

(Do not write above this line.)

State Bar Court of California
Hearing Department
San Francisco

<p>Counsel For The State Bar</p> <p>Esther Rogers Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415)538-2258</p> <p>Bar # 148246</p>	<p>Case Number (s) 07-O-14974 [08-O-10248]</p>	<p>(for Court's use)</p> <p>PUBLIC MATTER</p> <p>FILED <i>[Signature]</i></p> <p>MAR 23 2010</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>Michael C. Hall The Law Offices of Michael C. Hall 2481 C Ave. Ogden, UT 84401 (801)621-4370</p> <p>Bar # 230319</p>	<p>Submitted to: Assigned 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: Michael C. Hall</p> <p>Bar # 230319</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 April 13, 2004.
- (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."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004; 12/13/2006.)



- (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 284, Rules of Procedure.
 - costs to be paid in equal amounts prior to February 1 for the following membership years:
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - costs 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. See Attachment
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (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.

- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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. See Attachment
- (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. See Attachment
- (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

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 1 year, 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: presents declarations from two health care providers that he is capable of resuming the practice of law.

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 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.

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- (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: Respondent resides in Utah.
- (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 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 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason:

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- (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:**

2007 and on or about November 26, 2007, Lemley attempted to locate respondent so that she could obtain her portion of the settlement proceeds. After Lemley was unable to reach respondent by telephone or at his office in Chico, Lemley filed a complaint with the State Bar, Chico Police Department and Butte County District Attorney's Office.

As of on or about November 23, 2007, respondent did not have sufficient funds in the business checking account to pay Lemley, since he owed her \$12,315, but only maintained \$11,545.53 in the business checking account, for a shortfall of \$769.47. On or about November 26, 2007, respondent provided Lemley a check for \$12,325, which consisted of her settlement funds and reimbursement for the bank charges she incurred as a result of the check that was returned due to insufficient funds. Respondent wrote the check from an account he maintained at Mountain America Bank.

By failing to deposit and maintain Lemley's funds into an attorney client trust account and by converting some of Lemley's funds to his own use and purpose, respondent willfully misappropriated \$769.47 from Lemley.

Conclusion of Law

By misappropriating funds from Lemley, respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

COUNT TWO

Facts

Count One is incorporated by reference as if fully set forth herein.

By failing to deposit Lemley's funds in the attorney client trust account, respondent willfully failed to maintain the balance Lemley's funds received for Lemley's benefit in a bank account labeled "trust account."

Conclusion of Law

By failing to deposit funds received for the benefit of a client in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import, respondent willfully violated Rules of Professional Conduct, rule 4-100(A).

Case No. 08-O-10248

COUNT THREE

Facts

In or about February 2004, Erin Dunwell was injured in motor vehicle accident. In or about June 2005, Dunwell employed respondent to represent her in a personal injury action as a result of the injuries Dunwell suffered in the motor vehicle accident.

On February 7, 2006, respondent filed a complaint in the matter *Dunwell v. Wang*, Contra Costa County Superior Court, case number C06-00262. In or about June 2006, respondent ceased providing any services to Dunwell. At the time that respondent ceased providing services, discovery was ongoing in *Dunwell v. Wang*.

Commencing in or about June 2006, respondent failed to respond to outstanding discovery, failed to appear at case management conferences, failed to cooperate with opposing counsel in selecting an arbitrator, failed to respond to opposing counsel's letters regarding the outstanding discovery, and failed to respond to Wang's motion to compel discovery.

On July 17, 2007, after respondent failed to respond to Wang's motion to compel discovery, the court issued an order compelling Dunwell to respond to discovery and sanctioning the respondent and Dunwell jointly \$540 in fees and costs, payable in 30 days. Respondent was properly served with the July 17, 2007 order. Thereafter, respondent failed to prepare any discovery responses and failed to pay the discovery sanctions.

On or about August 24, 2007, Wang filed a motion to dismiss Dunwell's matter because Dunwell failed to comply with the July 17, 2007. Respondent was properly served with the motion to dismiss. On August 24, 2007, after respondent failed to appear at a case management conference, the Court issued an order to show for respondent's failure to appear at the conference, ordering respondent to appear on September 24, 2007. Respondent was properly served with the August 24, 2007 Order to Show Cause. Respondent failed to appear at the September 24, 2007 hearing. On or about September 24, 2007, Dunwell filed a motion requesting that the court relieve respondent as counsel and substitute Dunwell in pro per, which the court granted on November 9, 2007.

On or about February 12, 2009, respondent paid the \$540 sanction.

Conclusions of Law

By ceasing to perform legal services in or about June 2006, including failing to respond to outstanding discovery, failing to appear at case management conferences, failing to cooperate with opposing counsel in selecting an arbitrator, failing to respond to opposing counsel's letters regarding the outstanding discovery, failing to respond to Wang's motion to compel discovery, failing to provide the court ordered discovery responses, causing sanctions of \$540 to be issued jointly against Dunwell for respondent's failure to respond to discovery requests, failing to pay the court ordered sanctions and failing to respond to the Wang's motion to dismiss, respondent intentionally, recklessly and repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

COUNT FOUR

Facts

Count Three is incorporated by reference as if fully set forth herein.

On July 17, 2007, the court issued an order compelling Dunwell to respond to discovery and sanctioning the respondent and Dunwell jointly \$540 in fees and costs, payable in 30 days. Respondent

was properly served with the July 17, 2007 order. Thereafter, respondent failed to pay the discovery sanctions and failed to provide the discovery responses.

On August 24, 2007, the court issued an order to show for respondent's failure to appear at the conference, ordering respondent to appear on September 24, 2007. Respondent was properly served with the August 24, 2007 Order to Show Cause. Respondent failed to appear at the September 24, 2007 hearing.

Conclusions of Law

By disobeying the Contra Costa County Superior Court orders, respondent disobeyed orders of a court requiring him to do an act connected with or in the course of respondent's profession which he ought in good faith to do, in willful violation of Business and Professions Code, section 6103.

COUNT FIVE

Facts

Count Three is incorporated by reference as if fully set forth herein.

Respondent failed to inform Dunwell of the following significant developments: respondent had failed to respond to outstanding discovery, Wang filed a motion to compel discovery responses, respondent failed to respond to the motion to compel discovery responses, Wang filed a motion to compel discovery responses, respondent failed to respond to the motion to compel discovery responses, the court issued an order sanctioning respondent and Dunwell for failure to provide discovery responses, Wang filed a motion to dismiss Dunwell's matter because respondent had failed to provide discovery responses.

Between in or about April 2007 and in or about September 2007, Dunwell repeatedly sent respondent letters and emails requesting that respondent execute a substitution of attorney so that Dunwell could substitute in pro per. Respondent received the letters and emails, but failed to respond to them and failed to provide Dunwell with an executed substitution of attorney.

Conclusions of Law

By failing to inform Dunwell of the items set forth above, respondent failed to keep Dunwell reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).

By failing to respond to Dunwell's letters and emails requesting that respondent provide her with an executed substitution of attorney, respondent willfully failed to respond promptly to reasonable status inquiries of a client in a matter in which respondent had agreed to provide legal services, respondent willfully violated Business and Professions Code, section 6068(m).

COUNT SIX

Facts

Count Three is incorporated by reference as if fully set forth herein.

In or about June 2006, respondent constructively terminated his services when he ceased performing services for Dunwell. Between in or about April 2007 and in or about September 2007, Dunwell repeatedly sent respondent letters and emails requesting that respondent return her client file so that Dunwell could substitute in pro per. Respondent received the letters and emails, but failed to respond to them and failed to provide Dunwell with her client file.

Conclusions of Law

By failing to provide Dunwell with her client file, respondent willfully failed to release promptly to the client, upon termination of employment, all client papers, in wilful violation of Rules of Professional Conduct, rule 3-700(D)(1).

COUNT SEVEN

Facts

Count Three is incorporated by reference as if fully set forth herein.

In or about June 2006, respondent constructively withdrew from employment when he ceased performing services for Dunwell. At the time that respondent withdrew, Dunwell's matter was pending before the Contra Costa County Superior Court. Respondent failed to seek permission from the Contra Costa County Superior Court before he withdrew.

Conclusions of Law

By failing to seek the court's permission to withdraw, respondent willfully withdrew from employment in a proceeding before a tribunal without its permission, in wilful violation Rules of Professional Conduct, rule 3-700(A)(1).

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(6), was February 11, 2010.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of February 10, 2010, the prosecution costs in this matter are approximately \$2,800. 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.

AGGRAVATING CIRCUMSTANCES.

Standard 1.2(b)(iv). Harm. In the Dunwell matter, respondent's failure to perform resulted in the significant harm to Dunwell since respondent abandoned Dunwell and since she was jointly sanctioned \$540 for respondent's failure to respond to the discovery.

MITIGATING CIRCUMSTANCES.

Standard 1.2(e)(v) Cooperation. Respondent agreed to the imposition of discipline without requiring a hearing.

Other Mitigating Circumstances

Emotional Difficulties. Respondent presented proof from treating health care providers that respondent suffered from anxiety and depression at the time of the misconduct.

STATE BAR ETHICS SCHOOL EXCLUSION

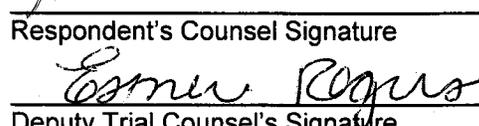
Respondent resides outside California and is unable to attend State Bar Ethics School. As an alternative to State Bar Ethics School, the parties agree that respondent will complete the following courses: Respondent will complete six hours of MCLE in the subject of ethics.

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In the Matter of Michael C. Hall	Case number(s): 07-O-14974 [08-O-10248]
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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 Fact, Conclusions of Law and Disposition.

<u>2/20/2010</u> Date	 Respondent's Signature	<u>Michael C. Hall</u> Print Name
<u>2/23/2010</u> Date	 Respondent's Counsel Signature	<u>Esther Rogers</u> Print Name
	<u>Deputy Trial Counsel's Signature</u>	<u>Print Name</u>

(Do not write above this line.)

In the Matter Of Michael C. Hall	Case Number(s): 07-O-14974 [08-O-10248]
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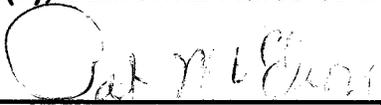
ORDER

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 135(b), 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.)**

March 22, 2010
Date


Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; 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 March 23, 2010, 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:

**MICHAEL C. HALL
THE LAW OFFICES OF MICHAEL C HALL
2481 C AVE
OGDEN, UT 84401**

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:

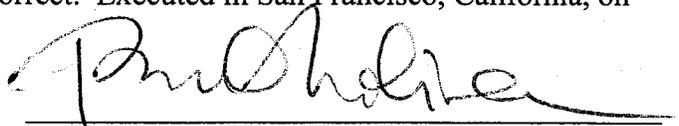
by fax transmission, at fax number . No error was reported by the fax machine that I used.

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:

ESTHER J. ROGERS, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on March 23, 2010.



Bernadette C.O. Molina
Case Administrator
State Bar Court