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STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

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| In the Matter of | ) | **Case No.: 13-O-16289-DFM** |
| | ) | |
| **MICHAEL ANTHONY LOTTA,** | ) | |
| | ) | **DECISION** |
| **Member No. 94301,** | ) | |
| | ) | |
| A Member of the State Bar. | ) | |

## INTRODUCTION

Respondent Michael Anthony Lotta (Respondent) is charged here with two counts of misconduct, involving a single client matter. It is alleged that Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct[1] (failure to competently perform legal services) and section 6068, subdivision (m) (failing to communicate significant developments). The court finds culpability and recommends discipline as set forth below.

## PERTINENT PROCEDURAL HISTORY

The Office of the Chief Trial Counsel of the State Bar of California (State Bar) initiated this proceeding by filing a Notice of Disciplinary Charges (NDC) on August 21, 2014, in case No. 13-O-16289. On September 18, 2014, Respondent filed a response to the NDC.

The case proceeded to trial on December 4, 2014. That same day the parties filed a partial stipulation of facts and admission of documents. The State Bar was represented by Senior

[1] Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.



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Trial Counsel Anthony Garcia and Deputy Trial Counsel Ann Kim. Respondent was represented by attorney David Clare. Following two days of trial, this matter was submitted on December 5, 2014. The parties filed closing trial briefs on December 23, 2014.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

The following findings of fact are based on the parties' stipulation and the documentary and testimonial evidence admitted at trial.

**Jurisdiction**

Respondent was admitted to the practice of law in California on December 16, 1980, and has been a member of the State Bar at all relevant times.

**Case No. 13-O-16289**

On August 27, 2011, Jeanice Smiley (Smiley) employed Respondent to sue Rite Aid, Smiley's former employer, in a matter involving alleged racial discrimination, harassment, and wrongful termination. Respondent had previously assisted Smiley in filing a Fair Housing and Employment Act claim in order to secure a right to sue letter. At the time that Respondent prepared the claim, he had inquired of Smiley about the basis for her claims of discrimination and retaliation, and he had formed the opinion that she did not have a factual basis for the claims.

On June 8, 2012, despite his tentative opinion regarding the merits of the case, Respondent filed a lawsuit against Rite Aid on behalf of Smiley and another Rite Aid employee. After demurrers were successfully filed by Rite Aid, Respondent filed a first amended complaint on June 13, 2012, and a second amended complaint on October 15, 2012.

Rite Aid eventually filed an answer to the second amended complaint on November 19, 2012. At the same time, it served form interrogatories, special interrogatories, and requests for production of documents on Respondent as Smiley's counsel. On November 21, 2012, Respondent sent the discovery requests to Smiley and asked her to "answer completely" and then

return the discovery requests. Smiley put together written responses to the discovery requests, which she mailed to Respondent on December 12, 2012. At the request of Respondent's office, she then met with Respondent to provide an explanation of the information she had provided. Respondent requested, and Rite Aid granted, three extensions for him to serve responses to this discovery, extending the response deadline to January 28, 2013.

On January 10, 2013, Respondent sent a letter to Smiley, informing her of the scheduled trial date in June 2013. On January 17, 2013, Respondent sent a new letter to Smiley, informing her that her trial date was changed to August 2013. On January 21, 2013, Respondent sent a letter to Smiley, informing her that her deposition was scheduled for March 20, 2013.

On or about February 1, 2013, Respondent's office prepared a draft response to the discovery requests and sent it to Smiley with a verification to complete and return. Smiley completed the verification and returned it to Respondent, understanding that he was going to file the responses.

Respondent did not believe the answers in the response were sufficient to put forth valid claims for discrimination and retaliation. While he was encouraging Smiley to provide additional information, additional information was not forthcoming. As a result, rather than providing discovery responses showing the weakness of his client's case, Respondent decided not to file any responses at all. He viewed that decision as being in his client's best interest, but did not discuss it with his client.

On February 6, 2013, Rite Aid sent a letter to Respondent, informing him that Smiley had waived all objections to the discovery requests and requesting a response to the pending discovery by February 11, 2013, to avoid a motion to compel. Respondent did not respond to Rite Aid's letter.

Respondent's decision not to file discovery responses predictably resulted in a motion to compel being filed by Rite Aid on February 19, 2013. Respondent did not inform Smiley that the motion to compel had been filed. Since there was no basis for Respondent to oppose the motion, he did not do so.

During this same period of time, Rite Aid was seeking Smiley's deposition. Her deposition was taken on March 20, 2013. Both during and after the deposition, Respondent expressed to Smiley his unhappiness with her deposition responses, which reaffirmed his long-standing opinion that there was no factual basis for her allegations of discrimination and retaliation, and he again asked her to provide any additional factual information supporting her contentions. She did not provide any. In the interim, Respondent took no steps to respond to the growing discovery problem.

The hearing on the uncontested motion to compel took place on March 21, 2013. Respondent sent an appearance attorney to the hearing, rather than attend it himself. This attorney blamed Smiley for the failure to file timely responses, resulting in the court issuing a March 21, 2013 order mandating that responses be filed by Smiley by April 10, 2013, and requiring her (and not Respondent) to pay $250 as sanctions for her prior failure to file responses.

On March 27, 2013, Respondent notified Smiley of her obligation to pay the $250 in sanctions, but did not explain to her accurately the reason for the sanctions or why the unopposed motion to compel had been granted. Instead, he indicated that the sanctions resulted from <u>her</u> failure to file timely responses to the discovery requests, rather than from his strategic decision not to do so. Also, Respondent did not tell her that the court had now ordered <u>her</u> to provide answers to the discovery responses by April 10, 2013.

On May 9, 2013, Rite Aid filed a motion for summary judgment. Respondent forwarded the motion to Smiley and sought her assistance in responding to it. Once again, Smiley was personally unable to provide any additional factual information that would support her claims. At the same time, Smiley continued to believe that she had been discriminated and retaliated against and wanted Respondent to move her case forward. Rather than filing an opposition to the summary judgment motion, filing a motion to withdraw from the case, or filing a request to seek additional discovery in the matter, Respondent, without the knowledge or consent of his client, merely allowed the summary judgment motion to go forward unopposed. In making this decision, he did not consult with Smiley.

A mediation of the case had originally been scheduled for early April 2013, but was delayed until May 24, 2013. Respondent had hoped to be able to salvage a settlement of the case at that time and secured a settlement offer from Rite Aid of $10,000.[2] Although he recommended that Smiley accept the offer, she elected not to do so, believing that her case was worth more than that amount.

Although the court had ordered Smiley to file discovery responses on or before April 10, 2013, Respondent again elected to allow his client to ostensibly ignore that obligation, rather than disclose the weaknesses he perceived in her case. When the court's discovery order was eventually violated, Rite Aid foreseeably filed a motion for terminating sanctions on June 6, 2013. Notwithstanding that motion, Respondent maintained his strategy of not filing responsive discovery responses, hoping that the strategy would allow him an opportunity to get the case settled prior to its weakness being disclosed. Respondent also elected not to file any opposition to the motion for terminating sanctions. Once again, he did not consult with his client in making

[2] It is unclear whether the $10,000 settlement offer was for both named plaintiffs in the case or only Smiley.

these decisions. Nor did he even inform her of the pendency of the motion for terminating sanctions.

On July 2, 2013, the court granted Rite Aid's motion for summary judgment. On August 1, 2013, the court entered judgment in favor of Rite Aid and awarded costs to Rite Aid, in the amount of $3,270.63.

**Count One - Rule 3-110(A) [Failure to Perform Legal Services with Competence]**

Rule 3-110(A) provides that an attorney must not intentionally, recklessly, or repeatedly fail to perform legal services with competence.

In this matter, Respondent decided, without the knowledge or consent of his client, not to provide discovery responses. He continued this strategy of ignoring the discovery requests, hoping that he would be able to secure a small settlement of the matter. Respondent's strategy was unauthorized and poorly conceived. And when Rite Aid ultimately filed a motion for terminating sanctions, Respondent took no action to try to reduce the sanctions or to request that the sanctions be assessed more appropriately against himself. By these actions, Respondent willfully violated rule 3-110(A).

The State Bar also alleges that Respondent violated rule 3-110(A) by failing to respond to Rite Aid's motion to compel discovery responses. This allegation, however, was not supported by clear and convincing evidence. Respondent did not have reasonable grounds to oppose the motion to compel discovery responses, since it was based on Respondent's decision not to file discovery responses.

The State Bar further alleged that Respondent's failure to file an opposition to Rite Aid's motion for summary judgment constituted a violation of rule 3-110(A). The court disagrees. Smiley's deposition answers were accurate, but fatal. Smiley did not subsequently provide information to Respondent to alter her responses. In addition, she signed the deposition

transcript without changing her responses. While Respondent could possibly have argued that Smiley's answers were not fatal to the case or that there was need for additional discovery, the State Bar has not submitted sufficient evidence to show that such was the case.[3]

**Count Two - Section 6068, subd. (m) [Failure to Communicate]**

Section 6068, subdivision (m), provides that an attorney has a duty to respond promptly to reasonable status inquiries of clients and to keep clients reasonably informed of significant developments in matters with regard to which the attorney has agreed to provide legal services. The State Bar established that Respondent willfully violated section 6068, subdivision (m), by failing to keep Smiley reasonably informed regarding the following significant developments: (1) that Rite Aid filed a motion to compel on February 19, 2013; (2) that the superior court granted Rite Aid's motion to compel on March 21, 2013; and (3) that Rite Aid filed a motion for terminating sanctions on June 6, 2013.[4]

**Aggravating Circumstances**

The State Bar bears the burden of proving aggravating circumstances by clear and convincing evidence. (Rules Proc. of State Bar, Stds. for Atty. Sanctions for Prof. Misconduct,[5] std. 1.5.) The court finds the following with respect to aggravating circumstances.

**Prior Record of Discipline**

Respondent has a record of three prior disciplines.

On November 4, 2004, the California Supreme Court issued order no. S127210, suspending Respondent from the practice of law for two years, stayed, with three years' probation and 60 days' actual suspension. In that matter, Respondent stipulated to misconduct in

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[3] There is no allegation that Respondent abandoned his client or improperly failed to withdraw.
[4] The State Bar also alleged that Respondent failed to inform Smiley that Rite Aid filed a motion for summary judgment on May 9, 2013. The court does not find culpability on this allegation, as Respondent sent a copy of the motion for summary judgment to Smiley.
[5] All further references to standard(s) or std. are to this source.

eight[6] client matters, including failing to competently perform legal services (5 counts),[7] failing to promptly disburse client funds (2 counts), failing to account (1 count), failing to respond to client inquires (2 counts), failing to keep his client reasonably informed of significant developments (3 counts), failing to promptly release clients' files (5 counts), failing to communicate a settlement offer (1 count), failing to deposit client funds in trust (1 count), and failing to notify a client of the receipt of client funds (1 count). This misconduct occurred between April 1998 and November 2002. In aggravation, Respondent caused significant harm and committed multiple acts of misconduct. In mitigation, Respondent then had no prior record of discipline.

On March 23, 2006, the Supreme Court issued order no. S140348, suspending Respondent from the practice of law for a period of six months, stayed, with a one-year period of probation. In that matter, Respondent stipulated to a single count of failing to promptly disburse client funds. This misconduct occurred between November 2002 and August 2004. In aggravation, Respondent then had one prior record of discipline. In mitigation, Respondent displayed candor and cooperation with the State Bar.[8]

On September 4, 2014, the Supreme Court issued order no. S219308, suspending Respondent from the practice of law for two years, stayed, with three years' probation and actual suspension of a minimum of 90 days and until payment of restitution. In that matter, Respondent stipulated to entering improperly into an unfair/unreasonable business transaction with a client. This misconduct occurred in or about February 2008. In aggravation, Respondent

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[6] Originally, there were nine client matters, but all the counts in one client matter were dismissed by agreement of the parties.

[7] In one of these counts, Respondent's misconduct, among other things, included his failure to serve his client's discovery responses.

[8] In this stipulation, the parties were silent regarding the non-application of former standard 1.7(a). The court is left to speculate that former standard 1.7(a) was not applied because the misconduct in Respondent's first and second discipline overlapped slightly.

had two prior records of discipline. In mitigation, Respondent entered into a pretrial stipulation with the State Bar.

As discussed below, this history of prior discipline is a very significant aggravating factor. (Std. 1.5(a).)

**Multiple Acts of Misconduct**

Respondent's multiple acts of misconduct are an aggravating factor. (Std. 1.5(b).)

**Lack of Insight**

Respondent has demonstrated a persistent lack of insight. Respondent is insistent that he did nothing wrong, including allowing his client to ignore the court order that she provide discovery responses. Respondent's position is unsupported, misguided, and a significant aggravating factor. (Std. 1.5(g).)

**Significant Harm**

Respondent caused significant harm to his client and to Rite Aid. Due to Respondent's misconduct, Smiley is subject to an order requiring her to pay sanctions. In addition, she lost her case and is subject to an award of costs. Respondent's lack of opposition to Rite Aid's motions effectively deprived Smiley of her day in court. Further, Respondent's inaction also harmed Rite Aid, which was required to expend considerable money filing motions generated by Respondent's lack of diligence in pursuing the case or withdrawing. The significant harm caused by Respondent is also an aggravating factor. (Std. 1.5(f).)

**Mitigating Circumstances**

Respondent bears the burden of proving mitigating circumstances by clear and convincing evidence. (Std. 1.6.) The court finds the following with regard to mitigating circumstances.

**Cooperation**

Respondent entered into a partial stipulation to facts and admission of documents. Respondent's candor and cooperation with the State Bar warrant some consideration in mitigation. The weight given to that mitigating circumstance is reduced by the fact that Respondent did not admit culpability in the matter. (*In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 [where appropriate, more extensive weight in mitigation is accorded those who admit culpability as well as facts].)

**Character Evidence**

Respondent presented good character evidence from four individuals, including an attorney, a friend, the owner of a local restaurant, and an existing client. They demonstrated a clear understanding of the present misconduct and praised Respondent's integrity and abilities as an attorney. One of the witnesses also detailed some of Respondent's pro bono work.

The court finds that Respondent's four character witnesses represent a limited range of character witnesses. (See *In the Matter of Respondent K* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 335, 359.) Therefore, the court affords this good character evidence some, but not extensive, consideration in mitigation.

## DISCUSSION

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, preserve public confidence in the profession, and maintain the highest possible professional standards for attorneys. (Std. 1.3; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.) In determining the appropriate level of discipline, the court looks first to the standards for guidance. (*Drociak v. State Bar* (1991) 52 Cal.3d 1085, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.) Although the standards are

not binding, they are to be afforded great weight because "they promote the consistent and uniform application of disciplinary measures." (*In re Silverton* (2005) 36 Cal.4th 81, 91-92.)

Nevertheless, the court is not bound to follow the standards in talismanic fashion. As the final and independent arbiter of attorney discipline, the court is permitted to temper the letter of the law with considerations peculiar to the offense and the offender. (*In the Matter of Van Sickle* (2006) 4 Cal. State Bar Ct. Rptr. 980, 994; *Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222.) In addition, the court considers relevant decisional law for guidance. (See *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311; *In the Matter of Frazier* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676, 703.) Ultimately, in determining the appropriate level of discipline, each case must be decided on its own facts after a balanced consideration of all relevant factors. (*Connor v. State Bar* (1990) 50 Cal.3d 1047, 1059; *In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, 940.)

Standard 1.7(a) provides that, when two or more acts of misconduct are found in a single disciplinary proceeding and different sanctions are prescribed for those acts, the recommended sanction is to be the most severe of the different sanctions. In the present proceeding, the most severe sanction for Respondent's misconduct is found in standard 2.5, which provides that reproval is appropriate for failing to perform legal services or properly communicate in a single client matter.

Due to Respondent's prior record of discipline, the court also looks to standard 1.8 for guidance. Standard 1.8(b) states that when an attorney has two prior records of discipline, disbarment is appropriate in the following circumstances, unless the most compelling mitigation circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct: (1) actual suspension was ordered in any one of the prior disciplinary matters; (2) the prior disciplinary matters coupled with the current

record of discipline demonstrate a pattern of misconduct; or (3) the prior disciplinary matters coupled with the current record of discipline demonstrate the member's unwillingness or inability to conform to ethical responsibilities.

The State Bar recommends that Respondent be disbarred. Respondent, on the other hand, argues that, if found culpable, he should not serve a period of actual suspension.

While the present matter involves some repetition of offenses found in Respondent's first discipline, the court must examine the nature and chronology of the attorney's record of discipline. The mere fact that the attorney has three impositions of discipline, without further analysis, may not justify disbarment. (*In the Matter of Miller* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131, 136 [court did not apply former std. 1.7(b) where prior discipline given less weight because it was imposed after commencement of second disciplinary proceeding].) The misconduct in the present discipline occurred before Respondent's stipulation in his third discipline. The court therefore considers the totality of the findings in Respondent's present and third discipline to determine what the discipline would have been had all the charged misconduct in this period been brought as one case. (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 619.)

In determining the appropriate level of discipline, the court is guided by *Conroy v. State Bar* (1991) 53 Cal.3d 495. In *Conroy*, the attorney, who had been twice disciplined in the past,[9] was found culpable of misconduct in a single client matter. Said misconduct included failing to perform, failing to communicate, improper withdrawal, making misrepresentations to the client, and failing to cooperate with the State Bar. In aggravation, the Supreme Court noted the attorney's prior record of discipline and his failure to cooperate in the State Bar Court

[9] The attorney's prior disciplines resulted in a private reproval and a 60-day actual suspension. His second discipline involved his failure to comply with probationary conditions attached to his first discipline.

proceedings. No mitigating circumstances were found. The Supreme Court ordered that the attorney be suspended from the practice of law for five years, stayed, with five years' probation including a one-year period of actual suspension.

The present case centers on Respondent's decision that his client's case did not have sufficient merit to warrant his continued investment of time and money in it. While he had hoped to be able to salvage some value from the case by refusing to show his cards and obtaining some modest settlement during mediation, that strategy backfired when his client refused to accept the modest figure offered by the opposing side. Having maneuvered his client into a corner, Respondent did not to seek to save or withdraw from his client's case, so that she might seek another attorney. Instead, Respondent merely allowed the case to be resolved against her as a result of his lack of attention to it.

While the facts and circumstances involved in the present matter are less egregious than *Conroy*, which included misrepresentation, the court is concerned by the fact that Respondent's present discipline involves a more extensive record of prior discipline and a repetition of some of the misconduct found in his first discipline. That being said, the misconduct resulting in Respondent's first discipline occurred over a decade ago, between 1998 and 2002. There has been no comparable misconduct since. Respondent's most recent discipline was for a faulty loan, occurring in 2008.

Further, the court is concerned by the present aggravating factors. Particularly alarming is Respondent's lack of insight regarding the nature of his wrongdoing. This is especially worrisome in light of the harm Respondent caused and the fact that he has been previously disciplined for this same misconduct, i.e., failing to respond to discovery. Accordingly, the court finds that a level of discipline greater than *Conroy* is necessary to protect the public and preserve public confidence in the profession.

Therefore, the court recommends, among other things, that Respondent be suspended from the practice of law for three years, that execution of that period of suspension be stayed, and that he be placed on probation for four years, including a minimum period of actual suspension of two years and until Respondent provides proof to the State Bar Court of his rehabilitation, fitness to practice, and learning and ability in the general law.

## RECOMMENDATIONS

It is recommended that respondent **Michael Anthony Lotta**, State Bar Number 94301, be suspended from the practice of law in California for three years, that execution of that period of suspension be stayed, and that Respondent be placed on probation[10] for a period of four years subject to the following conditions:

1. Respondent Michael Anthony Lotta is suspended from the practice of law for a minimum of the first two years of probation, and will remain suspended until the following requirement is satisfied:

   i. Respondent must provide proof to the State Bar Court of his rehabilitation, fitness to practice, and learning and ability in the general law before his suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(i).)

2. Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of Respondent's probation.

3. Within 10 days of any change in the information required to be maintained on the membership records of the State Bar pursuant to Business and Professions Code section 6002.1, subdivision (a), including Respondent's current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, Respondent must report such change in writing to the Membership Records Office and the State Bar's Office of Probation.

4. 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 of the conditions of Respondent's probation during the preceding calendar quarter. In addition to all quarterly reports, a final report, containing the same information, is due no earlier

[10] The probation period will commence on the effective date of the Supreme Court order imposing discipline in this matter. (See Cal. Rules of Court, rule 9.18.)

than 20 days before the last day of the probation period and no later than the last day of the probation period.

5. Subject to the assertion of applicable privileges, Respondent must answer fully, promptly, and truthfully, any inquiries of the Office of Probation or any probation monitor that are directed to Respondent personally or in writing, relating to whether Respondent is complying or has complied with Respondent's probation conditions.

6. Within one year after the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar's Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending Ethics School. (Rules Proc. of State Bar, rule 3201.)

7. Within 30 days after 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.

At the expiration of the probation period, if Respondent has complied with all conditions of probation, Respondent will be relieved of the stayed suspension.

**California Rules of Court, Rule 9.20**

It is further recommended that Respondent be ordered to comply with the requirements of rule 9.20 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding. Failure to do so may result in disbarment or suspension.

**Multistate Professional Responsibility Examination**

It is not recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination, as he was recently ordered to do so, on September 4, 2014, by the Supreme Court in case no. S219308.

**Costs**

It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

Dated: February 17, 2015

DONALD F. MILES
Judge of the State Bar Court

## CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on February 17, 2015, I deposited a true copy of the following document(s):

**DECISION**

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:

**DAVID ALAN CLARE**
**DAVID A CLARE, ATTORNEY AT LAW**
**444 W OCEAN BLVD STE 800**
**LONG BEACH, CA 90802**

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

**ANTHONY GARCIA, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 17, 2015.

Tammy Cleaver
Case Administrator
State Bar Court