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State Bar Court of California Hearing Department San Francisco ACTUAL SUSPENSION		
Counsel For The State Bar Robin Brune Senior Trial Counsel Johnna Sack Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2218 Bar # 149481	Case Number(s): 14-C-03326	For Court use only PUBLIC MATTER FILED NOV 08 2016 <i>CH</i> STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent Frank Russell Wilson 212 Firestone Drive Roseville, CA 95678 (415) 858-8616 Bar # 185591	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: Frank Russell Wilson Bar # 185591 A Member of the State Bar of California (Respondent)		

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 16, 1996**.
- (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: (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - ☐ Costs are entirely waived.

B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are required.

- (1) ☒ **Prior record of discipline**
 - (a) ☒ State Bar Court case # of prior case **06-O-13019 (See Attachment, page 12.)**
 - (b) ☒ Date prior discipline effective **December 24, 2008.**
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **Business and Professions Code sections 6068(b) [failure to maintain the respect due to the courts of justice and judicial officers] and 6068(a) [failure to support the laws of the State of California].**
 - (d) ☒ Degree of prior discipline **18 months of suspension, stayed, two years of probation, including 45 days' actual suspension.**
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) ☐ **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) ☐ **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) ☐ **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5) ☐ **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.
- (6) ☐ **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.

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- (7) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (8) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice. See Attachment, page 13.
- (9) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) ☐ **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) ☒ **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See Attachment, pages 12 - 13.
- (12) ☐ **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) ☐ **Restitution:** Respondent failed to make restitution.
- (14) ☐ **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

Failure to Comply with Criminal Probation See Attachment, page 13.
Attorney's Legal Experience See Attachment, page 13.

C. Mitigating Circumstances [see standards 1.2(i) & 1.6]. Facts supporting mitigating circumstances are required.

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not likely to recur.
- (2) ☐ **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps demonstrating spontaneous remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.

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- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Pretrial Stipulation. See Attachment, page 13.

D. Discipline:

- (1) ☒ **Stayed Suspension:**
- (a) ☒ Respondent must be suspended from the practice of law for a period of **two years**.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:
- (b) ☒ The above-referenced suspension is stayed.
- (2) ☒ **Probation:**
- Respondent must be placed on probation for a period of **three 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 **90 days**.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct

- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:

E. Additional Conditions of Probation:

- (1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and present learning and ability in the general law, pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- (2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

- (6) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.

☐ No Ethics School recommended. Reason: .

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- (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:**

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In the Matter of:
Frank Russell Wilson

Case Number(s):
14-C-03326

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 meetings per month of:

☐ Alcoholics Anonymous

☐ Narcotics Anonymous

☐ The Other Bar

☐ Other program

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 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:

1. See attached Substance Abuse conditions. (pages 8 and 9).

SUBSTANCE ABUSE CONDITIONS

Frank Wilson, case no. 14-C-03326

Respondent understands and agrees to the following evaluation and treatment conditions:

1. Respondent will undergo the Orientation and Assessment process of the LAP program for the purpose of submitting to a substance abuse evaluation (Evaluation). The Evaluation will be performed by a LAP case manager.
2. Within 45 days of signing this stipulation, respondent shall provide a complete copy of this stipulation to the LAP case manager and all treatment providers.
3. Within 30 days of the effective date of this discipline, respondent shall provide to the Office of Probation an original, signed declaration from the LAP case manager and all treatment providers acknowledging receipt of a complete copy of this stipulation.
4. Within 45 days of signing this stipulation, respondent shall execute all necessary waivers of confidentiality with LAP and the LAP case manager as well as any treatment providers, including drug testing facilities.
5. Within 30 days of the effective date of this discipline, respondent shall provide to the Office of Probation a copy of the waiver provided to the LAP case manager, as well as all other treatment providers, including drug testing facilities. Also within 30 days of the effective date of this discipline, respondent shall provide to the Office of Probation an original, signed declaration from the assigned LAP case manager, as well as all other treatment providers, including drug testing facilities, acknowledging receipt of the waiver.
6. Within 30 days of the effective date of this discipline, respondent is to undergo an Evaluation with the assigned LAP case manager. The evaluation will be for the purposes of (a) determining whether respondent has a substance abuse or addiction problem, (b) setting treatment conditions respondent is to undertake as a result of the Evaluation, if any, and (c) obtaining a written report from the evaluating LAP case manager. The costs of the evaluation are provided at no charge to respondent by the LAP program. However, respondent shall bear all costs of any treatment conditions recommended by the evaluator. Respondent understands that his treatment conditions may change if his treatment providers deem it necessary, and that he is to bear the cost of such treatment, which in some cases could include in-patient treatment. Respondent understands that (a) the treatment conditions, if any, shall become part of his probation requirements, (b) he must provide the Office of Probation with any proof of treatment compliance or waiver requested by the Office of Probation, and (c) any violation of the treatment conditions is a violation of the probation requirements.
7. Within 60 days of the effective date of this discipline, respondent is to provide a copy of the LAP case manager's written evaluation report (Evaluation Plan) to the Office of Probation. If the LAP case manager requires additional information in order to propose treatment conditions, including, but not limited to, interviewing third parties, respondent will make good faith efforts to provide timely the additional information. Respondent will provide proof of such good faith efforts to the Office of Probation within 10 days of any request.
8. Within 10 days of any change in treatment condition, respondent is to provide written notice to

the Office of Probation specifically setting forth the changes. With that written notice, respondent is to provide an original, signed declaration from the LAP case manager acknowledging receipt of the written notice and agreement with its accuracy.

9. Respondent shall report compliance with the treatment conditions by statement under penalty of perjury in each written quarterly report to the Office of Probation required pursuant to the discipline in this matter.

10. Respondent shall have his LAP case manager submit to the Office of Probation an original, signed declaration as to whether or not respondent is in compliance with the treatment of conditions by each January 10, April 10, July 10, and October 10 covered by this discipline. Respondent understands that the declarations and reports may be shared with the Office of the Chief Trial Counsel and the State Bar Court.

11. Respondent understands that treatment conditions associated with other issues or entities, such as a criminal probation, may not satisfy treatment conditions required by this section.

12. If treatment providers are added or changed, respondent must notify the Office of Probation of the name, address, and telephone number of all such treatment providers within ten days of the retaining of each one. Within 30 days of retaining each such treatment provider, respondent must provide to the Office of Probation an original signed declaration from the treatment provider stating that it received a complete copy of this stipulation. Also within 30 days of retaining each such treatment provider, respondent must provide to the Office of Probation an executed waiver of confidentiality as well as an original, signed declaration from the treatment providers acknowledging receipt of the waiver.

13. Respondent has been informed of the existence and nature of the State Bar's Lawyer Assistance Program and of the State Bar Court's Alternative Discipline Program, and Respondent has specifically declined to seek entry into either.

14. If respondent is required by his Evaluation Plan to attend meetings, satisfactory proof of attendance of meetings shall include the name of respondent's sponsor (if respondent has a sponsor), address, telephone number, and any other contact information (e.g. fax, e-mail, etc.). Respondent is to provide this information to the Office of Probation within five days of the date of attendance and within ten days of any change in sponsor and/or the sponsor's address and/or telephone number and/or any other contact information.

15. Satisfactory proof of attendance of meetings shall also include the name of the meeting; the location of the meeting; and the name, address, telephone number, and other contact information (e.g. fax, e-mail, etc.) of the meeting secretary or other representative willing to assist the Office of Probation in confirming respondent's attendance.

16. Respondent shall exert all efforts in gaining the assistance of respondent's sponsor, meeting secretary, or other representative to assist the Office of Probation in confirming respondent's attendance. Respondent shall provide proof of such efforts to the Office of Probation within ten days of any request for such proof.

17. It is not satisfactory proof of attendance for respondent to sign as the verifier of respondent's proof of attendance.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: FRANK RUSSELL WILSON

CASE NUMBER: 14-C-03326

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that the facts and circumstances surrounding the offense for which he was convicted involved other misconduct warranting discipline.

Case No. 14-C-03326 (Conviction Proceedings)

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:

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.

2. On May 28, 2014, the Marin County District Attorney filed a criminal complaint in the Marin County Superior Court, Case No. SC189032A, charging respondent with a violation of Penal Code section 422 [criminal threats], a felony; Penal Code section 422.6(a) [using force or threats to interfere with another's exercise of civil rights], a misdemeanor; and Penal Code section 242 [simple battery], a misdemeanor. The Marin County District Attorney's Office dismissed the felony charge of Penal Code section 422 prior to trial.

3. A violation of Penal Code section 422.6(a) requires the following: (1) The defendant used force to willfully interfere with, injure, intimidate, or oppress, another person's free exercise or enjoyment of the right to be free from violence or bodily harm, established by the law or Constitution of California or the United States; (2) The defendant did so in whole or in part because of the other person's actual or perceived disability, gender, nationality, race, ethnicity, religion, sexual orientation, or association with a person or group having one or more of these actual or perceived characteristics; and (3) The defendant intended to interfere with the other person's legally protected right.

4. On September 3, 2015, a jury found respondent guilty of violating Penal Code sections 242 and 422.6(a).

5. On November 11, 2015, the court suspended the imposition of sentence and placed respondent on supervised probation for a period of thirty-six months. The court further ordered that respondent comply with the following terms and conditions of probation: serve 30 days in county jail (for which respondent was allowed to serve on electronic monitoring), not consume or possess alcohol, not leave the State of California without prior written approval from probation or the court, regularly check in with probation, be subject to search and seizure, submit to chemical testing for drugs and/or alcohol if asked by law enforcement, participate in any treatment or counseling as directed by probation, successfully complete an integrative cognitive behavioral change program as directed by probation, participate in a substance abuse assessment at the direction of probation, not contact or communicate

with the victim, stay away from the Cheesecake Factory in Corte Madera, seek and maintain full-time employment, complete 40 hours of community service, and pay court administrative costs and fines.

6. On July 15, 2016, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department finds that the facts and circumstances surrounding the offenses for which respondent was convicted involved moral turpitude or other misconduct warranting discipline.

FACTS:

7. On May 22, 2014, respondent spent his day binge drinking at numerous bars in Marin County, and by the end of the evening, he found himself drinking at the Cheesecake Factory in the Corte Madera Shopping Center. After consuming two margaritas and a beer at the Cheesecake Factory, respondent was very intoxicated, as he had now consumed 10 alcoholic beverages.

8. That evening, Kameron Izadjou ("Izadjou"), a real estate broker, sat outside of the Nordstrom Coffee Bar at the Corte Madera Shopping Center having a coffee with his client Amir Lahiji ("Lahiji"). Izadjou and Lahiji discussed the purchase of real estate while Lahiji's wife shopped at Nordstrom. Around 9:00 p.m., once Lahiji's wife finished shopping, the three of them walked to their respective vehicles located in the Nordstrom parking lot.

9. At this time, respondent left the Cheesecake Factory and walked to his car, which was also in the Nordstrom parking lot. While walking to his car, respondent saw Izadjou and Lahiji walking through the parking lot and heard them speaking a foreign language. Respondent approached them and said, "Hey, what language are you speaking?" Izadjou told respondent that they were speaking Farsi, their native language. Respondent asked them if they were "in this country legally." Then, he told them, "You understand this is America, [so] you must only speak English." Izadjou and Lahiji ignored respondent's comments and continued walking to their vehicles.

10. Respondent, however, became irate that they were ignoring him. Respondent said to them "Why can't you speak English?" Then, he stepped towards them, got in Izadjou's face, and said, "I'm not kidding." "I am an immigration attorney, if you continue speaking [a] different language, I have [the] right to arrest you and take you away." Again, Izadjou and Lahiji tried to defuse the situation by walking away from respondent; however, as Izadjou started to walk away from him, respondent pushed Izadjou on his chest with both hands. Izadjou did not fight back, instead he told respondent, "You must be very drunk," to which respondent replied in the affirmative.

11. Izadjou feared what respondent might do next, so he called 911 to report respondent's behavior. As Izadjou spoke with the 911 dispatcher, respondent continued to follow and harass him using profanities and threatening to "beat the fucking shit out of [Izadjou]." At one point during the call to 911, Izadjou told respondent, "Do not hit me like that again," to which respondent said he would.

12. When law enforcement officers arrived on the scene, it was clear to them that respondent was very intoxicated. He had red and watery eyes, slurred speech, and the odor of alcohol emanating from his person and his breath. He was very loud and angry. Respondent was so intoxicated that the officers believed he was unable to care for himself and the safety of others.

13. The reporting officer, Officer John Garretson, tried to speak with respondent on the scene about what happened; however, respondent was so fixated on Izadjou that he would not answer questions. Instead, respondent continued yelling profanities at Izadjou. Respondent was also verbally aggressive towards the law enforcement officers on scene.

14. While being transported to the Marin County Jail, respondent told Officer Garretson, "Well I guess you can't kick another guy's ass in Marin County anymore. What is this fucking world coming to?" He later stated, "I am an Immigration Attorney, and I am sick and tired of bailing these foreigners out of jail."

15. At the time of this incident, respondent was on probation in Marin County for a 2011 conviction for driving under the influence of alcohol. In October 2011, when respondent was arrested for driving under the influence of alcohol, he told the arresting officer that it was only a matter of time that he got arrested given how often he drives under the influence of alcohol. The Marin County District Attorney charged respondent with violating vehicles code sections 23152(a) and 23152(b), and having a blood alcohol concentration (BAC) of .19% at the time of driving.

16. On November 7, 2011, respondent pled guilty to driving with a .08% BAC or higher. The court suspended the imposition of sentence and placed respondent on summary probation for a period of thirty-six months. The court further ordered that he not drive with any measurable amount of alcohol in his blood and that he live a law-abiding life. As a result of his convictions in Case No. SC189032A, the court found him in violation of his probation. The court revoked and reinstated his probation with the additional term that he serve 30 days in the county jail, which he could serve concurrent to his sentence in Case No. SC189032A.

CONCLUSIONS OF LAW:

17. The facts and circumstances surrounding the above-described violations did not involve moral turpitude but did involve other misconduct warranting discipline.

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): Respondent has a prior record of discipline. In Case No. 06-O-13019, the California Supreme Court suspended respondent from the practice of law for 18 months, stayed the suspension, and placed respondent on probation for two years with a 45-day actual suspension, effective December 24, 2008. In 2006, during jury selection in a criminal trial, respondent failed to disclose that he is an attorney and active member of the State Bar of California. By doing so, he failed to maintain the respect due to the courts of justice and judicial officers, in violation of section 6068(b) of the Business and Professions Code. Additionally, he failed to support the laws of the State of California, in violation of section 6068(a) Business and Professions Code, when he blogged about the trial during the course of the trial. Respondent's misconduct resulted in the California Court of Appeal, Fourth Appellate District, vacating the judgment in the case and remanding the matter to the trial court.

Multiple Acts of Wrongdoing (Std. 1.5(b)): A jury found respondent guilty of two misdemeanor crimes. Additionally, respondent was under the influence of alcohol to the point where he was not able to care for the safety of himself or others (a violation of Penal Code section 647(f)), and he admitted under oath at the jury trial to driving under the influence of alcohol that day.

Significant Harm to Client, Public, or Administration of Justice (Std. 1.5(j)): There is significant harm to the administration of justice because respondent disobeyed the specific orders of his criminal probation, which required him to “lead a law-abiding life.” (See *In re Marc Guillory* (Review Dept. 2015) 5 CL. State Bar Ct. Rptr. 402.) Additionally, respondent used his position as an immigration attorney as a way to intimidate the victim. He told him that he was going to arrest them for not speaking English and that as an immigration attorney he had the power to do that. Further, Izadjou suffered harm from respondent’s misconduct. It caused him great emotional stress and he had difficulty sleeping for a week after the incident.

Failure to Comply with Criminal Probation: Respondent’s criminal probation from his November, 2011 DUI conviction stated that he “may not drive with any amount of alcohol in his blood during his probationary period.” He admitted under oath at trial to driving with alcohol in his blood on the night of this misconduct in direct violation of the orders of his probation. (See *In the Matter of Taylor* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563, 580.)

Attorney’s Legal Experience: Respondent is an experienced immigration law attorney that represents individuals of different ethnicities and nationalities. As a practicing immigration attorney, respondent would know the struggles individuals from other countries deal with when living in America. For respondent to target these individuals based on their ethnicity, then verbally and physically harass them for not speaking English, is egregious given the type of law he practices. “We consider as aggravating that respondent acted as he did to provoke a dangerous and risky confrontation with police responding to his own domestic disturbance notwithstanding all the experience he had as a practicing lawyer in handling family law matters.” (*In the Matter of Stewart* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 52, 61.)

MITIGATING CIRCUMSTANCES.

Pretrial Stipulation: By entering into this stipulation, respondent has acknowledged misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant resources and time. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability]; *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney’s stipulation to facts and culpability was held to be a mitigating circumstance].)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct “set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to standards are to this source.) The standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney

misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) "Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure." (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given standard, in addition to the factors set forth in the specific standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member's willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

The record of his conviction conclusively establishes respondent's culpability in this proceeding. (Bus. & Prof. Code, § 6101(a); *In re Crooks* (1990) 51 Cal.3d 1090, 1097.) Respondent is presumed to have committed all of the elements of the crime of which he was convicted. (*In re Duggan* (1976) 17 Cal.3d 416, 423; *In the Matter of Respondent O* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 581, 588.)

Here, respondent was convicted of committing a misdemeanor battery and misdemeanor hate crime. Generally, a misdemeanor conviction resulting in assaultive behavior would not involve moral turpitude. (See *In the Matter of Stewart* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 52.) As such, Standard 2.16(a) is applicable since the facts and circumstances surrounding respondent's misdemeanor convictions do not involve moral turpitude, but involve other misconduct warranting discipline. Standard 2.16(a) states: "Suspension or reproof is the presumed sanction for final conviction of a misdemeanor not involving moral turpitude but involving other misconduct warranting discipline."

In addition, Standard 1.8(a) applies because respondent has a prior record of discipline where he received a 45-day actual suspension. Standard 1.8(a) provides: "If a member has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust. Due to respondent's prior record of discipline, standard 1.8(a) calls for a greater discipline than the 45-day actual suspension imposed on respondent in his prior disciplinary matter."

Most cases involving assaultive behavior have often resulted in various periods of actual suspension. In the case most similar to the present, *In the Matter of Stewart* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 52, the attorney was convicted of violating Penal Code section 243(c), misdemeanor battery on a police officer. The attorney was very intoxicated at the time of the physical altercation, used racial epithets, and was verbally abusive towards the law enforcement.

In *Stewart*, the attorney received a two year stayed suspension, two years' probation and a 60-day actual suspension. The court found lack of insight to be a factor in aggravation, but did not consider his prior record of discipline where he received a one year stayed suspension, three years' probation, and a 90-day actual suspension. The court in *Stewart* deviated from the standards and did not consider the prior discipline record when imposing discipline, as this was a pre-*Silverton* decision. In light of *Silverton*, the discipline would have been higher if heard today. (See *In re Silverton* (2005) 36 Cal. 4th 82.)

Similar to *Stewart*, respondent started a physical altercation while intoxicated, was verbally abusive towards law enforcement, and harassed the victim based on ethnicity. Respondent's behavior in this matter is more egregious because he specifically targeted and assaulted his victims' based on their

ethnicity; whereas in *Stewart*, the attorney initiated a physical altercation with the officer based on his position of authority, not his ethnicity (although he did make offensive comments to the officer based upon the officer's ethnicity.) Moreover, respondent's misconduct is more serious because respondent used his position as an immigration attorney as a means to intimidate his victims. Further, respondent's misconduct is aggravated by his prior record of discipline where he received a 45-day actual suspension for disobeying a court's orders.

In *In re Kelley* (1990) 52 Cal. 3d 487, the attorney was convicted of a second DUI offense while on probation for her first DUI conviction. The court found that her repeated criminal conduct, and the circumstances surrounding it, were indicators of alcohol abuse. Although her problem with alcohol did not affect her practice of law, the court held it could not wait for actual harm to occur; instead, it was the responsibility of the court to impose a discipline that will protect the public from this potential harm.

In the present case, respondent's behavior evidences both a lack of respect for the legal system and an alcohol abuse problem. Both problems, if not addressed, may spill over into his professional practice and adversely affect his practice of law and representation of clients. (See *In re Kelley* (1990) 52 Cal. 3d 487.) In light of the foregoing, a two-year suspension, execution of suspension stayed, with three years of probation, including a ninety-day actual suspension and substance abuse conditions, is necessary to protect the public and will serve the purposes of attorney discipline.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of October 21, 2016, the prosecution costs in this matter are \$3,595. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MINIMUM CONTINUING LEGAL EDUCATION ("MCLE") CREDIT



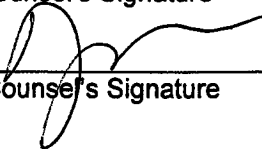
Respondent may not receive MCLE credit for completion of State Bar Ethics School and/or any other educational course(s) to be ordered as a condition of reproof or suspension. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: Frank Russell Wilson	Case number(s): 14-C-03326
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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>10/25/2016</u> Date	<u></u> Respondent's Signature	<u>Frank Russell Wilson</u> Print Name
<u>10/27/2016</u> Date	<u></u> Senior Trial Counsel's Signature	<u>Robin Brune</u> Print Name
<u>10/21/2016</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>Johnna Sack</u> Print Name

(Do not write above this line.)

In the Matter of:
Frank Russell Wilson

Case Number(s):
14-C-03326

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.

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

Nov 8, 2016


LUCY ARMENDARIZ
Judge of the State Bar Court

RE: WILSON
CASE NO.: 14-C-03326

Dawn Williams
Declarant

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on November 8, 2016, I deposited a true copy of the following document(s):

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

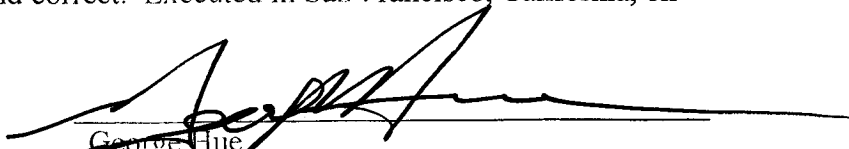
in a sealed envelope for collection and mailing on that date as follows:

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

FRANK R. WILSON
212 FIRESTONE DR
ROSEVILLE, CA 95678 - 1011
- ☐ 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:

Robin Brune, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on November 8, 2016.


George Hue
Case Administrator
State Bar Court