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State Bar Court of California
Hearing Department
San Francisco

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In Pro Per Respondent

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Bar # 182231

In the Matter Of:
Steven Roy Davis

Bar # 182231

A Member of the State Bar of California
(Respondent)

Case Number (s)

08-O-12846;
09-O-10411;
09-O-11029;
09-O-12138;
09-O-15950; and
09-O-16771-PEM

(for Court's use)

PUBLIC MATTER

FILED

AUG 12 2010

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

Submitted to: **Settlement Judge**

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

ACTUAL SUSPENSION

PREVIOUS STIPULATION REJECTED

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 6/04/96 .
- (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 21 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.)

Actual Suspension

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- (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 01-O-04739; 03-O-3535 (Cons.)
 - (b) Date prior discipline effective February 27, 2004
 - (c) Rules of Professional Conduct/ State Bar Act violations: Bus. & Prof. Code §§ 6068(m); 6068(i); & 6068(l)
 - (d) Degree of prior discipline public reproof with conditions including Ethics School within one year of effective date of reproof
 - (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. See "Aggravating Circumstances."
- (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 "Aggravating Circumstances."
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct. See "Aggravating Circumstances."
- (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.

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

Actual Suspension

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- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. "See "Aggravating Circumstances."
- (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

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

Actual Suspension

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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 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 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 one year.

i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct

ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. and until Respondent does the following:

E. Additional Conditions of Probation:

(1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in 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:

(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:

- Substance Abuse Conditions
- Law Office Management Conditions
- Medical Conditions
- 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:**

Reports to Office of Probation

Respondent's duty to file timely reports with original signatures is non-delegatable. Facsimile transmission will not satisfy any reporting requirement. The Office of Probation does not have the authority to modify conditions of probation.

In the Matter of Steven Roy Davis A Member of the State Bar	Case number(s): 08-O-12846; 09-O-10411; 09-O-11029; 09-O-12138; 09-O-15950; 09-O-16771-PEM
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Financial Conditions

a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
Juan Ramirez	\$1,250	March 28, 2009
Delores Bock	\$4,000	April 2, 2008
Esmeralda Sims	\$2,300	August 1, 2008
Julia Arvizu	\$2,500	July 22, 2005

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than the due date for his final report to the Office of Probation.

b. Installment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

c. Client Funds Certificate

- 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
 - a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

(Financial Conditions form approved by SBC Executive Committee 10/16/2000. Revised 12/16/2004; 12/13/2006.)

S.R.D.

- b. Respondent has kept and maintained the following:
- i. A written ledger for each client on whose behalf funds are held that sets forth:
 1. the name of such client;
 2. the date, amount and source of all funds received on behalf of such client;
 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 4. the current balance for such client.
 - ii. a written journal for each client trust fund account that sets forth:
 1. the name of such account;
 2. the date, amount and client affected by each debit and credit; and,
 3. the current balance in such account.
 - iii. all bank statements and cancelled checks for each client trust account; and,
 - iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

- c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:
- i. each item of security and property held;
 - ii. the person on whose behalf the security or property is held;
 - iii. the date of receipt of the security or property;
 - iv. the date of distribution of the security or property; and,
 - v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

- Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

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ATTACHMENT TOSTIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Steven Roy Davis

CASE NUMBER: 08-O-12846; 09-O-10411; 09-O-11029; 09-O-12138;
09-O-15950; and 09-O-16771-PEM

DISMISSALS

The parties respectfully request the Court to dismiss the following charges in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
09-O-10411-PEM	Seven	Bus. & Prof. Code §6106 (moral turpitude)

VARIANCE BETWEEN THE NDC AND STIPULATION

Any variance between the language of the Notice Disciplinary Charges filed May 7, 2010, and the language of this Stipulation is waived.

FACTS AND CONCLUSIONS OF LAW

Respondent admits that the following facts are true and that he is culpable of the violations set forth below:

08-O-12846 (Complaint of Juan Ramirez) – Counts One, Two, Three, and FourFacts

1. On February 1, 2006, Juan Ramirez ("Ramirez") hired respondent to represent him in his divorce proceedings. Ramirez paid respondent the sum of \$2,500 on February 1, 2006, and an additional \$1,000 on August 7, 2007. On February 1, 2006, respondent and Ramirez executed an attorney-client fee agreement which provided for \$250 per hour. The attorney-client fee agreement did not specify that respondent could avail himself of the assistance of other counsel.

2. On March 6, 2006, respondent filed a Petition for Dissolution of Marriage on Ramirez's behalf, entitled *Juan Ramirez vs. Elma Ramirez*, San Joaquin Superior Court case no. FL344953. Elma Ramirez filed a Response on October 4, 2006.

3. In July 2007, respondent sent Ramirez a billing which indicated that Ramirez had a positive balance in the sum of \$275. The last charge noted on the bill was for \$312 for activity on May 22, 2007.

4. On October 15, 2007, the Court set the matter for trial for February 19, 2008.

5. On the morning of February 19, 2008 (the day of the dissolution trial) Ramirez called respondent's office to confirm the time of the court appearance. Respondent did not, at that time, or at

any other time, advise Ramirez that he, respondent, would not be attending the trial, but was sending another attorney instead. Respondent had at no time obtained Ramirez' consent to obtain additional counsel to appear at Ramirez' dissolution trial.

6. On February 19, 2008, respondent did not appear at Ramirez' dissolution trial. Attorney Steven Sievers appeared on respondent's behalf as a "special appearance" counsel. The Court issued a minute order granting a Judgment of Dissolution upon grounds of irreconcilable differences.

7. Ramirez telephoned respondent on February 21, 2008, and left a message for respondent seeking the status of his divorce and to find out whether or not the dissolution paperwork had been completed.

8. Respondent received Ramirez' February 21, 2008 message, and did not respond to it in any way, nor did he apprise Ramirez of the status of Ramirez' dissolution.

9. On April 1, 2008, April 3, 2008, April 4, 2008, April 16, 2008, and April 29, 2008, Ramirez telephoned respondent and left messages for respondent requesting a return telephone call regarding the status of his dissolution, and, specifically, whether his paperwork had been completed.

10. Respondent received all of Ramirez' telephone messages and did not return any of Ramirez' calls.

11. After February 19, 2008, respondent took no action on Ramirez' dissolution. Respondent failed to complete the final paperwork for the dissolution. Respondent, in effect, terminated his employment as of February 19, 2008.

12. On March 28, 2009, respondent sent Ramirez a bill indicating that Ramirez had a positive balance of \$1,250. The last activity noted was a letter to the client on December 11, 2007, for which Ramirez was debited \$25. The cover letter accompanying the bill to Ramirez stated that Ramirez had a positive balance of \$250, and that respondent requested an additional \$1,000 to prepare "default" papers.

13. On March 30, 2009, Ramirez submitted a substitution of attorney form to the Court which Ramirez had prepared himself. Ramirez substituted into the case in pro per. Respondent signed the substitution of attorney.

14. After obtaining assistance from a non-attorney documents preparer, Ramirez completed the Notice of Entry of Judgment himself, and submitted it to the Court on April 16, 2009.

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15. As stated above, respondent took no action on behalf of Ramirez after February 19, 2008, and has not refunded to Ramirez unearned fees in the amount of \$1,250.

Conclusions of Law

1. By not completing Ramirez' dissolution, respondent recklessly failed to perform with competence in wilful violation of rule 3-110(A), Rules of Professional Conduct.

2. By not even notifying Ramirez that Sievers would represent Ramirez at Ramirez' dissolution trial, respondent failed to keep the client informed of a significant development in a matter in which he agreed to perform legal services, in wilful violation of Business and Professions Code section 6068(m).

3. By not responding to Ramirez' numerous phone messages of February and April, 2008, respondent failed to respond to the reasonable status inquiries of a client in a matter in which respondent agreed to provide legal services in violation of Business and Professions Code section 6068(m).

4. By not taking action after February 19, 2008, to conclude the dissolution, and by not preparing and tendering a substitution of counsel to Ramirez, respondent failed, upon termination of his services, to take reasonable steps to avoid reasonably foreseeable prejudice to Ramirez in wilful violation of rule 3-700(A)(2), Rules of Professional Conduct.

5. By not making any refund to Ramirez, respondent failed upon termination to refund promptly fees paid in advance that had not been earned in wilful violation of rule 3-700(D)(2), Rules of Professional Conduct.

09-O-10411 – Counts Five, Six, Eight, and Nine

1. On June 4, 2007, Mother¹ hired respondent to bring an action to establish the paternity of her minor child, "Junior." Prior to Junior's birth, Junior's father, "Senior," died in an accident. The surviving spouse of Senior, "C.B.", objected to DNA testing to establish paternity.

2. On June 4, 2007, Mother's mother, "Grandmother" paid respondent the sum of \$1,500 to represent Mother. On June 18, 2007, Mother and/or Grandmother paid respondent \$320 for the filing fee, \$200 on June 26, 2007 for blood testing, and, on March 26, 2008, \$600 for documents for trial.

¹ As this matter involves a paternity action, pseudonyms are used to protect the confidentiality of the parties.

3. On June 8, 2007, Mother executed an attorney-client fee agreement with respondent which provided for \$250 per hour. Respondent's fee agreement was with Mother, not Grandmother. At no time did respondent obtain Mother's informed written consent for Grandmother to pay his fees.

4. On June 15, 2007, respondent filed a Petition to Establish Parental Relationship and Survivor's benefits for Junior.

5. On June 18, 2007, the court issued a written order requiring C.B. to allow DNA testing from the remains of her deceased husband, Senior.

6. On July 20, 2007, DDC DNA Diagnostics Center conducted the court-ordered testing.

7. On July 24, 2007, the court held a hearing in the matter at which both respondent and Mother were present in court. During the July 24, 2007 hearing, the Court set the matter for trial for April 9, 2008.

8. On July 26, 2007, DDC DNA Diagnostics Center issued a report, indicating, in part: "[B]ased on testing results obtained from analyses of the DNA loci listed, the probability of paternity is 99.999999%"

9. On March 28, 2008, Mother filed a substitution of attorney substituting herself into the case in pro per. Respondent signed the substitution of attorney. Respondent retained Mother's file and advised her to re-contact him if she wished to re-hire him.

10. Thereafter, also on March 28, 2008, Mother attended a settlement conference in pro per. The case did not settle and the Court confirmed trial for April 9, 2008.

11. On April 2, 2008, Mother and Grandmother met with respondent and Mother re-hired respondent to represent her at trial. Grandmother paid respondent the sum of \$2,000 by way of check for the representation. Mother and Grandmother discussed the upcoming trial with respondent.

12. On April 8, 2008, the day before trial, respondent's office staff telephoned Mother and Grandmother at about 3:30 p.m. and left messages that respondent was ill and the trial was postponed.

13. On the morning of April 9, 2008, the day of trial, Mother and Grandmother telephoned respondent's office to confirm the telephone message they had received from respondent's office staff. At that time, respondent's staff, on behalf of respondent, advised Mother and Grandmother that

everyone had been notified, that trial was not going forward, and that Mother and Grandmother did not need to attend the scheduled court appearance. In fact, the trial had not been postponed.

14. On April 9, 2008, the court conducted a trial on Mother's petition. Neither respondent, nor Mother attended the trial.

15. Also on April 9, 2008, the court issued a written order finding that Senior was not the father of Junior, and set the matter for further proceedings on June 20, 2008.

16. On June 20, 2008, respondent appeared on behalf of Mother at the hearing. Respondent advised the Court that he did not appear for trial because he thought he was off the case.

17. On August 1, 2008, Mother and Grandmother met with respondent, terminated his services, and demanded the refund of the \$2,000 paid to him on April 2, 2008. Mother also requested her client file.

18. In mid-August 2008, Mother went to respondent's office and obtained her client file. At that time, respondent told Mother that he had mailed a check for the refund.

19. On August 27, 2008, the Court entered Judgment on its April 9, 2008 order.

20. Also on August 27, 2008, Mother, in pro per again, moved the Court to set aside its April 9, 2008 Order.

21. In September 2008, Grandmother saw respondent at the courthouse. Grandmother asked respondent about the refund check. Respondent advised Grandmother that he would check his mail to see if the check had been returned to him.

22. On November 13, 2008, the Court issued an order denying Mother's August 27, 2008 motion to set aside the April 9, 2009 Order. The Court found Mother's petition to be untimely under Code of Civil Procedure section 659, and her declaration vague regarding respondent's misconduct.

23. Respondent did not earn the \$3,500 paid to him by Grandmother because respondent did not appear for trial and because he did not appear at trial, the services he performed before April 9, 2010, were only preliminary in nature and of no value to Mother. The \$3,500 is due and payable as a refund of unearned fees. Neither Mother, nor Grandmother, ever received any refund from respondent.

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Conclusions of Law

1. By not appearing at trial on April 9, 2008, and by advising, or causing his clients to be advised not to appear, respondent recklessly failed to perform with competence in wilful violation of rule 3-110(A), Rules of Professional Conduct.

2. By advising Mother and Grandmother not to go to court on April 9, 2008, and by denying that the trial was, in fact, going forward on April 8, 2008, respondent failed to keep his clients reasonably informed of a significant development in a matter in which he agreed to provide legal services in violation of Business and Professions Code section 6068(m).

3. By not refunding the \$3,500 paid by Grandmother for his representation of Mother, and respondent's subsequent failure to appear at trial, respondent failed to refund promptly any part of a fee paid in advance that was not earned in wilful violation of rule 3-700(D)(2), Rules of Professional Conduct.

4. By accepting compensation for representing Mother from Grandmother without obtaining Mother's informed written consent, respondent wilfully violated rule 3-310(F)(3), Rules of Professional Conduct.

09-O-11029 (Complaint of Arthur Zimmerman) – Count Ten

Facts

1. On June 2, 2008, Arthur Zimmerman ("Zimmerman") hired respondent to contest the tentative statement of decision that he received in Zimmerman's in *Arthur Zimmerman vs. Sharon Zimmerman*, case no. 402417, filed in the Superior Court, County of Stanislaus, and to address the remaining outstanding issues. Respondent entered an appearance in the case on June 3, 2008, and filed a Notice of Objection. However, the Court issued its Statement of Decision on June 5, 2008.

2. On October 2, 2008, the Court issued a Notice of Entry of Judgment/Judgment of Dissolution in the matter. On that same date, the Court clerk duly served respondent with the Notice of Entry of Judgment/Judgment of Dissolution by mail.

3. Respondent received a copy of the Notice of Entry of Judgment/Judgment of Dissolution in the matter.

4. Respondent failed to provide his client with a copy of the Notice of Entry of Judgment/Judgment of Dissolution.

5. On October 22, 2008, respondent appeared with Zimmerman at a hearing on the remaining outstanding issues.

6. On October 22, 2008, the Court issued a Tentative Statement of Decision on Reserve Issues. On or about October 31, 2008, the Court clerk duly served respondent, by mail, with a copy of the Tentative Statement of Decision. Respondent received the Tentative Statement of Decision and was aware of its contents.

7. Respondent failed to provide his client with a copy of the Tentative Statement of Decision.

8. Commencing after the hearing on October 22, 2008, until about February 2, 2009, Zimmerman made numerous phone calls to respondent and left messages for respondent requesting the status of his matter.

9. Respondent received Zimmerman's telephone messages, but did not respond to them.

10. On December 31, 2008, Sharon Zimmerman obtained a Writ of Execution against Zimmerman in the sum of \$314,998.50. This was not served on respondent, nor Zimmerman. Zimmerman was caught by surprise by Sharon Zimmerman's enforcement actions because he had not received a copy of the Notice of Entry of Judgment/Judgment of Dissolution or the Tentative Statement of Decision.

Conclusions of Law

1. By not providing Zimmerman with a copy of the Notice of Entry of Judgment/Judgment of Dissolution or the Tentative Statement of Decision, respondent failed to keep a client reasonably informed of significant developments in a matter in which he had agreed to provide legal services in wilful violation of Business and Professions Code section 6068(m).

2. By not responding to Zimmerman's numerous telephone messages left between October 22, 2008, and February 2, 2009, respondent failed to respond to the reasonable status inquiries of a client in a matter in which he agreed to perform legal services in wilful violation of Business and Professions Code section 6068(m).

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09-O-16771 (Complaint of Matthew Goodrich) – Counts Eleven and Twelve**Facts**

1. On July 14, 2008, Matthew Goodrich ("Goodrich") hired respondent to represent him in *Lori Goodrich vs. Matthew Goodrich*, case no. FL356081, filed in the Superior Court for the County of San Joaquin. Goodrich paid respondent the sum of \$3,320 for representation.

3. On August 18, 2008, respondent filed a Response and Request for Dissolution, Income and Expense Affidavit and Declaration under UCCJEA, and a Community and Quasi Community Property Declaration on behalf of Goodrich.

4. Thereafter, respondent took no further action on behalf of Goodrich.

5. On November 25, 2008, Lori Goodrich filed a Notice of Motion for Modification of Child Custody, Child Support, and Visitation ("Motion") with a hearing date set for January 6, 2009.

6. Respondent took no action to respond to the Motion.

7. Thereafter, in or about December 2008, Goodrich hired attorney Dianne Drew Butler ("Butler") to respond to the Motion and to conclude his dissolution proceedings. On December 31, 2008, Butler filed a response to the Motion.

8. In or about February 2009, respondent executed a substitution of attorney, substituting out of the case.

9. Respondent did not earn the \$3,320 in fees. Other than filing the initial response with supporting documentation, respondent took no action on the case.

10. On February 9, 2009, Goodrich wrote and mailed a letter to respondent, demanding a refund of the unearned fees.

11. Respondent received the letter and did not refund any fees to Goodrich until in or about April 2010, when he refunded \$2,150 to Goodrich. Respondent did not account for any fees that he retained.

Conclusions of Law

1. By not taking any action on behalf of Goodrich between August 19, 2008, and December, 2008, a period of four months, respondent recklessly failed to perform with competence in wilful violation of rule 3-110(A), Rules of Professional Conduct.



2. By not refunding Goodrich the \$2,150 in unearned fees for 20 months (August 2008 until April 2010), respondent failed to promptly refund a fee paid in advance that had not been earned, in wilful violation of rule 3-700(D)(2), Rules of Professional Conduct.

09-O-15950 (Complaint of Esmeralda Sims) – Count Thirteen

Facts

1. On August 1, 2008, Esmeralda Sims ("Sims") hired respondent to file a bankruptcy petition for her in an effort to forestall the eminent foreclosure of her home. Sims paid respondent \$2,300.

2. On October 15, 2008, Sims terminated respondent's services because no bankruptcy petition had been filed. Sims appeared in respondent's office on October 15, 2008, and notified respondent through his office staff, including, but not limited to Suzanne Allen aka Suzanne Lewallen, that she was terminating respondent's services. Sims also sent respondent an e-mail terminating him.

3. Thereafter, on October 25, 2008, Sims re-sent the October 15, 2008 e-mail to respondent, and requested a full refund of the \$2,300 that she had paid him. Sims also sent a copy of her e-mail to respondent by certified mail.

4. Respondent received notice that Sims advised his staff on October 15, 2008 that she had terminated him and respondent received Sims' October 25, 2008 e-mail. Respondent failed to respond to Sims' October 25, 2008 e-mail.

On February 17, 2009, Sims re-sent her October 25, 2008 e-mail to respondent, and sent respondent a certified letter of the same, terminating his services and requesting a full refund.

5. Respondent received Sims' February 17, 2009 e-mail and the certified letter.

6. On February 17, 2009, respondent's staff member, Suzanne Allen aka Suzanne Lewallen, sent Sims an e-mail, advising that "Steven Davis will be responding via certified mail." Thereafter, respondent failed to otherwise respond or refund the \$2,300 to Sims.

7. Respondent did not earn the \$2,300 in fees. Respondent did not file a bankruptcy on Sims' behalf. Any actions by respondent were preliminary in nature and provided no benefit to Sims.

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Conclusion of Law

1. By not refunding \$2,300 to Sims, respondent failed, upon termination of his services, to refund promptly any part of a fee paid in advance that was not been earned in wilful violation of rule 3-700(D)(2), Rules of Professional Conduct.

09-O-12138 (Complaint of Julia Arvizu) – Count FourteenFacts

1. On July, 22, 2005, Julia Arvizu (“Arvizu”) hired respondent to bring suit on her behalf against a realtor. Arvizu paid respondent the sum of \$2,500.

2. Respondent conducted some preliminary research and investigation on Arvizu’s behalf, but did not file suit on her behalf, nor explain to her the results of his investigation.

3. On August 6, 2008, August 12, 2008, August 25, 2008, September 9, 2008, September 17, 2008, September 25, 2008, October 22, 2008, and November 12, 2008, Arvizu telephoned respondent and left messages seeking the status of her case.

4. Respondent received all of Arvizu’s messages and failed to provide Arvizu with any substantive information regarding her case.

5. On October 22, 2008, respondent told Arvizu that he would send her a letter describing her options. In fact, respondent never sent such a letter.

6. On November 12, 2008, Arvizu again spoke to respondent, and advised him that she never received the letter. Respondent advised Arvizu that he would call her back.

7. Respondent failed to call Arvizu after November 12, 2008.

Conclusion of Law

1. By not providing any substantive information to Arvizu between August 6, 2008, and November 12, 2008, a period of three months, respondent failed to respond to a client’s reasonable status inquiries in a matter in which he agreed to perform legal services in violation of Business and Professions Code section 6068(m).

PENDING PROCEEDINGS

The disclosure date referred to, on page 2, paragraph A(6), was July 28, 2010.

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COSTS OF DISCIPLINARY PROCEEDINGS

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of July 28, 2010, the prosecution costs in this matter are approximately \$5,686. 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.

AUTHORITIES SUPPORTING DISCIPLINE

Standards for Attorney Sanctions for Professional Misconduct

1.7(a)

Respondent has prior discipline of a 2004 public reproof with conditions, including Ethics School. The misconduct was not minimal in severity. Thus, his current discipline should be greater than a public reproof.

2.4

Respondent wilfully failed to perform services in several clients matters demonstrating a pattern of misconduct/wilfully failing to communicate with clients which should result in suspension, given his prior discipline.

2.6

Respondent is stipulating to six counts of violation of Business and Professions Code section 6068(m) which should result in disbarment or suspension. One client, "Mother," was seriously harmed by his failure to keep her reasonably informed of significant developments in her case.

2.10

Respondent is stipulating to one violation of rule 3-310(F), and several violations of rule 3-700(D)(2), which are not otherwise specified in the Standards. Thus, respondent should be suspended, given his prior public reproof.

Case Law

In the Matter of Brockway (Review Dept. 2006) 4 State Bar Ct. Rptr. 944, 961 -- "Generally, where four to six clients have been abandoned or suffered from incompetent representation, the discipline has included an actual suspension of two years. (cf. *Martin v. State Bar* (1978) 20 Cal.3d 717 [six instances of abandonment resulting in one year actual suspension].) [two-year and until proof of rehabilitation suspension]

Lister v. State Bar (1990) 51 Cal.3d 1117 – failed to perform legal services and communicate with two clients, with the loss of one client's cause of action, failure to return files, harm to clients; prior minor, remote-in-time reproof [nine-month suspension]

In the Matter of Peterson (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 73 – in three client matters the attorney failed to perform and improperly withdrew, and failed to cooperate with the State Bar investigation; default; no priors over six years of practice not considered mitigating [one-year suspension]

FACT SUPPORTING AGGRAVATING CIRCUMSTANCES

Dishonesty

09-O-10411

Through his staff, respondent advised his client, Mother, that trial in her case had been postponed due to his illness. Thereafter, respondent advised the court that he had not appeared for trial because he thought he was off the case.

Harm**09-O-10411**

Mother lost her opportunity to have her son's paternity determined by the court despite strong DNA evidence and her pro per efforts to set aside the court's ruling against her.

09-O-15950

Sims never obtained the bankruptcy protection she sought and she lost her home to foreclosure.

Indifference

To date, respondent has not made any restitution to Ramirez (08-O-12846), Grandmother (09-O-10411), Sims (09-O-15950), or Arvizu (09-O-12138).

MCLE CREDIT FOR STATE BAR ETHICS SCHOOL

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education ("MCLE") credit upon the satisfactory completion of State Bar Ethics School which may be credited toward the total MCLE hours required for all members.

RESTRICTIONS WHILE ON ACTUAL SUSPENSION

During the period of actual suspension, respondent shall not:

- Render legal consultation or advice to a client;
- Appear on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, commissioner, or hearing officer;
- Appear as a representative of a client at a deposition or other discovery matter;
- Negotiate or transact any matter for or on behalf of a client with third parties;
- Receive, disburse, or otherwise handle a client's funds; or
- Engage in other activities which constitute the practice of law.

Respondent shall declare under penalty of perjury that he has complied with this provision in any quarterly report required to be filed with the Office of Probation, pertaining to periods in which the respondent was actually suspended from the practice of law.

WAIVER OF REFERRAL TO STATE BAR COURT PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE AND/OR MENTAL HEALTH CONDITIONS

In signing this stipulation, respondent hereby acknowledges that the State Bar Court's separate program for respondents with substance abuse or mental health conditions has been fully explained to him, that he has had an opportunity to request to be considered for that program, and that he has specifically waived any such consideration.



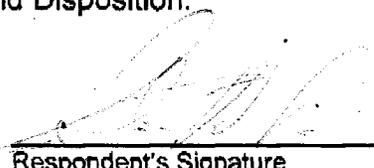
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In the Matter of Steven Roy Davis	Case number(s): 08-O-12846; 09-O-10411; 09-O-11029 ; 09-O-12138; 09-O-15950; and 09-O-16771-PEM
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SIGNATURE OF THE PARTIES

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

1/30/2010
Date


Respondent's Signature

Steven Roy Davis
Print Name

8/2/10
Date

Sherrie B. McLetchie
Deputy Trial Counsel's Signature

Sherrie B. McLetchie
Print Name



(Do not write above this line.)

In the Matter Of Steven Roy Davis	Case Number(s): 08-O-12846; 09-O-10411; 09-O-11029 ; 09-O-12138; 09-O-15950; and 09-O-16771-PEM
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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.)**

Aug. 12, 2010
Date

[Signature]
Judge of the State Bar Court

LUCY ARMENDARIZ

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

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 August 12, 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:

**STEVEN R. DAVIS
PO BOX 579478
MODESTO, CA 95357**

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

SHERRIE B. McLETCHEE, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 12, 2010.



Bernadette C.O. Molina
Case Administrator
State Bar Court