PUBLIC MATTER—NOT DESIGNATED FOR PUBLICATION

Filed February 7, 2023

STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

In the Matter of	)	SBC-21-O-30199
	)	
PAMELA GAYLE LACHER,	)	OPINION
	)	
State Bar No. 174895.	)	
	)	

A hearing judge found Pamela Gayle Lacher culpable of five counts of misconduct involving the handling of a settlement in a personal injury case in a single client matter. The judge recommended a 90-day actual suspension.

Lacher appeals, arguing that culpability should be vacated, or, in the alternative, she should receive only a stayed suspension. The Office of Chief Trial Counsel of the State Bar (OCTC) does not appeal and asks us to affirm the hearing judge's recommendation.

Upon independent review of the record (Cal. Rules of Court, rule 9.12), we find Lacher culpable of four counts of misconduct: failure to pay client funds promptly, failure to maintain client funds in a trust account, failure to render accounts of client funds, and failure to promptly release a client file after termination. Unlike the hearing judge, we do not find culpability for misappropriation involving moral turpitude. Based on our review of the record, we find less weight in aggravation and affirm the weight for Lacher's cooperation. Considering the aggravating and mitigating circumstances and Lacher's serious misconduct, we recommend an actual suspension of 90 days to protect the public, the courts, and the legal profession.

I. PROCEDURAL BACKGROUND

OCTC filed a Notice of Disciplinary Charges (NDC) on March 30, 2021. Trial was held August 26 and 27, and the parties filed a Stipulation as to Facts and Admissibility of Exhibits (Stipulation) on August 27. The parties filed closing briefs and the hearing judge filed her decision on December 6. Lacher filed a request for review on January 5, 2022. After briefing was completed, we heard oral argument on December 2.

II. FACTUAL BACKGROUND

On February 5, 2016, Lavell Catlin retained Lacher to represent him in a personal injury matter. They entered into a contingency agreement, which provided that Lacher would receive attorney's fees as a percentage of the "net recovery," which was defined as "the amount remaining after the total amount received (whether by settlement, arbitration award, or court judgment) has been reduced by the sum of all 'costs,' as defined in . . . this agreement."[1] Lacher and Catlin later agreed the contingency fee percentage would be 33⅓ percent. The contingency agreement provided that Lacher would advance certain costs.[2] In January 2018, Lacher filed a personal injury lawsuit on Catlin's behalf in superior court.[3] On July 11, 2018, Catlin executed a

[1] The "costs" paragraph of the agreement provided: "Attorney will advance all 'costs' in connection with Attorney's representation of Client under this agreement. Attorney will be reimbursed out of the recovery before any distribution of fees to Attorney or any distribution to Client. If there is no recovery, or the recovery is insufficient to reimburse Attorney in full for costs advanced, Attorney will bear the loss. Costs include, but are not limited to, court filing fees, deposition costs, expert fees and expenses, investigation costs, long-distance telephone charges, messenger service fees, photocopying expenses, and process server fees. Items that are not to be considered costs, and that must be paid by Client without being either advanced or contributed to by Attorney, include, but are not limited to, Client's medical expenses and other parties' costs, if any, that Client is ultimately required to pay."

[2] However, Catlin actually paid for some of these costs when they were due, as he agreed that he would ultimately be responsible for the costs in the contingency agreement. For example, on January 18, 2018, he provided Lacher $3,500 to obtain a neurologist's report. That same day, Lacher sent a $3,500 check to Encino Neurological Medical Group. Catlin also paid the $435 filing fee for the lawsuit Lacher filed on his behalf in superior court.

[3] *Catlin v. Uber Technologies, Inc.*, *et al*.

non-disclosure agreement containing a liquidated damages clause related to the lawsuit, which would remain in effect until released by the defendant.

Lacher worked to settle the lawsuit, but as settlement discussions progressed, Catlin became concerned that Lacher was not providing him with enough information about his case.[4] At a meeting to discuss the case, Catlin provided Lacher with a blank substitution of attorney form, which he obtained from Brian Mason, an attorney who Catlin wanted to review the case due to his concerns about the level of information Lacher was providing. Lacher refused to sign the blank form, but told Catlin to have his new attorney contact her to arrange for substitution and return of the file.

Catlin did not do so and Lacher continued to work on a settlement. On June 18, 2019, Lacher and Catlin signed a Confidential Agreement and General Release of All Claims (settlement agreement), where the defendant agreed to pay Catlin $215,000, to settle the personal injury lawsuit.[5] The settlement agreement included a section on confidential information, which required "strict confidentiality" regarding the release, negotiations, identity of the parties, and facts giving rise to the release that could identify any released party. If a party received inquiry regarding this confidential information, they were to respond that the matter was resolved and state "no comment." This section further provided that Catlin "shall not" disclose any confidential information to anyone but his attorney and tax advisors, "provided they first agree to

[4] Just prior to a meeting on May 13, 2019, Catlin requested Lacher bring the case file with her to the meeting. Lacher responded that she could not do so before the meeting, but that she would bring her computer to show Catlin his file at the meeting.

Catlin later informed the State Bar that he had felt underprepared for an October 2018 deposition. He said the experience with the deposition is one of the reasons he began to question the adequacy of Lacher's representation.

[5] As a result of the settlement, the case was dismissed on July 8, 2019, with prejudice.

the terms of this section." In the event of a breach, however, all other provisions of the settlement agreement were to "remain in full force and effect."

On June 26, 2019, Lacher received the $215,000 settlement check. After Lacher texted Catlin on June 27 that she had received the check, Catlin contacted Bryan Sampson, an attorney representing judgment creditors against Lacher in an unrelated matter. In July 2018, Sampson had served Catlin with a copy of a Notice of Order Assigning Rights to Payment (Assignment Order) related to an action against Lacher.[6] Catlin told Sampson the personal injury lawsuit had settled. Sampson then contacted opposing counsel in Catlin's personal injury lawsuit, informing them of the Assignment Order.

Catlin deposited the $215,000 settlement check into her client trust account (CTA) and the check cleared on July 2, 2019. On that same date, Catlin provided Lacher with his bank information to facilitate a wire transfer of his portion of the funds. Lacher then emailed Catlin later that day with a proposed distribution of the settlement funds. The distribution was broken down into liens totaling $26,713.80,[7] and attorney's fees of $71,666.66, with the remaining going to Catlin. The proposed distribution did not take out any costs even though the

[6] The Assignment Order assigned 50 percent "of all payments made to Pamela Lacher from her clients," to her creditors (the defendants in a personal civil suit brought by Lacher). The Assignment Order further stated that it covered 50 percent of "[a]ny and all rights, title and interests of Judgment Debtors in settlement payments . . . and/or contract receivables now due, or to become due in the future, to Judgment Debtors from third parties including, but not limited to, clients and each other." The order also provided that anyone served with this notice "shall pay any and all monies now due, or to become due in the future to Judgment Debtors under this Order to [Sampson] . . . to be applied to this judgment herein until such time as this judgment is fully satisfied or this order is amended." The Assignment Order did not affect the amount of money that Catlin was owed under the settlement agreement.

[7] The liens were listed as: (1) $5,305 for Dr. Andrus; (2) $163.50 for Rural Metro; and (3) $21,245.30 for the United States Department of Veterans Affairs (VA). She indicated that a $13,343.95 Tricare bill no longer existed based on her call with them. The TriCare bill was not included in the lien total.

contingency agreement provided that costs would be deducted from the total amount, and Lacher would receive one-third of the reduced amount as attorney's fees.

On July 2, Lacher distributed $1,666.66 to herself for attorney's fees from her CTA. On July 3, Catlin texted Lacher not to disburse the settlement funds until they talked because he wanted a clear understanding of the numbers. He asked her how she arrived at $71,666.66 for her fees. She told him $71,666.66 was one-third of $215,000. Catlin indicated he was unclear what "net recovery" meant in the contingency agreement. Lacher texted she could have charged Catlin for costs but had not. She added that the contingency agreement provided she could calculate all her costs and deduct them from Catlin's share. On July 5, Lacher withdrew $5,305 from her CTA to pay one of the liens.

On July 8, Catlin texted Lacher an apology, stating he had misread the contingency agreement and asked her to wire his portion of the settlement funds to him. If not, he said he could meet her anytime because he was "off on paternity leave." On July 9, Lacher said she would do some more work regarding the liens and told him there was another $55 bill that needed to be paid and she would provide him with a new accounting to review. She told Catlin that after he reviewed the accounting, she would wire the funds to him.

On July 12, Lacher distributed $70,000 to herself from her CTA for the remainder of the $71,666.66 she had earlier told Catlin she was taking. On July 14, she texted Catlin she was having difficulty settling the lien with the VA. She offered to send Catlin his portion of the funds but withhold enough to pay the liens. She said after the liens were settled she would then give him the remainder. Lacher did not transfer any money to Catlin at this time, although Catlin sent Lacher texts requesting his money.

Thereafter, Lacher stated she needed to meet Catlin at the bank to do the transfer. On July 18, she texted him that she needed to discuss with him his possible violation of the

confidentiality section of the settlement agreement. She believed Catlin's communications with Sampson—the attorney related to the Assignment Order involving Lacher—constituted a breach. Lacher told Catlin that the breach and his receiving settlement funds were two separate issues, but she only wanted to meet with him once—to complete the transfer and discuss the breach simultaneously. Catlin continued to ask Lacher to meet, but Lacher said she did not want to meet until she discussed the confidentiality breach with the attorney for the personal injury defendant, and reiterated she only wanted to meet once. Catlin became concerned Lacher was improperly withholding his money, and instead was focusing on the confidentiality issue.

On July 28, Catlin texted Lacher that he did not know what was going on with the alleged confidentiality breach, but he needed money because his wife was not working, she just had a baby, and he needed to pay medical bills "as well as other things." He said he wanted to meet the following week so he would not "suffer a financial hardship." She responded she was in trial the next week and was waiting to hear from the defendant's attorney because she wanted "no repercussions from [Catlin's] conduct." Catlin said he could not wait, and any repercussions could be dealt with at a later date. Lacher then repeatedly messaged Catlin she would not be giving him the money until she heard from the defendant.

Catlin then hired attorney John K. Buche to assist in getting the settlement funds. On August 7, 2019, Buche wrote to Lacher advising her that he represented Catlin, requesting a complete accounting and copy of the client file, and demanding Lacher pay Catlin his complete portion of the settlement funds by August 16.[8] Upon receipt of the letter, Lacher did not stop working on the case, did not send Catlin a substitution of attorney form, and did not release to

[8] Buche sent the letter via email and FedEx. Lacher received the letter from FedEx but did not receive the email because she was unable to access the SBC Global email account Buche had used to email the letter. The email address Buche used was not the email address listed for Lacher in State Bar records.

Catlin the settlement funds or his file. On August 13, Lacher emailed Buche (via her official State Bar email address) and stated she understood she was still counsel of record for Catlin and was responsible for handling the settlement, the client file belonged to her, and she was not required to account to Buche. Buche responded on August 14 that Catlin retained him to sue Lacher for legal malpractice. He stated Catlin's funds did not belong to Lacher and a breach of the settlement agreement did not entitle Lacher to retain Catlin's money. Buche told Lacher not to contact Catlin.

On August 16, Catlin texted Lacher she was terminated and requested his settlement funds and client file. Lacher responded on August 26, stating that he could not terminate her because she was still working on the liens. She said she could give him his money and could probably meet "this Wednesday."[9] On August 27, Lacher contacted the VA regarding the lien. The next day, the VA notified Lacher the final lien amount was $21,650.41. Even though she knew the amount of the lien, she did not immediately issue an accounting to Catlin or Buche, pay the VA lien, or disburse any funds to Catlin. On August 29, Lacher texted Catlin she had the final amount from the VA, and could pay the lien, but could do further work to reduce the lien if he wanted. Buche again emailed Lacher, at an email address she could not access, noting she had not returned Catlin's money or client file or provided an accounting and that she was communicating with a represented party.

On September 4, 2019, Lacher disbursed $2,468.99 from her CTA to herself for costs. On September 9, she texted Catlin, "I write to try again – should you desire to finish the case, pay the liens and get your portion of the settlement please let me know." Catlin responded, asking for the current amount of the liens. Lacher texted an explanation of the liens, stating they

[9] Buche emailed Lacher the next day notifying her she was communicating with Catlin without authority. Lacher did not receive this email because it was sent to the SBC Global address. Buche was unaware Lacher could not access that email account.

were her responsibility, and notified Catlin that she had filed a State Bar complaint against Buche for trying to represent Catlin "at this stage."[10] Catlin replied, "As I told you before, you are no longer my lawyer. Please turn over my file and money to Mr. Buche. Thank you." Lacher told Catlin she would not turn over the file to Buche because she was responsible for the liens and Buche cannot be retained to take care of them. She added, "So if you want to stand on your laurels we will wait. Like me or not, at this point, I would think you would want this resolved. [I]t is not my problem it is yours and your money will wait for you forever. [S]hall I tell the lien holders to contact you?"

On September 10, 2019, Lacher disbursed $1,888.01 from her CTA to herself for additional costs.[11] She did not provide Catlin or Buche with an accounting. And she did not re-calculate her attorney's fees based upon the new net recovery after deducting $2,468.99 and $1,888.01 for costs (a total of $4,357 for costs). Because she took these costs, her attorney's fees would be less under the contingency agreement, and the difference owed to Catlin. Subtracting $4,357 for costs from the $215,000 settlement equals a net recovery of $210,643. One-third of $210,643 is $70,214.33—the amount Lacher should have received as attorney's fees under the contingency agreement. She had taken out $71,666.66 in attorney's fees, which is $1,452.33 more than $70,214.33. Under the contingency agreement, she should have held $135,123.67 in her CTA at this time. On September 30, the balance in Lacher's CTA was $134,473.35. On December 10, the balance was $133,671.34, which is $1,452.33 less than the amount that should have been in her CTA.

On September 18, 2019, Catlin submitted a complaint to the State Bar regarding Lacher. Lacher received a State Bar investigative letter on October 23. She responded on November 20

[10] The State Bar closed the complaint against Buche the next month.

[11] On December 21, 2020, Lacher provided the State Bar with documents stating her costs were $4,357.

to the State Bar that Catlin's case was not concluded due to the outstanding liens, and she was working on an interpleader complaint so the funds could be deposited with the court and the court could relieve her.

On January 6, 2020, Lacher texted Catlin that she was working on the interpleader and would deposit all the monies in her CTA with the court. Lacher attempted to file an interpleader action on January 14, but it was rejected. She made another attempt on February 7, but it was also rejected. On February 27, Lacher wired $133,777 to Catlin. However, under the contingency agreement, Catlin should have received $135,123.67, which was $1,346.67 more than what was wired. Lacher then informed the lienholders they should contact Catlin regarding any bills or liens.

On March 4, 2020, Lacher hired a process server to hand deliver the client file and a final accounting to Catlin. The process server was not able to serve Catlin but, on March 13, left the file in Catlin's carport as the garage door was "cracked." No one notified Catlin the file had been left there. The accounting was not left with the file and Lacher never provided Catlin with a final accounting. Lacher testified that she did not provide the file to Catlin sooner because rule 1.16(e) of the Rules of Professional Conduct provides an exception for returning client materials and property if they are subject to a non-disclosure agreement. She stated that she did not want to send the file to Buche because he never formally substituted into the case and he was not entitled to receive any confidential information that was covered by the settlement agreement.

III. CULPABILITY

OCTC must prove culpability by clear and convincing evidence. (Rules Proc. of State Bar, rule 5.103; *Conservatorship of Wendland* (2001) 26 Cal.4th 519, 552 [clear and convincing evidence leaves no substantial doubt and is sufficiently strong to command unhesitating assent of

every reasonable mind].) The hearing judge dismissed count five with prejudice, which alleged that Lacher failed to provide Catlin with a copy of his file after his requests in May 2019. The judge found these requests unreasonable. Neither Lacher nor OCTC challenge the dismissal on review. We affirm the dismissal of count five with prejudice. (*In the Matter of Kroff* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838, 843 [dismissal of charges for want of proof after trial on merits is with prejudice].)

A. Count One: Failure to Pay Client Funds Promptly

Count one of the NDC alleges that Lacher violated rule 1.15(d)(7) of the Rules of Professional Conduct[12] when she did not promptly pay any portion of the settlement funds to Catlin until February 27, 2020, even though she received the settlement check in June 2019. Count one also alleges that Lacher still owes Catlin over $4,000 from the settlement.[13] Rule 1.15(d)(7) provides that a lawyer shall "promptly distribute, as requested by the client or other person, any undisputed funds or property in the possession of the lawyer . . . that the client or other person is entitled to receive." The hearing judge determined Lacher should have disbursed $103,384.09 to Catlin in July 2019, which was the amount the judge determined was undisputed at the time Catlin requested his funds. Accordingly, the judge found that Lacher violated rule 1.15(d)(7).

OCTC argues Catlin was entitled to all the funds remaining after deducting attorney's fees and any potential liens. OCTC calculates attorney's fees of $71,666.66 and potential liens

[12] All further references to rules are to the Rules of Professional Conduct, effective November 1, 2018, unless otherwise noted. In the rules as published, defined terms are denoted with asterisks. For ease of readability, we omit these asterisks when quoting the rules herein. Rule 1.15 was amended, effective January 1, 2023. In this opinion, references to rule 1.15 are to the version of the rule in effect from November 1, 2018, until January 1, 2023.

[13] As discussed throughout this opinion, we do not find Lacher owes Catlin approximately $4,000. We find that she miscalculated her attorney's fees and owes Catlin $1,346.67.

totaling $40,057.75 ($5,305 for Dr. Andrus; $13,343.95 for TriCare; $163.50 for Rural Metro; and $21,245.30 for the VA), which would mean $103,275.59 should have been promptly distributed to Catlin after Lacher received the settlement check. OCTC asserts that when Catlin texted Lacher on July 8, 2019, apologizing for misreading the contingency agreement, there was no dispute as to the $103,275.59, and Lacher was obligated to distribute these undisputed funds. OCTC asserts that even if Lacher were entitled to costs of $4,357, she could have disbursed the funds to Catlin and withheld the costs, which would mean Catlin would have been entitled to $98,918.59 in July 2019. Instead, Lacher did not send any funds to Catlin until February 27, 2020, when she wired him $133,777.

Lacher asserts she did not distribute the funds until February 2020 because she was concerned Catlin violated the settlement's confidentiality provisions, and he could be subject to "difficulties, including liquidated damages." She argues her beliefs were reasonable under the circumstances due to her ongoing personal litigation and because Sampson used extensive tactics to collect for his client, including communicating with Catlin and purportedly telling him he could be liable for the entire judgment owed by Lacher to Sampson's client.

OCTC responds that Lacher's arguments lack merit because, even though there was an alleged breach of the settlement agreement, she distributed attorney's fees to herself in July 2019. OCTC argues that if a potential breach affected the settlement, then it would have also affected the attorney's fees. In addition, the confidentiality section of the settlement agreement provided that all other provisions of the settlement agreement would "remain in full force and effect" in the event of a breach. Therefore, OCTC asserts Lacher's arguments on review lack merit.

We agree with the hearing judge that the settlement agreement and the potential confidentiality breach had no bearing on whether Lacher should have promptly distributed a

portion of the funds to Lacher in July 2019. The plain language of the agreement provided as such. Further, Lacher initially texted Catlin in July that his funds were "separate from the breach." However, later that month her position changed when she texted Catlin that she was waiting to hear from the personal injury defendant and whether they would act on the breach. We also agree with the judge that Lacher has not established a justifiable reason for withholding the undisputed funds from Catlin for such a lengthy amount of time. We affirm culpability for count one and find that Lacher violated rule 1.15(d)(7) by failing to promptly distribute, as requested by Catlin, the undisputed portion of his settlement funds. (See *In the Matter of Berg* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725, 735 [six-week delay in disbursing funds violated former rule 4-100(B)(4) where client demanded payment, attorney made disbursements to himself, and no good reason for holding funds existed].)

B. Count Two: Failure to Maintain Client Funds in Trust Account
Count Three: Moral Turpitude – Misappropriation

Count two alleges that Lacher failed to maintain Catlin's funds in her CTA, in violation of rule 1.15(a).[14] Count three alleges that Lacher committed an act involving moral turpitude, dishonesty, or corruption by misappropriating funds from Catlin, in violation of Business and Professions Code section 6106.[15] The hearing judge found Lacher culpable under both counts. For count two, the judge determined that Lacher should have kept $138,028.34 in her CTA, but Lacher's CTA dropped to $134,473.35 on September 30, 2019, and to $133,671.34 on December 10, 2019. The judge found Lacher culpable under count three for her grossly negligent misappropriation of client funds. The judge did not assign additional weight in

[14] Rule 1.15(a) provides that all funds received or held by a lawyer for the benefit of a client shall be deposited in a CTA.

[15] Business and Professions Code section 6106 provides, in part, that the commission of any act involving dishonesty, moral turpitude, or corruption constitutes cause for suspension or disbarment.

assessing discipline for count two because the same misconduct established the moral turpitude violation in count three. (See *In the Matter of Sampson* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 119, 127 [no additional disciplinary weight for failing to maintain client funds in CTA when duplicative of moral turpitude violation].)

1. No Culpability Under Count Three (Moral Turpitude – Misappropriation)

OCTC agrees with the hearing judge that Lacher misappropriated $4,357 when her CTA dropped to $133,671.34, at a time when she should have held $138,028.34 in her CTA on behalf of Catlin.[16] When an account balance drops below the amount the attorney is required to hold for a client, a presumption of misappropriation arises. (See *Edwards v. State Bar* (1990) 52 Cal.3d 28, 37.) The burden then shifts to the attorney to show that misappropriation did not occur and that she was entitled to withdraw the funds. (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 618.) "Gross carelessness and negligence constitute violations of the oath of an attorney to faithfully discharge his duties to the best of his knowledge and ability and involve moral turpitude as they breach the fiduciary relationship owed to clients. [Citation.]" (*Giovanazzi v. State Bar* (1980) 28 Cal.3d 465, 475.) "The lack of an evil intent will not immunize an attorney from a conclusion of moral turpitude when the attorney's actions constitute gross carelessness and negligence violating the fiduciary duty to a client. [Citation.]" (*Lipson v. State Bar* (1991) 53 Cal.3d 1010, 1020.)

Lacher disagrees with the hearing judge's holding that she was not entitled to disburse the $4,357 in claimed costs because she had disclaimed "any right to said costs and by her own actions in determining and then withdrawing her attorney's fees based on $0 in costs being

[16] $138,028.34 minus $133,671.34 equals $4,357. Count two of the NDC contained a typographical error, listing the amount Lacher should have maintained in her CTA as $138,028.45. A related typographical error appears in count three, listing the misappropriation as $4,357.11 instead of $4,357.

subtracted from the net recovery." Soon after she received the settlement check, Lacher told her client that she would not be reimbursing herself for the costs. Her relationship with her client then became strained. She was not able to effectively communicate with him because he was worried she was not providing him with enough information. From the record, however, it appears Lacher was clear and did what she could to explain to her client what was going on with the settlement. The client remained concerned and hired another attorney, who contacted Lacher. Lacher then decided to reimburse herself for costs, as she was entitled to under the contingency agreement. It did not occur to her that she needed to recalculate the net recovery and the amount of attorney's fees she was owed.

Lacher's miscalculation does not amount to misappropriation involving gross negligence. She was entitled to $70,214.33 in attorney's fees, but took $71,666.66, a difference of $1,452.33. The fee agreement provided that Lacher would be reimbursed for advanced costs, and the amount of costs would reduce the total settlement amount before determining attorney's fees. The Stipulation also states Catlin and Lacher agreed that Catlin was responsible for costs. We find that her miscalculation of the fees was unintentional and amounted to only negligence—it does not show clear and convincing evidence of grossly negligent misappropriation. (See *In the Matter of McCarthy* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364, 377 [breach of fiduciary duties constitutes act involving moral turpitude where breach involves more than simple negligence].) Therefore, we do not find culpability under count three for misappropriation involving moral turpitude and dismiss the charge with prejudice. (*In the Matter of Kroff*, *supra*, 3 Cal. State Bar Ct. Rptr. At p. 843.)

2. Count Two Culpability (Failure to Maintain Client Funds in Trust Account)

Rule 1.15(c)(2) provides that if a client disputes the lawyer's right to receive a portion of funds, "the disputed portion shall not be withdrawn until the dispute is finally resolved." In

September 2019, Lacher disbursed $4,357 to herself for costs. On December 10, her CTA balance was $133,671.34, which is $4,357 less than $138,028.34. OCTC argues that Lacher violated rule 1.15(a) by failing to maintain a balance of $138,028.34 in her CTA and, therefore, is culpable under count two.[17] On review, Lacher maintains Catlin was owed only the money he received, $133,777, not $138,028.34, because she was owed costs, prior to calculation of attorney's fees. She insists she was entitled to collect $4,357 in costs and was not culpable under count two because she maintained sufficient funds in her CTA.

Lacher was entitled to reimburse herself for costs under the written contingency agreement, which provided that the agreement could be modified only by writing or with an oral agreement "to the extent that the parties carry it out."[18] Under the contingency agreement, Lacher should have maintained $135,123.67 in her CTA. On September 30, 2019, the balance in Lacher's CTA was $134,473.35. On December 10, the balance was $133,671.34, which is $1,452.33 less than the amount that should have been in her CTA. Therefore, Lacher did not maintain the undisputed portion of the settlement funds in her CTA. Lacher's fee miscalculation caused her CTA balance to drop below $135,123.67, which establishes culpability for a violation of rule 1.5(a). Accordingly, we find culpability under count two.[19]

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[17] OCTC calculates this amount by subtracting the following amounts Lacher withdrew in July 2019 from the $215,000 settlement: $71,666.66 in attorney's fees and $5,305 for Dr. Andrus's lien.

[18] We disagree with the hearing judge's finding that Lacher's explanation was not credible that the $4,357 dip was accounted for due to reimbursing herself for costs. The contingency agreement allowed for the net recovery to be determined by reducing it from the sum of all of the costs. (*In the Matter of DeMassa* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 737, 748 [Review Department may decline to adopt hearing judge's findings if insufficient evidence exists in record to support them].)

[19] Because we do not find culpability under count three, the count two violation is assigned disciplinary weight in determining discipline.

C. Count Four: Failure to Render Accounts of Client Funds

Count four alleges that Lacher violated rule 1.15(d)(4) by failing to render an appropriate accounting in writing when requested by Catlin, when requested by Catlin's subsequent counsel, and when she was terminated from employment. Rule 1.15(d)(4) provides that a lawyer shall "promptly account in writing to the client or other person for whom the lawyer holds funds or property." The hearing judge found that Lacher provided an initial accounting in July 2019, but did not provide an accounting after that point, despite assuring she would do so, and after reimbursing herself for costs, which she had earlier stated she would not do. Therefore, the judge found Lacher violated rule 1.15(d)(4) by failing to promptly account in writing to Catlin regarding the distribution of his settlement funds.

On review, Lacher argues she is not culpable under count four because she did not act willfully or with disregard for Catlin in relation to the accounting. She prepared an accounting and sent it with a process server to hand deliver. When the process server was unable to contact Catlin, he left the file and did not deliver the accounting. These facts do not excuse culpability. Lacher stipulated that the accounting was not actually provided to Catlin. Lacher is obligated to provide an accounting under rule 1.15(d)(4) and she did not do so. Accordingly, we affirm the hearing judge's culpability finding under count four. (See *In the Matter of Kroff*, *supra*, 3 Cal. State Bar Ct. Rptr. at p. 850 [culpable of former rule 4-100(B)(3) violation for failure to provide accounting within reasonable time after request].)

D. Count Six: Failure to Release File

Count six alleges that Lacher violated rule 1.16(e)(1) by failing to promptly release Catlin's file to him after he terminated the representation. Rule 1.16(e)(1) provides, in part, that upon the termination of a representation, "the lawyer promptly shall release to the client, at the

request of the client, all client materials and property." The hearing judge found Lacher culpable as charged.

Lacher argues that culpability was not established under count six because it was understandable that she waited to provide the file to Catlin. Lacher asserts Catlin purported to terminate the representation several times, even prior to August 2019, but then his actions demonstrated to her the representation was continuing. She also points to her testimony regarding her understanding of rule 1.16, and that she did not receive a signed substitution of attorney form from new counsel, that there was a confidentiality agreement which was not signed by Buche, and that Buche indicated his intent to sue Lacher for legal malpractice.

The hearing judge found none of these grounds provided adequate justification for Lacher's failure to promptly release the file upon her termination. We affirm this finding on review. "A client's file, absent uncommunicated attorney work product, is the property of the client and must be surrendered to the client promptly upon request once the representation has been terminated. [Citation.]" (*In the Matter of Regan* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844, 855.) In September 2019, Catlin made it clear to Lacher that the representation was terminated and he wanted her to give him his file. Lacher testified that she already had a copy of the file prepared at this time. She did not return the file to Caitlin until March 2020. We affirm culpability under count six.

IV. AGGRAVATION AND MITIGATION

Standard 1.5 of the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct[20] requires OCTC to establish aggravating circumstances by clear and convincing evidence. Standard 1.6 requires Lacher to meet the same burden to prove mitigation.

[20] All further references to standards are to this source.

A. Aggravation

1. Prior Record of Discipline (Std. 1.5(a))

In 2009, the Supreme Court ordered Lacher suspended for one year, stayed, and placed her on probation for two years for her failure to report the imposition of sanctions to the State Bar, in violation of Business and Professions Code section 6068, subdivision (o)(3) (two counts). (Oct. 27, 2009, S175824; State Bar Court Nos. 03-O-03824; 07-O-11020 (Consolidated).) The hearing judge assigned limited weight in aggravation for Lacher's prior record of discipline as the misconduct was unrelated to the present misconduct and occurred in 2004 and 2006. (See *In the Matter of Shinn* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96, 105 [private reproval remote in time did not merit significant aggravating weight].) Lacher does not dispute this finding. OCTC contends on review that Lacher's prior discipline should be assigned greater weight in aggravation because the prior misconduct is not unrelated to the instant misconduct because both cases involve Lacher's practice of law. OCTC also argues that the length of time is not "particularly remote." OCTC's arguments are unpersuasive. We affirm the finding of limited weight in aggravation under standard 1.5(a).

2. Multiple Acts of Wrongdoing (Std. 1.5(b))

The hearing judge assigned limited weight for Lacher's multiple acts given the limited scope of the misconduct. Neither party disputes this finding. (See *In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 646-647 [three instances of misconduct considered multiple acts].) We affirm the finding as Lacher failed to pay Catlin promptly, failed to maintain the appropriate amount of funds in her CTA, failed to account to Catlin, and failed to promptly return his file after termination.

3. Significant Harm to the Client (Std. 1.5(j))

The hearing judge found that Lacher caused significant harm to Catlin by delaying disbursement of over $100,000 in settlement funds for over six months, especially as Catlin told her he had a newborn and his wife was not working. The judge assigned substantial weight in aggravation under standard 1.5(j). OCTC supports this finding. Lacher argues that any aggravation for harm should be limited for the same reasons she believes culpability is not appropriate. She claims she did not intentionally delay payment to Catlin as she was in a difficult position and was trying to do the right thing. Lacher's argument lacks merit and we affirm the assignment of substantial weight for the significant harm Lacher caused in delaying disbursing funds to her client. (See *In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 993 [aggravation for significant harm where client deprived of funds at time of desperate need].)

4. Indifference/Atonement (Std. 1.5(k))

"[I]ndifference toward rectification or atonement for the consequences of the misconduct" is an aggravating circumstance. (Std. 1.5(k).) The hearing judge found Lacher disingenuous when she testified that she was justified in not disbursing the funds to Catlin because she did not know the actual amount of the liens or the legal consequences of the confidentiality breach she believed Catlin committed. The judge also found that Lacher refused to accept responsibility for her actions and was concerned she would engage in similar misconduct in the future. Therefore, the judge assigned substantial weight in aggravation under standard 1.5(k).

OCTC asserts the judge's finding should be affirmed and argues further indifference was demonstrated by Lacher's testimony that she was entitled to the client file even after Catlin had retained Buche and terminated Lacher. Lacher testified that she did not give Catlin the file after

he terminated her on August 16, 2019, because she was continuing to work on the liens and was entitled to possess it. Lacher continued to work on the liens afterwards and continued to communicate with Catlin regarding the matter. She did not receive Buche's subsequent email requesting the money and the file and warning her she was communicating with a represented party. Further, she did not receive a signed substitution of attorney form from Buche. The record shows Catlin had previously threatened termination, only to continue working with Lacher on the case afterwards. Lacher's testimony regarding the client file is sufficient to refute OCTC's claim of indifference.

We agree with the hearing judge there was no reasonable justification for Lacher to withhold the undisputed portion of Catlin's funds for such a lengthy period of time—from June 2019 until February 2020. She was also wrong to refuse to pay Catlin his funds because of her concern over her own personal litigation matter. However, she had an honest, although unreasonable belief, there could be legal consequences due to a possible confidentiality breach.[21] This evidences her attempt to defend herself in these proceedings, not indifference. (*Harris v. State Bar* (1990) 51 Cal.3d 1082, 1088 [no aggravation where failure to accept responsibility is based on honest belief in innocence].) OCTC has failed to establish by clear and convincing evidence that Lacher's actions show indifference under standard 1.5(k). Therefore, we do not assign aggravation under this standard.

5. Failure to Make Restitution (Std. 1.5(m))

The hearing judge found substantial aggravation for Lacher's failure to reimburse Catlin for the improper calculation of attorney's fees and costs. OCTC supports this finding. Lacher

[21] The hearing judge also found that Catlin's belief regarding the potential breach and the delay of payment of the settlement funds was honestly held, but not objectively reasonable.

asserts that she should not receive aggravation for not recognizing that Catlin was still owed money.

Lacher owes Catlin $1,346.67 due to her mistake in calculating her attorney's fees and costs.[22] However, because the miscalculation was unintentional and did not amount to misappropriation, we cannot find aggravation for her failure to pay the $1,346.67. (Std. 1.2(h) [aggravating circumstances are factors surrounding lawyer's misconduct warranting greater sanction].) Accordingly, we do not assign aggravation under standard 1.5(m).

B. Mitigation for Cooperation (Std. 1.6(e))

The hearing judge assigned only one factor in mitigation for cooperation. Mitigation includes "spontaneous candor and cooperation displayed to the victims of the misconduct or to the State Bar." (Std. 1.6(e).) The hearing judge assigned moderate weight in mitigation due to the Stipulation, which supported culpability and conserved judicial time and resources. Neither party challenges this finding and we affirm it. The Stipulation, filed after the first day of trial, was extensive and shortened trial time because many witnesses no longer needed to be called. Accordingly, we affirm the assignment of moderate weight in mitigation for Lacher's cooperation. (*In the Matter of Herich* (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 820, 829 [moderate weight in mitigation for stipulation saving judicial time and resources].)

V. DISCUSSION

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

[22] Lacher's attorney's fees should have been $70,214.33, based on a net recovery of $210,643 ($215,000 minus $4,357 for costs). One-third of $210,643 is $70,214.33. When the attorney's fees and the $5,305 lien that Lacher paid is subtracted from the net recovery, the remainder is $135,123.67, which is the amount that should have gone to Catlin. However, Lacher only wired Catlin $133,777, a difference of $1,346.67.

with the standards. While they are guidelines for discipline and are not mandatory, we give them great weight to promote consistency. (*In re Silverton* (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 sanction applicable here is standard 2.2(a), which provides for actual suspension of three months for failure to promptly pay out entrusted funds.[23] Though the hearing judge found misappropriation involving gross negligence, she recommended a 90-day actual suspension, and OCTC urges us to affirm this recommendation.

Lacher's misconduct falls squarely within standard 2.2(a) and based on the comparison of the aggravation and mitigation, she is not entitled to a downward departure of the presumed discipline. (See Std. 1.7(c) [lesser sanction not appropriate if mitigation does not outweigh aggravation]; *In the Matter of Martin* (Review Dept. 2020) 5 Cal State Bar Ct. Rptr. 753, 758 [downward departure where mitigation clearly outweighed aggravation].) We reject Lacher's argument that a 90-day actual suspension is not warranted based on the comparison of her case to *In the Matter of Ward* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47. Lacher has more aggravation than was found in *Ward* and less mitigation. As such, *Ward* does not support a lesser discipline for Lacher here. The same goes for *In the Matter of Bleecker* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 113, which Lacher also cites. Bleecker took steps to

[23] Lacher's other violations call for suspension or reproval under the standards. We do not find, as the hearing judge did, that Lacher was culpable of misappropriation involving gross negligence.

reform his misconduct, which, when considered with the mitigation finding that his misconduct was aberrational, called for a lesser sanction than presumed by the standards. Lacher does not have similar factors to support a lesser sanction as did Bleecker. Indeed, she has a prior record of discipline, caused significant harm to the client, and still owes the client money. Considering Lacher's misconduct, we conclude that a 90-day actual suspension is the appropriate discipline to protect the public, the courts, and the legal profession.[24] (See *In the Matter of Khakshooy* (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 681 [90-day suspension for failure to pay client funds promptly].)

VI. RECOMMENDATIONS

We recommended that Pamela Gayle Lacher, State Bar Number 174895, be suspended from the practice of law for one year, that execution of that suspension be stayed, and that she be placed on probation for one year with the following conditions:

1. **Actual Suspension and Until Restitution with Conditional Standard 1.2(c)(1) Requirement.** Lacher must be suspended from the practice of law for a minimum of the first 90 days of her probation, and will remain suspended until the following requirements are satisfied:

    a. Lacher makes restitution to Lavell Catlin, or to such other recipient as may be designated by the Office of Probation or the State Bar Court, in the amount of $1,346.67 plus 10 percent interest per year from July 2, 2019 (or reimburses the Client Security Fund, to the extent of any payment from the Fund to such payee, in accordance with Business and Professions Code section 6140.5). Reimbursement to the Fund is enforceable as a money judgment and may be collected by the State Bar through any means permitted by law. Lacher must furnish satisfactory proof of restitution to the State Bar's Office of Probation in Los Angeles; and

[24] A 90-day actual suspension is also appropriate progressive discipline under standard 1.8(a), which provides: "If a lawyer has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust." Lacher's prior discipline did not result in actual suspension; she was placed on probation for two years. Although her prior misconduct was remote in time, it was serious. She stipulated she twice failed to report the imposition of sanctions to the State Bar, in violation of Business and Professions Code section 6068, subdivision (o)(3). Accordingly, standard 1.8(a) is applicable.

b. If Lacher remains suspended for two years or longer, she must provide proof to the State Bar Court of her rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

2. **Review Rules of Professional Conduct.** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Lacher must (1) read the California Rules of Professional Conduct (Rules of Professional Conduct) and Business and Professions Code sections 6067, 6068, and 6103 through 6126, and (2) provide a declaration, under penalty of perjury, attesting to her compliance with this requirement, to the State Bar's Office of Probation in Los Angeles (Office of Probation) with Lacher's first quarterly report.

3. **Comply with State Bar Act, Rules of Professional Conduct, and Probation Conditions.** Lacher must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all conditions of probation.

4. **Complete E-Learning Course Reviewing Rules and Statutes on Professional Conduct.** Within 90 days after the effective date of the Supreme Court order imposing discipline in this matter, Lacher must complete the e-learning course entitled "California Rules of Professional Conduct and State Bar Act Overview." Lacher must provide a declaration, under penalty of perjury, attesting to Lacher's compliance with this requirement, to the Office of Probation no later than the deadline for Lacher's first quarterly report.

5. **Maintain Valid Official State Bar Record Address and Other Required Contact Information.** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Lacher must make certain that the State Bar Attorney Regulation and Consumer Resources Office (ARCR) has her current office address, email address, and telephone number. If she does not maintain an office, she must provide the mailing address, email address, and telephone number to be used for State Bar purposes. Lacher must report, in writing, any change in the above information to ARCR, within 10 days after such change, in the manner required by that office.

6. **Meet and Cooperate with Office of Probation.** Within 15 days after the effective date of the Supreme Court order imposing discipline in this matter, Lacher must schedule a meeting with her assigned probation case specialist to discuss the terms and conditions of her discipline and, within 30 days after the effective date of the court's order, must participate in such meeting. Unless otherwise instructed by the Office of Probation, Lacher may meet with the probation case specialist in person or by telephone. During the probation period, Lacher must promptly meet with representatives of the Office of Probation as requested by it and, subject to the assertion of applicable privileges, must fully, promptly, and truthfully answer any inquiries by it and provide to it any other information requested by it.

7. **State Bar Court Retains Jurisdiction/Appear Before and Cooperate with State Bar Court.** During Lacher's probation period, the State Bar Court retains jurisdiction over her to address issues concerning compliance with probation conditions. During this period, Lacher must appear before the State Bar Court as required by the court or by the Office of Probation after written notice mailed to her official State Bar record address, as provided above. Subject to the assertion of applicable privileges, Lacher must fully, promptly, and truthfully answer any inquiries by the court and must provide any other information the court requests.

8. **Quarterly and Final Reports.**

   a. **Deadlines for Reports.** Lacher must submit written quarterly reports to the Office of Probation no later than each January 10 (covering October 1 through December 31 of the prior year), April 10 (covering January 1 through March 31), July 10 (covering April 1 through June 30), and October 10 (covering July 1 through September 30) within the period of probation. If the first report would cover less than 30 days, that report must be submitted on the next quarter date and cover the extended deadline. In addition to all quarterly reports, Lacher must submit a final report no earlier than 10 days before the last day of the probation period and no later than the last day of the probation period.

   b. **Contents of Reports.** Lacher must answer, under penalty of perjury, all inquiries contained in the quarterly report form provided by the Office of Probation, including stating whether she has complied with the State Bar Act and the Rules of Professional Conduct during the applicable quarter or period. All reports must be: (1) submitted on the form provided by the Office of Probation; (2) signed and dated after the completion of the period for which the report is being submitted (except for the final report); (3) filled out completely and signed under penalty of perjury; and (4) submitted to the Office of Probation on or before each report's due date.

   c. **Submission of Reports.** All reports must be submitted by: (1) fax or email to the Office of Probation; (2) personal delivery to the Office of Probation; (3) certified mail, return receipt requested, to the Office of Probation (postmarked on or before the due date); or (4) other tracked-service provider, such as Federal Express or United Parcel Service, etc. (physically delivered to such provider on or before the due date).

   d. **Proof of Compliance.** Lacher is directed to maintain proof of compliance with the above requirements for each such report for a minimum of one year after either the period of probation or the period of actual suspension has ended, whichever is longer. Lacher is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

9. **State Bar Ethics School and Client Trust Accounting School.** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Lacher must submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and of the State Bar Court Client Trust Accounting School and passage of the tests given at the end of those sessions. This requirement is separate from any Minimum

Continuing Legal Education (MCLE) requirement, and she will not receive MCLE credit for attending these sessions. If she provides satisfactory evidence of completion of the Ethics School and/or the Client Trust Accounting School after the date of this opinion but before the effective date of the Supreme Court's order in this matter, Lacher will nonetheless receive credit for such evidence toward her duty to comply with this condition.

10. **Commencement of Probation/Compliance with Probation Conditions.** The period of probation will commence on the effective date of the Supreme Court order imposing discipline in this matter. At the expiration of the probation period, if Lacher has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

11. **Proof of Compliance with Rule 9.20 Obligation.** Lacher is directed to maintain, for a minimum of one year after commencement of probation, proof of compliance with the Supreme Court's order that she comply with the requirements of California Rules of Court, rule 9.20, subdivisions (a) and (c), as recommended below. Such proof must include: the names and addresses of all individuals and entities to whom Lacher sent notification pursuant to rule 9.20; a copy of each notification letter sent to each recipient; the original receipt or postal authority tracking document for each notification sent; the originals of all returned receipts and notifications of non-delivery; and a copy of the completed compliance affidavit filed by her with the State Bar Court. She is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

VII. MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION

We further recommend that Pamela Gayle Lacher be ordered to take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners within one year after the effective date of the Supreme Court order imposing discipline in this matter and to provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).) If Lacher provides satisfactory evidence of the taking and passage of the above examination after the date of this opinion but before the effective date of the Supreme Court's order in this matter, she will nonetheless receive credit for such evidence toward her duty to comply with this requirement.

VIII. CALIFORNIA RULES OF COURT, RULE 9.20

We further recommend that Pamela Gayle Lacher 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 calendar days, respectively, after the date the Supreme Court order imposing discipline in this matter is filed. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45 [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 imposing discipline].)[25] Failure to do so may result in disbarment or suspension.

IX. MONETARY SANCTIONS

The hearing judge recommended monetary sanctions of $2,500. On review, Lacher asserts that monetary sanctions should not be recommended because "no actual suspension should be ordered." As provided *ante*, we recommend a 90-day actual suspension here. The guidelines for the imposition of monetary sanctions recommend a sanction of up to $2,500 for discipline including an actual suspension. (Rules Proc. of State Bar, rule 5.37(E)(2).) Considering the facts and circumstances of this case, including Lacher's failure to promptly pay a significant amount of settlement money to her client, which caused significant harm, and that she still owes her client money, we affirm the hearing judge's recommendation. Accordingly, we recommend that Pamela Gayle Lacher be ordered to pay monetary sanctions to the State Bar of California Client Security Fund in the amount of $2,500, in accordance with Business and Professions Code section 6086.13 and rule 5.137 of the Rules of Procedure of the State Bar.

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[25] Lacher is required to file a rule 9.20(c) affidavit even if she 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).)

Monetary sanctions are enforceable as a money judgment and may be collected by the State Bar through any means permitted by law. Monetary sanctions must be paid in full as a condition of reinstatement or return to active status unless time for payment is extended pursuant to rule 5.137 of the Rules of Procedure of the State Bar.

X. 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.

HONN, P.J.

WE CONCUR:

McGILL, J.

RIBAS, J.