

**STATE BAR COURT OF CALIFORNIA**

**REVIEW DEPARTMENT**

In the Matter of	)	Case No. 12-J-10617
	)	
EARLE ARTHUR PARTINGTON,	)	OPINION
	)	
A Member of the State Bar, No. 45731.	)	
_____	)	

Earle Arthur Partington was disciplined by the United States Navy’s Office of the Judge Advocate General (JAG) for filing an appellate brief that contained false and misleading statements. In this reciprocal disciplinary matter, the hearing judge found Partington failed to show by clear and convincing evidence<sup>1</sup> that the conduct for which he was disciplined in the JAG proceeding does not warrant the imposition of discipline in California or that the JAG proceedings lacked fundamental constitutional protection. Emphasizing substantial mitigation afforded for Partington’s 37 years of discipline-free practice, the judge deviated from the presumed discipline of disbarment or actual suspension under the applicable disciplinary standard and recommended a one-year period of stayed suspension.

Partington appeals, seeking dismissal because he asserts that he did not engage in any professional misconduct and, alternatively, that the JAG disciplinary proceeding violated his right to due process. The Office of the Chief Trial Counsel of the State Bar (OCTC) appeals the disciplinary recommendation, and asks that we rebalance the factors in aggravation and mitigation and recommend a 30-day actual suspension.

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<sup>1</sup> Clear and convincing evidence leaves no substantial doubt and is sufficiently strong to command the unhesitating assent of every reasonable mind. (*Conservatorship of Wendland* (2001) 26 Cal.4th 519, 552.)

After independently reviewing the record under California Rules of Court, rule 9.12, we affirm the hearing judge’s finding that the misconduct found in the JAG proceeding warrants reciprocal discipline in California. We also find that Partington failed to establish that the JAG proceedings violated due process. We differ from the hearing judge, however, by finding that the mitigation for Partington’s lengthy period of discipline-free practice warrants less weight because of the significant aggravation for his lack of insight. Relying on the applicable disciplinary standards and comparable case law, we recommend a 30-day period of actual suspension as fair and appropriate discipline.

## **I. PROCEDURAL BACKGROUND IN STATE BAR COURT**

On July 14, 2015, OCTC filed a Notice of Disciplinary Charges (NDC) charging Partington with professional misconduct in a foreign jurisdiction under section 6049.1 of the Business and Professions Code.<sup>2</sup> OCTC alleged that Partington’s misconduct constituted violations of section 6068, subdivision (d);<sup>3</sup> section 6106;<sup>4</sup> and rule 5-200 of the California Rules of Professional Conduct.<sup>5</sup> After a two-day trial on November 2 and 3, 2015, the hearing judge issued a decision on January 13, 2016, finding that, pursuant to section 6049.1, the discipline issued against Partington in the JAG proceeding warranted the imposition of discipline in California. Specifically, she found that Partington’s conduct constituted a violation of section 6068, subdivision (d). We focus our review on the central issues raised on appeal:

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<sup>2</sup> Subsequent references to sections are to the Business and Professions Code unless otherwise noted.

<sup>3</sup> Section 6068, subdivision (d), requires an attorney “[t]o employ, for the purpose of maintaining the causes confided to him or her those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law.”

<sup>4</sup> Section 6106 provides that “[t]he commission of any act involving moral turpitude, dishonesty or corruption . . . constitutes a cause for disbarment or suspension.”

<sup>5</sup> Rule 5-200 provides, in part, that a member “[s]hall not seek to mislead the judge, judicial officer, or jury by an artifice or false statement of fact or law.” Subsequent references to rules are to the Rules of Professional Conduct unless otherwise indicated.

whether the underlying disciplinary proceeding lacked fundamental constitutional protection and the appropriate level of discipline.

## **II. JAG PROCEEDINGS**

Partington was admitted to practice law in California on January 15, 1970, and has no prior record of discipline.

### **A. Misconduct During Navy General Court-Martial Proceedings**

In April 2006, Partington appeared as civilian defense counsel in the general court-martial of Stewart Toles II, a United States Navy sailor stationed in Hawaii. On July 25, 2006, pursuant to a pretrial agreement, Toles pled guilty to several criminal charges and was sentenced. On March 23, 2007, Partington signed and filed an appellate brief in the United States Navy-Marine Corps Court of Criminal Appeals (NMCCA) challenging Toles's guilty pleas and sentence in the court martial proceeding. In this appellate brief, Partington made the following statements that the NMCCA found to be misrepresentations of the trial record: (1) the military judge "dismissed" specifications under title 18 United States Code section 1801;<sup>6</sup> (2) the military judge "'acquitted'" Toles on those specifications prior to the findings; (3) the military judge "ruled" that the "video voyeurism specifications . . . did not allege that offense"; and (4) Toles "had moved for neither an acquittal nor a dismissal of these specifications."

On October 30, 2007, the NMCCA issued its opinion affirming the military judge's findings and sentence. In the opinion, the court found that Partington's appellate brief contained "wholly unsupported allegations of error," "disingenuous" arguments, and misrepresentations of the trial record. Specifically, the NMCCA found that: Toles had moved to dismiss the specifications under title 18 United States Code section 1801; the military judge did not dismiss

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<sup>6</sup> Title 18 United States Code section 1801 prohibits acts of video voyeurism that intentionally capture images of individuals' private areas when such individuals have a reasonable expectation of privacy, and without their consent, and applies to persons in the special maritime and territorial jurisdiction of the United States. (18 U.S.C. § 1801(a).)

these specifications or otherwise rule that they failed to state an offense; and the military judge did not acquit Toles of these specifications. Based on its concerns regarding Partington's misrepresentations and "unsavory tactics," the NMCCA forwarded its opinion to the Judge Advocate General and the Navy's Rules Counsel for review and action.

**B. JAG Imposed Indefinite Suspension**

On October 10, 2008, Partington was advised by letter that the NMCCA had filed a complaint with the Navy Rules Counsel. On June 18, 2009, the Rules Counsel appointed Captain Robert Porzeinski, JAGC, USNR, to conduct a preliminary inquiry into that complaint. Captain Porzeinski completed his inquiry on July 16, 2009, concluding by a preponderance of the evidence that Partington had violated rules 3.1 (Meritorious Claims and Contentions)<sup>7</sup> and 3.3 (Candor and Obligations Toward the Tribunal)<sup>8</sup> of JAG Instruction 5803.1C (Rule 3.1 and Rule 3.3, respectively). Based on his findings, Captain Porzeinski recommended that a formal ethics investigation be convened.

On October 6, 2009, the Rules Counsel appointed Captain Robert Blazewick, JAGC, USN, to conduct a formal ethics investigation into the allegations of Partington's misconduct. Partington was notified by letter that same day of the formal investigation and provided with a list of his alleged professional conduct violations. He was also advised of his rights, including to request a hearing, to inspect all evidence, to present oral or written materials, to call witnesses, and to be assisted by counsel. Between October 29, 2009 and January 11, 2010, Partington and Captain Blazewick exchanged letters and emails regarding the formal investigation. On several occasions, Partington was offered a hearing, and one was scheduled despite his statement that he

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<sup>7</sup> Rule 3.1 states, in part, that an attorney "shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of existing law." (32 C.F.R. § 776.40.)

<sup>8</sup> Rule 3.3 states, in part, that an attorney shall not "[m]ake a false statement of material fact or law to a tribunal." (32 C.F.R. § 776.42.)

had “no intention” of participating. Ultimately, however, a hearing was not held because he declined to participate. Partington was also provided with all the evidence gathered by Captain Blazewick and given opportunities to provide responsive information.

On February 19, 2010, Captain Blazewick presented the results of his investigation to the Rules Counsel, concluding by clear and convincing evidence that Partington violated Rules 3.1 and 3.3, with a recommendation that the formal investigation be forwarded to the JAG for further action.

On May 17, 2010, Vice Admiral James Houck, JAGC, USN, issued a decision against Partington, which found by clear and convincing evidence that he violated Rules 3.1 and 3.3. The decision indefinitely suspended Partington from practicing law in any proceedings conducted under the supervision and cognizance of the Department of the Navy. It concluded that Partington “filed an appellate brief with NMCCA that contained statements that [he] knew to be both false and misleading.” Specifically, Vice Admiral Houck found that Partington took misstatements made by the military judge and grossly exaggerated them by claiming that the judge had dismissed and/or acquitted Toles of the offenses at issue. Vice Admiral Houck noted that the military judge explained on numerous occasions that he was rejecting Toles’s attempt to plead guilty and was instead entering not guilty pleas for him. Vice Admiral Houck concluded that it was “abundantly clear” that the military judge never dismissed the specifications or otherwise acquitted Partington’s client, as Partington had claimed.

### **C. Partington Appealed JAG Discipline**

Beginning in November 2010, Partington filed multiple civil challenges and appeals to obtain relief from the JAG’s disciplinary action against him. On November 16, 2010, he filed a complaint for damages, declaratory judgment, and injunctive relief in the United States District Court for the District of Columbia. On January 10, 2012, the district court entered judgment

against Partington. On February 6, 2012, Partington appealed the district court's judgment in the United States Court of Appeals for the District of Columbia Circuit. On July 23, 2013, the court of appeals affirmed the district court's opinion. With respect to Partington's claims that the JAG proceedings violated his Fifth Amendment rights, the court of appeals held that "due process at its core requires notice and hearing," and found that "[i]n reviewing this exhaustive record, it is clear to us that Partington received ample due process." The court noted that "[t]he record is replete with communications between the JAG and Partington in which the JAG gave Partington notice it was pursuing an ethics investigation against him and gave Partington opportunity to be heard . . . ." On September 30, 2013, Partington filed a petition for writ of mandamus in the United States Supreme Court, which was denied on December 2, 2013.

On March 10, 2014, Partington filed a motion in the United States District Court for the District of Columbia, alleging that the court of appeals judgment from his previous appeal was void for lack of subject matter jurisdiction. On March 14, 2014, the district court denied this motion. On March 28, 2014, Partington appealed the district court's denial of his motion to the United States Court of Appeals for the District of Columbia Circuit. On October 3, 2014, the court of appeals summarily affirmed the district court's order. On December 8, 2014, the court of appeals denied Partington's request for rehearing. On February 18, 2015, Partington filed a petition for writ of certiorari with the United States Supreme Court, which was denied on April 20, 2015.

#### **D. Reciprocal Discipline in Courts of Appeals Hawaii and Oregon**

On October 26, 2010, the United States Court of Appeals for the Armed Forces suspended Partington from appearing before that court for one year based on the JAG discipline order. On November 9, 2011, the Supreme Court of Hawaii issued a reciprocal discipline order against Partington based on the JAG proceeding findings, suspending him from practicing for 30

days. On June 7, 2012, the District of Columbia Court of Appeals suspended Partington for 30 days based on the Hawaii discipline. On October 17, 2013, the Supreme Court of Oregon issued a reciprocal discipline order based on the Hawaii discipline, suspending Partington for 60 days.

### **III. RECIPROCAL DISCIPLINE IS WARRANTED**

The JAG's final disciplinary order is conclusive evidence that Partington is culpable of professional misconduct in California, subject to two exceptions. (§ 6049.1, subd. (a).) To show that discipline is unwarranted, Partington must establish that either: (1) as a matter of law, his professional misconduct in the military courts would not warrant discipline in California; or (2) the JAG proceedings failed to provide him with fundamental constitutional protection. (§ 6049.1, subd. (b)(2), (3).) He has failed to prove either.

#### **A. Misrepresentation to Appellate Court Warrants Discipline in California**

The JAG discipline order found that Partington violated rules 3.1 and 3.3 of JAG Instruction 5803.1C. In his briefs on review, Partington challenges the validity of those findings. We reject Partington's challenge as an attempt to relitigate the JAG's conclusive findings. (*In the Matter of Freydl* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349, 358 [under § 6049.1, State Bar Court accepts court findings of misconduct as conclusive].)

Instead, we affirm the hearing judge's finding that Partington failed to prove that his misrepresentations to the NMCCA do not warrant discipline in California as a matter of law. We find that Partington willfully violated section 6068, subdivision (d) by submitting "an appellate brief with NMCCA that contained statements [Partington] knew to be both false and misleading." These misrepresentations also constitute moral turpitude. (*Bach v. State Bar* (1987) 43 Cal.3d 848, 855 [attorney has duty never to seek to mislead judge and as matter of law

“[a]cting otherwise constitutes moral turpitude”]; *In the Matter of Jeffers* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211, 221.)<sup>9</sup>

**B. No Showing that JAG Proceedings Lacked Constitutional Protection**

**1. Partington Received Ample Due Process**

Partington also did not demonstrate that the JAG disciplinary proceedings were constitutionally inadequate. While he has repeatedly argued that his right to due process was violated, we find that the facts demonstrate he received substantial due process. “The fundamental requirement of due process is the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’ [Citations.]” (*Mathews v. Eldridge* (1976) 424 U.S. 319, 333.)

From the initiation of the JAG proceedings in October 2008 through the issuance of the formal disciplinary decision in May 2010, Partington received over a dozen communications about the status of his proceedings. These communications included a list of the charges of professional misconduct alleged against him, and informed him of his rights, including the rights to a hearing, to produce evidence, to review the evidence against him, to call witnesses, and to be assisted by counsel.

Specifically, in October 2008, Partington was advised by letter that a complaint had been filed, an inquiry would be conducted, and he could comment in writing. In June 2009, Captain Porzeinski wrote to Partington, discussed the preliminary investigation, gave him an opportunity to review all the evidence to be considered in the inquiry, and informed him that he could submit in writing anything he felt should also be considered. In October 2009, the Rules Counsel notified Partington of the commencement of the formal investigation, which Captain Blazewick had been appointed to conduct. This letter included a copy of the preliminary inquiry, which

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<sup>9</sup> The Rule 3.3 violation also establishes a violation of rule 5-200. However, OCTC charged in the NDC that the Rule 3.1 violation established a violation of rule 5-200. We affirm the hearing judge’s finding that the discipline imposed in the JAG proceeding under Rule 3.1 did not constitute a violation of rule 5-200, noting that OCTC does not challenge this finding.

contained an exhaustive review of the trial court record and comparison to Partington's statements in his appellate brief. The letter also explained the investigation procedure and informed Partington of his rights. Partington refused to participate in the proceedings and waived his right to a hearing. Despite his failure to participate, Vice Admiral Van Houck made it clear in his final decision that all correspondence provided by Partington and all issues raised by him were considered.

Partington also raised his due process claims in the multiple civil proceedings and appeals that he brought to challenge the JAG proceedings. These actions were all dismissed and ultimately, the United States Court of Appeals for the District of Columbia Circuit ruled that it was clear Partington received "ample due process" during the JAG proceedings. The court of appeals addressed the claimed lack of due process in a careful and detailed analysis that reviewed the numerous communications between Partington and the JAG. It found that Partington "was informed numerous times of the specific violations . . . alleged against him and was provided with several opportunities to respond, including an opportunity for a hearing that he effectively waived." Finally, the court of appeals dismissed Partington's additional "scattershot, twelve-point attack" that attempted to buttress his claim of lack of due process, concluding that "[n]one of the points reflect a deprivation of due process," "[s]ome are conclusory allegations," and "[s]ome are trivial and contrived." These appellate court findings are entitled to great weight and are supported by clear and convincing evidence. (*In the Matter of Kinney* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 360, 365 [may rely on court of appeal opinion to which attorney was party as conclusive legal determination of civil matters bearing strong similarity to charged disciplinary conduct]; *In the Matter of Lais* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112, 117-118 [court adopted frivolous appeal findings by court of appeal where respondent failed to produce any competing evidence].)

## **2. Partington Has Not Shown His Claim Regarding Inability to Access Administrative Procedure Act Resulted in Constitutional Violation**

Partington asserts that he was deprived of equal protection under state and federal law because he was denied the right to access the judicial review available under the Administrative Procedure Act (APA). We find that this claim has no merit. The court of appeals considered and dismissed this claim as unsupported by the record after conducting a review and determining that the JAG's decision was not arbitrary or capricious: "We conclude that the NJAG, in explaining that he found that Partington filed an appellate brief containing statements Partington knew were false and misleading, [citation], articulated a 'rational connection between the facts found and the choice made.' [Citation.] Because the record does not support Partington's APA claim, we affirm the district court's judgment dismissing that claim." We give great weight to these findings. (*In the Matter of Kinney, supra*, 5 Cal. State Bar Ct. Rptr. at p. 365; *In the Matter of Lais, supra*, 4 Cal. State Bar Ct. Rptr. at pp. 117-118.)

### **IV. AGGRAVATION OUTWEIGHS MITIGATION**

Standard 1.5 of the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct<sup>10</sup> requires OCTC to establish aggravating circumstances by clear and convincing evidence. Standard 1.6 requires Partington to meet the same burden to prove mitigation.

#### **A. Lack of Insight**

We agree with the hearing judge's aggravation finding that Partington lacks insight into his misconduct. (Std. 1.5(k) [aggravation for indifference toward rectification or atonement for consequences of misconduct].) First, we agree with the finding that Partington's assertion that the NMCCA referred him for discipline to cover up the Navy prosecutors' "blunders" in the criminal case below lacks credibility. And we agree that this statement demonstrates

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<sup>10</sup> All further references to standards are to this source.

Partington's lack of insight into his misconduct. (Rules Proc. of State Bar, rule 5.155(A) [great weight given to findings of fact]; *McKnight v. State Bar* (1991) 53 Cal.3d 1025, 1032 [great weight given to hearing judge's findings on credibility].) Partington made the same specious claim in his review brief, stating that there was "'scuttlebutt' at Pearl Harbor after the [court martial] proceeding that the Navy was out to get [him because he] had a record of winning cases at Pearl Harbor."

In addition, we find lack of insight in Partington's repeated assertion in this proceeding of previously rejected challenges to the JAG proceedings. In fact, as discussed below, these prior challenges have been fully litigated all the way to the United States Supreme Court. (*In re Morse* (1995) 11 Cal.4th 184, 197-198 [repeated assertion of rejected arguments crossed line between zealous advocacy and recalcitrance]; *In the Matter of Katz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502, 511 [law does not require false penitence, but does require respondent to accept responsibility for acts and come to grips with culpability].)

Partington's appeals claimed a violation of his due process rights, that the JAG had no statutory authority to discipline him, and that he did not understand the charges against him. After the district court and the court of appeals rejected all of his arguments, he filed a writ of mandamus with the United States Supreme Court, which was also denied. When none of those appeals succeeded, Partington proceeded to file a motion in the district court, arguing that the court of appeals lacked jurisdiction to issue judgment in the appeal *that he himself had filed*. The district court denied this motion and the court of appeals summarily affirmed this ruling, finding that "the merits . . . are so clear as to warrant summary action." Partington also appealed this ruling to the United States Supreme Court and was again rejected.

These arguments were rejected multiple times and ultimately at the highest level. Even so, Partington continued to reiterate them before the Hearing Department and this court on

review. His ongoing failure to acknowledge his wrongdoing despite these rulings instills concern that he may commit further misconduct. (*In the Matter of Layton* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 366, 380.) We thus assign more aggravating weight than the hearing judge did, giving substantial weight to Partington's lack of insight.

**B. Moderate Mitigation for 37 Years of Discipline-free Practice**

In mitigation, the hearing judge assigned significant weight for Partington's 37 years of practice without discipline. (Std. 1.6(a) [mitigation for absence of prior record of discipline over many years of practice coupled with present misconduct which is not likely to recur].) We assign only moderate mitigation credit, however, because Partington did not establish that his misconduct is unlikely to recur, as required by the standard. (*Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1029 [where misconduct is serious, long discipline-free practice is most relevant where misconduct is aberrational and unlikely to recur]; *In the Matter of Reiss* (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206, 218.) Due to Partington's complete lack of insight into his misconduct, and his continued insistence that the JAG discipline proceedings were a sham, we cannot view his misconduct as unlikely to recur. (*In the Matter of Song* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273, 279 [limited mitigating weight assigned for 12-year record of discipline-free practice where respondent showed lack of insight by offering ill-founded explanations for misconduct].)

**V. A 30-DAY ACTUAL SUSPENSION IS APPROPRIATE DISCIPLINE**

Our disciplinary analysis begins with the standards. (*In re Silvertown* (2005) 36 Cal.4th 81, 91 [Supreme Court will not reject recommendation arising from standards unless grave doubts as to propriety of recommended discipline].) The Supreme Court has instructed us to follow them whenever possible (*In re Young* (1989) 49 Cal.3d 257, 267, fn. 11), and to look to comparable case law for guidance. (See *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311.) While not strictly bound by the standards, we recommend sanctions falling within the range they

provide unless the net effect of the aggravating and mitigating circumstances demonstrates that a greater or lesser sanction is needed to fulfill the primary purposes of discipline. (Std. 1.7.)<sup>11</sup> Any disciplinary recommendation that deviates from the standards must include clear reasons for the departure. (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5 [requiring clear reasons for departure from standards].)

Here, standard 2.12(a) is most apt because it deals specifically with violation of section 6068, subdivision (d), and provides that disbarment or actual suspension is the presumed sanction. The hearing judge recommended a one-year stayed suspension, below the range of sanctions provided by the standard. OCTC argues that actual suspension of at least 30 days is the appropriate discipline for Partington's misconduct, given the significant aggravation for his lack of insight.

We see no reason to deviate from the range of discipline in standard 2.12(a) and agree with OCTC that a 30-day actual suspension is appropriate discipline. The hearing judge, who recommended a stayed suspension, considered *Bach v. State Bar, supra*, 43 Cal.3d 848, wherein Bach received a 60-day actual suspension for misrepresentations to a court, but distinguished the case by noting that Bach had a prior public reproof. We find that *Bach* supports imposition of a 30-day actual suspension given the balance of aggravation and mitigation in this case. Moreover, in *Drociak v. State Bar* (1991) 52 Cal.3d 1085, the Supreme Court imposed a 30-day actual suspension for an attorney's use of presigned, undated, and blank verification forms for interrogatory responses. The court rejected the attorney's claim that he should receive less

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<sup>11</sup> Standard 1.7(b) provides: "On balance, a greater sanction is appropriate in cases where there is serious harm to the client, the public, the legal system, or the profession and where the record demonstrates that the member is unwilling or unable to conform to ethical responsibilities." Standard 1.7(c) provides: "On balance, a lesser sanction is appropriate in cases of minor misconduct, where there is little or no injury to a client, the public, the legal system, or the profession and where the record demonstrates that the member is willing and has the ability to conform to ethical responsibilities in the future."

discipline because his intent was to protect his client. The court held that he was no less culpable of misconduct and that neither his intent nor his previously discipline-free record made the recommended discipline inappropriate. (*Id.* at pp. 1087, 1090-1091; see also *In the Matter of Farrell* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 490 [six months' actual suspension for falsely representing to judge that witness was under subpoena, with prior discipline in aggravation]; *In the Matter of Mason* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 639 [90 days' actual suspension for failing to disclose to court and opposing counsel that he was suspended, with prior discipline in aggravation].)

Given the lack of significant mitigation and the decisional law, we find no basis to deviate from standard 2.12(a). We recommend a 30-day period of actual suspension as the most appropriate discipline.

## **VI. RECOMMENDATION**

For the foregoing reasons, we recommend that Earle Arthur Partington be suspended from the practice of law for one year, that execution of that suspension be stayed, and that he be placed on probation for two years on the following conditions:

1. He must be suspended from the practice of law for a minimum of the first 30 days of probation.
2. He must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of his probation.
3. Within 30 days after the effective date of discipline, he must contact the Office of Probation and schedule a meeting with his assigned probation deputy to discuss the terms and conditions of probation. Upon the direction of the Office of Probation, he must meet with the probation deputy either in person or by telephone. During the period of probation, he must promptly meet with the probation deputy as directed and upon request.
4. Within 10 days of any change in the information required to be maintained on the membership records of the State Bar pursuant to Business and Professions Code section 6002.1, subdivision (a), including his current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, he must report such change in writing to the Membership Records Office and the State Bar Office of Probation.

5. He must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, he must state whether he has complied with the State Bar Act, the Rules of Professional Conduct, and all of the conditions of his probation during the preceding calendar quarter. In addition to all quarterly reports, a final report, containing the same information, is due no earlier than 20 days before the last day of the probation period and no later than the last day of the probation period.
6. Subject to the assertion of applicable privileges, he must answer fully, promptly, and truthfully, any inquiries of the Office of Probation that are directed to him personally or in writing, relating to whether he is complying or has complied with the conditions contained herein.
7. Within one year after the effective date of the discipline herein, he must submit to the Office of Probation satisfactory evidence of completion of the State Bar's Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and he shall not receive MCLE credit for attending Ethics School. (Rules Proc. of State Bar, rule 3201.)

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 period of probation, if Partington has complied with all conditions of probation, the stayed suspension will be satisfied and that suspension will be terminated.

#### **VII. PROFESSIONAL RESPONSIBILITY EXAMINATION**

We further recommend that Partington 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 Office of Probation within the same period. Failure to do so may result in an automatic suspension. (Cal. Rules of Court, rule 9.10(b).)

## VIII. COSTS

We further recommend that costs be awarded to the State Bar in accordance with section 6086.10, such costs being enforceable both as provided in section 6140.7 and as a money judgment.

HONN, J.

WE CONCUR:

PURCELL, P. J.

McGILL, J.\*

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\* Hearing Judge of the State Bar Court, assigned by the Presiding Judge pursuant to rule 5.155(F) of the Rules of Procedure of the State Bar; as of November 1, 2016, serving as Review Judge by appointment of the California Supreme Court.