fees.

Respondent's 18 years of practice without discipline is a significant mitigating circumstance. This factor along with the discipline imposed on other attorneys for similar misconduct militate against disbarment. Nevertheless, the misconduct here is serious. We believe that a lengthy actual suspension is warranted to protect the public and bar from this patently overreaching misconduct. Further, respondent's conduct with regard to his clients as well as his testimony and arguments in this proceeding reveal his complete lack of understanding that his relationship, as an attorney, with his clients is a fiduciary relationship of the very highest character. (*Lee v. State Bar* (1970) 2 Cal.3d 927, 939.) A lengthy period of "forced respite from practice may also allow [respondent] time for introspection so that he will come to appreciate that law is more than a mere business. It is still a profession in which concerns for ethics matter." (*In re Morse* (1995) 11 Cal.4th 184, 210.)

We also conclude that restitution of the attorney fees and costs expended to recover the client files is a necessary condition of respondent's discipline. Contrary to respondent's assertion, these amounts are not unliquidated tort damages. Rather, they are specific out-of-

pocket losses directly resulting from respondent's misconduct and may serve as an appropriate basis for restitution. (*Sorensen v. State Bar, supra*, 52 Cal.3d at pp. 1044-1045.) Requiring respondent to make restitution to the victims of his misconduct prior to his resumption of the practice of law will cause him to confront in concrete terms the consequences of his misconduct. (*Hippard v. State Bar* (1989) 49 Cal.3d 1084, 1093.) In view of respondent's recalcitrance, this condition is vital to effectuate respondent's rehabilitation and to protect the public from future misconduct.

As to the appropriate amount of restitution, the State Bar argues that the amounts paid by both Farmers and Midland were established by clear and convincing evidence. We agree as to the Midland matter, but not as to the Farmers. Although the amount Farmers paid to recover its files from respondent would clearly be an appropriate item of restitution, the record lacks clear and convincing evidence establishing that amount. As noted *ante*, the litigation between Farmers and respondent involved Farmers' action to recover its files as well as respondent's action against Farmers to recover the fees he was allegedly owed for the work he performed in the subrogation cases. The moneys Farmers paid to defend respondent's suit to recover his fees were not "losses directly resulting from [respondent's] misconduct." (*Sorensen v. State Bar, supra*, 52 Cal.3d at pp. 1044-1045.) Thus, the amount Farmers paid to defend the action for recovery of the fees is not an appropriate item of restitution.

The payment ledger submitted by the State Bar in the Farmers matter shows only the dates and amounts of the attorney fees and costs paid by Farmers. Neither the ledger nor the testimony surrounding it identified the nature of the work performed for any of the payments. We are not able to determine from this evidence which payments were made for recovery of the files and which were made to defend the action for recovery of respondent's fees. In contrast, the State Bar's witness in the Midland matter testified that Midland paid $8,865 in attorney fees and $988 in costs specifically to recover its files from respondent. We conclude that clear and

convincing evidence established the amount of fees and costs paid to recover the files in the Midland matter, but not in the Farmers matter.

RECOMMENDATION

For the foregoing reasons, we recommend that respondent be suspended from the practice of law for five years, that execution of that suspension be stayed, and that he be placed on probation for five years on the following conditions:

1. Respondent shall be actually suspended from the practice of law for three years, with credit for the period of time he was inactively enrolled as a member of the State Bar, and until he shows proof satisfactory to the State Bar Court of his rehabilitation, present fitness to practice, and present learning and ability in the law, pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct; and until he pays restitution to Midland Risk Insurance Company (or the Client Security Fund, if it has already paid) in the amount of $9,853, plus ten per cent (10%) interest per annum, accruing from May 1, 1999, and provides satisfactory proof of such payment to the Office of Probation;

2. Respondent must comply with the State Bar Act and the Rules of Professional Conduct;

3. Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, respondent must state whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. If the first report will cover less than thirty (30) days, that report must be submitted on the next following quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the probation period and no later than the last day of the probation period;

4. Within ten (10) days of any change, respondent must report to the Membership Records Office of the State Bar, 180 Howard Street, San Francisco, California, 94105-1639, and to the Office of Probation, all changes of information, including current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code;

5. Subject to the assertion of applicable privileges, respondent must answer fully, promptly, and truthfully, any inquiries of the Office of Probation which are directed to respondent personally or in writing, relating to whether respondent is complying or has complied with the conditions contained herein;

6. Within one (1) year of the effective date of the discipline herein, respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, given periodically by the State Bar at either 180 Howard Street, San Francisco, California, 94105-1639, or 1149 South Hill Street, Los Angeles, California, 90015, and passage of the test given at the end of that session. Arrangements to attend Ethics School must be made in advance by calling (213) 765-1287, and paying the required fee. Respondent will not receive Minimum Continuing Legal Education Requirement credit for attending Ethics School (Rule 3201, Rules Proc. of State Bar.);

7. The period of probation will commence on the effective date of the order of the Supreme Court imposing discipline in this matter.

8. At the expiration of the period of this probation, if respondent has complied with all the terms of probation, the order of the Supreme Court suspending respondent from the practice of law for five years will be satisfied and that suspension will be terminated.

It is further recommended that respondent be ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) administered by the National Conference of Bar Examiners, MPRE Application Department, P.O. Box 4001, Iowa City, Iowa, 52243,

(telephone 319-337-1287) and provide proof of passage to the Office of Probation, during the period of his actual suspension.

It is further recommended that respondent be ordered to comply with rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule, within thirty (30) and forty (40) days, respectively, from the effective date of the Supreme Court order herein.

It is further recommended that costs be awarded to the State Bar pursuant to Business and Professions Code section 6086.10, to be paid in accordance with section 6140.7 of that Code.

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on April 7, 2005, I deposited a true copy of the following document(s):

OPINION ON REVIEW FILED APRIL 7, 2005

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

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

JOEL A DRUM
12925 RIVERSIDE DR 3FL
SHERMAN OAKS, CA 91423 - 2209

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

Anthony J. Garcia, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **April 7, 2005**.

Rosalie Ruiz
Case Administrator
State Bar Court