

Filed August 26, 2022

STATE BAR COURT OF CALIFORNIA
REVIEW DEPARTMENT

In the Matter of)	15-O-14870; SBC-20-O-00029
)	(Consolidated)
JEFFREY GRAY THOMAS,)	
)	OPINION AND ORDER
State Bar No. 83076.)	
_____)	

Jeffrey Gray Thomas was charged with ethical violations relating to his pursuit of unjust and frivolous actions in two superior court matters. A hearing judge found Thomas culpable on five counts of misconduct, including failing to obey a court order (two counts), failing to report judicial sanctions, threatening charges to gain an advantage in a civil suit, and maintaining unjust actions. The judge recommended Thomas be disbarred. Thomas appeals, asserting this matter should be dismissed due to constitutional violations and other errors by the judge. The Office of Chief Trial Counsel of the State Bar (OCTC) supports the judge’s decision.

Upon independent review of the record (Cal. Rules of Court, rule 9.12), we affirm the hearing judge’s culpability determinations and reject Thomas’s various constitutional arguments and collateral attacks. We also agree with the judge on discipline and recommend that Thomas be disbarred due to the seriousness of his multiple violations, the harm caused, and his inability to recognize the wrongfulness of his misconduct.

I. PROCEDURAL BACKGROUND

On September 2, 2016, OCTC filed a notice of disciplinary charges in State Bar Court No. 15-O-14870 (First NDC). That notice charged Thomas with (1) failure to obey a court order, in violation of Business and Professions Code section 6103,¹ and (2) failure to report judicial sanctions, in violation of section 6068, subdivision (o)(3). The matter was abated shortly thereafter while related civil proceedings ensued.

On January 21, 2020, OCTC filed a notice of disciplinary charges in SBC-20-O-00029 (Second NDC). That notice charged Thomas with (1) threatening charges to gain an advantage in a civil suit, in violation of the former Rules of Professional Conduct, rule 5-100(A);² (2) maintaining an unjust action, in violation of section 6068, subdivision (c); and (3) failure to obey a court order, in violation of section 6103.³

On February 24, 2020, the abatement was terminated in State Bar Court No. 15-O-14870. Both matters were abated in March and continued through June 29, 2020, due to the COVID-19 pandemic. On August 28, the matters were consolidated.

A three-day trial was held February 24 through 26, 2021.⁴ The parties filed closing briefs on March 15, and the hearing judge issued her decision on May 25. Thomas's request for review was filed on October 15.⁵ We heard oral argument on June 8, 2022.

¹ All further references to sections are to the Business and Professions Code unless otherwise noted.

² All further references to rules are to the California Rules of Professional Conduct that were in effect until November 1, 2018, unless otherwise noted.

³ Two other counts were alleged in the Second NDC. In the decision, the hearing judge granted OCTC's motion to dismiss those counts (two and five).

⁴ In a separate disciplinary case, Thomas was enrolled on August 22, 2020, as an inactive attorney pursuant to Business and Professions Code section 6007, subdivision (c)(2) (TE case). (SBC-20-TE-30411.)

⁵ Thomas's earlier requests for review, filed on June 18 and August 2, 2021, were vacated and dismissed, respectively.

II. FACTUAL BACKGROUND⁶

A. General Background

Thomas was admitted to practice law in California on November 29, 1978, and has been a licensed attorney at all times thereafter. The facts in this matter relate to litigation disputing the ownership of property at 1130 South Hope Street in Los Angeles (Property). Litigation concerning the Property began in 2003 when 1130 Hope Street Investment Associates, LLC (Hope Street) sued True Harmony, Inc. (True Harmony) to quiet title. In a 2009 judgment, a trial court found in favor of Hope Street and determined it was the “sole owner” of the Property. The judgment stated that, “True Harmony has not had any interest in the Property that could be transferred or encumbered since October 9, 2003.” True Harmony was enjoined from representing that it was the owner of the Property. In addition, the judgment stated that Ray Haiem, a donor to True Harmony, never had authority to act on Hope Street’s behalf. Instruments purporting to transfer interest in the Property to Haiem were void and had no effect. Subsequently, the Property was sold.

B. Thomas Begins His Representation of Haiem

On July 28, 2011, Hope Street filed an interpleader action against Solomon; Hope Park Lofts, LLC (HPL); True Harmony; Haiem; Perry; and others.⁷ (*Hope Street v. Solomon et al.* (Super. Ct. Los Angeles County, No. BC466413).) On October 6, Haiem filed a cross-complaint in propria persona, but did not serve the cross-defendants. That cross-complaint was later struck because Haiem did not serve it, despite several warnings he received from the court.

⁶ The facts are based on trial testimony, documentary evidence, and the hearing judge’s factual and credibility findings, which are entitled to great weight. (Rules Proc. of State Bar, rule 5.155(A).) The judge found the testimony of Hugh Gibson, Rosario Perry, and Norman Solomon to be highly credible.

⁷ According to the 2009 judgment, Perry was the sole manager of Hope Street and Solomon formed HPL.

In October 2012, Thomas substituted into the case as counsel for Haiem. Despite the court striking the cross-complaint, Thomas filed a motion on November 15 attempting to amend the stricken cross-complaint.⁸ On February 1, 2013, the court denied the motion as procedurally improper and legally baseless, as no cross-complaint existed. To the extent that Thomas’s motion could be construed as seeking to file an initial cross-complaint, the court denied it as the claims were barred by issue preclusion—the court had previously determined that Haiem had “no right to, interest in, or lien in the [P]roperty at all.” The court noted Thomas’s arguments were unsupported and “based solely on conjecture.” On March 29, the court denied Thomas’s motion for reconsideration of the February 1 order.

In February 2013, Haiem was dismissed from the interpleader action. On May 22, the court entered an order directing that the Property sale proceeds be distributed to HPL and Perry.

Meanwhile, on May 14, 2013, Thomas had filed a motion to vacate the stricken cross-complaint—over six months after it had been stricken. Hugh Gibson, opposing counsel for HPL and Solomon, wrote to Thomas pointing out the motion’s deficiencies as well as the court’s lack of jurisdiction to hear it. Thomas received Gibson’s letter but did not withdraw his motion. Gibson filed a motion for sanctions in August 2013. The motion for sanctions was put on hold pending Thomas’s appeal of the May 22 order, detailed *post*.⁹ On December 4, 2013, the superior court denied Thomas’s motion to vacate as untimely.

C. Thomas Appeals Interpleader Action

On July 22, 2013, Thomas filed a notice of appeal seeking review of the May 22 order directing distribution of the Property sale proceeds. At the time of the order, Haiem was no

⁸ On November 13, 2012, Thomas filed an ex parte application to amend the cross-complaint, which was denied the same day.

⁹ The motion for sanctions was granted in August 2016.

longer a party to the interpleader action. Therefore, on December 16, the appellate court dismissed the appeal for lack of standing.¹⁰

On January 31, 2014, Thomas filed another notice of appeal in the interpleader action seeking to appeal the February 1, March 29, May 22, and December 4, 2013 orders. Gibson tried to convince Thomas to restrict his appeal to only the December 4 order, as the others were untimely or duplicative of previously dismissed appeals. Thomas received Gibson's letters, but declined to limit his appeal. Thereafter, Gibson filed a motion to dismiss the appeal of the February 1 and May 22 orders,¹¹ which was granted on August 28, 2014.¹² (*Hope Street v. Solomon et al.* (Court of Appeal, Second Appellate District, No. B254143).) The appeal of the December 4, 2013 order continued. Gibson also filed a motion for sanctions against Thomas and Haiem to recover his client's expenses incurred in the appeal.

On April 27, 2015, the appellate court affirmed the trial court's December 4, 2013 ruling denying the motion to vacate. It also imposed sanctions against Thomas for filing a frivolous appeal. The appellate court found that Thomas's motion to vacate the dismissal of the cross-complaint was untimely. The court stated the time period for filing a motion to vacate was jurisdictional, noting Thomas failed "to cite even a single case to the contrary." The court also dismissed Thomas's argument that the deadline should have been extended by five days and noted Thomas did not present a colorable supporting argument.

Further, the court found Thomas's appeal was frivolous and intended to harass HPL and increase its litigation costs, describing Thomas's conduct as "unprofessional and at times

¹⁰ In the interpleader action, Thomas also filed a petition for writ relief, which was denied as untimely.

¹¹ Thomas opposed the motion, stating that Gibson's argument was "a fictive horse soon curried."

¹² In its April 27, 2015 decision, detailed *post*, the appellate court dismissed the appeal of the March 29, 2013 order as untimely.

outrageous.” The court described Thomas’s communications with Gibson as “gratuitous and unprofessional.”¹³ The court found Thomas’s conduct “even more egregious” as the appeal proceeded. Gibson tried to prepare an adequate record on appeal, but Thomas resisted, asserting he was not obligated to send an appendix and calling Gibson’s clients “crooks, thieves[,] charlatans and should be behind bars for the rest of their lives.” Thomas sent another email depicting Gibson’s “skills as an attorney at law to be noncompensable” based on a recent appellate court opinion. He stated, “Enjoy yourself, Mr. Gibson and don’t get in a family way before midnight.” (Capitalization omitted.) After Gibson pleaded with Thomas to keep his emotions in check, Thomas told Gibson that the work on this case was very difficult and “beyond your capabilities.” He added that he would “consider this request but you can rest assured that it will be given the proper priority not the rush doctors waiting room shrink wrapped in southern [C]alifornia plastic attention that you give to pleadings in this case. [¶] You really ought to see a psychiatrist immediately.” The appellate court found,

Thomas’s conduct, including his refusal to limit the scope of the appeal, his resistance to Gibson’s effort to prepare an adequate record on appeal, his threat to communicate to Gibson’s clients regarding alleged malpractice in a prior case, and his repeated gratuitous and unprofessional comments highlight the improper motives in prosecuting this appeal. Indeed, Thomas’s comments that he will only respond to a “settlement offer” and that work on the case “will increase exponentially” over time reveal Thomas’s intent to harass [HPL] and drive up its litigation costs in the hope of a settlement.

Finally, the appellate court stated Thomas’s appeal “indisputably has no merit.” The court found that Thomas failed to “cite even a single authority” supporting his positions and the cases he did cite “do not stand for the propositions he argues.” The court concluded the appeal was

¹³ The court noted that Thomas said only a “settlement offer” or “state bar letter” would get his attention, that Thomas was rejecting Gibson’s “purification efforts,” and that there were “consequences” from Gibson’s “client just hang[ing] around with the ‘lessee university’ crowd.”

“frivolous both because it is objectively devoid of merit and because it is subjectively prosecuted for an improper motive—to harass [HPL] and increase its litigation costs.”

Accordingly, the appellate court found significant sanctions were appropriate for the frivolous appeal. The court found a high “degree of objective frivolousness” and that the hours Gibson worked were “caused in large part by Thomas’s obstructive conduct.” The court ordered Thomas to pay \$58,650 in sanctions, individually, within 30 days from the date of the remittitur, which included \$48,650 for HPL’s attorney fees and \$10,000 to “discourage the type of inappropriate conduct displayed by Haiem and Thomas in this appeal.”

On May 12, 2015, Thomas filed a petition for rehearing, which was denied. The court then issued the remittitur on August 21. On October 30, Thomas filed a motion to recall the remittitur, which was denied on November 2. Thomas then unsuccessfully attempted to petition the California Supreme Court and the Supreme Court of the United States for review. He did not pay the sanctions and did not report them to the State Bar.

D. Superior Court Orders Sanctions in Interpleader Action

Because the remittitur had been issued, the superior court could now rule on Gibson’s motion for sanctions filed in August 2013. On August 24, 2016, the superior court granted that motion. (*Hope Street v. Solomon et al.* (Super. Ct. Los Angeles County, No. BC466413).) The court found that Thomas’s motion to vacate the dismissal of the cross-complaint was untimely and, when informed of this fact, Thomas refused to withdraw the motion, which justified sanctions under section 128.7 of the Code of Civil Procedure. The court stated,

[I]t is clear beyond a doubt that Mr. Thomas not only delayed far beyond a “reasonable time” in making his application for relief, not only pushed to the six month limit, but actually then pushed five days beyond that and now wants the court to rescue him and grant him [Code of Civil Procedure section] 473 relief even though more than the statutory six months have elapsed from the time of the order he now seeks to challenge. Mr. Thomas’s strategy of delay has backfired on him.

The court further found that Thomas's arguments were "without any legal or factual basis," that he pursued the motion "after having been expressly warned that said motion was without merit and should be dismissed," and, that he did so "for the purpose of harassing [HPL] and needlessly driving up the costs of this litigation." The court imposed sanctions against Thomas, individually, in the amount of \$40,870, which included \$22,810 for HPL's attorney fees and \$18,060 under Code of Civil Procedure section 128.7.

Over three months after the sanctions order was filed, Thomas filed a motion for clarification and relief from the sanctions order on December 5, 2016. In this motion, Thomas acknowledged the sanctions order entered on August 24, but claimed he never received "communication of any kind directly from the court regarding the reserved decision on the motion for sanctions." In his supporting declaration, Thomas acknowledged he received a letter from the State Bar in October 2016 regarding the sanctions. However, he testified that he was never "served" with a copy of this order until receiving it from OCTC in 2020. Thomas did not pay the sanctions.

E. Thomas Files Lawsuit in Superior Court on Behalf of True Harmony

In May 2014, Thomas filed a separate lawsuit on behalf True Harmony against Perry, Solomon, and HPL (True Harmony matter). (*True Harmony v. Perry et al.* (Super. Ct. Los Angeles County, No. BC546574.) Perry filed a demurrer. In response, Thomas sent a letter to Perry's attorneys, Gibson and Lisa Howard, dated August 26, 2016, which provided, in part,

Please be advised that YOU are guilty of mail fraud in violation of 18 U.S.C. § 1341 because YOU have not corrected the misrepresentation created by YOUR prior written notices for the dates of hearings on said motions by filing and serving written notices of the hearing dates that YOU have selected that are different from the dates that YOU have chosen. [¶] Please be advised that YOU will be indicted, found guilty and sentenced to five years in the federal penitentiary for the mail fraud if YOU do not correct YOUR violations of the Code of Civil Procedure. [¶] . . . [¶] Please be advised that YOUR illegalities described herein may be referred to the Attorney General of California for collection of civil penalties per day for every day that YOUR violations of the

mail fraud statute, 18 U.S.C. § 1341, continue [¶] . . . [¶] Please be advised that YOU have committed criminal violations of my civil rights under 18 U.S.C. § 241 and § 242 by permitting the illegal appellate sanctions in case #B254143 to continue to persist without requesting the second court of appeals to remit them. [¶] Please be advised that YOU may be tried, convicted and sent to prison for the remainder of YOUR lives for the criminal violations of 18 U.S.C. § 241 and § 242 that YOU have committed.

Gibson was concerned he would have to deal with various authorities to address these unfounded charges.¹⁴ He viewed the letter as a credible threat that Thomas would make the reports and feared he would have to expend significant time and effort to defend against them. Thomas testified it was probably “not the wisest letter to write,” but it was an expression of his frustration.

In January 2017, over two years later, Thomas filed a second amended complaint, seeking to void the trial court’s prior judgment and declare True Harmony as the owner of the Property. The defendants filed demurrers, which the court sustained without leave to amend on April 7, finding one failed to state a claim and the rest were barred by res judicata. Accordingly, the court entered judgment in favor of the defendants on April 7.

Thomas did not appeal the judgment, and instead filed a motion for reconsideration of the court’s ruling sustaining the demurrers on April 17, 2017.¹⁵ Gibson again tried to convince Thomas to withdraw his motion due to lack of jurisdiction, providing statutory and case authority in his letters. Thomas read the letters and case authority, but nonetheless refused to withdraw his motion. The court denied Thomas’s motion on October 17, 2017, using citations raised by Gibson in his letter to Thomas. The court found it did not have jurisdiction to grant a motion for

¹⁴ The hearing judge found Gibson’s testimony credible.

¹⁵ Thomas did not appeal the judgment dismissing the second amended complaint within the required 60 days from the notice of entry of judgment. As a result, the judgment became final on June 7, 2017.

reconsideration because judgment had been entered on April 7, and Thomas filed for reconsideration after that date—on April 17.

Once again, Gibson filed a motion for sanctions on October 17, 2017, which was granted. The court found in its November 30 order that Thomas’s motion for reconsideration “had no basis in law at the time it was filed,” and was not supported by existing law. Further, the court described Thomas’s arguments as contrary to “clear and unambiguous authority” and “undisputed fact,” lacking in “substantive merit,” “irrelevant,” “inapplicable,” procedurally “improper,” and “without merit.” The court ordered Thomas to pay sanctions of \$23,350 for Solomon’s attorney fees, which Thomas has not done.

F. Thomas Appeals True Harmony Matter

On December 18, 2017, Thomas filed two appeals: one on behalf of himself and the other on behalf of True Harmony. The appeals sought review of three trial court orders: (1) an October 10, 2017 order denying True Harmony’s application to file a supplemental memorandum of law; (2) the October 17, 2017 order denying True Harmony’s motion to reconsider the decision entering judgment for the defendants; and (3) the November 30, 2017 order granting Solomon’s motion for sanctions. (*True Harmony et al. v. Perry et al.* (Court of Appeal, Second Appellate District, No. B287017.) Once again, Gibson wrote to Thomas that his appeals were untimely and jurisdictionally improper, with the exception of Thomas’s personal request for review of the November 30 sanctions order. Gibson urged Thomas to withdraw, but Thomas declined to withdraw or limit his appeals. In April 2018, Gibson filed a motion to dismiss the True Harmony appeal and Thomas’s appeal of the October 10 and October 17 orders.

The court granted Gibson’s motion on May 4, 2018. It held that True Harmony lacked standing to appeal the November 30, 2017 sanctions order because the sanctions were only issued against Thomas. Thomas’s individual appeal of the sanctions order was not dismissed.

The court found that Thomas and True Harmony could not appeal the October 10 and October 17 orders because they were linked to a motion for reconsideration, which is not appealable.¹⁶ The court stated Thomas failed to offer “any reason or authority” for his argument that the motion for reconsideration should be treated as a motion to vacate judgment.

On October 12, 2018, Gibson filed his third motion for sanctions, which was granted on December 13. The appellate court affirmed the November 30, 2017 order imposing sanctions on Thomas. Thomas failed to support his arguments with citations to the record or to applicable legal authority. The court held Thomas’s “unclean hands” argument was “merely an attempt to relitigate the underlying complaint and True Harmony’s claims of fraud. In making this frivolous argument, Thomas has violated our court order specifically limiting his appeal to the sanctions motion.”

The court further found that Thomas’s conduct on appeal warranted sanctions because his “appellate filings were largely frivolous and done in violation of court orders and rules.” The court held that Thomas “sought to prosecute an appeal on behalf of a party that clearly lacked standing and attack a judgment that had long become final.” Even though only Thomas could properly appeal the sanctions order, he filed it on behalf of himself and True Harmony, and attempted to appeal two other orders that were not appealable. He refused to limit his appeal as Gibson asked, and Solomon “unnecessarily incurred costs in filing a successful motion to

¹⁶ Thomas then filed a 45-page petition for rehearing of the dismissal, arguing that all his appeals and all True Harmony’s appeals should be allowed to proceed. The appellate court denied the petition. Thomas then ignored the court’s order and filed an opening brief on behalf of True Harmony, even though the court had dismissed all its appeals. Thomas then submitted a supplement to the opening brief, arguing yet again that True Harmony should be given the right to file a third amended complaint in the underlying action. The court struck the opening brief and supplemental brief, and allowed Thomas to file a new opening brief, which he did. The court found that this brief “went outside the scope of the appeal by launching into an argument about the ownership and sale of the property in the fact section and a section on ‘unclean hands.’”

dismiss the improper appeals.” Thomas then filed an improper brief on behalf of True Harmony and refused to withdraw it, causing Solomon to incur further costs bringing a successful motion to strike the opening brief. The court summed up Thomas’s actions by stating, “It is evident from Thomas’s pursuit of improper appeals and plain disobedience of our court orders that his briefing and motions are frivolous and intended to harass Solomon. Such improper briefing generated unnecessary and substantial costs for Solomon.” Accordingly, the court found considerable sanctions were appropriate. Thomas was ordered to pay \$65,480.64 in sanctions within 90 days of the date of remittitur—\$56,980.64 in attorney fees for Solomon and \$8,500 to be paid directly to the clerk of the appellate court. Thomas did not pay the sanctions.

On December 27, 2018, Thomas filed a petition for rehearing of the appellate court order, which was denied. He then filed successive petitions for review in the California Supreme Court and the Supreme Court of the United States, which were also denied.

G. *Thomas v. Zelon et al.*

In August 2016, Thomas filed a complaint on behalf of himself in federal court alleging civil rights violations against two appellate court justices who decided the interpleader appeal, as well as Solomon, Perry, HPL, Gibson, and others. (*Thomas v. Zelon et al.* (C.D.Cal., No. 16-cv-06544).) The defendants filed a motion to dismiss, which was granted in February 2017. The court dismissed Thomas’s complaint without leave to amend. It found Thomas’s federal claims were barred by the *Rooker-Feldman* doctrine, which precludes federal adjudication of a claim that “amounts to nothing more than an impermissible collateral attack on prior state court decisions.” (*Ignacio v. Judges of U.S. Court of Appeals* (9th Cir. 2006) 453 F.3d 1160, 1165 [explaining *Rooker-Feldman* doctrine].) Accordingly, Thomas could not pursue his additional state law claims in federal court under supplemental jurisdiction.

Thomas appealed the district court’s decision. In March 2018, the United States Court of Appeals for the Ninth Circuit affirmed the district court’s dismissal. The court held, “The district court properly dismissed Thomas’s action as barred by the *Rooker-Feldman* doctrine because Thomas’s claims stemming from the prior state court action constitute a ‘de facto appeal’ of prior state court judgments, or are ‘inextricably intertwined’ with those judgments. [Citations].”

H. *True Harmony et al. v. Department of Justice of the State of California et al.*

In January 2020, Thomas filed a federal lawsuit on behalf of himself, True Harmony, and Haiem, suing the California Department of Justice, Perry, Solomon, Gibson, HPL, Hope Street, and others. (*True Harmony et al. v. Dept. of J. of Cal. et al.* (C.D.Cal., No. 20-cv-00170).) This action again attempted to relitigate claims relating to the Property and previous legal actions. The district court dismissed Thomas’s lawsuit with prejudice in May 2021. The court held that it did not have subject matter jurisdiction over some of the causes of action due to lack of standing, some were barred by the *Rooker-Feldman* doctrine, others were barred by res judicata, and some failed to state a claim. The court determined that the claims brought were “nearly identical” to those in *Thomas v. Zelon et al.* and Thomas was seeking to relitigate previous dismissals.

In June 2021, Thomas filed a notice of appeal. Because Thomas was no longer eligible to practice law, in November, the Ninth Circuit dismissed the appeal as to True Harmony and Haiem as they were not represented by counsel. Thomas appealed this decision to the Supreme Court of the United States. At oral argument before us, he stated his individual appeal was still pending in the Ninth Circuit.

III. THOMAS'S VARIOUS CHALLENGES TO THE HEARING JUDGE'S DECISION HAVE NO MERIT

Thomas makes several constitutional and jurisdictional arguments on review, all of which we have carefully considered. We note his arguments are largely unsupported and his briefing on review is difficult to understand, particularly as to the relevance of points he asserts in defense of these proceedings. We have independently reviewed all of his arguments; any not specifically addressed here have been considered and rejected without merit.

A. Collateral Attacks

An action by a court or judge is presumed valid and made within the lawful exercise of jurisdiction. (Evid. Code, § 666.) Final judgments are subject to collateral attack only on the following grounds: (1) lack of subject matter jurisdiction, (2) lack of personal jurisdiction, or (3) actions in excess of jurisdiction. (*In the Matter of Pyle* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 929, 933.) To succeed on collateral attack, Thomas must prove a jurisdictional defect from the face of the record. (*Ibid.*)

1. Challenges to Court Decisions in Civil Litigation

In the decision, the hearing judge stated Thomas was given the opportunity to present evidence to contradict, temper, or explain all admitted records from the various civil actions. After considering the evidence, the judge determined that the civil litigation findings were supported by substantial evidence and, therefore, adopted them. (See *Maltaman v. State Bar* (1987) 43 Cal.3d 924; *In the Matter of Kittrell* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195; *In the Matter of Kinney* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 360.)

Throughout his opening brief, Thomas challenges several court decisions and arguments made by his opponents there. He claims the decisions in the interpleader action and the appeal of the interpleader action were “frauds on the court” and the court lacked “all basis in jurisdiction.”

Thomas alleges the hearing judge erred by ignoring his evidence relating to jurisdiction in the civil litigation.

Thomas claims OCTC and witness testimony were not produced to establish jurisdiction for the court decisions he now attacks. However, it is Thomas's burden to prove the jurisdictional defect since court actions are presumed valid. (*In the Matter of Pyle, supra*, 3 Cal. State Bar Ct. Rptr. at p. 933.) Because he has not established any jurisdictional defect, we must view the court decisions as valid, as the hearing judge did. Accordingly, we reject Thomas's collateral attacks on these decisions. Further, Thomas has already challenged certain court orders in the courts of record. He may not continue to do so here as the orders are final and binding for disciplinary purposes. (See *In the Matter of Collins* (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 551, 559; *In the Matter of Boyne* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 389, 403-404.) "There can be no plausible belief in the right to ignore final, unchallengeable orders one personally considers invalid." (*Maltaman v. State Bar, supra*, 43 Cal.3d at p. 952.)

2. Challenge to Involuntary Inactive Enrollment

Thomas's briefs on review make several challenges to the TE case where he was placed on involuntary inactive enrollment.¹⁷ He argues that the hearing judge lacked personal and subject matter jurisdiction over him in that matter. As with his other collateral attacks, discussed *ante*, Thomas has failed to prove any jurisdictional defect in the TE case. Also, that case is final and closed. He has not provided any support for our ability to review it long after it became final.

¹⁷ See *ante*, p. 2, fn.4.

B. Constitutional Arguments

Thomas makes several constitutional objections regarding the hearing judge's decision, the constitutionality of sections 6103 and 6068, subdivision (c), and the sanctions orders.

However, none of these arguments are supported by fact or law. After review of the record, we do not find any violation of Thomas's constitutional rights in this disciplinary matter.

C. Unclean Hands Defense and Other Alleged Hearing Judge Errors

Thomas argues the hearing judge erred by rejecting his affirmative defense of unclean hands. He asserts OCTC has unclean hands because it has never properly investigated Thomas's claims that Perry, Gibson, and Solomon committed moral turpitude and other misconduct.

Thomas's unclean hands argument is unsupported. His allegations against others are irrelevant and have no effect on our findings of culpability for his own misconduct.

He also asserts OCTC presented irrelevant, inflammatory, and prejudicial evidence of other pleadings filed by him. However, he fails to identify the specific evidence to which he objects. The standard of review we apply to procedural rulings is abuse of discretion or error of law. (*In the Matter of Respondent L* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 454, 461.) Thomas failed to establish the hearing judge abused her discretion or erred by admitting OCTC's evidence. Further, he did not specify how the judge's decisions prejudiced his case. (*In the Matter of Hertz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456, 469 [attorney must show specific prejudicial effect].) Therefore, we reject his evidentiary arguments.

In addition, Thomas argues the hearing judge improperly dismissed his "judicial estoppel" defense. He asserts the judge ignored his arguments and evidence that his motions were not frivolous. He also believes some actions taken in the civil litigation were "approved" by the court. Any proper actions he took in the civil litigation do not negate his multiple acts of misconduct, discussed *post*. Thomas failed to provide support for his various arguments or to

explain how the judge's decisions prejudiced him. The judge's culpability determinations are supported by the record. Therefore, Thomas's various evidentiary and culpability arguments must be rejected.

IV. CULPABILITY¹⁸

A. **Count One of State Bar Court No. 15-O-14870: Failure to Obey Court Order (§ 6103)**

Count one of the First NDC alleged Thomas violated section 6103 by failing to comply with the April 27, 2015 court order for sanctions of \$58,650 in the appeal of the interpleader action. (*Hope Street v. Solomon et al.* (Court of Appeal, Second Appellate District, No. B254143).) Section 6103 provides, in pertinent part, that a willful disobedience or violation of a court order requiring an attorney to do or forbear an act connected with or in the course of the attorney's profession, which the attorney ought in good faith do or forbear, constitutes cause for suspension or disbarment. An attorney willfully violates section 6103 when, despite being aware of a final, binding court order, he or she knowingly chooses to violate the order. (*In the Matter of Maloney and Virsik* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774, 787.) The hearing judge found Thomas had actual knowledge of the order, the order was final and binding, and he did not comply with it since he did not pay the sanctions within 30 days as ordered. The judge found a willful violation of section 6103.

Thomas argues that the sanctions ordered in the interpleader action and the True Harmony matter were "grossly erroneously decided."¹⁹ As discussed *ante*, his collateral attacks of the court orders in the civil litigation fail.

¹⁸ We note that in his briefs and at oral argument, Thomas made several arguments regarding the American Bar Association (ABA) Model Rules of Professional Conduct, asserting they should be followed rather than the California Rules of Professional Conduct. Thomas also contended the ABA rules take precedence over the State Bar Act and the California disciplinary statutes. We reject his arguments as meritless.

¹⁹ The True Harmony matter was charged in the Second NDC.

Thomas also asserts OCTC failed to introduce evidence that his disobedience of court orders caused harm to the administration of justice. This is not relevant to a defense for misconduct under section 6103.

Thomas argues the hearing judge improperly found he acted willfully based on the state court sanctions orders that his motions and appeals were frivolous. Thomas believes the judge could not infer that he acted willfully as “negligence is never willfulness.” He asserts the testimony of Perry, Gibson, and Solomon concerning willfulness was cumulative. We reject these arguments. Thomas was aware of the orders, admits he has not complied with them, and has made no effort to comply. No evidence suggests this was “negligence.” We agree with the judge that Thomas acted willfully and find culpability as charged.

B. Count Two of State Bar Court No. 15-O-14870: Failure to Report Judicial Sanctions (§ 6068, subd. (o)(3))

Count two of the First NDC alleged Thomas violated section 6068, subdivision (o)(3), by failing to report to the State Bar within 30 days the April 27, 2015 sanctions order in the appeal of the interpleader action. (*Hope Street v. Solomon et al.* (Court of Appeal, Second Appellate District, No. B254143).) Section 6068, subdivision (o)(3), requires attorneys to report to the State Bar, in writing, within 30 days of knowledge of “[t]he imposition of judicial sanctions against the attorney, except for sanctions for failure to make discovery or monetary sanctions of less than one thousand dollars (\$1,000).” The hearing judge found that, at the latest, Thomas knew of the sanctions order on May 12, 2015—the date of his petition for rehearing seeking review of the sanctions order. He did not report the order, and the judge found culpability as charged.

Thomas makes no specific argument on review as to his lack of culpability of misconduct for his failure to report the April 27, 2015 sanctions order. Based on our review of the record, we affirm the hearing judge’s culpability finding.

C. Count One of SBC-20-O-00029: Threatening Charges to Gain Advantage in Civil Suit (rule 5-100(A))

Count one of the Second NDC alleged Thomas violated rule 5-100(A) when he stated, in his August 26, 2016 letter to Gibson and Howard, that they would be convicted of mail fraud and sentenced to five years in the federal penitentiary if they did not correct their violations of the Code of Civil Procedure and that they would be convicted of violating title 18 United States Code sections 241 and 242 and would be sent to prison for the remainder of their lives. The allegation stated Thomas made these charges to gain an advantage in the True Harmony matter, by hampering and delaying Perry's attorneys, increasing litigation costs, and harassing Perry. Rule 5-100(A) provides, "A member shall not threaten to present criminal, administrative, or disciplinary charges to obtain an advantage in a civil dispute." The hearing judge found culpability as charged. In the letter, Thomas expressly threatened the recipients that they would be criminally indicted, found guilty, sentenced, and sent to prison if they did not take specific actions regarding their demurrers to the complaint in the True Harmony matter. The judge concluded the letter conveyed the message that Thomas would report Gibson and Howard for alleged criminal violations and that the letter was sent to intimidate and harass opposing counsel to gain an advantage in the True Harmony litigation.

Again, Thomas makes no specific argument on review as to his culpability of a rule 5-100(A) violation. Based on our review of Thomas's statements to opposing counsel threatening criminal charges, we affirm the hearing judge's culpability finding. (*In the Matter of Malek-Yonan* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627, 637 [violation of rule 5-100 by sending letter threatening criminal investigation].)

D. Count Three of SBC-20-O-00029: Maintaining an Unjust Action (§ 6068, subd. (c))

Section 6068, subdivision (c), provides that it is an attorney's duty "[t]o counsel or maintain those actions, proceedings, or defenses only as appear to him or her legal or just, except the defense of a person charged with a public offense." Count three of the Second NDC alleged Thomas violated section 6068, subdivision (c), by (1) making multiple claims and arguments lacking any legal or factual basis and filing and pursuing an untimely motion (despite being forewarned that the motion was without merit and should be dismissed) in the interpleader action; (2) filing a frivolous appeal of the interpleader action, which lacked any merit and was prosecuted for the improper purpose to harass and increase litigation costs; (3) filing a motion for reconsideration in the True Harmony matter, which had no basis in law and unnecessarily increased the costs of litigation; and (4) repeatedly pursuing improper appeals and filing frivolous and harassing briefs and/or motions, which unnecessarily increased the costs of litigation in the appeal of the True Harmony matter. The hearing judge found culpability under section 6068, subdivision (c), for Thomas's use of abusive litigation tactics where he initiated and maintained multiple claims and defenses, at the trial and appellate levels, which were foreclosed by legal authority.

Thomas argues, without any support, that the notices of appeal, briefs, and motions he filed do not qualify as "actions" under section 6068, subdivision (c). We reject his claim as meritless and we affirm the hearing judge's culpability finding. (See *In the Matter of Kinney*, *supra*, 5 Cal. State Bar Ct. Rptr. at p. 365 [attorney who unreasonably pursued lawsuits "after unqualified losses at trial and on appeal" culpable under § 6068, subd. (c)].)

E. Count Four of Case No. SBC-20-O-00029: Failure to Obey a Court Order (§ 6103)

Count four of the Second NDC alleged Thomas failed to comply with three court orders: (1) the August 24, 2016 order requiring him to pay sanctions of \$18,060 and attorney fees of \$22,810 in the interpleader action; (2) the November 30, 2017 order requiring him to pay \$23,350 in sanctions in the True Harmony matter; and (3) the December 13, 2018 order requiring him to pay \$65,480.64 in sanctions, including \$8,500 to the clerk of court, in the appeal of the True Harmony matter. The hearing judge found culpability as charged. Thomas admitted he has not paid the ordered sanctions.

Thomas's arguments on review involve collateral attacks on these sanctions orders. As discussed *ante*, we find the orders are valid. Thomas advances no other arguments concerning culpability under section 6103. Based on our review of the record, we affirm the hearing judge's culpability finding. (*In the Matter of Respondent X* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 592, 603 [elements of § 6103 violation].)

V. AGGRAVATION AND MITIGATION

Standard 1.5 of the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct²⁰ requires OCTC to establish aggravating circumstances by clear and convincing evidence. Standard 1.6 requires Thomas to meet the same burden to prove mitigation.

A. Aggravation

1. Multiple Acts of Wrongdoing (Std. 1.5(b)) and Pattern of Wrongdoing (Std. 1.5(c))

The hearing judge found Thomas committed multiple acts of misconduct by repeatedly pursuing unsupported legal claims in multiple legal proceedings, making improper threats,

²⁰ All further references to standards are to this source.

disobeying four court orders, and failing to report the sanctions order in the interpleader appeal. We agree these acts sufficiently establish multiple acts of misconduct under standard 1.5(b). (*In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 646-647 [three instances of misconduct considered multiple acts].)

The hearing judge also found Thomas's misconduct demonstrated a pattern. He continually maintained frivolous legal positions in various proceedings, from 2013 to the time of the disciplinary trial, which was an abuse of the justice system. In addition, Thomas disregarded numerous court orders intended to curb his improper conduct. (Std. 1.5(c); *In the Matter of Kinney, supra*, 5 Cal. State Bar Ct. Rptr. at p. 368 [multiple acts and pattern where attorney repeatedly pursued vexatious litigation over more than six years]; *In the Matter of Valinoti* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498, 555 [pattern must involve serious misconduct spanning extended time period].) The judge assigned substantial aggravation, collectively, under standards 1.5(b) and (c).

Thomas argues the hearing judge's finding had no foundation in the record and did not satisfy the hearsay evidence exception for "custom or practice." These arguments are unsupported. Thomas was told by the courts that he was wrong and his pleadings were frivolous and harassing. Yet, he did not stop repeatedly advancing arguments without a legal basis. He began putting forth frivolous arguments in 2013 in the interpleader action and has done so in the appeal of that action, the True Harmony matter, and the appeal of the True Harmony matter. He has also done so twice in federal court. In 2020, he filed a second federal lawsuit, which was dismissed because the claims were nearly identical to the federal lawsuit dismissed by the district court in 2017 and affirmed by the Ninth Circuit in 2018. His appeal in the second federal lawsuit is still pending. We agree with the judge that aggravation is warranted under standard 1.5(c) for Thomas's pattern of misconduct. The misconduct was serious and spanned several years (with

evidence that Thomas continues to pursue these claims even now). We assign substantial aggravation under standards 1.5(b) and (c).

2. Significant Harm (Std. 1.5(j))

The hearing judge found Thomas's misconduct caused significant harm to the public and the administration of justice, warranting substantial aggravation under standard 1.5(j). We agree with the judge's findings and reject Thomas's argument that OCTC did not prove harm to the administration of justice.

Thomas's relentless litigation campaign caused the courts and the parties to expend excessive time and money, as illustrated by the \$188,350.64 in sanctions against him, including \$8,500 for reimbursement to the court of appeal for administrative costs he generated. His frivolous litigation caused the courts to consider and rule on his meritless motions, which was a waste of judicial resources. (*In the Matter of Reiss* (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206, 217 [acts wasting judicial time and resources constitute significant harm].)

In addition, Thomas's misconduct caused stress and emotional harm to Solomon, Perry, and Gibson, which was established by their testimony at trial. They were repeatedly forced to defend against Thomas's meritless claims and appeals. Solomon testified he incurred over \$700,000 in legal fees owed to Gibson for dealing with Thomas's frivolous litigation.²¹ Additionally, Thomas has not paid any of the ordered sanctions to Solomon and HPL. Solomon also testified that the litigation took time away from his business and that he must disclose the litigation each time he applies for a loan. Perry testified that Thomas's actions have caused him a great deal of stress and that he has spent hundreds of hours involved with this litigation. Gibson testified he has had stressful interactions with opposing counsel during his five decades of litigation, but never like the ones he experienced with Thomas. He also stated that, prior to

²¹ At trial, Gibson confirmed this amount.

filing motions for sanctions against Thomas, he had filed, at most, one or two motions for discovery sanctions. He testified he spent approximately 2,000 hours working on this litigation. Gibson also stated he paid \$5,000 to his malpractice insurer for his defense of the federal lawsuits Thomas filed against him.

3. Indifference (Std. 1.5(k))

Standard 1.5(k) provides that an aggravating circumstance may include “indifference toward rectification or atonement for the consequences of the misconduct.” The hearing judge assigned substantial weight in aggravation for Thomas’s failure to accept responsibility for his actions and to atone for the resulting harm. Thomas made no specific arguments on review concerning this aggravation finding.

Thomas has blamed others, testified his conduct was moral and correct, and characterized himself as the victim. For example, he stated the appellate court in the interpleader action was wrong and “roasted” him with a “gross error.” He complained he was “at the butt end of a litigation machine juggernaut” and believed the sanctions orders were unfair. Further, he has made no payments towards the court-ordered sanctions. Thomas asserted he does not understand why OCTC brought the charges and he intends to continue to pursue litigation related to the underlying misconduct. In his closing argument at trial, he said he was “going to stick by my guns,” which he has. He announced later at oral argument before us that he would appeal to the Supreme Court if his discipline was not overturned and he is continuing to pursue the second federal lawsuit.

Thomas has the right to defend himself vigorously; however, his arguments “went beyond tenacity to truculence.” (*In re Morse* (1995) 11 Cal.4th 184, 209.) We agree with the hearing judge that his gross lack of insight into the wrongfulness of his actions merits substantial aggravation. (*In the Matter of Katz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502, 511 [law

does not require false penitence, but does require attorney to accept responsibility for his or her wrongful acts and show some understanding of culpability]; *In re Morse, supra*, 11 Cal.4th 184 at p. 209 [unwillingness to consider appropriateness of legal challenge or acknowledge lack of merit is aggravating factor].) Thomas has refused to acknowledge he was wrong and that his actions have harmed the courts and others. He continues to raise the same unsuccessful arguments already struck down by several courts. His failure to accept responsibility is a substantial aggravating factor. (*Carter v. State Bar* (1988) 44 Cal.3d 1091, 1100-1101 [blanket refusal to acknowledge wrongful conduct constitutes indifference].)

B. Mitigation

1. No Prior Record of Discipline (Std. 1.6(a))

Mitigation includes “absence of any prior record of discipline over many years coupled with present misconduct, which is not likely to recur.” (Std. 1.6(a).) Thomas practiced for nearly 35 years without discipline before the misconduct in this matter started. The hearing judge assigned minimal mitigation because Thomas stated at trial that he will not cease litigation related to legal claims that have already been rejected. Accordingly, Thomas has failed to establish his misconduct is aberrational and not likely to recur. (See *Cooper v. State Bar* (1987) 43 Cal. 3d 1016, 1029 [when misconduct is serious, long record without discipline is most relevant when misconduct is aberrational].) Given his complete lack of insight into misconduct, we assign only nominal weight in mitigation for his absence of a prior record of discipline.

2. Extraordinary Good Character (Std. 1.6(f))

Thomas may obtain mitigation for “extraordinary good character attested to by a wide range of references in the legal and general communities, who are aware of the full extent of the misconduct.” (Std. 1.6(f).) Thomas’s character evidence consisted of four witnesses who testified at trial (two of whom also submitted character letters) and two additional character

letters. The witnesses have known Thomas for many years and reported he is honest, of good moral character, and dedicated to his clients. The hearing judge found the witnesses did not represent a wide range as they were all current or former clients. (See *In the Matter of Myrdall* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 363, 387 [three attorneys and three clients did not constitute wide range of references].) In addition, the witnesses were unaware of the full extent of the misconduct. (See *In re Aquino* (1989) 49 Cal.3d 1122, 1131 [testimony of witnesses unfamiliar with details of misconduct not significant in determining mitigation].) Finally, one witness revealed limitations as to Thomas's interpersonal and legal skills, disclosing that Thomas sometimes does not get along with others and the quality of his work is inconsistent. For these reasons, the judge did not assign mitigation credit under standard 1.6(f).

On review, Thomas failed to assert any specific arguments regarding the hearing judge's finding. We agree with the judge that Thomas has failed to establish mitigation for extraordinary good character.

VI. DISBARMENT IS THE APPROPRIATE DISCIPLINE

The purpose of attorney discipline is not to punish the attorney, but to protect the public, the courts, and the legal profession; to preserve public confidence in the profession; and to maintain high professional standards for attorneys. (Std. 1.1.) Our disciplinary analysis begins with the standards. While they are guidelines for discipline and are not mandatory, we give them great weight to promote consistency. (*In re Silvertown* (2005) 36 Cal.4th 81, 91-92.) The Supreme Court has instructed us to follow the standards "whenever possible." (*In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) We also look to comparable case law for guidance. (See *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311.)

In analyzing the applicable standards, we first determine which standard specifies the most severe sanction for the at-issue misconduct. (Std. 1.7(a) [most severe sanction shall be

imposed where multiple sanctions apply].) The most severe and applicable sanction here is standard 2.9(a), which applies because of Thomas’s culpability under section 6068, subdivision (c).²² Standard 2.9(a) provides for actual suspension when an attorney maintains a frivolous claim for an improper purpose and disbarment is appropriate if the misconduct demonstrates a pattern.

The hearing judge found that Thomas’s repeated pursuit of frivolous legal actions—repetitively recycling previously rejected arguments, while consistently defying court orders aimed at curbing his improper conduct—demonstrates a pattern. “[O]nly the most serious instances of repeated misconduct over a prolonged period of time could be characterized as demonstrating a pattern of wrongdoing. [Citations.]” (*Levin v. State Bar* (1989) 47 Cal.3d 1140, 1149, fn. 14; see also *In the Matter of Kinney, supra*, 5 Cal. State Bar Ct. Rptr. at p. 368 [pattern where attorney repeatedly engaged in vexatious litigation over six-year period].) Thomas has relentlessly pursued the same arguments in two state court actions—the interpleader action and the True Harmony matter—both of which he appealed to the appellate court, the California Supreme Court, and the Supreme Court of the United States. He was heavily sanctioned in those actions (\$188,350.64), and has not paid any money towards the sanctions. The sanctions orders have not deterred him, and he has continued to repeat his failed arguments in two federal lawsuits, which were both dismissed as improper collateral attacks on the state court decisions. He appealed both of those decisions to the Ninth Circuit, where the second action is still pending. His appeal of the second federal lawsuit occurred in June 2021, after the Hearing Department’s

²² Standard 2.12(a) is also applicable and provides for disbarment or actual suspension for disobedience of a court order. (See also § 6103 [disbarment or suspension for violation of court order]; *Barnum v. State Bar* (1990) 52 Cal.3d 104, 112 [violations of court orders are serious misconduct].) Standard 2.12(b) provides for reproof for failure to report judicial sanctions. A rule 5-100(A) violation is subject to suspension of up to three years or reproof under standard 2.19.

decision in this disciplinary proceeding recommending his disbarment. Besides maintaining multiple unjust actions, Thomas is also culpable of failing to obey four court orders, failing to report judicial sanctions, and threatening charges to gain an advantage in a civil suit. All of these acts may be considered in determining if a pattern of misconduct exists. (*Read v. State Bar* (1991) 53 Cal.3d 394, 423 [pattern of misconduct may be found even though acts encompass wide range of improper behavior].) We find Thomas's misconduct is serious, repetitive, and has been ongoing for over seven years. Accordingly, we agree with the hearing judge that it demonstrates a pattern of wrongdoing. Thus, recommending disbarment would be appropriate under standard 2.9(a).

Even if we were to not find a pattern of wrongdoing, disbarment would be the appropriate discipline to recommend due to Thomas's multiple instances of serious misconduct combined with several substantial aggravating factors that outweigh nominal mitigation for lack of a prior disciplinary record. Standard 1.7(b) provides a greater sanction than specified in a given standard may be appropriate due to serious aggravating circumstances that outweigh the mitigation. "On balance, a greater sanction is appropriate where there is serious harm to the client, the public, the legal system, or the profession and where the record demonstrates that the lawyer is unwilling or unable to conform to ethical responsibilities." (Std. 1.7(b).)

The findings from the state and federal courts highlight the seriousness of Thomas's misconduct. He pursued untimely motions, failed to cite authority to support his arguments, and filed frivolous claims intended to harass his opponents and increase their litigation costs. Thomas presented claims to the court when he lacked standing or when the claims were barred by res judicata. The courts often found his arguments to be without merit, unsupported, irrelevant, and procedurally improper. He also disobeyed court orders requiring him to limit his appeals. In federal court, he improperly presented claims that were barred from collateral attack.

These actions caused serious harm, wasting judicial resources and unnecessarily burdening opposing parties, including two appellate court justices who had ruled against him.

In addition to maintaining unjust actions, being sanctioned for them, and failing to report the sanctions, he threatened criminal charges against his opponents. Further, his communications with opposing attorneys were very unprofessional. All of these actions by Thomas demonstrate that he is unable to conform to his ethical responsibilities. He fails to realize that his actions go beyond zealous advocacy, which leads us to no other conclusion than he will likely continue to abuse the legal system. Therefore, he meets the requirements of standard 1.7(b). Using that standard to enhance the presumed sanction of actual suspension under standard 2.9(a) for maintaining an unjust action without demonstrating a pattern, we find that recommending disbarment is still appropriate.

We agree with the hearing judge that Thomas's misconduct is highly comparable to the misconduct in *In the Matter of Kinney, supra*, 5 Cal. State Bar Ct. Rptr. 360 and *In the Matter of Varakin* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179, even though Kinney and Varakin were both culpable of moral turpitude violations in addition to maintaining unjust actions. Both Kinney and Varakin were culpable of violating section 6068, subdivision (c), and were disbarred despite lengthy years in practice without prior discipline. Thomas's misconduct is less extensive than both Kinney's and Varakin's misconduct, but *Kinney* and *Varakin* do not establish a minimum level of misconduct necessary to justify disbarment as an appropriate sanction for maintaining an unjust action, and no precedent requires that a moral turpitude finding is a requisite for disbarment in such cases. In this matter, recommending disbarment is appropriate under standards 1.7(b) and 2.9(a).

We emphasize that Thomas has shown a lack of insight into the wrongfulness of his actions. We are troubled that he has declared he will continue to litigate issues that have already

been foreclosed by the courts. He has become embroiled in the issues surrounding this litigation and has shown he is unable to refrain from engaging in frivolous litigation. Court orders sanctioning him have not deterred him from filing frivolous litigation.²³ Thomas has committed five separate and serious ethical violations, causing significant harm with indifference to his misconduct. Accordingly, protection of the public, the courts, and the legal profession calls for us to recommend Thomas's disbarment.

VII. RECOMMENDATIONS

We recommend that Jeffrey Gray Thomas, State Bar Number 83076, be disbarred from the practice of law in California and that his name be stricken from the roll of attorneys.

CALIFORNIA RULES OF COURT, RULE 9.20

We further recommend that Jeffrey Gray Thomas be ordered to comply with the requirements of California Rules of Court, rule 9.20, 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 imposing discipline in this matter.²⁴

MONETARY SANCTIONS

We do not recommend the imposition of monetary sanctions in this matter, as this matter was commenced before April 1, 2020. (Rules Proc. of State Bar, rule 5.137(H).)

²³ We do not recommend Thomas be ordered to pay the sanctions as OCTC requests in light of our disbarment recommendation and because the state courts have already ordered such payments. (*In the Matter of Schooler* (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 494, 498.)

²⁴ For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Thomas is required to file a rule 9.20(c) affidavit even if he has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

COSTS

We further recommend 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, and may be collected by the State Bar through any means permitted by law. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against an attorney who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.

VIII. ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

The order that Jeffrey Gray Thomas be involuntarily enrolled as an inactive attorney of the State Bar pursuant to section 6007, subdivision (c)(4), effective May 28, 2021, will remain in effect pending consideration and decision of the Supreme Court on this recommendation.

McGILL, J.

WE CONCUR:

HONN, P. J.

STOVITZ, J.*

* Retired Presiding Judge of the State Bar Court, serving as Review Judge Pro Tem by appointment of the California Supreme Court.

No. 15-O-14870; SBC-20-O-00029 (Consolidated)

In the Matter of
JEFFREY GRAY THOMAS

Hearing Judge
Hon. Cynthia Valenzuela

Counsel for the Parties

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