


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**State Bar Court of California
Hearing Department
Los Angeles
ACTUAL SUSPENSION**

<p>Counsel For The State Bar</p> <p>William Todd Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015 (213) 765-1491</p> <p>Bar # 259194</p>	<p>Case Number(s): 11-C-18809-PEM 11-C-19015-PEM</p>	<p>For Court use only</p> <p align="center">PUBLIC MATTER</p> <p align="center">FILED </p> <p align="center">OCT 04 2012</p> <p align="center">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>Matthew John Erwin 175 N Feldner Rd Apt 66 Orange, California 92868</p> <p>Bar # 198280</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: MATTHEW JOHN ERWIN</p> <p>Bar # 198280</p> <p>A Member of the State Bar of California (Respondent)</p>		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted December 2, 1998.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 16 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."



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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - ☐ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: 2013. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - ☐ Costs are entirely waived.

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) ☐ **Prior record of discipline** [see standard 1.2(f)]
 - (a) ☐ State Bar Court case # of prior case
 - (b) ☐ Date prior discipline effective
 - (c) ☐ Rules of Professional Conduct/ State Bar Act violations:
 - (d) ☐ Degree of prior discipline
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. Please refer to page 11, section B of the Attachment to this stipulation.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

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- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. Please refer to page 11, section B of the Attachment to this stipulation.
- (8) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

Please refer to page 12, section B of the Attachment to this stipulation.

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.

- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Please refer to page 12, section C of the Attachment to this stipulation.

D. Discipline:

- (1) ☒ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of 2 years.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:
- (b) ☒ The above-referenced suspension is stayed.

- (2) ☒ **Probation:**

Respondent must be placed on probation for a period of 2 years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

- (3) ☒ **Actual Suspension:**

- (a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of 6 months.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:

E. Additional Conditions of Probation:

- (1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of

information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

- (4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

- (6) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: .
- (9) ☒ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☒ The following conditions are attached hereto and incorporated:

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

F. Other Conditions Negotiated by the Parties:

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

☐ No MPRE recommended. Reason:

- (2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) ☐ **Other Conditions:**

In the Matter of:
MATTHEW JOHN ERWIN SBN 198280

Case Number(s):
11-C-18809-PEM, 11-C-19015-PEM

Substance Abuse Conditions

- a. ☒ Respondent must abstain from use of any alcoholic beverages, and shall not use or possess any narcotics, dangerous or restricted drugs, controlled substances, marijuana, or associated paraphernalia, except with a valid prescription.
- b. ☒ Respondent must attend at least 4 meetings per month of:
- ☐ Alcoholics Anonymous
 - ☐ Narcotics Anonymous
 - ☐ The Other Bar
 - ☒ Other program Any abstinence-based self-help group of Respondent's own choosing, including inter alia, alcoholics Anonymous, Narcotics Anonymous, Life Ring, S.M.A.R.T., S.O.S., etc. Other self-help maintenance programs are acceptable if they include: (i) a subculture to support recovery (meetings); and (ii) a process of personal development that does not have financial barriers. (see O'Connor v. Calif. (C.D. Calif. 1994) 855 F.Supp. 303 [no first amendment violation where probationer given choice between AA and secular program.]) the program "Moderation Management" is not acceptable because it allows the participant to continue consuming alcohol. Before Respondent attends the first self-help group meeting, Respondent must contact the Office of Probation and obtain approval for the program Respondent selected. If Respondent wants to change groups, Respondent must obtain the Office of Probation's approval prior to attending a meeting with the new self-help group.
- As a separate reporting requirement, Respondent must provide to the Office of Probation satisfactory proof of attendance during each month, on or before the tenth (10th) day of the following month, during the condition or probation period.
- c. ☒ Respondent must select a license medical laboratory approved by the Office of Probation. Respondent must furnish to the laboratory blood and/or urine samples as may be required to show that Respondent has abstained from alcohol and/or drugs. The samples must be furnished to the laboratory in such a manner as may be specified by the laboratory to ensure specimen integrity. Respondent must cause the laboratory to provide to the Office of Probation, at the Respondent's expense, a screening report on or before the tenth day of each month of the condition or probation period, containing an analysis of Respondent's blood and/or urine obtained not more than ten (10) days previously.
- d. ☒ Respondent must maintain with the Office of Probation a current address and a current telephone number at which Respondent can be reached. Respondent must return any call from the Office of Probation concerning testing of Respondent's blood or urine within twelve (12) hours. For good cause, the Office of Probation may require Respondent to deliver Respondent's urine and/or blood sample(s) for additional reports to the laboratory described above no later than six hours after actual notice to Respondent that the Office of Probation requires an additional screening report.
- e. ☒ Upon the request of the Office of Probation, Respondent must provide the Office of Probation with medical waivers and access to all of Respondent's medical records. Revocation of any medical waiver is a violation of

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this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court who are directly involved with maintaining, enforcing or adjudicating this condition.

Other:

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: MATTHEW JOHN ERWIN, SBN #198280

CASE NUMBER(S): 11-C-18809-PEM, 11-C-19015-PEM

A. FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the specified sections of the *Business and Professions Code* and/or *Rules of Professional Conduct*.

1. This is a proceeding pursuant to sections 6101 and 6102 of the *Business and Professions Code* and rule 9.10 of the *California Rules of Court*.

Case 11-C-18809

2. On November 15, 2011, in the case known as *People v. Erwin*, Orange County Superior Court Case no. 10WF2166, Respondent was convicted of felony violations of *California Penal Code* section 245 (a)(1) [assault with a deadly weapon other than a firearm] and *Vehicle Code* section 2800.2(a) [evading a police officer: reckless driving]. Respondent's sentence included 180 days in jail (later reduced to 90), restitution, fines, fees and an order to "stay away" from victim Respondent nearly struck with Respondent's vehicle. Respondent was also ordered to comply with any plan for psychiatric, psychological, alcohol/drug treatment or counseling directed by probation.

3. On January 20, 2012, the Review Department of the State Bar Court referred this matter to the Hearing Department for a hearing and decision recommending the discipline to impose in the event it finds the facts and circumstances surrounding felony offenses for violating *Penal Code* section 245 (a)(1) [assault with a deadly weapon other than a firearm] and *Vehicle Code* section 2800.2(a) [evading a police officer: reckless driving] involved moral turpitude or other misconduct warranting discipline.

FACTS:

4. On September 2, 2010, Respondent was behaving erratically on Pacific Coast Highway ("PCH") in Seal Beach, California. Respondent's vehicle was parked so as to block the northbound

lanes of PCH. An off-duty, out of uniform firefighter (victim) riding a motorcycle decided to aid Respondent out of concern for Respondent's safety and a concern that Respondent might be suicidal.

5. When the victim attempted to help Respondent, Respondent re-entered his vehicle. Respondent shifted the vehicle into reverse and at approximately 30 miles-per-hour attempted to strike the victim. Respondent then fled the scene, driving erratically.

6. The Seal Beach Police Department was soon alerted to reports of Respondent's reckless driving. An officer arrived in the area of the reports and found Respondent standing inside Respondent's stopped vehicle with his torso was sticking through the sunroof of the vehicle. Respondent was yelling and shaking his fists at other vehicles stopped on PCH.

7. As the officer approached Respondent, Respondent fled the scene in his vehicle, and the officer followed, with flashing lights and siren activated. While fleeing, Respondent threw an open beer can from his vehicle.

8. The pursuit ended when Respondent was slowed by traffic. Respondent was arrested. Testing found the presence of marijuana and a trace amount of alcohol in Respondent's system. Respondent was convicted of felony violations of California *Penal Code* section 245 (a)(1) and *Vehicle Code* section 2800.2(a), as described above.

CONCLUSION OF LAW:

9. The facts and circumstances surrounding Respondent's offenses for violating California *Penal Code* section 245(a)(1) [assault with a deadly weapon other than a firearm] and *Vehicle Code* section 2800.2(a) [evading a police officer: reckless driving] do not constitute moral turpitude but do constitute other misconduct warranting discipline.

Case 11-C-19015:

10. On November 15, 2011, in the case known as *People v. Erwin*, Orange County Superior Court Case no. 10HM06290, Respondent was convicted of two (2) misdemeanor violations of Newport Beach *Municipal Code* section 10.54.020(A) [prohibition of public nudity]. Respondent's sentence included restitution, fines, fees, costs and an order to "stay away" from Encore Court, Mojo Court and Kialoa Court in Newport Beach, California.

11. On February 2, 2012, the Review Department of the State Bar Court referred this matter to the Hearing Department for a hearing and decision recommending the discipline to impose in the event it finds the facts and circumstances surrounding misdemeanor offenses for violating Newport Beach *Municipal Code* section 10.54.020(A) [prohibition of public nudity] involved moral turpitude or other misconduct warranting discipline.

FACTS:

12. On June 4, 2010, Respondent exposed himself in a public place, and was observed by at least one witness.

13. On August 9, 2010, multiple witnesses observed Respondent expose himself on two occasions in incidents that were hours apart.

14. Respondent was questioned, arrested and charged with two misdemeanor counts of public nudity in violation of section 10.54.020(A) of the Newport Beach *Municipal Code* on March 21, 2010.

15. On November 15, 2011, Respondent was convicted of two misdemeanor violations of Newport Beach *Municipal Code* section 10.54.020(A) [public nudity].

CONCLUSION OF LAW:

16. The facts and circumstances surrounding Respondent's offenses for violating Newport Beach *Municipal Code* section 10.54.020(A) [public nudity] do not constitute moral turpitude but do constitute other misconduct warranting discipline.

B. FACTS AND CIRCUMSTANCES IN SUPPORT OF AGGRAVATION

Harm (Standard 1.2 (b)(iv)): The off-duty firefighter who attempted to aid Respondent, only to have Respondent attempt to run him over, said he had never been so afraid in his life and thought he was going to die.

Multiple Acts of Misconduct (Standard 1.2 (b)(ii)): Respondent's convictions include four acts of criminal misconduct in three separate incidents spread over several months. See *In the Matter of Malek-Yonan* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627.

Additional Aggravating Circumstance: Respondent was convicted of driving under the influence of alcohol (blood alcohol content of 0.10%) by jury trial in August 2007.

C. FACTS AND CIRCUMSTANCES IN SUPPORT OF MITIGATION

Though Respondent has been candid and cooperative through this investigation, only limited mitigation can result because the facts in this instance are easily proven (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr 41), and cooperation with State Bar investigations is an attorney duty not entitled to great weight as a mitigating factor. *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr 511.

Though Respondent's 12 years of practice prior to this misconduct did not include any discipline, his current conduct is serious, and thus the absence of prior discipline is entitled to only limited mitigation. *In the Matter of Conner* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr 93.

D. OTHER RELEVANT FACTS

From August to November, 2011, Respondent completed a 90-day in-patient drug and alcohol treatment/recovery program. Respondent remains under criminal probation.

E. PENDING PROCEEDINGS.

The disclosure date referred to on page 2, paragraph A(7), was August 21, 2012.

F. AUTHORITIES SUPPORTING DISCIPLINE.

Standards for Attorney Sanctions for Professional Misconduct

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline as announced by the Supreme Court." (See, Introduction to the Standards, Rules Proc. of State Bar, Title IV, Stds. for Prof. Misconduct). The primary purposes of disciplinary proceedings and of the sanctions imposed are the protection of the public, the courts and the legal profession; the maintenance

of high professional standards by attorneys and the preservation of public confidence in the legal profession. (*In re Morse* (1995) 11 Cal.4th 184, 206, see also std 1.3).

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11). Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190). Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5).

Respondent's misconduct began on June 4, 2010 when Respondent exposed himself to someone in a public place. Again, on August 9, 2010, Respondent was seen exposing himself by multiple witnesses in two separate incidents a few hours apart. His misconduct significantly escalated on September 2, 2010, when Respondent blocked traffic with his vehicle and was acting erratically, and then attempted to strike a person with his vehicle before driving away recklessly. A short time later Respondent again stopped traffic and stood out of the sunroof of his vehicle until law enforcement officers arrived and then Respondent recklessly drove away to evade the officers, including driving the wrong way on a major freeway, until finally stopped and arrested. Respondent's consumption of alcohol and/or drugs was involved in these incidents. Moral Turpitude was not involved in the facts and circumstances surrounding any of the offenses.

Standard 3.4 provides that final conviction of a member of a crime which does not involve moral turpitude inherently or in the facts and circumstances surrounding the crime's commission but which does involve other misconduct warranting discipline shall result in a sanction as prescribed under part B of the [Standards for Attorney Sanctions for Professional Misconduct] appropriate to the nature and extent of the misconduct found to have been committed by the member.

Here, Respondent committed multiple crimes, yet none of those crimes fall under a specific standard. Broadly, each of Respondent's crimes here is a willful violation of *Business and Professions*

Code section 6068 (a), which requires attorneys to “support the Constitution and laws of the United States and this state.”

This leads our analysis directly to Standard 2.6, which requires that any violation of section 6068 shall result in disbarment or suspension, “depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.”

The gravity of these offenses cannot be overstated, as these are not minor charges. Respondent’s assault-with-a-deadly-weapon-other-than-a-firearm and evading-police-while-driving-recklessly are both felony acts which placed lives at risk. The progression of the severity of Respondent’s criminal behavior, going from public displays of nudity to the felonious reckless endangerment of lives indicate a significant period of actual suspension should be imposed. Respondent’s disregard for the safety of others and disregard for law enforcement only a few years after a DUI conviction further supports a significant period of actual suspension.

In this instance, though there were no physical injuries, there was harm. The Long Beach firefighter nearly struck by Respondent’s vehicle said he had never been so afraid in his life, and that he thought he was going to die. Further, a significant number of people were unnecessarily delayed and endangered by Respondent’s conduct, which included stopping traffic and driving recklessly. Even the more minor deviant acts of exposure created doubts of public safety for those who observed them.

Balanced with Respondent’s conduct here are Respondent’s lack of a prior record of discipline since his admission in 1998 and his cooperation with the State Bar in reaching this stipulation.

In *In re Otto* (1989) 48 Cal. 3d 970, the respondent was convicted of two felonies: assault by means likely to produce great bodily injury (*Penal Code* section 245, subd. (a)), and infliction of corporal punishment on a cohabitant of the opposite sex resulting in a traumatic condition. (*Penal Code* section 273.5.) Though the specific facts of the matter are not addressed in the opinion, the Supreme Court found this to be other misconduct warranting discipline, suspending him for 2 years, stayed, with 6 months actual. The passage of the professional responsibility exam was ordered as well. Though the court in *Otto* does not provide an explicit description of the incident that gave rise to the conviction, the case remains instructive for purposes of level of discipline for these similar offenses.

Here, Respondent demonstrated a callous disregard both for those around him and law enforcement. This fact supports the necessity of significant actual suspension, particularly in light of only minimal mitigation. Therefore, six months actual suspension with substance abuse conditions is appropriate to protect the public, the courts, and the legal profession.

G. EXCLUSION FROM MCLE CREDIT

Pursuant to rule 3201, respondent may not receive MCLE credit for completion of State Bar Ethics School.

H. COSTS


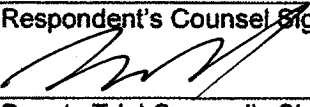
Respondent acknowledges that the Office of Chief Trial Counsel has informed him that as of September 10, 2012, the estimated prosecution costs in this matter are approximately \$2,287.00. Respondent acknowledges that this figure is an estimate only. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

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In the Matter of: MATTHEW JOHN ERWIN, SBN #198280	Case number(s): 11-C-18809-PEM 11-C-19015-PEM
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

<u>8/16/12</u> Date	<u></u> Respondent's Signature	<u>MATTHEW JOHN ERWIN</u> Print Name
<u>9/6/12</u> Date	<u></u> Respondent's Counsel Signature	<u>WILLIAM TODD</u> Print Name
	<u></u> Deputy Trial Counsel's Signature	<u></u> Print Name

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In the Matter of: MATTHEW JOHN ERWIN, SBC #198280	Case Number(s): 11-C-18809-PEM 11-C-19015-PEM
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ACTUAL SUSPENSION ORDER

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

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

1. On page 2 of the stipulation, paragraph A.(8), in the option marked with an "X", "2013" is deleted, and in its place is inserted "2014";
2. On page 6 of the stipulation, the "X" in the box next to paragraph F.(2) is deleted (respondent was already ordered to comply with California Rules of Court, rule 9.20 in the interim suspension order); and
3. On page 6 of the stipulation, an "X" is inserted in the box next to paragraph F.(4), and "February 20, 2012" is inserted at the end of that same paragraph.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date.** (See rule 9.18(a), California Rules of Court.)

Date

10/3/12


RICHARD A. HONN
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on October 4, 2012, I deposited a true copy of the following document(s):

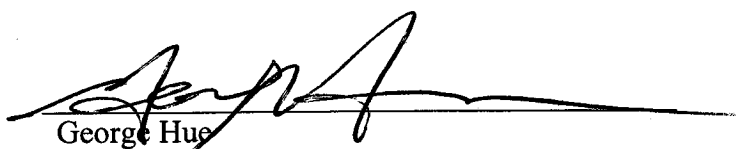
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

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

- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:
- MATTHEW J. ERWIN
175 N FELDNER RD APT 66
ORANGE, CA 92868
- ☐ by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:
- ☐ by overnight mail at , California, addressed as follows:
- ☐ by fax transmission, at fax number . No error was reported by the fax machine that I used.
- ☐ By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:
- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

William Todd, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on October 4, 2012.


George Hue
Case Administrator
State Bar Court