

Filed January 31, 2025

STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

In the Matter of)	SBC-23-N-30325; SBC-23-O-30326
)	(Consolidated)
ROSSANA PILAR MITCHELL,)	
)	OPINION AND ORDER
State Bar No. 210305.)	[As Modified on February 28, 2025]
_____)	

Respondent Rossana Pilar Mitchell requests review of a hearing judge’s decision recommending disbarment based on Mitchell’s misconduct including failure to obey California Rules of Court, rule 9.20;¹ misrepresentations constituting moral turpitude for making false declarations in her rule 9.20 declaration; failure to render an accounting (two counts); improperly acquiring a pecuniary interest adverse to a client; and failure to refund unearned fees. Mitchell contends she misunderstood her rule 9.20 reporting obligations and believed, in good faith, that she had complied with the rule. She also asserts she was not indifferent, as found by the hearing judge, because she acknowledged her mistakes at trial and apologized. Mitchell argues for discipline less than disbarment. The Office of Chief Trial Counsel of the State Bar (OCTC) supports the disbarment recommendation. After an independent review of the record (Cal. Rules of Court, rule 9.12), we affirm the judge’s disbarment recommendation as Mitchell intentionally

¹ All further references to rules are to the California Rules of Court unless otherwise noted.

provided false information in her rule 9.20 compliance declaration; it was objectively unreasonable for her to believe the statements in the declaration were truthful; and she is not ready to take responsibility for her actions. Mitchell's knowing and intentional misrepresentations in the declaration set this case apart from other rule 9.20 disciplinary cases where disbarment was not recommended. Considering the standards, relevant case law, and the aggravating and mitigating circumstances, disbarment is appropriate here.

I. PROCEDURAL BACKGROUND

On March 15, 2023, OCTC filed a Notice of Disciplinary Charges (NDC) in two separate matters, State Bar Court case numbers SBC-23-N-30325 (N case) and SBC-23-O-30326 (O case). The N case alleged Mitchell failed to obey rule 9.20 as ordered by the Supreme Court in her prior discipline. The O case alleged Mitchell filed a false rule 9.20 declaration in violation of Business and Professions Code section 6106² and committed further misconduct in three other client matters involving violations of rules 1.8.1, 1.15(d)(4), and 1.16(e)(2) of the Rules of Professional Conduct.³ The cases were consolidated on April 24, 2023. On January 19, 2024, the parties filed a Stipulation as to Facts and Admission of Documents (stipulation). Trial was held on January 23, 24, and 25. The hearing judge filed the decision on April 30, and Mitchell then requested review. After briefing in the Review Department, oral argument was held on November 13.

II. MITCHELL'S PRIOR DISCIPLINE CASE

Mitchell was admitted to practice law in California in December 2000, and has one prior record of discipline. On June 28, 2021, the Hearing Department found Mitchell culpable of four counts of misconduct in three client matters: a moral turpitude violation for dishonestly claiming

² All further references to sections are to the Business and Professions Code.

³ Count six of the O case was dismissed by the hearing judge upon OCTC's request.

she had a lien against a client's property and using it as leverage to receive alleged outstanding legal fees, failing to provide an accounting, improperly including a charging lien in a retainer agreement, and improperly communicating with a represented party. (State Bar Court Case No. SBC-20-O-30781.) Aggravation was assigned for multiple acts of misconduct and failure to pay restitution, and mitigation was credited for absence of a prior record of discipline, good character, community service, and cooperation for entering into a detailed stipulation of facts.

For Mitchell's various ethical violations, the hearing judge recommended a two-year stayed suspension, actual suspension of six months, and a two-year probation. On November 15, 2021, the Supreme Court adopted the recommendation and ordered Mitchell to "comply with California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order."⁴ (S270462.) This recommendation was also included in the Hearing Department decision, which included a footnote alerting Mitchell that for purposes of compliance with rule 9.20(a), the operative date for identifying clients 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.)" The Supreme Court order also provided that failure to comply with rule 9.20 "may result in disbarment or suspension." Mitchell's suspension was effective on December 15, 2021.

⁴ Rule 9.20(a)(1) requires an attorney to notify clients of his or her suspension. Rule 9.20(b) provides that notifications under the rule "must be given by registered or certified mail, return receipt requested, and must contain an address where communications may be directed to the . . . suspended . . . licensee." Rule 9.20(c) requires the suspended attorney to file "an affidavit showing that he or she has fully complied with those provisions of the order entered under this rule."

III. FACTUAL SUMMARY

The facts are based on trial testimony, documentary evidence, the stipulation, and the hearing judge's factual and credibility findings, which are entitled to great weight. (Rules Proc. of State Bar, rule 5.155(A).) Mitchell does not challenge the facts underlying culpability as found by the judge. Her primary arguments on review are that she should receive mitigation for her good faith belief as to her reporting obligations and she should not receive aggravation for indifference. After independently examining the record and the weight of the evidence, we affirm the judge's factual, credibility, and culpability findings as supported by the record. (See *Coppock v. State Bar* (1988) 44 Cal.3d 665, 676-677 [sufficiency of evidence].) A summary of the pertinent facts is provided in this section.

A. Mitchell's Actions Following the Supreme Court Order

When the Supreme Court order was filed on November 15, 2021, Mitchell had several active client matters. Mitchell believed that if she was no longer representing any clients when her suspension went into effect, she could avoid having to comply with the rule 9.20 notice requirements. As her suspension grew imminent, Mitchell left substitution of attorney forms and

her signature stamp with office staff and her associate, Mario Rivas, to execute the forms.⁵ She did not ensure that the substitution of attorney forms were actually filed and later blamed Rivas at the disciplinary trial for failing to file them. On December 2, Mitchell appeared remotely for a trial setting conference in the Raquel Casas matter. On December 14, she appeared remotely in the Illiani Allured matter. She did not provide proper notice of her suspension to her clients, but instead emailed them on December 8, that she would be taking “personal time off” and would handle their cases when she returned. On January 21, 2022, Mitchell filed her rule 9.20 compliance declaration stating, as of the date upon which the order to comply with rule 9.20 was filed, she had no clients, and she did not represent any clients in pending matters.

**B. Active Client Matters at the Time of the Supreme Court Order
(Rule 9.20 Misconduct)**

1. Ramirez

Mitchell represented Brandie Ramirez in a divorce and child custody case. On November 23, 2021, after the Supreme Court Order was filed on November 15, Ramirez and Mitchell signed a substitution of attorney to substitute Mitchell out of the case. The form was

⁵ The hearing judge found credible Rivas’s testimony that Mitchell never told him it was his responsibility to inform clients of her suspension. The judge found that Mitchell’s testimony regarding the period of time between November 2021 and January 2022 was not credible as it was inconsistent, vague, and conflicted with the documentary evidence. As an example of Mitchell’s inconsistent testimony, the judge noted that Mitchell said she “disappeared” from the office in November 2021, yet court records show she made appearances on behalf of clients after that date. Mitchell asserts that the judge did not consider that these appearances were remote and disagrees with the basis of the credibility finding. We disagree with Mitchell that this is a distinction that should have been detailed by the judge. Her ability to work remotely in these instances does not weigh in her favor. Instead, it demonstrates she remained counsel of record in these matters and could have looked at the online case dockets, whether or not she was physically in the office, to ensure that substitutions were filed and the information presented in her rule 9.20 compliance declaration was truthful. We affirm the judge’s credibility findings as supported by the record. (*McKnight v. State Bar* (1991) 53 Cal.3d 1025, 1032 [hearing judge best suited to resolving credibility questions].)

not filed until February 8, 2022,⁶ after the effective date of Mitchell's suspension on December 15, 2021. Mitchell blamed Ramirez for not filing the substitution of attorney form after it was signed on November 23, 2021.

2. Casas

Mitchell represented Raquel Casas in a family law case and a child support case. As mentioned above, Mitchell appeared remotely on behalf of Casas on December 2, 2021, in the family law case. That same day, after Mitchell's staff convinced Casas she did not need Mitchell's continued representation in the child support case, Casas signed a substitution of attorney form to proceed as self-represented.

In January 2022, Casas saw an article in a local newspaper announcing Mitchell's suspension. Casas borrowed money to hire new counsel who started on January 28 and filed a substitution form on February 4. The form stated that Mitchell was unable to practice under Business and Professions Code section 6125.⁷ Casas twice requested an accounting from Mitchell's office and never received one.

3. Allured

Mitchell initially represented Illiani Allured in a dependency case, but also began representing Allured in a criminal law case and a family law case. On November 30, 2021, Allured's father paid Mitchell \$5,000 for the criminal case. On that date, Mitchell told Allured that an associate would help with the cases while she was on "vacation." Allured believed Mitchell would remain her attorney and would work on her cases after the "vacation." Mitchell

⁶ Mitchell testified that her office discovered later that the form was not filed. Mitchell blamed Ramirez for taking the substitution form with her after it was signed and not filing it, even though Mitchell's office retained a copy of the form.

⁷ Business and Professions Code section 6125 provides: "No person shall practice law in California unless the person is an active licensee of the State Bar."

did not disclose her suspension to Allured. On December 13, Allured and Mitchell signed a substitution of attorney form to bring Rivas into the family law case. On December 14, Mitchell appeared remotely in the family law case. Allured learned of Mitchell's suspension in January 2022 when searching Mitchell's name on the State Bar website.

4. Smith

Mitchell represented Carl Smith in a child custody case. On December 12 and 13, 2021, Smith signed two substitution of attorney forms to substitute Rivas into the case as Smith was told Mitchell was expanding the firm. Mitchell signed a substitution form on December 13, and it was not filed until January 31, 2022.

5. Fuller

Mitchell represented Cathleen Fuller in a marriage dissolution case. On December 8, 2021, Fuller agreed to substitute Rivas into her case. On December 14, Mitchell appeared remotely in the case. The substitution form was not filed until December 29, after Mitchell was suspended. Opposing counsel learned of Mitchell's suspension in January 2022, when he was preparing to serve a pleading on Mitchell and asked his staff to check her address on the State Bar website. Fuller also learned of Mitchell's suspension in January by reading the newspaper article.

C. Misconduct That Occurred Before the November 2021 Supreme Court Order

1. Cervantes (Failure to Account and Improperly Acquiring Interest Adverse to Client)

Yolanda Cervantes hired Mitchell on November 7, 2019, to work on a family law case and paid \$5,000 in advanced fees. They signed an hourly fee agreement providing that Mitchell would have a lien on any money or property awarded to Cervantes. Mitchell did not advise

Cervantes in writing that she could seek the advice of independent counsel regarding the potential conflict of interest created by the lien.

Cervantes became dissatisfied with Mitchell's representation and requested an accounting in January 2020, because she wanted a refund. Cervantes terminated Mitchell's representation on February 11. A substitution of attorney form was filed on February 20. On multiple occasions, Cervantes called Mitchell's office requesting billing statements and a refund. Once, she spoke directly to Mitchell who told Cervantes to stop calling and hung up on her. On March 20, Cervantes initiated fee arbitration. The fee arbitration hearing occurred the following year on February 3, 2021. The arbitrator found that Mitchell never provided Cervantes with billing statements and awarded \$4,550 to Cervantes. Cervantes and Mitchell settled the dispute and Mitchell paid Cervantes \$3,000.

2. Sanchez (Failure to Account and Failure to Refund Unearned Fees)

Elodia Sanchez paid Mitchell \$3,500 in advanced fees to represent her in a probate case. Mitchell was terminated in August 2020. On September 15, Mitchell returned a signed substitution form to substitute attorney Mark Regus into the case. Sanchez called and emailed Mitchell requesting a receipt for services and a refund of unearned fees. Mitchell replied via email claiming it was "against State Bar rules" for Sanchez to contact her and advised that the new attorney could reach out anytime. On September 24, October 12, and December 17, 2020, and January 6, 2021, Regus made requests for a copy of the file and an accounting or refund. On January 20, 2021, Mitchell attached two documents labeled "Billing" and "Invoice" to an email to Regus. On March 3, Mitchell refunded Sanchez \$1,792.66.

IV. CULPABILITY

OCTC has the burden of proving culpability by clear and convincing evidence.

(*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].) On review, we affirm the culpability as found by the hearing judge.

A. Mitchell Failed to Follow Notification Requirements of Rule 9.20 (N Case)

Rule 9.20 “performs the critical prophylactic function of ensuring that all concerned parties—including clients, cocounsel, opposing counsel or adverse parties, and any tribunal in which litigation is pending—learn about an attorney’s discipline. [Citations.]” (*Lydon v. State Bar* (1988) 45 Cal.3d 1181, 1187.) Mitchell represented Ramirez, Casas, Allured, Smith, and Fuller at the time the Supreme Court order was filed on November 15, 2021. Pursuant to that order, she was required to notify these clients by registered or certified mail of her suspension. (*In the Matter of Chavez* (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 783, 790.) She failed to notify these clients of her impending suspension. Therefore, she is culpable for failing to comply with rule 9.20(a)(1) and (b) as ordered by the Supreme Court on November 15, 2021.

B. Mitchell’s False Statements in Her Rule 9.20 Declaration Amounted to Moral Turpitude Under Bus. & Prof. Code § 6106 (O Case: Count Three)

Business and Professions Code section 6106 provides that an attorney may be disbarred or suspended for the commission of any act involving moral turpitude, dishonesty, or corruption. Rule 9.20(d) also states that “willful failure to comply with the provisions of this rule is a cause for disbarment or suspension and for revocation of any pending probation.” Additionally, an attorney’s failure to comply may also be punished as a contempt or a crime. (Rule 9.20(d); § 6126, subd. (c) [imprisonment in state prison or county jail].) The hearing judge found that Mitchell committed intentional misrepresentations in violation of section 6106 by falsely stating in her rule 9.20 declaration that, as of November 15, 2021, she had no clients and did not represent any clients in any pending matters when she knew that was false.

Accurate rule 9.20 compliance is essential to the discipline system and to maintaining public confidence in the legal system. (*Durbin v. State Bar* (1979) 23 Cal.3d 461, 467-468 [rule 9.20(c) designed to insure compliance with notification requirements and protect clients and other concerned parties].)⁸ Further, honesty is absolutely fundamental to the practice of law because without it “the profession is worse than valueless in the place it holds in the administration of justice.” (*Tatlow v. State Bar* (1936) 5 Cal.2d 520, 524; see *Kim v. Westmoore Partners, Inc.* (2011) 201 Cal.App.4th 267, 292 [“It is critical to both the bench and the bar that we be able to rely on the honesty of counsel”].)

The rule 9.20 compliance declaration form is clear and direct, using checkboxes for attorneys to provide answers about their compliance. Mitchell checked the boxes on the form asserting that “[a]s of the date upon which the order to comply with rule 9.20 was filed,” she (1) “had no clients” and (2) “did not represent any clients in pending matters.” The Supreme Court order was filed on November 15, 2021, and Mitchell knew she had several pending client matters on that date. Mitchell did not tell Ramirez, Casas, Allured, Smith, or Fuller that she was suspended. She actively avoided disclosing this information and instead sent out a mass email saying she “needed personal time off” and would “still be handling” cases when she returned. Mitchell told Allured she was going on “vacation.” Mitchell attempted to cover up her failure to notify by stating on the declaration form that she had no clients and did not represent any clients in pending matters at the time the Supreme Court order was filed. The form also provided an optional answer, which Mitchell did not select, stating that the attorney notified all clients of their suspension “in matters that were pending on the date upon which the order to comply with

⁸ *Durbin* also provides that “the effectiveness of the rule should not depend on whether the suspended attorney exercised good or bad faith in failing to comply.” (*Id.* at pp. 467-468.) As discussed *post*, Mitchell did not establish she acted in good faith.

rule 9.20 was filed.” The form clearly conveys that the operative date is the date upon which the Supreme Court order was *filed*, and it should have alerted Mitchell to any earlier mistaken belief that she could substitute out of her cases instead of informing her clients of her suspension.⁹

We find that Mitchell knew that her rule 9.20 compliance declaration contained false information when it was filed and was an attempt to mislead the courts regarding her compliance. Due to her dishonesty, Mitchell’s misconduct is more egregious than other rule 9.20 violation cases, such as those resulting from unsuccessful attempts to file the compliance declaration or filing it late. (See, e.g., *In the Matter of Amponsah* (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 646 [one-year actual suspension for failing to comply with rule 9.20 and making attempts to comply]; *In the Matter of Friedman* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 527 [30-day actual suspension for filing compliance declaration two weeks late].) Mitchell’s intentionally dishonest statements in her rule 9.20 compliance declaration violate “the fundamental rule of ethics—that of common honesty.” (*Tatlow v. State Bar*, *supra*, 5 Cal.2d at p. 524.) For these reasons, we find that Mitchell committed an act of moral turpitude and affirm the hearing judge’s finding of culpability. (See *In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896, 910 [moral turpitude includes affirmative misrepresentations].)

⁹ Mitchell did not even ensure that the substitution forms were filed before she filed the rule 9.20 compliance declaration on January 21, 2022 (the signature date indicates she signed the form on January 20). The forms in the Ramirez, Casas, and Smith matters were all filed after January 21, 2022. Moreover, her suspension was effective on December 15, 2021. She could not comply with rule 9.20 by filing substitutions after the Supreme Court order was filed and before the effective date of the order. (*In the Matter of Eldridge* (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr 413, 416-417.) Regardless, the substitutions in the Ramirez, Casas, Smith, and Fuller matters were all filed after the effective date of her suspension. “[S]ubstitution of counsel is only effective upon the *filing* of the consent of both client and attorney to such substitution with the court and *written notice* thereof to the adverse party. (See Code Civ. Proc., §§ 284, 285.)” (*Athearn v. State Bar*, *supra*, 32 Cal.3d at p. 45.)

C. Mitchell Improperly Acquired a Pecuniary Interest Adverse to Cervantes (O Case: Count Two)

Under rule 1.8.1 of the Rules of Professional Conduct, if an attorney acquires a pecuniary interest adverse to a client and the client is not represented by independent counsel in the transaction or acquisition, the attorney must advise the client in writing to seek the advice of independent counsel and give the client a reasonable opportunity to seek that advice. The client must then provide informed written consent to the terms of the acquisition. Mitchell did not follow this rule when she entered into the agreement with Cervantes in November 2019, where Mitchell acquired a lien on money or property awarded to Cervantes in her family law case. Mitchell failed to advise Cervantes in writing that she should seek the advice of an independent attorney regarding the lien and did not give her a reasonable opportunity to seek that advice. Accordingly, Mitchell is culpable for violating rule 1.8.1 of the Rules of Professional Conduct.

D. Mitchell Failed to Account in Cervantes Matter (O Case: Count One)

Rule 1.15(d)(4) of the Rules of Professional Conduct requires an attorney to promptly account in writing to a client for whom the attorney holds funds or other property. In January 2020, Cervantes requested an accounting from Mitchell. Cervantes terminated Mitchell's representation on February 11, 2020, and subsequently made repeated requests for billing statements and a refund. Mitchell never provided an accounting. Therefore, Mitchell violated rule 1.15(d)(4) of the Rules of Professional Conduct by failing to promptly account to Cervantes for the advanced fees paid.

E. Mitchell Failed to Account in Sanchez Matter (O Case: Count Four)

After Sanchez terminated Mitchell's representation in August 2020, she called and emailed Mitchell requesting a receipt for services and a refund of the advanced fees that were unearned. Sanchez's new attorney made additional requests to Mitchell for Sanchez's file and an

accounting on September 24, October 12, and December 17, 2020, and January 6, 2021.

Mitchell did not email billing and invoice statements to Regus until January 20, 2021. We agree with the hearing judge that a delay of over three months after termination to provide an accounting was not prompt or reasonable. Accordingly, we affirm culpability for Mitchell's violation of rule 1.15(d)(4) of the Rules of Professional Conduct in the Sanchez matter.

**F. Mitchell Failed to Refund Unearned Fees in Sanchez Matter
(O Case: Count Five)**

Rule 1.16(e)(2) of the Rules of Professional Conduct provides that upon termination, an attorney must promptly refund any part of a fee paid in advance that the attorney has not earned. Mitchell waited until March 3, 2021, to return unearned fees to Sanchez after she had been terminated in August 2020 and returned the substitution of attorney form on September 15, 2020. This delay amounts to culpability for failure to promptly refund unearned fees in violation of the rule.

V. AGGRAVATION AND MITIGATION

Standard 1.5 of the Standards for Attorney Sanctions for Professional Misconduct¹⁰ requires OCTC to establish aggravating circumstances by clear and convincing evidence. Standard 1.6 requires Mitchell to meet the same burden to prove mitigation.

A. Aggravation

1. Indifference (Std. 1.5(k))

“Indifference toward rectification or atonement for the consequences of the misconduct” is an aggravating circumstance. (Std. 1.5(k).) While the law does not require false penitence, it does require an attorney to accept responsibility for wrongful acts and show some understanding

¹⁰ All further references to standards are to the Rules of Procedure of the State Bar, Title IV, Standards for Attorney Sanctions for Professional Misconduct.

of their culpability. (*In the Matter of Katz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502, 511.) An attorney who does not accept responsibility for their actions and instead seeks to shift it to others demonstrates indifference and lack of remorse. (*In the Matter of Wolff* (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1, 14.)

Mitchell disagrees with the hearing judge's finding of indifference and contends she apologized at trial and acknowledged her mistakes. On the first day of trial, when asked to turn to page 31 of the hearing judge's decision—the portion addressing Mitchell's rule 9.20 obligations—Mitchell replied that she had not read the footnote discussing the operative date previously. She said, "I only read the ruling, the big letters. I never read the notes, and I apologize. I didn't read it. It's the first time I'm reading it now." We recognize Mitchell's acknowledgment and apology for not carefully reading the decision. However, considering the remainder of her testimony, we agree with the judge that Mitchell has not taken full responsibility for her actions. Mitchell stated she left the responsibility to read the decision to her attorney in the prior discipline. Mitchell blamed the attorney for the failure to comply with rule 9.20. We view Mitchell's remarks at trial as an attempt to deflect from her wrongdoing instead of an acceptance of responsibility for her serious misconduct—disobeying a Supreme Court order. It is clear she does not understand the function and importance of rule 9.20 to alert all concerned parties about an attorney's discipline. (*Lydon v. State Bar*, *supra*, 45 Cal.3d at p. 1187 ["critical prophylactic function" of rule 9.20].) Mitchell's attempts to blame others exemplifies her desire to avoid responsibility for her actions and "indicates a substantial likelihood that [she] would continue to engage in misconduct." (*Gadda v. State Bar* (1990) 50 Cal.3d 344, 356.)

Mitchell also argues indifference is improper here because she "was not given the opportunity to properly rebut indifference," citing *In the Matter of Khishaveh* (Review Dept.

2018) 5 Cal. State Bar Ct. Rptr. 564, 570. Mitchell misconstrues the finding in *Khishaveh*. In that case, we declined to find aggravation for indifference as no clear facts in the record supported OCTC's argument that Khishaveh should have received aggravation because he did not make amends by paying for a client's medical bills. There was nothing in the record to show "if, when, or by whom [the client's] medical bills were paid." (*Ibid.*) Because there was no evidence in the record regarding the payment of the medical bills, Khishaveh did not have an opportunity to provide rebuttal evidence to OCTC's claim, which was made for the first time on review. Conversely, in the instant matter, OCTC properly argued for aggravation under standard 1.5(k) in its closing trial brief based on Mitchell's testimony and the hearing judge made an appropriate finding based on the record. Mitchell does not describe the rebuttal evidence she would have presented and only continues to argue that her testimony did not amount to indifference. We disagree.

We find that the record supports indifference as Mitchell placed the blame for violating rule 9.20 on her prior disciplinary counsel, Rivas, her office staff, and her clients. While she admitted her belief about how to comply with rule 9.20 was wrong, she only attempted to minimize her actions and never accepted responsibility for them. Additionally, she made various excuses and did not take accountability for her misconduct in the Sanchez and Gomez matters. Therefore, we affirm the hearing judge's finding of substantial weight in aggravation under standard 1.5(k).

2. Prior Record of Discipline (Std. 1.5(a)) and Multiple Acts (Std. 1.5(b))

The hearing judge assigned moderate weight for two additional factors in aggravation: Mitchell's prior record of discipline and multiple acts of wrongdoing. Mitchell does not challenge these findings on review. After review, we affirm the judge's aggravation findings under standard 1.5(a) and (b).

B. Mitigation

1. Good Faith Belief (Std. 1.6(b))

A “good faith belief that is honestly held and objectively reasonable” may be a mitigating circumstance. (Std. 1.6(b).) Both criteria must be true. “To conclude otherwise would reward an attorney for his unreasonable beliefs and ‘for his ignorance of his ethical responsibilities.’ [Citation.]” (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 50.) The hearing judge found that Mitchell did not establish mitigation under this standard.

Mitchell argues on review that she should receive mitigation for her belief that she had complied with rule 9.20. In support, she argues the substitution forms were *signed* before the effective date and she believed that if she withdrew by the effective date, notice was unnecessary. Even though the substitution forms were not filed until after the effective date, Mitchell contends that she believed she had taken the proper steps to withdraw by what she understood was the operative date. Mitchell notes that she had a large amount of clients and the filing of the substitution forms “proved to be a large task” for her and her staff. She maintains that because there is no evidence that she signed substitution forms past the effective date of December 15, 2021, we should find that she worked to remove herself by what she believed to be the operative date.

OCTC counters that Mitchell collected fees and made court appearances after the discipline order was issued, which undermines the sincerity of her purported good faith belief. OCTC also argues that Mitchell’s actions were not objectively reasonable, as she failed to ensure she was substituted out of her cases yet argues that she believed she was required to do so under rule 9.20. In addition, the prior Hearing Department decision clearly directed Mitchell to the operative date for identifying clients to be notified under the rule. Even if she believed all that was required of her was to substitute out of her cases, that does not excuse her falsities on the

compliance declaration stating she had no clients when the Supreme Court order was *filed*. We agree with OCTC and the hearing judge: the record does not support a mitigation finding that Mitchell had an honestly held and objectively good faith belief that she took the proper steps to comply with rule 9.20.

2. Cooperation (Std. 1.6(e))

Mitigation may include “spontaneous candor and cooperation displayed to the victims of the misconduct or to the State Bar.” (Std. 1.6(e).) The hearing judge credited limited weight in mitigation under this standard for Mitchell entering into the stipulation. We agree. The stipulation was limited only to facts and admission of some documents and the judge found it conserved some time and resources. Mitchell did not admit culpability and the facts were easily provable. (See *In the Matter of Guzman* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308, 318 [limited mitigation where stipulation was not extensive, involved easily provable facts, and no admission of culpability].)

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

To receive mitigation for extraordinary good character under standard 1.6(f), Mitchell must present evidence from “a wide range of references in the legal and general communities, who are aware of the full extent of the misconduct.” The hearing judge credited minimal mitigation under this standard because Mitchell’s five character witnesses did not amount to a wide range of references and they were not aware of the full extent of the present misconduct. Mitchell does not challenge this finding on review and we affirm minimal mitigation under standard 1.6(f).

4. Community Service

The hearing judge credited Mitchell’s community service work and assigned moderate weight in mitigation. Mitchell served as a city council member for Chino Hills, served as a

board member and president of the Chino Valley Unified School District, and operates a nonprofit cat rescue organization. Mitchell does not challenge this finding on review and we affirm mitigation. (*Calvert v. State Bar* (1991) 54 Cal.3d 765, 785 [community service is a mitigating factor].)

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 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 considering 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].) Under standard 2.11, disbarment or actual suspension is the presumed sanction for an act of moral turpitude, dishonesty, or intentional or grossly negligent misrepresentation.¹¹ “The degree of sanction depends on the magnitude of the misconduct; the extent to which the misconduct harmed or misled the victim, which may include the adjudicator; the impact on the administration of justice, if any; and the extent to which the misconduct related to the practice of law.” (Std. 2.11.) Disbarment, suspension, and revocation of probation are also contemplated under rule 9.20 for failure to comply. (Cal. Rules of Court,

¹¹ Standard 1.8(a) is also applicable and generally provides for progressive discipline.

rule 9.20(d).) Although there are varying degrees of discipline supported by case law for violating rule 9.20, it is not uncommon for disbarment to be imposed. (See, e.g., *In the Matter of Esau* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 131; *In the Matter of Babero* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 322; *Bercovich v. State Bar* (1990) 50 Cal.3d 116; *Powers v. State Bar* (1988) 44 Cal.3d 337; *Lydon v. State Bar* (1988), *supra*, 45 Cal.3d 1181.)

Mitchell asserts that discipline similar to that recommended in *In the Matter of Chavez*, *supra*, 5 Cal. State Bar Ct. Rptr. 783, a two-year actual suspension, is appropriate here. *Chavez* is distinguishable as we found him grossly negligent for the inaccuracies in his compliance declaration, not intentionally dishonest. He disclosed that he had pending cases in his declaration form but checked boxes inaccurately indicating he had notified opposing counsel and filed a copy of the notice with courts where cases were pending. Chavez informed his clients of his suspension, but did not provide notice by registered or certified mail. Here, Mitchell used the guise of hiring a new associate to alert her clients that she was taking time off and would be substituting out of their cases. Although there was testimony that some clients were told about the suspension in person or on the phone, the record does not contain evidence that Ramirez, Casas, Allured, Smith, and Fuller were ever told about the suspension before it went into effect. Further, Chavez was not found to be indifferent, and he admitted to facts that established some culpability. Mitchell also committed additional misconduct beyond the rule 9.20 charges—failing to account to two clients, improperly acquiring a pecuniary interest adverse to a client, and failing to refund unearned fees. She accepted responsibility for none of her misconduct.

Mitchell's failure to accept responsibility for her actions is quite concerning. (See *In the Matter of Layton* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 366, 380 [ongoing failure to acknowledge wrongdoing instills concern that attorney may commit future misconduct].) She shifted blame to her staff, the associate attorney, and even her clients for her misconduct, and

continues to do so. This aligns with her behavior at the time the Supreme Court filed the order imposing suspension. She had difficulty admitting to her clients that she was going to be suspended. Instead, she said she was going on vacation or taking time off, implying that she would be back soon to continue working on her clients' cases. She said she "disappeared" from the office and thereby did not ensure the substitution forms were actually filed, yet argues that she believed she needed to substitute out of her cases in order to comply with rule 9.20. Mitchell lacks understanding of the seriousness of her misconduct and how her actions harmed the public, the courts, and the legal profession.

We agree with the hearing judge that the facts underlying this case are not comparable to other attorney discipline cases where disbarment was not imposed. Her case shares several similarities to *Babero* where the attorney "failed to notify all of his clients, any of his opposing counsel, or any of the tribunals in his cases, and failed to execute proper substitution of counsel forms." (*In the Matter of Babero, supra*, 2 Cal. State Bar Ct. Rptr. at p. 333 [disbarment for violating predecessor to rule 9.20].) Like Babero, Mitchell "has not presented a convincing case of mitigation, diligence, and rectification" of her misconduct. (*Id.* at p. 334.) Rather, she neglected her notification duties, falsely verified to the courts that the information in her compliance declaration was correct, and showed no understanding of the potential harm to her clients and the public resulting from her misconduct.

Mitchell committed serious misconduct including failing to comply with the notice requirements of rule 9.20 and knowingly making false statements in her compliance declaration. Mitchell's misconduct was central to the practice of law. Filing a false compliance declaration "not only undermines the ability of the courts to rely on the accuracy of sworn declarations, it also diminishes the public's confidence in the integrity of the legal profession." (*In the Matter of Downey* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151, 157.) Mitchell's dishonesty and

subsequent indifference warrant disbarment here, and we affirm the hearing judge's recommendation of disbarment.¹²

VII. RECOMMENDATIONS

We recommend that Rossana Pilar Mitchell, State Bar Number 210305, be disbarred from the practice of law in California and that Mitchell's name be stricken from the roll of attorneys.

VIII. CALIFORNIA RULES OF COURT, RULE 9.20

We further recommend that Mitchell be ordered to comply with California Rules of Court, rule 9.20 and to perform the acts specified in (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.¹³ (*Athearn v. State Bar, supra*, 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].)

IX. MONETARY SANCTIONS

We further recommend that Mitchell be ordered to pay monetary sanctions to the State Bar of California Client Security Fund in the amount of \$3,000 in accordance with Business and Professions Code section 6086.13 and rule 5.137 of the Rules of Procedure of the State Bar.

¹² The hearing judge found that monetary sanctions of \$3,000 are appropriate. Neither party challenges this on review. Considering the facts and circumstances of this matter, we agree that monetary sanctions of \$3,000 are appropriate, for the reasons set forth in the judge's decision. (Rules Proc. of State Bar, rule 5.137.)

¹³ Mitchell is required to file a rule 9.20(c) affidavit even if Mitchell has no clients to notify on the date the Supreme Court files its order in this proceeding. (*Powers v. State Bar, supra*, 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 denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).) The court-approved Rule 9.20 Compliance Declaration form is available on the State Bar Court website at <<https://www.statebarcourt.ca.gov/Forms>>.

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, 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 disbarred must be paid as a condition of applying for reinstatement.

XI. MONETARY REQUIREMENTS

Any monetary requirements imposed in this matter shall be considered satisfied or waived when authorized by applicable law or orders of any court.

XII. INVOLUNTARY INACTIVE ENROLLMENT

The hearing judge's order that Mitchell be transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4), effective May 3, 2024, will remain in effect pending the consideration and decision of the Supreme Court on this recommendation.

HONN, P. J.

WE CONCUR:

McGILL, J.

RIBAS, J.

No. SBC-23-N-30325; SBC-23-O-30325 (Consolidated)

In the Matter of
ROSSANA PILAR MITCHELL

Hearing Judge
Hon. Cynthia Valenzuela

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