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**State Bar Court of California  
Hearing Department  
Los Angeles  
ALTERNATIVE DISCIPLINE PROGRAM**

*Handwritten notes or initials*

<p>Counsel For The State Bar</p> <p>MONIQUE T. MILLER DEPUTY TRIAL COUNSEL 1149 South Hill Street Los Angeles, California 90015-2299 213-765-1486</p> <p>Bar # 212469</p>	<p>Case Number (s) 08-O-12305</p> <p><b>PUBLIC MATTER</b></p>	<p>(for Court's use)</p> <p><b>FILED</b> JAN 11 2010 STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Bryan Thomas Castorina Thomas Castorina &amp; Associates 3500 Overland Ave. Ste 110-102 Los Angeles, CA 90034 Tel: (714) 351-7882</p> <p>Bar # 162843</p>	<p>Submitted to: <b>Program Judge</b></p> <p><b>STIPULATION RE FACTS AND CONCLUSIONS OF LAW</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of: Bryan Thomas Castorina</p> <p>Bar # 162843</p> <p>A Member of the State Bar of California (Respondent)</p>		

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

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted December 14, 1992.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, except as otherwise provided in rule 804.5(c) of the Rules of Procedure, if Respondent is not accepted into the Alternative Discipline Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (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, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 6 pages, excluding 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) 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.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

**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.
- (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.
- (4)  **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5)  **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6)  **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7)  **Good Faith:** Respondent acted in good faith.
- (8)  **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9)  **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10)  **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11)  **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12)  **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

**ATTACHMENT TO**  
**STIPULATION RE FACTS AND CONCLUSIONS OF LAW**

IN THE MATTER OF:                   BRYAN THOMAS CASTORINA, Bar #162843

CASE NUMBER:                       08-O-12305

**WAIVER OF ISSUANCE OF A NOTICE OF DISCIPLINARY CHARGES**

The parties hereby waive the issuance of a Notice of Disciplinary Charges relating to the case that is the subject matter of this stipulation.

**INCORPORATION OF PRIOR STIPULATION**

This stipulation is an addendum intended to supplement the Stipulation re: Facts and Conclusions of Law in Case Nos. 02-C-11140 and 04-C-10858, which the parties lodged with this Court on November 22, 2005, and the Stipulation re: Facts and Conclusions of Law in Case No. 06-O-11089, which the parties lodged with this Court on September 2, 2009 (the "Prior Stipulations"). The Prior Stipulations are also incorporated as if fully set forth herein.

**FACTS AND CONCLUSIONS OF LAW IN CASE NO. 08-O-12305**

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

**FACTS**

1. In October 2005, Joe Tamas ("Tamas") employed Respondent to take over representation in a personal injury matter, entitled *Joe Tamas et al. v. T.L. Pavlich Constructions, Inc. et al.*, North Valley Los Angeles County Superior Court Case No. PC 034 177V (the "Tamas matter.")
2. In May 2006, Respondent represented Tamas in a jury trial that resulted in a mistrial. The Tamas matter was to be retried.
3. Between January and December 2007, the defendants and cross-complainants filed a series of motions to compel discovery, which went unopposed by Respondent. Respondent did not inform Tamas of the discovery motions.
4. Between January and December 2007, Tamas repeatedly called Respondent for a status update, leaving messages requesting that Respondent return Tamas' calls. Respondent did not return the calls.
5. On December 17, 2007, the Tamas matter was dismissed.
6. On January 9, 2008, Respondent filed a motion to Vacate Dismissal, assuming all responsibility for the dismissal of the Tamas matter.

7. Between January 2008 and December 2008, Tamas repeatedly requested that Respondent return his client file.
8. Subsequent to April 2009, Respondent returned a portion of Tamas' client file.

#### CONCLUSIONS OF LAW

9. By failing to respond to the defendants' motions to compel discovery on behalf of Tamas for at least one year, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).
10. By failing to inform Tamas of the discovery motions propounded by the defendants, Respondent willfully failed to keep his client reasonably informed of significant developments in a matter in which he had agreed to provide legal services, in violation of Business and Professions Code section 6068(m).
11. By waiting over a year to return a portion of the client file to Tamas, Respondent willfully failed to promptly release to the client, at his request, all the client files and property, in violation of Rules of Professional Conduct, rule 3-700(D)(1).

#### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(6), was October 6, 2009.

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In the Matter of Bryan Thomas Castorina	Case number(s): 08-O-12305
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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 and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, this Stipulation will be filed and will become public. Upon Respondent's successful completion of or termination from the Program, the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Confidential Statement of Alternative Dispositions and Orders shall be imposed or recommended to the Supreme Court.

10-6-09  
Date

[Signature]  
Respondent's Signature

Bryan Thomas Castornia  
Print Name

Oct. 6, 2009  
Date

[Signature]  
Deputy Trial Counsel's Signature

\_\_\_\_\_  
Print Name  
Monique T. Miller  
Print Name

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In the Matter Of  
**Bryan Thomas Castorina**

Case Number(s):  
**08-O-12305**

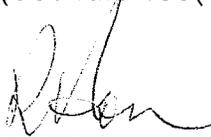
### ORDER

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 stipulation as to facts and conclusions of law is APPROVED.
- The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- 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; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 135(b) and 802(a), Rules of Procedure.)

1-7-10  
Date

  
Judge of the State Bar Court

**RICHARD A. HONN**

**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 Los Angeles, on January 11, 2010, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS AND CONCLUSIONS OF LAW**

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:

BRYAN T CASTORINA ESQ  
THOMAS CASTORINA & ASSOCIATES  
3500 OVERLAND AVE STE 110-102  
LOS ANGELES, CA 90034

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

Monique T. Miller, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 11, 2010.

  
\_\_\_\_\_  
Julieta E. Gonzales  
Case Administrator  
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 Los Angeles, on April 21, 2010, I deposited a true copy of the following document(s):

DECISION AND ORDER SEALING DOCUMENTS;  
STIPULATION RE FACTS AND CONCLUSIONS OF LAW, CASE NOS.  
02-C-1140-RAH; 04-C-10858-RAH;  
STIPULATION RE FACTS AND CONCLUSIONS OF LAW, CASE NO. 06-O-11089;  
and  
STIPULATION RE FACTS AND COCLUSIONS OF LAW, CASE NO. 08-O-12305

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

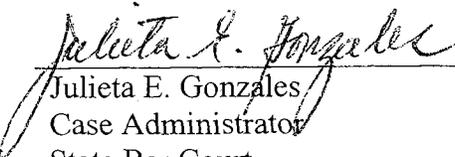
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

BRYAN T CASTORINA ESQ  
THOMAS CASTORINA & ASSOCIATES  
3520 OVERLAND AVE STE A-102  
LOS ANGELES, CA 90034

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

Monique T. Miller, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 21, 2010.

  
\_\_\_\_\_  
Julieta E. Gonzales  
Case Administrator  
State Bar Court