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State Bar Court of California Hearing Department Los Angeles REPROVAL		
Counsel For The State Bar Amanda F. Sanchez Deputy Trial Counsel 845 S Figueroa St. Los Angeles, CA 90017 213-765-1080 Bar # 254880	Case Number(s): 16-C-11029-DFM	For Court use only <div style="text-align: center; font-size: 24pt; font-weight: bold;">PUBLIC MATTER</div> <div style="text-align: center; font-size: 24pt; font-weight: bold;">FILED</div> <div style="text-align: center; font-size: 18pt; font-weight: bold;">NOV 10 2016</div> <div style="text-align: center; font-weight: bold;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div>
Counsel For Respondent Edward O. Lear 5200 W Century Blvd. #345 Los Angeles, CA 90045 310-642-6900 Bar # 132699	Submitted to: Assigned Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING PUBLIC REPROVAL <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: AAINA AGARWAL Bar # 280694 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 2, 2011**.
- (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 **13** 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):
- Costs are added to membership fee for calendar year following effective date of discipline (public reproof).
 - Case ineligible for costs (private reproof).
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: **three billing cycles following the effective date of the Court order.** (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.
- (9) The parties understand that:
- (a) A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
 - (b) A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
 - (c) A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

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
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline

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- (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (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.
- (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.
- (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, p. 10
- (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:

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 investigation and proceedings.

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- (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.
- (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. **See Attachment, p. 10**
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Pre-Trial Stipulation: See Attachment, p. 10

D. Discipline:

- (1) **Private reproof (check applicable conditions, if any, below)**
- (a) Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b) Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2) **Public reproof (Check applicable conditions, if any, below)**

E. Conditions Attached to Reproval:

- (1) Respondent must comply with the conditions attached to the reproof for a period of **1 year**.

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- (2) During the condition period attached to the reproof, 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 reproof. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the reproof conditions period, 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 condition period attached to the reproof. 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 the reproof during the preceding calendar quarter. Respondent must also state in each report 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 (thirty) 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 condition period and no later than the last day of the condition period.

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of reproof with the probation monitor to establish a manner and schedule of compliance. During the reproof conditions period, Respondent must furnish 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 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 conditions attached to the reproof.
- (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) 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 within one year of the effective date of the reproof.

No MPRE recommended. Reason: **The protection of the public and the interests of the Respondent do not require passage of the MPRE in this case.**

- (11) The following conditions are attached hereto and incorporated:

(Effective April 1, 2016)

Reproof

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- | | |
|---|---|
| <input 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:

Additional Repeal Condition

Respondent recognizes that a repeat conviction for reckless driving under the influence of alcohol creates a presumption of an alcohol problem that needs to be addressed before it affects Respondent's legal practice. Respondent agrees to take the steps necessary to control the use of alcohol such that it will not give rise to any further presumption of an alcohol problem that affects Respondent's ability to practice law. Respondent's agreement to participate in an abstinence-based self-help group (as defined herein), as a condition of discipline, is part of Respondent's efforts to address such concerns.

Respondent has completed 26 court-mandated Alcoholic Anonymous ("AA") sessions and a nine-month alcohol education program which further mandated 19 AA sessions.

As a condition of reprobation, and during the period of reprobation, Respondent must attend a minimum of two (2) meetings per month of any abstinence-based self-help group of Respondent's choosing, including without limitation AA, Narcotics Anonymous, LifeRing, S.M.A.R.T., S.O.S., etc. Other self-help maintenance programs are acceptable if they include a subculture to support recovery, including abstinence-based group meetings. (See O'Conner v. Calif. (C.D. Calif. 1994) 855 F. Supp. 303 [no First Amendment violation where probationer given choice between AA and secular program.]) Respondent is encouraged, but not required, to obtain a "sponsor" during the term of participation in these meetings.

The program called "Moderation Management" is not acceptable because it is not abstinence-based and allows the participant to continue consuming alcohol.

Respondent must contact the Office of Probation and obtain written approval for the program Respondent has selected prior to attending the first self-help group meeting. If Respondent wants to change groups, Respondent must first obtain the Office of Probation's written approval prior to attending a meeting with the new self-help group.

Respondent must provide to the Office of Probation satisfactory proof of attendance of the meetings set forth herein with each Quarterly Report submitted to the Office of Probation. Respondent may not sign as the verifier of his or her own attendance.

As a matter of routine practice of the State Bar in cases involving a conviction for reckless driving under the influence of alcohol, Respondent is encouraged, but is not required, to participate in the Lawyers' Assistance Program, to abstain from alcohol and illegal drugs, and to undergo random urinalysis testing to complement abstinence.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: AAINA AGARWAL

CASE NUMBER: 16-C-11029

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 16-C-11029 (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 February 25, 2016, the Los Angeles City Attorney's Office filed a misdemeanor complaint in Los Angeles County Superior Court case number 6MN01916 that alleged Respondent committed the following criminal acts: (1) violation of Vehicle Code section 23152(a) [Driving Under Influence of Alcohol/Drugs], a misdemeanor, including the allegation that Respondent has a prior Wet/Reckless conviction within the meaning of Vehicle Code section 23103(a); (2) violation of Vehicle Code section 23152(b) [Driving with Blood Alcohol Level of .08% or More], a misdemeanor, including the allegation that Respondent has a prior Wet/Reckless conviction within the meaning of Vehicle Code section 23103(a); (3) violation of Vehicle Code section 14601.5(a) [Driving on a Suspended License Due to Prior Wet/Reckless Conviction], a misdemeanor; and (4) violation of Vehicle Code section 12500(a) [Driving Without a Valid Driver's License], a misdemeanor.

3. On March 23, 2016, the complaint was amended by interlineation to add a fifth count of one violation of Vehicle Code section 23103 [Reckless Driving Involving Alcohol or Drugs], a misdemeanor. Respondent then plead nolo contendere to one count of violating Vehicle Code section 23103 [Reckless Driving Involving Alcohol or Drugs], a misdemeanor. All other counts were dismissed. Respondent was placed on summary probation for a period of 36 months with conditions: pay court-ordered fees/fines, enroll and complete an AB-1353 program (concurrent to the previously-ordered Alcohol Program in case no. 5MP09251), violate no laws, do not drive without a valid license with liability insurance, and do not drive with any measurable amount of alcohol or drugs in blood or refuse to take and complete any blood alcohol/drug chemical test or Field Sobriety Test (FST) when requested by any peace officer.

4. On July 28, 2016, the Review Department of the State Bar Court issued an order referring case no. 16-C-11029 to the Hearing Department for a hearing and decision recommending the discipline to be imposed if the facts and circumstances involved moral turpitude or other misconduct warranting discipline.

5. On August 4, 2016, the State Bar Hearing Department filed a Notice of Hearing on Conviction in case no. 16-C-11029 against Respondent.

FACTS REGARDING CRIMINAL CONVICTION:

6. On January 30, 2016, Respondent drove a vehicle while intoxicated. At approximately 11:54 p.m. California Highway Patrol ("CHP") Officers J. Yale and B. Bowman observed Respondent's vehicle in front of them traveling in a serpentine motion and traveling several times over the painted broken white lines while on SR-110 (Arroyo Seco Parkway) freeway.

7. The officers pulled Respondent over and approached the driver's side window and made contact with Respondent. Officer Yale then advised Respondent the reason for the stop and asked to see Respondent's driver's license, registration, and insurance information. Respondent presented Officer Yale with an Arizona state driver's license as Respondent did not have a California driver's license, despite the fact that she had lived in California since as early as August 2008 at which time she began law school.

8. While speaking to Respondent, Officer Yale noticed that Respondent's eyes were red and watery, her speech was slurred and there was the odor of an alcoholic beverage emitting from within the vehicle. Officer Yale asked Respondent if she had consumed any alcoholic beverages earlier in the evening. Respondent indicated that she had not. Respondent was then instructed to exit her vehicle.

9. Officer Yale asked Respondent several Preliminary FST questions, at which time Respondent indicated that she had not consumed any alcoholic beverages and had recently had surgery performed on her septum. While speaking with Respondent, Officer Yale detected the odor of an alcoholic beverage emitting from Respondent's breath and person.

10. Officer Yale asked Respondent why her eyes were red and watery and Respondent indicated that she had been crying earlier in the evening. Respondent asked Officer Yale several times if she was required to answer pre-FST questions and perform FSTs. Officers Yale and Bowman indicated to Respondent that she was not required to answer any pre-FST questions or perform any FSTs.

11. Respondent claimed that she refused to perform any FSTs and asked the officer to conduct a Breathalyzer test. This conflicts with the police report which states that Respondent agreed to answer the pre-FST questions and perform some FSTs, which she was unable to perform. Officer Yale formed the opinion, based on his observation of Respondent's driving, the objective symptoms of intoxication and her performance on the FSTs that Respondent was driving while under the influence of alcohol.

12. Respondent consented to taking the breath test with a blood alcohol concentration level of .08%.

13. Respondent has a prior conviction for driving while intoxicated.

14. On October 17, 2015, Respondent drove a vehicle while under the influence of alcohol and caused a collision. At approximately 12:19 a.m., Los Angeles Police Officers Stoughton and Stevenson responded to a traffic unit request. Upon arrival at the scene, the officers observed the aftermath of a multiple vehicle collision.

15. Respondent's vehicle was stopped in the middle of the street and had damage to the front end. Officer Stoughton interviewed Respondent regarding the collision. Respondent indicated that she was driving southbound on Las Palmas Avenue when an unknown vehicle came northbound and swerved into her lane, forcing Respondent to swerve to the right and crash into parked cars.

16. During the interview Officer Stoughton could smell the odor of alcohol coming from Respondent's breath and person. Officer Stoughton also noticed that Respondent's eyes were red and watery. Officer Stoughton then asked Respondent if she had been drinking and Respondent initially said "no." Respondent later indicated that she had one beer at 5:00 p.m. at a friend's house.

17. Officer Stoughton conducted some FSTs on Respondent, which Respondent failed. Officer Stoughton then formed the opinion that Respondent was under the influence of an intoxicant and was unable to safely operate a motor vehicle.

18. At the scene, a witness told the officers that he worked at the property across the street and that he had video footage of the accident. Officer Stoughton watched the video and observed Respondent's vehicle going southbound on Las Palmas Avenue and colliding into a parked car. There were no oncoming vehicles at the time of the collision that caused Respondent to swerve to the right.

19. The officers performed a Preliminary Alcohol Screening test ("PAS") on Respondent with results of .09% and .10% BAC. Respondent was then transported to the Hollywood station for chemical testing. Once at the station Respondent's breath test results were .09% and .08% BAC.

20. On November 2, 2015, the Los Angeles City Attorney's Office filed a misdemeanor complaint in Los Angeles County Superior Court case number 5MP09251 that alleged Respondent committed the following criminal acts: (1) violation of Vehicle Code section 23152(a) [Driving Under Influence of Alcohol/Drugs], a misdemeanor; (2) violation of Vehicle Code section 23152(b) [Driving with Blood Alcohol Level of .08% or more], a misdemeanor; and (3) violation of Vehicle Code section 12500(a) [Driving Without a License], a misdemeanor.

21. On February 9, 2016, the complaint was amended by interlineation to add a violation of Vehicle Code section 23103 [Reckless Driving Involving Alcohol or Drugs], a misdemeanor, as count four. Respondent plead nolo contendere to count four and the remaining counts were dismissed. The court placed Respondent on summary probation for a period of 36 months with conditions, which included one day in Los Angeles County jail, payment of court-ordered fees/fines, do not drive any vehicle with any measurable amount of alcohol or drugs in blood or refuse to take and complete any blood alcohol or drug chemical test or any field sobriety test, and any preliminary alcohol screening test when requested by any peace officer, do not drive a motor vehicle without liability insurance, enroll in and complete the AB-541 program, attend 26 Alcoholic Anonymous meetings, and make restitution to victim.

CONCLUSIONS OF LAW:

22. The facts and circumstances surrounding the above-described violation(s) did not involve moral turpitude but did involve other misconduct warranting discipline.

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent has engaged in multiple acts of misconduct; one being the March 23, 2016, wet/reckless conviction which is the basis for the current matter, an earlier wet/reckless conviction that included Respondent crashing into parked vehicles, which forms part of the facts and circumstances surrounding the recent conviction, and driving without a valid driver's license on both occasions. Consequently, Respondent's conduct is aggravated by multiple acts of misconduct. These represent separate and distinct acts of misconduct. Multiple acts of wrongdoing are an aggravating factor. (*In the Matter of Elkins* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160, 168.)

MITIGATING CIRCUMSTANCES.

Pre-Trial Stipulation: Respondent entered into a stipulation fully resolving this matter prior to trial and is entitled to mitigation for saving State Bar resources and evidencing recognition of wrongdoing. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [mitigative credit given for entering into a stipulation as to facts and culpability].)

Good Character (Std. 1.6(f)): Respondent is entitled to mitigation credit for good character. She submitted 11 character letters written by members from the general and legal communities and all witnesses have knowledge of Respondent's misconduct.

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).)

Standard 2.16(b) applies as Respondent's current misconduct includes two (2) Wet/Reckless misdemeanor convictions that do not include moral turpitude but involve other misconduct warranting discipline. The presumptive discipline under Standard 2.16 is suspension or reproof.

Given the facts and circumstances surrounding the misconduct, aggravating factors and mitigative credit for Respondent entering into a pre-trial stipulation and Respondent's 11 character letters demonstrating good character, discipline at the low end of the range discussed in Standard 2.16(b), reproof, is sufficient to achieve the purposes of discipline expressed in Standard 1.1, including protection of the public. Accordingly, a public reproof, with the condition that Respondent comply with all the terms and conditions of probation in the criminal cases, which includes attending 26 Alcohol Anonymous meetings, and completion of the court ordered alcohol programs, is appropriate.

Case law also supports a public reproof. In *In re Kelley* (1990) 52 Cal.3d 487, the court ordered a public reproof for an attorney who had been convicted of driving under the influence twice. The second driving under the influence conviction occurred while the attorney was on probation for the first driving under the influence conviction.

This matter is similar to *Kelley*. Here, Respondent has no prior record of discipline and two alcohol-related driving convictions. Although Respondent was not on probation for her first alcohol-related conviction at the time she was convicted of her second alcohol-related charge, she was on notice that such conduct was unlawful and endangered the safety of others as her first alcohol-related driving arrest had occurred approximately three months before the second arrest. Respondent's misconduct warrants a public reproof as ordered in *Kelley*.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of October 25, 2016, the discipline costs in this matter are \$2,567.00. 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

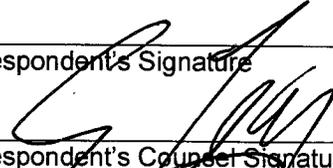
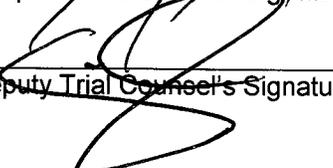
Respondent may not receive MCLE credit for completion of State Bar Ethics School to be ordered as a condition of reproof. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: Aaina Agarwal	Case number(s): 16-C-11029
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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.

Date	Respondent's Signature	Aaina Agarwal
11/3/16		Print Name
Date	Respondent's Counsel Signature	Edward O. Lear
11/9/16		Print Name
Date	Deputy Trial Counsel's Signature	Amanda F. Sanchez
		Print Name

State Bar of California

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RECEIVED
Please Record and file

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In the Matter of: Aaina Agarwal	Case number(s): 16-C-11029
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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.

11. 3. 2016		Aaina Agarwal
Date	Respondent's Signature	Print Name
		Edward O. Lear
	Respondent's Counsel Signature	Print Name
11/9/2016		Amanda F. Sanchez
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of: Aaina Agarwal	Case Number(s): 16-C-11029
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REPROVAL ORDER

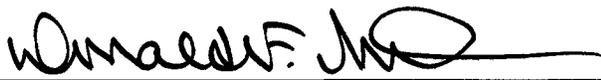
Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED AND THE REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- All court dates in the Hearing Department 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.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

Failure to comply with any conditions attached to this reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

11/9/16
Date


DONALD F. MILES
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 Los Angeles, on November 10, 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 Los Angeles, California, addressed as follows:

EDWARD O. LEAR
CENTURY LAW GROUP LLP
5200 W CENTURY BLVD #345
LOS ANGELES, CA 90045

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

AMANDA F. Sanchez, Enforcement, Los Angeles
TERRIE L. GOLDADE, Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 10, 2016.



Mazie Yip
Case Administrator
State Bar Court