

CASE NO. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

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LENORE LUANN ALBERT, *Petitioner*

*vs.*

STATE BAR OF CALIFORNIA, *Respondent.*

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ON PETITION FOR A WRIT OF CERTIORARI FROM THE  
CALIFORNIA SUPREME COURT

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PETITION FOR WRIT OF CERTIORARI

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Petitioner, pro per

## **QUESTIONS PRESENTED**

Whether the California State Bar's conditional suspension that conditions the time suspended to payment of State Bar costs and other amounts ordered due is Unconstitutional.

Whether the California State Bar's costs are excessive fines or penalties, and as such Unconstitutional.

## **LIST OF PARTIES**

[x] All parties appear in the caption of the case on the cover page.

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IN THE  
SUPREME COURT OF THE UNITED STATES  
  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

The opinion of the highest state court to review the merits dated July 10, 2019 appears at Appendix D.

The opinion of the court dated January 9, 2019 appears at Appendix A to the petition and is unpublished.

**JURISDICTION**

This Petition for Writ of Certiorari is filed within 90 days of the California Supreme Court's denial of the Petition for Rehearing, under Rules 13.1 and 29.2 of this Court.

The date on which the highest state court decided to not review this case and rubber stamp the recommendation was on July 10, 2019. A copy of that decision appears at Appendix B.

A timely petition for rehearing was thereafter denied on August 28, 2019, and a copy of the order denying rehearing appears at Appendix E.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

**CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

The following Amendments to the U.S. Constitution, articles to the California Constitution, rules, regulations, and statutes, or relevant portion thereof are at issue in this petition:

The First Amendment provides:

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech,

or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

U.S.C.S. Const. Amend. I

The Fifth Amendment's Due Process Clause provides:

No person shall be . . . deprived of life, liberty, or property, without due process of law.

U.S.C.S. Const. Amend. V

The Eighth Amendment provides:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

U.S.C.S. Const. Amend. VIII

The Fourteenth Amendment, Article 1 provides:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S.C.S. Const. Amend. XIV Art 1

#### CALIFORNIA CONSTITUTION ARTICLE VI SECTION 9

The State Bar of California is a public corporation. Every person admitted and licensed to practice law in this State is and shall be a member of the State Bar except while holding office as a judge of a court of record.

Cal Const. Art VI Sect. 9

#### CALIFORNIA BUSINESS & PROFESSION CODE

6103.10 A willful disobedience or violation of an order of the court requiring him to do or forbear an act connected with or in the course of his profession, which he ought in good faith to do or forbear, and any violation of the oath taken by him, or of his duties as such attorney, constitute causes for disbarment or suspension.

6140.7 Costs assessed against a member publicly reprovved or suspended, where suspension is stayed and the member is not actually suspended, shall be added to and become a part of the membership fee of the member, for the next calendar year. Unless time for payment of discipline costs is extended pursuant to subdivision (c) of Section 6086.10, costs assessed against a member who resigns with disciplinary charges pending or by a member who is actually suspended or disbarred shall be paid as a condition of reinstatement of or return to active membership.

6086.10 (a) Any order imposing a public reprovval on a member of the State Bar shall include a direction that the member shall pay costs. In any order imposing discipline, or accepting a resignation with a disciplinary matter pending, the Supreme Court shall include a direction that the member shall pay costs. An order pursuant to this subdivision is enforceable both as provided in Section 6140.7 and as a money judgment.

(b) The costs required to be imposed pursuant to this section include all of the following:

(1) The actual expense incurred by the State Bar for the original and copies of any reporter's transcript of the State Bar proceedings, and any fee paid for the services of the reporter.

(2) All expenses paid by the State Bar which would qualify as taxable costs recoverable in civil proceedings.

(3) The charges determined by the State Bar to be "reasonable costs" of investigation, hearing, and review. These amounts shall serve to defray the costs, other than fees for the services of attorneys or experts, of the State Bar in the preparation or hearing of disciplinary proceedings, and costs incurred in the administrative processing of the disciplinary proceeding and in the administration of the Client Security Fund.

(c) A member may be granted relief, in whole or in part, from an order assessing costs under this section, or may be granted an extension of time to pay these costs, in the discretion of the State Bar, upon grounds of hardship, special circumstances, or other good cause.

(d) In the event an attorney is exonerated of all charges following a formal hearing, he or she is entitled to reimbursement from the State Bar in an amount determined by the State Bar to be the reasonable expenses, other than fees for attorneys or experts, of preparation for the hearing.

(e) In addition to other monetary sanctions as may be ordered by the Supreme Court pursuant to Section 6086.13, costs imposed pursuant to this section are penalties, payable to and for the benefit of the State Bar of California, a public corporation created pursuant to Article VI of the California Constitution, to promote

rehabilitation and to protect the public. This subdivision is declaratory of existing law.

California Rule 9.16. (CRC 9.16) Grounds for review of State Bar Court decisions in the Supreme Court

(a) Grounds

The Supreme Court will order review of a decision of the State Bar Court recommending disbarment or suspension from practice when it appears:

- (1) Necessary to settle important questions of law;
- (2) The State Bar Court has acted without or in excess of jurisdiction;
- (3) Petitioner did not receive a fair hearing;
- (4) The decision is not supported by the weight of the evidence; or
- (5) The recommended discipline is not appropriate in light of the record as a whole.

*(Subd (a) amended effective January 1, 2007; adopted by the Supreme Court effective February 1, 1991.)*

(b) Denial of review

Denial of review of a decision of the State Bar Court is a final judicial determination on the merits and the recommendation of the State Bar Court will be filed as an order of the Supreme Court.



## STATEMENT OF THE CASE

Lenore Albert was a California attorney practicing consumer rights law for seventeen years without incident. In 2011, she stopped over 1,000 homes from foreclosure sale in the case of *Yau v Deutsche Bank Natl Trust Co.*, SACV-11-0003 which led the way in California to making Dual Tracking illegal under the Homeowners Bill of Rights. Her office was thereafter sabotaged in 2013 and the State Bar complaints came raining down in 2014. The State Bar shut her practice down in 2018. She sought bankruptcy and the State Bar filed a proof of claim for State Bar costs. (App. G)

On September 19, 2018 the State Bar prosecuted Ms. Albert in round two, resulting in a six-month suspension by way of recommendation issued by the Hearing Department on January 9, 2019. (App. A).

She requested a review of the recommendation made but her request was turned down on February 15, 2019 because the State Bar demanded \$2,100.00 for transcript costs as a condition for right to review, even though she requested a fee waiver and was in bankruptcy. (App. B).

The State Bar then issued a demand that Ms. Albert pay costs in the amount of \$18,841.90 on March 27, 2019. (App. C)

Ms. Albert petitioned the California Supreme Court for review which the Court denied on July 10, 2019. (App. D).

Ms. Albert petitioned for rehearing at least on the conditional suspension, and rehearing was denied on August 28, 2019. (App. E).

On September 11, 2019 Maricruz Farfan uploaded a letter to Ms. Albert asserting she would not be in compliance with probation if she did not contact Ms. Farfan by September 12, 2019 and hold a meeting with her in the coming weeks. (App. F)

The recommendation adopted by the California Supreme Court read:

The request to correct or augment the record and/or for judicial notice is denied. The petition for writ of review is denied.

The court orders that Lenore LuAnn Albert (Respondent), State Bar Number 210876, is suspended from the practice of law in California for one year, execution of that period of suspension is stayed, and Respondent is placed on probation for two years subject to the following conditions:

1. Respondent is suspended from the practice of law for a minimum of the first six months of probation, and Respondent will remain suspended until the following requirements are satisfied:
  - i. Respondent makes restitution to the following payees or such other recipient as may be designated by the Office of Probation or the State Bar Court (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) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles:

(1) Dr. Nira Schwartz-Woods in the amount of \$20,000 plus 10 percent interest per year from April 1, 2016; and

(2) Fin City Foods in the amount of \$47.00.

ii. If Respondent remains suspended for two years or longer as a result of not satisfying the preceding requirement, Respondent must also provide proof to the State Bar Court of rehabilitation, fitness to practice and present learning and ability in the general law before the suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

2. Respondent must also comply with the other conditions of probation

recommended by the Hearing Department of the State Bar Cami in its Decision filed on January 9, 2019.

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

(App. D)

Ms. Albert previously petitioned this Court on her first suspension. Her request for review was denied. She hopes her reasons are more compelling this time around.

## REASONS FOR GRANTING THE PETITION

### I.

#### THE US SUPREME COURT SHOULD HEAR THIS MATTER BECAUSE CONDITIONING A CONDITION UPON ANOTHER CONDITION IS UNCONSTITUTIONAL

This Court should review this case because conditioning a condition upon another condition is unconstitutional – this Court just hasn’t come out and plainly said that – yet. It’s time to come out.

On July 10, 2019 the California Supreme Court adopted the State Bar’s Recommendation without review which stayed a one-year suspension of Ms. Albert’s license conditioned on her completion of an actual six-month suspension. A license which was already suspended on a 30-day suspension she was still suspended in – a year later.

In California, an actual suspension is defined as “a member's legal disqualification from practicing law in the state or from holding out as entitled to practice law during the period of the actual suspension.” (Standard 1.2(h) as of 2010. (Eff. Jan. 1, 1986. Revised: January 1, 2007.))

The July 10, 2019 Order of the California Supreme Court took the stayed suspension and attached a “condition” to the six-month.

Thus, in order to satisfy the “stayed suspension” portion of the disciplinary order, Ms. Albert did not only have to refrain from practicing law for six-months, but she had to pay money to the State Bar in the amount of \$18,841.90.

If she did not pay \$18,841.90 her six-month suspension would not revert to the one-year suspension but would go on indefinitely until she paid the \$18,841.90 to the State Bar. (The other payments were discharged in bankruptcy).

(See App. D, Order, page 1, subsection 1(i)(1), 1(i)(2), and (ii)). Conditioning the condition with further conditions or requirements was unconstitutional because it turned the one-year suspension into an indefinite suspension for Ms. Albert and any other attorney who cannot afford to pay the State Bar \$18,841.90 in costs. Here, the underlying offense was fictional. The first fiction was after Ms. Albert paid Attorney Devin Lucas \$75.00 as demanded and as monitored by the State Bar investigator, Caitlin Morin, Devin Lucas refused to cash the \$75.00 check and Caitlin Morin turned over the case for prosecution which resulted in the State Bar court ruling Ms. Albert owed the non-existent company of Fin City Foods, \$47.00.

The second case which Judge Roland consolidated with the Devin Lucas complaint was the Nira Woods matter. There Woods complained that Attorney Albert failed to file her patent litigation case. Albert proved Woods actually hired her to step into her wrongful death/fraud action against a hospital and she brought that case to jury trial where Nira Woods was awarded and received over \$100,000.00. She also proved there was no fee agreement to prosecute a patent litigation case for Woods and the only other representation was a general retainer which included finding counsel for her patent litigation case, which Albert did and the attorney hired named Zimmerman fully performed by filing the patent

complaint against AT&T in court. The court nevertheless held Albert owed Woods a complete refund of \$20,000.00 on the retainer.

When Albert was prosecuted, she had already claimed bankruptcy and there was no objection to having the purported amounts owed to attorney Devin Lucas (\$47.00) or Nira Woods (\$20,000.00) discharged. Discharge occurred on February 26, 2019 *in re Lenore Albert-Sheridan*, 18-bk-10548-ES (CA US Bk Ct.).

Nevertheless, on March 27, 2019 the State Bar issued a Costs memorandum against Ms. Albert in the amount of \$18,841.90.

This Court should answer in the affirmative the following sub-issues that this story raises:

1. Is it unconstitutional to hold a license for the same violation longer just because the attorney does not have the wealth of another attorney found for the same violation? (Equal protection clause violation)
2. Does the \$18,841.90 in Bar costs to an attorney violate the Eighth Amendment to U.S. Constitution as an excess fine or penalty when attached to the end of their time of actual suspension?
3. Does including the discharged debt to Nira Woods and Devin Lucas (Fin City Foods) as a condition precedent to getting Ms. Albert's license back violate Ms. Albert's Rights?

**A. Conditioning Length of a License Suspension on Payment to the State Bar in The Amount of \$18,841.90 Violates the Equal Protection Clause.**

A suspension of a professional license to practice law in California takes away that person's livelihood.

Here, the State not only takes away the attorney's license but conditions the length of suspension based upon a payment of costs in the amount of \$18,841.90. That makes the amount of actual time ordered suspended irrelevant to the attorney who does not have \$18,841.90 like Ms. Albert.

When the State ordered Ms. Albert suspended for six-months conditioned upon payment of \$18,841.90 it knew Ms. Albert remained suspended on her original 30-day suspension in the spring of 2018 solely because she could not pay them the approximate \$18,000.00 they ordered at that time. Her thirty-day suspension has grown into a one and one-half year suspension. After the two-year mark, she will be conditionally infinitely suspended and will have to apply for reinstatement like someone who was disbarred. The State also knew when they ordered this six-month suspension conditioned upon an additional payment of \$18,841.90 that Ms. Albert went bankrupt and had no money and no way to make money because her license was already suspended. Yet, they still required her to pay them an additional \$18,841.90 on top of the \$18,000.00 owed for the first suspension before she could get out of "suspension" mode.

If a suspension was a prison cell, she would still be sitting in the prison cell beyond the time sentenced due to the way the sentence was written.

In the criminal realm, people have a right to be free from imprisonment based solely on their lack of financial resources. The US Supreme Court explained that a State Agency cannot put a person back in jail for failure to pay a court fine. *Beardan v Georgia* 461 US 660 (1983). The Court found that revoking an

individual's probation for failure to pay a fine or restitution violated the indigent Defendant's Fourteenth Amendment rights. The *Beardan* Court explained:

“[R]esolution involves a delicate balance between the acceptability, and indeed wisdom, of considering all relevant factors when determining an appropriate sentence for an individual and the impermissibility of imprisoning a defendant solely because of his lack of financial resources.” *Beardan v Georgia* 461 US 660, 661 (1983).

Like *Beardan*, this Court must determine when making an appropriate sanction, such as a suspension of a license to practice for an individual, that if they attach a condition to the length of the suspension, that condition cannot create a further suspension for that individual's license to practice law solely because of his lack of financial resources without violating that individual's Fourteenth Amendment rights. (XIV U.S. Amend. Const.)

If courts cannot continue a jail or prison term past the number of days sentenced, based on a failure to pay a fine or restitution, then no administrative State Agency like the State Bar, should be able to continue an actual suspension term past the number of days actually suspended based on a failure to pay a fine or restitution either. *Beardan v Georgia* 461 US 660, 661 (1983).

Just as strong as an individual's right is vested in his freedom, every individual also has a fundamental constitutional right to keep his license to practice law. *Supreme Court of New Hampshire v. Piper*, 470 U.S. 274 (1985)



“The right to pursue one's chosen profession free from arbitrary state interference [] is protected by the due process clauses of both the state and federal Constitutions. (Cal. Const., art. I, § 7; U.S. Const., 14th Amend.; *Endler v. Schutzbank* (1968) 68 Cal.2d 162, 169.

Just like a driver's license, “the revocation or suspension of [a Bar] license, even for a six-month period, can and often does constitute a severe personal and economic hardship.” *Berlinghieri v. Department of Motor Vehicles* 33 Cal 3d 394, 398 (1983)

Additionally, a State Agency cannot impose a fine on a convicted criminal so large it deprives the person of their livelihood without offending the convicted person's Eighth Amendment Constitutional right. (VIII Amend. U.S. Const.) Likewise, an administrative State Agency cannot impose a fine on a suspended attorney so large it deprives the attorney of their livelihood without offending their constitutional rights under the Fourteenth Amendment. (XIV Amend. U.S. Const.) As Justice Ginsberg recently reminded the public:

As relevant here, Magna Carta required that economic sanctions “be proportioned to the wrong” and “**not be so large as to deprive [an offender] of his livelihood.**” *Browning-Ferris*, 492 U. S., at 271. See also 4 W. Blackstone, *Commentaries on the Laws of England* 372 (1769) (“[N]o man shall have a larger amercement imposed upon him, than his circumstances or personal estate will bear . . .”).

*Timbs v Indiana* 586 US \_\_ (2/20/19) [bold added]

The record shows Ms. Albert sought bankruptcy protection and that she could not afford the \$2,100.00 to pay for the transcripts in order to appeal the State Bar court recommendation. She could not get out of the 30-day suspension a year and

one-half later because she could not pay the State Bar the \$18,000.00 demanded then. It is only logical that would be impossible for her to pay \$18,841.90 to the State Bar plus the prior \$18,000.00 owed, either.

However, other attorneys who could afford it, were able to buy their license back. This makes the sentence as written unconstitutional. The punishment is not the same for all attorneys and the amount of time is not limited.

Conditioning Ms. Albert's reinstatement on these costs does nothing to protect the public, doesn't get the Bar reimbursed, and puts Ms. Albert further in debt. These exorbitant tolls undermine other constitutional liberties." *Timbs v Indiana* 586 US \_\_ (2/20/19) "Excessive fines can be used, for example, to retaliate against or chill the speech of political enemies. *Timbs*.

Furthermore, Bus. & Prof. Code § 6086.10 expressly provides that the judgement can be converted to a civil judgment wherein civil collections can happen immediately. That means that restitution was fully made at that point, thus negating an ability to assert any legitimacy to the condition at all. *United States v Bruchey*, 810 F.2d 456, 461 (4<sup>th</sup> Cir. 1987)

Until this Court takes the time to take this issue up, consumer rights attorneys who fight to keep the doors of justice open for all people will continue to exit the system and those doors will continue to close tighter in California.

**A. The Constitutionality of California Conditioning Ms. Albert's Reinstatement of her License by Paying Previously Discharged Debts to Attorney Lucas and Woods Is Important for This Court to Decide**

Ms. Albert received a Chapter 7 discharge in bankruptcy on February 23, 2019. The State Bar was an active participant in that bankruptcy.

Thereafter, the California Supreme Court issued an order dated July 10, 2019 conditioning reinstatement of Ms. Albert's license on the Payment of \$20,000.00 to Nira Woods and payment of \$47.00 to Fin City Foods although both debts were discharged on February 23, 2019.

First, this Court should decide whether the State can override 11 USC 502 when it comes to attorneys.

Second, even if Ms. Albert had not declared bankruptcy, this Court should determine whether a six-month actual suspension can go beyond that time period for failure to pay a debt owed to a third party.

There is nothing in the U.S. Constitution that would allow the State of California to continue an attorney's suspension on into infinity until a payment to the Bar or others is made. History is lacking precedence to support such result, too.

The July 10, 2019 Order coerces Albert into reaffirming the discharged debt if she wants her license back at the end of six months. "A state statute that coerces a debtor to reaffirm a discharged debt contravenes the purpose of the federal bankruptcy laws, thus violating the supremacy clause of the United States Constitution." *Hippard v Bar* 49 Cal.3d 1084, 1103 (1989)

The suspension of debtor's license conditioning reinstatement upon payment enhances the Bar's revenue collection rather than protects public safety, and it is therefore an enforcement of a money judgment which §362(b)(4) does not permit. *In re Ellis*, 66 B.R. 821, 825 (N.D. Ill. 1986).

Similarly, 11 USC §525(a) is violated where the governmental unit conditions license renewal on payment of discharged debt. *See Federal Communications Comm'n v NextWave Personal Communications Inc.* (2003) 537 US 293, 302-304, 123 S.Ct. 832, 839-840 (revocation of broadband licenses for debtor's nonpayment of dischargeable license installment obligation.) Cal. Pract. Guide, Bankruptcy §2:845.

Because the July 10, 2019 Order conditions Albert's reinstatement on payment of a discharged debt, there was a mistake in the law warranting review.

**B. The \$18,841.90 in Bar Costs Violates the Eighth Amendment to U.S. Constitution as an Excess Fine or Penalty**

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

U.S.C.S. Const. Amend. VIII

Here, the \$18,841.90 was excessive for a prosecution over \$47.00. Attaching its payment as a condition of having, not probation end, but the actual sentence of suspension end, also may be characterized as an excessive fine imposed by California or cruel and unusual punishment.

Enforcing Bus & Prof Code §6103 and §6086.10 against Albert had no real or substantive relation to protecting the public. *Tennessee Wine and Spirits Retailers Assoc.*, at 661.

It does not at all follow that every statute enacted ostensibly for the promotion of the public health, the public morals, or the public safety is to be accepted as a legitimate exertion of the police powers of the State.

*Tennessee Wine and Spirits Retailers Assoc. v Thomas*, \_\_\_ US \_\_\_ (6/26/19) (internal quotes omitted.)

Discovery sanctions are not even reportable under Bus & Prof Code § 6068(o).

Albert paid Attorney Lucas too much money and that payment was under the direction of the State Bar. Attorney Lucas had a long history of filing Bar complaints against Albert and harassing her. The State Bar prosecuted her anyway showing these statutes were not enacted to promote the public health, public morals or public safety. It was enacted for financial gain.

Police powers granted to California via the Tenth Amendment of the U.S. Constitution are not unlimited. For example, police power regulated to California cannot "interfere with the execution of the powers of the general government, or violate rights secured by the Constitution of the United States." *Tennessee Wine and Spirits Retailers Assoc. v Thomas*, \_\_\_ US \_\_\_ (6/26/19), quoting, *Mugler v Kansas*, 123 U. S. 623, at 659.

Since, 2000 the California State Bar has gone unsupervised because the legislature changed the law where the California Supreme Court no longer is obligated to review the administrative decisions. Moreover, there is no writ of mandamus that can be taken to the California Superior Court. Finally, the State Bar obtains its funding from its own members in the form of dues and disciplinary proceedings. This is a *Tumey* Court (financial incentive for Bar personnel to investigate, charge, prosecute, preside over and rule to create a certain outcome.) *Tumey v Ohio* 273 US 510 (1927).

The Order that has resulted from the State Bar's use of the Tenth Amendment police powers violates Albert's constitutional rights, warranting a rehearing. (X Amend. U.S. Const.)

Like the Board in *N. Carolina Bd of Dental Examiners v FTC*, 574 US \_\_ (2015), the State Bar's actions were completely unsupervised by the state. There has been no active supervision by the California Supreme Court. But the US Supreme Court requires active supervision in order to find that the member has been given adequate due process.

The fake story that appears in the State Bar recommendation only can come about when there is no oversight. Discipline is supposed to be limited in scope.

Even if the prosecutions were worthy, the amount in the Order for Bar costs was unconstitutionally excessive. *Timbs v Indiana* 586 US \_\_ (2/20/19)<sup>1</sup> VIII Amend US Const., XIV Amend. US. Const.

There are currently 190,590 active attorneys in California that would be subject to this same kind of excessive fine or penalty. There are currently approximately 15,00 attorneys who have already been subjected to this type of conditional punishment that is clearly unconstitutional. If you cannot do it to a person who has been sentenced after committing a felony, then the state should also be barred from doing it to a professional who was just trying to practice in their chosen profession.

While the Constitution contemplates that democracy is the appropriate process for change, individuals who are harmed need not await legislative action

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<sup>1</sup> Proper to raise this type of issue based on new case law for first time on appeal. *Briggs v. Kent (In re Prof'l Inv. Props. of Am.)*, 955 F.2d 623, 625 (9th Cir. 1992)

before asserting a fundamental right and this Court should use its discretion to answer these important questions about federal law.

Petitioner is in purgatory without being given the ability to work her way out. The State of California took her license to practice law away until she pays the State Bar nearly \$38,000.00. (The amounts to the opposing counsel or Nira Woods were discharged in bankruptcy without objection but remain in the California Supreme Court Order). She cannot get licensed in another state based solely on the fact she remains suspended in California. She cannot buy her way out of suspension because she cannot practice law.

## II. CONCLUSION

The petition for a writ of certiorari should be granted.

Dated: November 26, 2019

Respectfully Submitted,

/s/ Lenore Albert

LENORE L. ALBERT

Petitioner, pro se

## APPENDIX A



**FILED**

**JAN 09 2019**

**STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES**

# **PUBLIC MATTER**

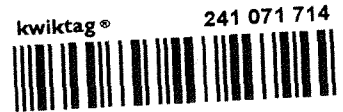
**STATE BAR COURT OF CALIFORNIA**

**HEARING DEPARTMENT – LOS ANGELES**

In the Matter of )  
LENORE LUANN ALBERT, )  
A Member of the State Bar, No. 210876. )  
\_\_\_\_\_ )

Case Nos. 16-O-12958-YDR (16-O-10548)

DECISION



## **Introduction**<sup>1</sup>

In this contested disciplinary proceeding, Lenore LuAnn Albert (Respondent) is charged with eight counts of misconduct in two client matters. The charged acts of misconduct include: (1) failing to perform with competence; (2) failing to render an accounting of client funds; (3) failing to refund unearned fees (\$20,000); (4) failing to cooperate in a disciplinary investigation; (5) failing to release client file; (6) seeking to mislead a judge; (7) committing an act of moral turpitude by making a misrepresentation to the State Bar; and (8) failing to obey a court order.

This court finds, by clear and convincing evidence, that Respondent is culpable of six of the charged counts of misconduct. In view of Respondent's misconduct and the evidence in aggravation, the court recommends, among other things, that Respondent be suspended for one year, execution of that suspension is stayed, be placed on probation for two years, and be actually suspended for the first six months of probation and until she makes restitution.

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<sup>1</sup> Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct that were operative until October 31, 2018. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.

### **Significant Procedural History**

#### ***1. First Notice of Disciplinary Charges (Case No. 16-O-10548)***

On September 9, 2016, the Office of Chief Trial Counsel of the State Bar of California (OCTC) initiated this proceeding by filing a Notice of Disciplinary Charges (NDC) in case No. 16-O-10548. On October 27, 2016, Respondent filed an answer.

On December 8, 2016, the court issued an order granting OCTC's motion to strike Respondent's answer. Respondent then filed a first amended answer on December 19, 2016.

#### ***2. Second Notice of Disciplinary Charges (Case No. 16-O-12958)***

On March 6, 2017, a second NDC was filed in case No. 16-O-12958. On April 26, 2017, Respondent filed an answer.

Subsequently, OCTC filed a First Amended NDC on May 14, 2018. Respondent responded to the First Amended NDC on August 9, 2018.

A three-day trial was held September 19-21, 2018. The OCTC was represented by Deputy Trial Counsel Timothy G. Byer. Respondent represented herself. The court took this matter under submission on October 12, 2018. OCTC filed its closing argument brief on October 12, 2018, and Respondent belatedly filed hers on October 19, 2018.

### **Findings of Fact and Conclusions of Law**

Respondent was admitted to the practice of law in California on December 5, 2000, and has been a member of the State Bar of California at all times since that date.

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

**Case No. 16-O-12958 – The Schwartz-Woods Matter**

**Facts**

During September 2014, Dr. Nira Schwartz-Woods asked Respondent to represent her in connection with a patent litigation matter involving a patent Dr. Woods and her son, Nehemiah, co-invented for a device that would prevent a driver from making phone calls and texting while driving above a threshold speed.<sup>2</sup> Respondent informed Dr. Woods that Dr. Woods needed an attorney with patent litigation expertise and that Respondent would “work with” the patent litigator retained by Dr. Woods. Dr. Woods believed that she needed about \$2 million to fund the patent litigation against major smartphone manufacturers, AT&T and other smartphone distributors and/or major carriers she believed to have in some way infringed her patent.

Respondent asked Dr. Woods to pay \$20,000 as a retainer fee. Dr. Woods paid Respondent the \$20,000 fee by check dated October 17, 2014. There was no valid, written fee agreement signed by both parties.<sup>3</sup>

Dr. Woods began to communicate with various patent litigation attorneys in an effort to identify an attorney who would represent her in the patent infringement litigation she wanted to pursue. Initially, Dr. Woods communicated with Robert Klinck, Esq., who Woods considered to be “a smart guy, knowledgeable about patents.” Dr. Woods informed attorney Klinck that Respondent would “negotiate a retainer agreement on behalf of Woods and her co-inventor son, Dr. Nehemia Schwartz.” Dr. Woods understood that to mean that Respondent’s role would place Respondent in the position of lead counsel on the patent litigation.

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<sup>2</sup> Previously, in 2013, Dr. Nira Schwartz-Woods had retained Respondent to represent her in a wrongful death lawsuit. After obtaining a favorable outcome, Dr. Woods asked Respondent to represent her in the patent infringement dispute.

<sup>3</sup> Dr. Woods contended that she never received Respondent’s October 6, 2014 purported retainer agreement letter. And she did not sign such an agreement.

On October 22, 2014, attorney Klinck forwarded Dr. Woods a draft retainer agreement. On October 23<sup>rd</sup>, Klinck emailed Respondent in an effort to schedule a meeting with her. Respondent replied on October 23, 2014, that she was unavailable to meet with Klinck. Pursuant to Respondent's instructions, her assistant emailed Klinck to advise him that Respondent would be unavailable to communicate with Klinck during the entire month of November and early December 2014. By November 2014, Klinck informed Dr. Woods that he would not go forward with the patent infringement litigation because it would be too difficult to communicate with Respondent.

In her effort to obtain litigation financing, Dr. Woods communicated with Peter Doumani, a member of a company that funds large litigation matters. However, Respondent did not respond to Dr. Woods' efforts to connect Respondent with Doumani. Similarly, Dr. Woods communicated with and sought to involve at least three to four other patent attorneys or law firms<sup>4</sup> but Respondent failed to communicate with any of them.

By the end of March 2015, Dr. Woods had grown frustrated with Respondent's lack of involvement in the patent infringement litigation and her failure to communicate with the patent infringement litigators proposed by Dr. Woods. On April 1, 2016, Dr. Woods emailed Respondent and asked Respondent to return the \$20,000 fee she paid Respondent since Respondent did not intend to represent Dr. Woods in the patent infringement matter.

On April 5, 2016, Dr. Woods reiterated her decision to terminate Respondent's representation in the patent infringement matter and again requested return of the \$20,000 fee Dr. Woods paid Respondent. On the same day, Respondent countered by stating that she had spent months researching various issues, she gave Woods advice on venue and she had spent multiple

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<sup>4</sup> Dr. Woods contacted patent attorneys, including Dax Anderson, David Johnson, and Jean-Marc Zimmerman.

hours consulting with attorneys at Dr. Woods' request. In large measure, this statement was incorrect as Respondent failed to communicate to Dr. Woods the results of any research she performed on the patent infringement matter and, Respondent's consultations with the patent infringement litigation attorneys Dr. Woods directed to Respondent were virtually non-existent.

Respondent did not return any of the \$20,000 fee paid by Dr. Woods.

After Dr. Woods submitted a complaint to the State Bar, the State Bar forwarded a letter, dated June 3, 2016, to Respondent's membership records address. The June 3, 2016 letter sought a response from Respondent addressing information and supporting documentation regarding Respondent's view of Dr. Woods' allegations. Respondent forwarded sarcastic emails in response but did not address the substance of Dr. Woods' allegations regarding the patent infringement litigation.

More than a year after the termination of Respondent's employment, Dr. Woods sent Respondent an email on July 1, 2017, requesting the return of her case documents. Respondent has not, to date, released the client file to Dr. Woods.

#### **Conclusions of Law**

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

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

Respondent argued that she performed services for Dr. Woods, claiming that she had spent months researching various issues, she gave Dr. Woods advice on venue and she had spent multiple hours consulting with attorneys at Dr. Woods' request.

**The court does not find Respondent's claim credible.** Dr. Woods specifically hired Respondent to represent her in a patent litigation matter. Yet, Respondent failed to communicate to Dr. Woods the results of any research she performed on the patent infringement matter and,

Respondent's consultations with the patent infringement litigation attorneys Dr. Woods directed to Respondent were virtually non-existent. Diligence includes best efforts to accomplish with reasonable speed the purpose for which the attorney was employed. (*Van Sloten v. State Bar* (1989) 48 Cal.3d 921, 931.) Respondent failed to apply due diligence in her performance of any tasks she was retained to perform.

Therefore, Respondent failed to take any steps to advance the patent infringement litigation she was hired to coordinate. The OCTC established by clear and convincing evidence that Respondent neither acted as a liaison nor consulted with the patent infringement litigators in a manner that would advance the litigation on behalf of her clients. As such, by failing to perform services with competence on behalf of Dr. Woods, Respondent willfully violated rule 3-110(A). (*Guzzetta v. State Bar* (1987) 43 Cal.3d 962, 979 [attorney failed to perform competently by taking no action to accomplish the purpose for which the client retained him].)

***Count Two – Rule 4-100(B)(3) [Failure to Render Account of Client Funds]***

Rule 4-100(B)(3) provides that an attorney must maintain records of all client funds, securities, and other properties coming into the attorney's possession and render appropriate accounts to the client regarding such property.

Respondent contended that she did not have to provide an accounting of the \$20,000 advance fees since her retention was pursuant to a "true retainer."

"A retainer is a sum of money paid by a client to secure an attorney's availability over a given period of time. Thus, such a fee is earned by the attorney when paid since the attorney is entitled to the money regardless of whether [she] actually performs any services for the client." (*Baranowski v. State Bar* (1979) 24 Cal.3d 153, 164, fn. 4.)

In this case, there is no evidence that Respondent devoted certain blocks of time to Dr. Woods' matter or that she turned away other business in order to proceed with her litigation

matter. Thus, Respondent was not excused from accounting for the \$20,000 advanced fee on the ground that it was a retainer earned on receipt. (See *In the Matter of Fonte* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752, 757.) Respondent was obligated to keep adequate records of her fees.

Therefore, by failing to provide Dr. Woods with an accounting or billing statement, Respondent failed to render an appropriate accounting to a client regarding all funds coming into her possession, in willful violation of rule 4-100(B)(3).

***Count Three – Rule 3-700(D)(2) [Failure to Return Unearned Fees]***

Rule 3-700(D)(2) requires an attorney, upon termination of employment, to promptly refund any part of a fee paid in advance that has not been earned.

Respondent contended that the advance fee was actually a “retainer fee” and thus, it was earned on receipt.

On the contrary, as discussed in count two, there is no indication that the advance fee was a true retainer. There is no evidence that the fee was paid solely for the purpose of ensuring the Respondent’s availability for the patent litigation matter. Notwithstanding Respondent’s characterization of the fees, Respondent did not perform any services of value on behalf of Dr. Woods, did not earn any portion of the fees, and thus, had an obligation to return the unearned amount. Dr. Woods was entitled to a refund of the entire fee since she received nothing of value from Respondent. (*In the Matter of Seltzer* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 263, 268 [attorney not entitled to retain advance fee where her work was incomplete and never provided any work product or advice to the clients].)

Therefore, Respondent willfully violated rule 3-700(D)(2) when, upon termination of her employment on April 1, 2016, she failed to refund to Dr. Woods the unearned fee of \$20,000.

***Count Four – § 6068, subd. (i) [Failure to Cooperate in State Bar Investigation]***

Section 6068, subdivision (i), provides that an attorney has a duty to cooperate and participate in any disciplinary investigation or other regulatory or disciplinary proceeding pending against the attorney.

Respondent failed to give a substantive response to the allegations of misconduct contained in the State Bar's letter dated June 3, 2016. Instead, after she received the letter, Respondent sent acerbic emails that did not address the information sought regarding Dr. Woods' complaint.

By failing to forward a substantive response to the State Bar's June 3, 2016 letter, Respondent was culpable for the willful violation of section 6068, subdivision (i).

***Count Five – Rule 3-700(D)(1) [Failure to Return Client Papers/Property]***

Rule 3-700(D)(1) requires an attorney, upon termination of employment, to promptly release to the client, at the client's request, all client papers and property, subject to any protective order or non-disclosure agreement. This includes pleadings, correspondence, exhibits, deposition transcripts, physical evidence, expert's reports and other items reasonably necessary to the client's representation, whether the client has paid for them or not.

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. (*Rose v. State Bar* (1989) 49 Cal.3d 646, 655.)

Here, Dr. Woods terminated Respondent's employment on April 1, 2016, and requested her file on July 1, 2017. Dr. Woods has yet to receive her file materials.

Therefore, Respondent willfully violated rule 3-700(D)(1) by failing to promptly release to Dr. Woods, upon the client's request and the termination of Respondent's employment, the client's property and papers.



***Count Six – § 6068, subd. (d) [Attorney's Duty to Employ Means Consistent with Truth]***

Section 6068, subdivision (d), provides that an attorney has a duty to employ 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 law or fact.

The OCTC alleged that Respondent violated section 6068, subdivision (d), by seeking to mislead this court when she attached a purported retainer agreement to her motion to quash subpoena on November 4, 2016. The OCTC contended that Respondent falsely declared under the penalty of perjury that the agreement was a "true and correct copy of [her] retainer with Nira Woods for \$20,000.00," which she knew to be a false document at the time she made the declaration and provided it to the State Bar Court.

There is no clear and convincing evidence that the document attached to Respondent's declaration to the motion to quash was not Respondent's retainer agreement letter. Respondent in good faith believed that it was a valid agreement and thought that she forwarded the letter to Dr. Woods. While Dr. Woods did not receive or sign such an agreement, it does not mean that Respondent intentionally misled the court by creating a false document. Reasonable doubts in proving a charge of professional misconduct must be resolved in the accused attorney's favor. (*Ballard v. State Bar* (1983) 35 Cal.3d 274, 291.)

Therefore, there is no clear and convincing evidence that Respondent sought to mislead the court in willful violation of section 6068, subdivision (d).

***Count Seven – § 6106 [Moral Turpitude]***

Section 6106 provides, in part, that the commission of any act involving dishonesty, moral turpitude, or corruption constitutes cause for suspension or disbarment.

Similarly, as discussed in count six, there is no clear and convincing evidence that Respondent made a misrepresentation to the court by attaching the retainer agreement letter and

declaring it as a "true and correct copy of [her] retainer with Nira Woods for \$20,000.00," in willful violation of section 6106. Respondent did not knowingly create a false document to mislead the court.

**Case No. 16-O-10548 – The Fin City Foods Matter**

**Facts**

Respondent represented plaintiffs in the matter of *Bonnie L. Kent and Teri Sue Kent Love in their capacity as Joint Trustees of the James Kyle Kent, Jr. "Spousal Trust" et al. v. Fin City Foods, Inc., et al.*, Orange County Superior Court, case number 30-2014-00713792-CU-MC-CJC (*Fin City Foods* matter). A discovery dispute developed, and by order dated February 10, 2015, the *Fin City Foods* court ordered Respondent to pay \$875 in sanctions. Specifically, the court ordered that "[t]he sanctions are imposed upon counsel for Plaintiffs, Ms. Lenore Albert, and are to be paid to defendant Fin City Foods, through its counsel of record, Mr. Lucas, within thirty days after service of notice of this ruling." The notice of ruling was filed on February 18, 2015.

By letters dated March 20, 2015, and September 30, 2015, counsel for Fin City Foods informed Respondent that he had not yet received the sanctions payment and demanded that Respondent comply with the court order.

Respondent did not respond until March 16, 2016, almost a year after the sanctions were ordered and then, Respondent's emailed response was sent to a State Bar investigator after Respondent had become the subject of an investigation. Respondent informed the State Bar investigator that Respondent was forwarding eight "extortion" and "blackmail" checks for varied amounts which totaled \$828.<sup>5</sup>

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<sup>5</sup> The checks were made payable to Devin Lucas in eight different amounts: \$99, \$10, \$1, \$7, \$414, \$99, \$99, and \$99.

The same day that Respondent emailed her comments to Fin City Foods' counsel, Devin Lucas, Lucas sent an email to Respondent which reminded her that the sanctions should be made payable to his client, that the total amount of the sanctions ordered was \$875, not \$828, and that a balance of \$47 remained due to his client. Respondent subsequently overpaid Fin City Foods when she forwarded a ninth check in the amount of \$75. Lucas sent Respondent a reimbursement check in the amount of what he considered to be a \$75 payment.

On March 18, 2016, Lucas requested that Respondent pay the \$47 balance due to Fin City Foods. To date, Respondent has failed to pay the balance due on the sanctions order.

***Count Eight – § 6103 [Failure to Obey a Court Order]***

Section 6103 provides, in pertinent part, that a willful disobedience or violation of a court order requiring an attorney to do or forbear an act connected with or in the course of the attorney's profession, which an attorney ought in good faith to do or forbear, constitutes cause for suspension or disbarment.

The OCTC charged Respondent with willfully violating section 6103 by failing to timely pay the \$875 in sanctions arising from the Fin City Foods discovery dispute within 30 days of the notice of ruling, filed February 18, 2015. Respondent was aware of the sanctions order, yet she failed to timely pay any of the sanctions or seek relief from payment until almost a year after its due date. (See *In the Matter of Respondent Y* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862, 868 [despite financial hardship, attorney culpable for misconduct for failure to pay court-ordered sanctions when attorney fails to seek relief from order.]) Instead, Respondent paid \$828 on March 16, 2016, in eight separate checks. She still owes \$47.

Therefore, by failing to timely pay the full amount of the \$875 sanctions in compliance with the February 10, 2015 court order in the Fin City Foods matter, Respondent willfully violated section 6103.

## Aggravation<sup>6</sup>

The State Bar bears the burden of proving mitigating circumstances by clear and convincing evidence. (Std. 1.5.) The court finds the following with regard to aggravating circumstances.

### **Prior Record of Discipline (Std. 1.5(a).)**

On December 13, 2017, the California Supreme Court ordered that Respondent be suspended from the practice of law for one year, stayed, placed on probation for one year, and was actually suspended for 30 days; and she will remain suspended until she pays court ordered sanctions. Her misconduct included failing to obey three court sanctions orders issued on August 31, 2012, and failing to cooperate with the State Bar investigation in July 2015. Moderate mitigation included no prior record of discipline and good character. Aggravation included multiple acts of misconduct and indifference toward rectification. The review department found that Respondent's indifference warranted significant weight, based on her refusal to acknowledge or accept any responsibility for her misconduct. In its opinion, the court wrote: "Albert's misconduct is ongoing as she still owes sanctions nearly five years overdue. Of equal concern is the fact that she blames everyone but herself for her misconduct." (State Bar Court case Nos. 15-O-11311 et al.; Supreme Court case No. S243927.)<sup>7</sup>

Respondent's prior record of discipline is given less weight since it was imposed after commencement of the current disciplinary proceeding. (*In the Matter of Miller* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131, 136.)

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<sup>6</sup> All references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

<sup>7</sup> The court takes judicial notice of the pertinent State Bar Court records regarding this prior discipline, admits them into evidence and directs the Clerk to include copies in the record of this case. (State Bar exhibit 64 on Respondent's prior record of discipline was incomplete in that the review department opinion filed June 30, 2017, and the Supreme Court order filed December 13, 2017, were not included.)

**Multiple Acts of Misconduct (Std. 1.5(b).)**

Respondent's misconduct evidences multiple acts of wrongdoing in two matters, including failing to perform with competence; failing to render an accounting of client funds; failing to refund unearned fees of \$20,000; failing to cooperate in a disciplinary investigation; failing to release client file; and failing to timely obey a court sanctions order. Respondent's commission of multiple acts of misconduct is an aggravating factor.

**Indifference Toward Rectification/Atonement (Std. 1.5(k).)**

Respondent demonstrated indifference toward rectification of or atonement for the consequences of her misconduct. "The law does not require false penitence. [Citation.] But it does require that the [Respondent] accept responsibility for [her] acts and come to grips with [her] culpability. [Citation.]" (*In the Matter of Katz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502, 511.)

Respondent's repeated indifference and lack of insight into the nature and seriousness of her misconduct was demonstrated in various ways, including her belief that this disciplinary proceeding resulted from her "poking the bear" criticisms of the State Bar rather than her misconduct.

"[A]n attorney's lack of insight into the wrongfulness of his actions" may be an aggravating factor. (*Rodgers v. State Bar* (1989) 48 Cal.3d 300, 317.) Instead of acknowledging that she engaged in various incidents of misconduct, Respondent contended that her disciplinary proceeding arose as a result of the many rude and insulting remarks she made toward various members of OCTC when she "poked the bear." Respondent has yet to rectify her misconduct. She has not fully complied with the Fin City Foods sanctions order or returned the unearned fees and the client file to Dr. Woods. Respondent's lack of insight is a significant aggravating factor which raises concerns as to whether Respondent is likely to engage in similar misconduct in the

future. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 781-782.) Therefore, Respondent's failure to accept responsibility for actions which are wrong or to understand that wrongfulness is considered an aggravating factor. (*Carter v. State Bar* (1988) 44 Cal.3d 1091, 1100-1101.)

#### **Failure To Make Restitution (Std. 1.5(m).)**

Respondent failed to return any of the \$20,000 of unearned attorney fees paid to her by Dr. Woods. The aggravating weight of her failure to make restitution is significant. She also failed to pay the balance of \$47 due to Fin City Foods.

#### **Mitigation**

Respondent bears the burden to prove mitigating circumstances by clear and convincing evidence. (Std. 1.6.) The court finds that Respondent has not established any mitigating circumstances by clear and convincing evidence.

#### **Discussion**

The primary purposes of attorney discipline are to protect the public, the courts, and the legal profession, to maintain the highest possible professional standards for attorneys, and to preserve public confidence in the legal profession. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; std. 1.1.)

In determining the appropriate level of discipline, the court looks first to the standards for guidance. (*Drociak v. State Bar* (1991) 52 Cal.3d 1085, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.) The Supreme Court gives the standards "great weight" and will reject a recommendation consistent with the standards only where the court entertains "grave doubts" as to its propriety. (*In re Silverton* (2005) 36 Cal.4th 81, 91-92; *In re Naney* (1990) 51 Cal.3d 186, 190.) Although the standards are not mandatory, they may be deviated from when there is a compelling, well-defined reason to do so. (*Bates v. State Bar* (1990) 51 Cal.3d 1056, 1061, fn. 2; *Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.)

In addition, standard 1.7(b) states, "If aggravating circumstances are found, they should be considered alone and in balance with any mitigating circumstances, and if the net effect demonstrates that a greater sanction is needed to fulfill the primary purposes of discipline, it is appropriate to impose or recommend a greater sanction than what is otherwise specified in a given Standard. 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 1.8(a) provides that, when an attorney has one 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."

In this case, the standards provide for the imposition of a minimum sanction ranging from actual suspension to disbarment. Standards 2.2, 2.7(c), 2.12(a) and (b), and 2.19 apply in this matter.

Standard 2.2 provides that an actual suspension of three months is the presumed sanction for commingling or failing to promptly pay out entrusted funds. Reprimand or suspension is the presumed sanction for any other rule 4-100 violation.

Standard 2.7(c) provides that reprimand or suspension is the presumed sanction for communication, performance, or withdrawal violations, which are limited in time or scope. The degree of sanction depends on the degree of harm to the client(s) and the extent of the misconduct.

Standard 2.12(a) provides that the presumed sanction for violation or disobedience of a court order related to the member's practice of law, the attorney's oath, or the duties required of

an attorney under Business and Professions Code section 6068, subdivisions (a), (b), (d), (e), (f), or (h) is actual suspension or disbarment.

Standard 2.12(b) provides that the presumed sanction for a violation of an attorney's duties under Business and Professions Code section 6068, subdivision (i), (j), (l), or (o) is reproof.

Finally, standard 2.19 states, "Suspension not to exceed three years or reproof is the presumed sanction for a violation of a provision of the Rules of Professional Conduct not specified in these Standards."

The OCTC urges that Respondent should be actually suspended for two years and until she makes restitution, based on its argument that she had committed an act of moral turpitude in making a misrepresentation to the court regarding her fee agreement. However, the court did not find that Respondent is culpable of misleading the court (§ 6068, subd. (d)) or committing an act of moral turpitude (§ 6106).

Respondent seeks dismissal of all of the charges. She argues, among other things, that the OCTC did not meet its burden of proof, she was not afforded an attorney so she could take the Fifth Amendment, she was not afforded a jury trial, and the OCTC withheld exculpatory evidence from her.

This court finds no merit to Respondent's procedural or substantive contentions. As above, the OCTC has shown by clear and convincing evidence that Respondent is culpable of six counts of misconduct. Her constitutional rights were not violated. Because this is Respondent's second disciplinary proceeding, she should be familiar with the rules of procedures of this court and its function as an administrative arm of the California Supreme Court. State Bar proceedings are administrative in nature and the only due process requirement is to a fair hearing. (*Rosenthal v. State Bar* (1987) 43 Cal.3d 612, 634.) An attorney in a disciplinary hearing has no



constitutional right to the assistance of counsel, except in section 6007, subd. (b)(3) proceedings (involving mental infirmity, illness, or habitual use of intoxicants). (See *In the Matter of Rubens* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 468.) Moreover, attorney disciplinary proceedings are not criminal matters for purposes of invoking the Fifth Amendment prohibition against being compelled to be a witness in one's own criminal trial. Accordingly, the court rejects all of Respondent's claims.

Since Respondent's previous discipline included a 30-day actual suspension, a greater discipline is appropriate. Yet, OCTC's recommended discipline of two years' actual suspension is too harsh since there is no clear and convincing evidence that Respondent misled the court. Such a severe sanction is appropriate for egregious misconduct.

For example, in *In the Matter of Dahlz* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269, the attorney was suspended for four years, stayed, placed on probation for four years, and actually suspended for one year for his misconduct in one client matter. He was culpable of failing to perform and communicate, improperly withdrawing from representation and committing an act of moral turpitude. The aggravating factors included multiple acts of misconduct, one prior instance of discipline, client harm and lack of candor toward the court and the State Bar investigator.

Like *Dahlz*, Respondent has a prior record of discipline and failed to perform in a single client matter. But unlike *Dahlz*, Respondent did not deliberately make misrepresentations to the State Bar or present false testimony in the court. Thus, Respondent's misconduct did not involve any act of moral turpitude and is less serious than that of *Dahlz*.

The court finds guidance in *In the Matter of Seltzer* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 263. There, the attorney, who was previously disciplined with a 60-day actual suspension, was given a one-year stayed suspension, two years' probation, and six months' actual

suspension and until she paid restitution for failure to perform and failure to return the unearned portion of her attorney fees. Although the attorney performed some services for her clients, her work was incomplete and she never provided any work product or advice to them. Thus, the clients were entitled to a refund of all fees since they received nothing of value from the attorney. Aggravation included a prior record of discipline, uncharged misconduct of failure to maintain client funds, and lack of insight. The court had admonished respondent about her unwillingness to even consider whether her position was meritless, citing to *In re Morse* (1995) 11 Cal.4th 184, 209 [attorney "went beyond tenacity to truculence" when he was unwilling to consider the appropriateness of his position]. Seltzer's continued lack of insight was of serious concern. There was no mitigation.

Similarly, Respondent's lack of insight is particularly troubling to this court and weighs heavily in assessing the appropriate level of discipline. Moreover, the circumstances surrounding her misconduct – prior record of discipline, multiple acts, no recognition of wrongdoing, and failure to pay restitution of \$20,000 to Dr. Woods – are evidence of serious aggravation. This court is also guided by standard 1.8(a), which calls for progressively more severe discipline than her previous discipline of 30 days' actual suspension, unless the prior discipline is remote in time and the offense was minimal in severity. Respondent's prior misconduct of failing to cooperate with the State Bar investigation and failing to obey court orders, is neither remote nor minimal.

Accordingly, after balancing all relevant factors, including the underlying misconduct, and particularly, the significant aggravating factors, the court concludes that a period of six months' actual suspension would be appropriate to protect the public and to preserve public confidence in the profession. Further, Respondent should remain suspended until she returns \$20,000 plus interest to Dr. Woods and \$47 to Fin City Foods.

### Recommendations

It is recommended that Lenore LuAnn Albert, State Bar Number 210876, be suspended from the practice of law for one year, that execution of that suspension be stayed, and that Respondent be placed on probation for two years with the following conditions:

#### **Conditions of Probation**

##### **1. Actual Suspension**

Respondent must be suspended from the practice of law for a minimum of the first six months of Respondent's probation, and Respondent will remain suspended until the following requirements are satisfied:

a. Respondent makes restitution to Dr. Nira Schwartz-Woods in the amount of \$20,000 plus 10 percent interest per year from April 1, 2016 (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) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles;

b. Respondent makes restitution to Fin City Foods in the amount of \$47 (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) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles; and

c. If Respondent remains suspended for two years or longer, Respondent must provide proof to the State Bar Court of Respondent's 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, Respondent 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 Respondent's compliance with this requirement, to the State Bar's Office of Probation in Los Angeles (Office of Probation) with Respondent's first quarterly report.

## **3. Comply with State Bar Act, Rules of Professional Conduct, and Probation Conditions**

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

## **4. Maintain Valid Official Membership Address and Other Required Contact Information**

Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must make certain that the State Bar Attorney Regulation and Consumer Resources Office (ARCR) has Respondent's current office address, email address, and telephone number. If Respondent does not maintain an office, Respondent must provide the mailing address, email address, and telephone number to be used for State Bar purposes. Respondent must report, in writing, any change in the above information to ARCR, within ten (10) days after such change, in the manner required by that office.

## **5. Meet and Cooperate with Office of Probation**

Within 15 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must schedule a meeting with Respondent's assigned probation case specialist to discuss the terms and conditions of Respondent's 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, Respondent may meet with the probation case specialist in

person or by telephone. During the probation period, Respondent 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.

**6. State Bar Court Retains Jurisdiction/Appear Before and Cooperate with State Bar Court**

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

**7. Quarterly and Final Reports**

a. **Deadlines for Reports.** Respondent 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, Respondent must submit a final report no earlier than ten (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.** Respondent must answer, under penalty of perjury, all inquiries contained in the quarterly report form provided by the Office of Probation, including stating whether Respondent 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.** Respondent is directed to maintain proof of Respondent's 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 Respondent's actual suspension has ended, whichever is longer. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

#### **8. Proof of Compliance with Rule 9.20 Obligations**

Respondent is directed to maintain, for a minimum of one year after the commencement of probation, proof of compliance with the Supreme Court's order that Respondent comply with the requirements of California Rules of Court, rule 9.20(a) and (c). Such proof must include: the names and addresses of all individuals and entities to whom Respondent 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 Respondent with the State Bar Court. Respondent 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 Not Recommended**

It is not recommended that Respondent be ordered to attend the State Bar Ethics School because she was previously ordered to do so in Supreme Court order No. S243927.

#### **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 Respondent has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

#### **Multistate Professional Responsibility Examination Not Recommended**

It is not recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) because she was previously ordered to do so in Supreme Court order No. S243927.

#### **California Rules of Court, Rule 9.20**

It is further recommended that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter.<sup>8</sup> Failure to do so may result in disbarment or suspension.

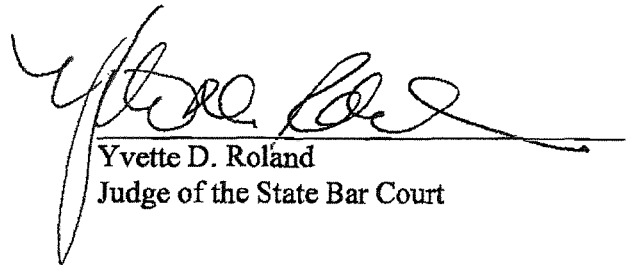
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<sup>8</sup> For purposes of compliance with rule 9.20(a), the operative date for identification of “clients being represented in pending matters” and others to be notified is the filing date of the Supreme Court order, not any later “effective” date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c), affidavit even if Respondent 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

**Costs**

It is further recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Unless the time for payment of discipline costs is extended pursuant to section 6086.10, subdivision (c), costs assessed against a member who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.

Dated: January 9, 2019



Yvette D. Roland  
Judge of the State Bar Court

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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).)



## CERTIFICATE OF SERVICE

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

I am a Court Specialist of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on January 9, 2019, I deposited a true copy of the following document(s):

### DECISION

in a sealed envelope for collection and mailing on that date as follows:

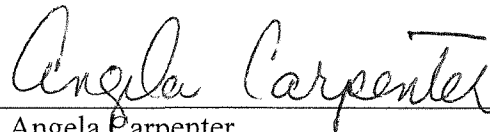
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

LENORE L. ALBERT  
LAW OFC LENORE ALBERT  
14272 HOOVER STREET  
SP 69  
WESTMINSTER, CA 92683

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

Timothy G. Byer, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 9, 2019.



Angela Carpenter  
Court Specialist  
State Bar Court

## APPENDIX B

<p><b>STATE BAR COURT OF CALIFORNIA</b></p> <p><b>REVIEW DEPARTMENT</b></p> <p>845 S. Figueroa St., Los Angeles, CA 90017</p>	<p>FOR CLERK'S USE ONLY:</p> <p><b>FILED</b></p> <p><b>FEB 15 2019</b> <i>MZ</i></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In the Matter of:</p> <p><b>LENORE LUANN ALBERT</b> Member No. 210876</p> <p>A Member of the State Bar.</p>	<p>Case No(s): 16-O-10548; 16-O-12958 (Consolidated)</p> <p><b>AMENDED NOTICE RE FAILURE TO COMPLY WITH RULE 5.151(D)</b></p>

**TO ALL PARTIES AND COUNSEL IN THE ABOVE ENTITLED MATTER:**

Pursuant to rule 5.151(D) of the Rules of Procedure of the State Bar, you are hereby NOTIFIED that unless LENORE LUANN ALBERT submits payment of \$2100.00 for the transcripts within five (5) days from service of this notice, the request for review will be dismissed with prejudice, and if no other party requested review, the decision of the hearing judge in this matter will become final decision of the State Bar Court.

Dated: February 15, 2019



Mel Zavala  
Court Specialist  
Review Department

## APPENDIX C

STATE BAR COURT OF CALIFORNIA  
845 South Figueroa Street, 3rd Floor  
Los Angeles, CA 90017-2515  
(213) 765-1400

FOR STATE BAR COURT USE

**FILED**

MAR 27 2019 *JH*

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

In the Matter of

LENORE LUANN ALBERT, No. 210876

Member of the State Bar

CERTIFICATE OF COSTS

CASE NO.: 16012958, 16010548.

1. TAXABLE COSTS of the Office of Chief Trial Counsel (Code Civ. Proc. §1033.5(a)).

\$ 201.90 Witness fees pursuant to Government Code.  
\$ Fees of expert witnesses when ordered by the Court.  
\$ Deposition expenses, including transcript and travel costs.  
\$ Service of process.  
\$ Photocopies of exhibits.  
\$ Models and blowups of exhibits.

2. REASONABLE COSTS PURSUANT TO FORMULA APPROVED BY THE BOARD OF TRUSTEES (Bus. & Prof. Code §6086.10(b)(3)).

\$ 17,574.00 Base Charge.  
\$ 1,026.00 Charge of \$1,026 for investigations over one.  
\$ Minimum charge for consolidated matter.  
\$ Resignation charge (\$144).

3. OTHER REASONABLE COSTS—Incidental expenses of the Office of Chief Trial Counsel (Bus. & Prof. Code §6086.10(b)(1); CCP §1033.5(c)).

\$ Reporter's transcript of State Bar Court proceedings.  
\$ 40.00 Cost for certifying court documents.  
\$ Staff travel expenses.  
\$

4. \$ 18,841.90 SUBTOTAL

By: *Herman Cendejas*  
Herman Cendejas, Program Assistant II, Office of Chief Trial Counsel

Dated: 03/26/19

5. OTHER REASONABLE COSTS OF THE STATE BAR COURT

\$ 00.00

\$ 18,841.90 TOTAL OF ALL COSTS

By: *Joe H. [Signature]*  
Sr. Administrative Assistant, Office of the State Bar Court

Dated: 3-27-19

**CERTIFICATE OF SERVICE**

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Sr. Administrative Assistant of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on March 27, 2019, I deposited a true copy of the following document(s):

**CERTIFICATE OF COSTS**

in a sealed envelope for collection and mailing on that date as follows:


- (X) by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

LENORE L. ALBERT  
LAW OFC LENORE ALBERT  
14272 HOOVER STREET SP 69  
WESTMINSTER, CA 92683

- (X) by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Timothy G. Byer, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 27, 2019.

  
Jesus Hernandez  
Sr. Administrative Assistant  
State Bar Court

## APPENDIX D

IN THE SUPREME COURT OF CALIFORNIA<sup>Deputy</sup>

En Banc

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In re LENORE LUANN ALBERT on Discipline.

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The request to correct or augment the record and/or for judicial notice is denied. The petition for writ of review is denied.

The court orders that Lenore LuAnn Albert (Respondent), State Bar Number 210876, is suspended from the practice of law in California for one year, execution of that period of suspension is stayed, and Respondent is placed on probation for two years subject to the following conditions:

1. Respondent is suspended from the practice of law for a minimum of the first six months of probation, and Respondent will remain suspended until the following requirements are satisfied:

i. Respondent makes restitution to the following payees or such other recipient as may be designated by the Office of Probation or the State Bar Court (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) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles:

(1) Dr. Nira Schwartz-Woods in the amount of \$20,000 plus 10 percent interest per year from April 1, 2016; and

(2) Fin City Foods in the amount of \$47.00.

ii. If Respondent remains suspended for two years or longer as a result of not satisfying the preceding requirement, Respondent must also provide proof to the State Bar Court of rehabilitation, fitness to practice and present learning and ability in the general law before the suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

2. Respondent must also comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Decision filed on January 9, 2019.

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



Respondent must also 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. Failure to do so may result in disbarment or suspension. Respondent must also maintain the records of compliance as required by the conditions of probation.

Costs are 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.

Kruger, J., was absent and did not participate.

I, Jorge Navarrete, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court as shown by the records of my office.

Witness my hand and the seal of the Court this

\_\_\_\_\_ day of JUL 10 2019 \_\_\_\_\_  
Month

By: \_\_\_\_\_  
Deputy

**CANTIL-SAKAUYE**

*Chief Justice*

### Recommendations

It is recommended that Lenore LuAnn Albert, State Bar Number 210876, be suspended from the practice of law for one year, that execution of that suspension be stayed, and that Respondent be placed on probation for two years with the following conditions:

#### **Conditions of Probation**

##### **1. Actual Suspension**

Respondent must be suspended from the practice of law for a minimum of the first six months of Respondent's probation, and Respondent will remain suspended until the following requirements are satisfied:

- a. Respondent makes restitution to Dr. Nira Schwartz-Woods in the amount of \$20,000 plus 10 percent interest per year from April 1, 2016 (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) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles;
- b. Respondent makes restitution to Fin City Foods in the amount of \$47 (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) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles; and
- c. If Respondent remains suspended for two years or longer, Respondent must provide proof to the State Bar Court of Respondent's 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, Respondent 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 Respondent's compliance with this requirement, to the State Bar's Office of Probation in Los Angeles (Office of Probation) with Respondent's first quarterly report.

## **3. Comply with State Bar Act, Rules of Professional Conduct, and Probation Conditions**

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

## **4. Maintain Valid Official Membership Address and Other Required Contact Information**

Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must make certain that the State Bar Attorney Regulation and Consumer Resources Office (ARCR) has Respondent's current office address, email address, and telephone number. If Respondent does not maintain an office, Respondent must provide the mailing address, email address, and telephone number to be used for State Bar purposes. Respondent must report, in writing, any change in the above information to ARCR, within ten (10) days after such change, in the manner required by that office.

## **5. Meet and Cooperate with Office of Probation**

Within 15 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must schedule a meeting with Respondent's assigned probation case specialist to discuss the terms and conditions of Respondent's 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, Respondent may meet with the probation case specialist in

person or by telephone. During the probation period, Respondent 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.

**6. State Bar Court Retains Jurisdiction/Appear Before and Cooperate with State Bar Court**

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

**7. Quarterly and Final Reports**

**a. Deadlines for Reports.** Respondent 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, Respondent must submit a final report no earlier than ten (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.** Respondent must answer, under penalty of perjury, all inquiries contained in the quarterly report form provided by the Office of Probation, including stating whether Respondent 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.** Respondent is directed to maintain proof of Respondent's 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 Respondent's actual suspension has ended, whichever is longer. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

#### **8. Proof of Compliance with Rule 9.20 Obligations**

Respondent is directed to maintain, for a minimum of one year after the commencement of probation, proof of compliance with the Supreme Court's order that Respondent comply with the requirements of California Rules of Court, rule 9.20(a) and (c). Such proof must include: the names and addresses of all individuals and entities to whom Respondent 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 Respondent with the State Bar Court. Respondent 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 Not Recommended**

It is not recommended that Respondent be ordered to attend the State Bar Ethics School because she was previously ordered to do so in Supreme Court order No. S243927.

#### **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 Respondent has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

#### **Multistate Professional Responsibility Examination Not Recommended**

It is not recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) because she was previously ordered to do so in Supreme Court order No. S243927.

#### **California Rules of Court, Rule 9.20**

It is further recommended that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter.<sup>8</sup> Failure to do so may result in disbarment or suspension.

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<sup>8</sup> For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c), affidavit even if Respondent 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

## APPENDIX E

SUPREME COURT  
**FILED**

AUG 28 2019

State Bar Court Nos. 16-O-12958, 16-O-10548

Jorge Navarrete Clerk

S254967

\_\_\_\_\_  
Deputy

**IN THE SUPREME COURT OF CALIFORNIA**

**En Banc**

\_\_\_\_\_  
In re LENORE LUANN ALBERT on Discipline.  
\_\_\_\_\_

The petition for rehearing is denied.

CANTIL-SAKAUYE

\_\_\_\_\_  
*Chief Justice*



## APPENDIX F



# The State Bar of California

OFFICE OF PROBATION

845 S. Figueroa Street, Los Angeles, CA 90017 Tel: 213-765-1452 E-mail: [Maricruz.Farfan@calbar.ca.gov](mailto:Maricruz.Farfan@calbar.ca.gov)

Fax: 213-765-1439 Supervising Attorney: [Terrie.Goldade@calbar.ca.gov](mailto:Terrie.Goldade@calbar.ca.gov)

This letter was uploaded to your private "My State Bar Profile" on the State Bar of California's website on:

September 11, 2019

In Re: **S254967 (16-O-12958, et al.)**

In the Matter of: **Lenore L. Albert**

Dear Lenore L. Albert:

This reminder letter is sent to you as a courtesy and based upon information that you are not currently represented by counsel in this matter—the enforcement of your probation terms and conditions. If this is incorrect, please complete the attached Notice of Counsel Representation form and submit to the Office of Probation within **five** days so that future communications may be directed to your counsel.

As you know, on July 10, 2019, the Supreme Court of California filed an Order suspending you from the practice of law for a period of one year, staying execution and placing you on probation upon certain conditions for a period of two years. Further, pursuant to the Order of the Court, you have been placed on actual suspension for a minimum of the first six (6) months of probation, and **until** you make restitution and provide satisfactory proof thereof to the Office of Probation. If you remain suspended for two years or longer as a result of not satisfying the preceding requirement, you must also provide proof to the State Bar Court of your rehabilitation, fitness to practice and learning and ability in the general law pursuant to Standard 1.2(c)(1) of the Standards for Attorney Sanctions for Professional Misconduct.<sup>1</sup>

On July 29, 2019, the Supreme Court of California filed an Order stating: "The time for ordering review on the court's own motion is hereby extended to and including October 8, 2019."

On August 28, 2019, the Supreme Court of California filed an Order stating: "The petition for rehearing is denied."

The State Bar Court has calculated that your effective date is **August 28, 2019**. You may wish to check your *public* attorney profile on the State Bar's website for any changes to your status.

<sup>1</sup> Please review your stipulation or decision carefully. You may have been ordered to remain on actual suspension until you have fully paid the costs imposed as a result of your discipline. The Office of Probation does **NOT** monitor costs. If you have questions regarding costs, please contact the State Bar Attorney Regulation & Consumer Resources Office ("ARCR") at 888-800-3400.

Lenore L. Albert  
S254967 (16-O-12958, et al.)  
September 11, 2019  
Page 2

Rule of Professional Conduct 5.3.1 (formerly 1-311) requires that a firm or attorney who employs an attorney who is disbarred, resigned, suspended or involuntarily enrolled inactive, provide certain notices to the State Bar and to clients. While there is no prescribed form, in order to assist attorneys to comply with the rule, the State Bar has created notices for the employer's use. If you are or become employed by an attorney or a law firm, please remind your employer of this requirement. Forms are available at the State Bar website under Forms/Reportable Actions ([http://www.calbar.ca.gov/Portals/0/documents/forms/2013\\_RPC1-311NoticeofEmployment.pdf](http://www.calbar.ca.gov/Portals/0/documents/forms/2013_RPC1-311NoticeofEmployment.pdf)) or you may contact the Intake Unit, Office of Chief Trial Counsel at 213-765-1000.

Please take notice that attorneys are not relieved of MCLE requirements during the pendency of their disciplinary period.

**You must schedule a meeting with me to discuss the terms and conditions of your discipline within 15 days from the effective date of discipline and participate in such meeting within 30 days from the effective date of discipline. Make sure you read this letter including all attachments before the required meeting.**

The Court has ordered you to comply with the provisions of Rule 9.20, California Rules of Court. Your compliant declaration must be timely filed with the State Bar Court by no later than **October 7, 2019**. **Wilful failure to comply with the provisions of this rule is a cause for disbarment or suspension.** If you decide to file a 9.20 declaration, do **NOT** submit the original declaration to the Office of Probation; as set forth on the court approved form, the declaration must be filed with the State Bar Court.

Please take appropriate precautions to ensure that your declaration is filed with the State Bar Court. You may wish to verify your filing via personal delivery or tracked delivery to the State Bar Court, review of the Court docket on the State Bar of California's website, or by obtaining a conformed copy from the State Bar Court.

**If your original declaration is sent to the Office of Probation, it will NOT be filed with the State Bar Court and it will NOT be filed on your behalf.** Even after you file your 9.20 declaration with the State Bar Court, your "filed" declaration will not be considered compliant until it is approved by the Office of Probation.

In order to comply with the terms and conditions of your probation, you must report the status of your compliance, in each and every respect, by letter with any attachments, executed under penalty of perjury, and addressed to the Office of Probation. The Office of Probation has prepared a Quarterly Report form for your use. The Office of Probation will **NOT** provide you with multiple copies of the Quarterly Report form. If you need a blank copy of your report, please log into "My State Bar Profile".

Each of your reports must be a clear and unequivocal statement of compliance. See *In the Matter of Carr* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 244.

Please read the Instructions and review the Quarterly Report carefully to determine whether you believe that it accurately reflects the required terms and conditions. If you believe there is an error, or if there are any questions, please notify me immediately. **You are responsible for timely complying with each and every term and condition whether or not it is reflected in this letter and/or the Quarterly Report form.** You are reminded that proof of compliance must be received in the Office of Probation by your due date. **Being even one day late** means that you are **NOT** in compliance.

The conditions of your probation with compliance due dates are outlined below. Please note this summary **only** reflects those conditions and compliance due dates that require submission of proof of compliance to the Office of Probation. For a thorough review of all conditions, please refer to the enclosed copy of that portion of the disciplinary order setting forth the conditions of probation.

<b><u>Condition</u></b>	<b><u>Deadline(s)</u></b>
1. Schedule Required Meeting	<b>September 12, 2019</b>
2. Participate in Required Meeting	<b>September 27, 2019</b>
3. Review Rules of Professional Conduct and B&P Codes <sup>2</sup>	<b>September 27, 2019</b>
4. 9.20 Compliance Declaration	<b>October 7, 2019</b>
5. Quarterly Reports	Quarterly, beginning <b>October 10, 2019</b>
6. Final Report	<b>August 28, 2021</b>

You are reminded that all Quarterly Reports are due **on or before the 10th** day after the end of each quarter. Your Final Report is due on or before **August 28, 2021**.

Within 30 days after the effective date of your order, you must make certain that the State Bar Attorney Regulation & Consumer Resources Office ("ARCR") has your current office address, email address, and telephone number or a mailing address, email address and telephone number to be used for State Bar purposes as prescribed by section 6002.1 of the Business and Professions Code.

If you have any change(s) in the above information, you must report the change(s) in writing to the ARCR within ten (10) days of such change(s). The Office of Probation will **only** send documents to your official address.

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<sup>2</sup> You must read the California Rules of Professional Conduct (Rules of Professional Conduct) and Business and Professions Code sections 6067, 6068, and 6103 through 6126 no later than September 27, 2019. You must provide a declaration, under penalty of perjury, attesting your compliance with this requirement, with your first Quarterly Report due **October 10, 2019**.

You are to make restitution to the Complaining Witnesses (“CWs”) listed in your Order and provide satisfactory proof thereof to the Office of Probation. Please refer to the enclosed Proof of Payment Instructions. Please note that there may be claims pending with the State Bar’s Client Security Fund (“CSF”). If CSF pays the principal amount on your behalf to any CW, **you must** reimburse CSF for the principal, plus 10% accrued interest from the date the claim(s) were paid, plus processing costs. Please note that **CSF does not pay interest to the CWs. You must pay accrued interest directly to each CW and it is recommended that you pay the CWs first before you pay CSF.** If the current CWs information you have is no longer accurate, you are responsible for locating the CWs.

Please contact the Office of Probation for restitution owed to the CWs and contact CSF for any amount owed to CSF.

According to the Office of Probation’s calculations, you currently owe the following:

CW	Principal	Interest Accruing		Interest	Total
		From	To*		
Dr. Nira Schwartz-Woods	\$20,000.00	04/01/16	09/30/19	\$6,997.26	\$26,997.26
Fin City Foods	\$ 47.00				\$47.00
Totals	\$20,047.00			\$6,997.26	\$27,044.26

***\*Please note that interest will continue to accrue on any unpaid balance, until the principal is paid in full. Interest is calculated from the date the bank posts the check, not the check date or mailing date.***

You are to make good faith efforts to acquire resources to pay restitution, and your failure to make restitution will reflect adversely on your rehabilitation. *In the Matter of Broderick* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 138; *In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525. Financial difficulties may be considered in mitigation, not culpability, if they are extreme and result from circumstances that are not reasonably foreseeable or that were beyond your control; your entire financial condition, not just income, is to be considered. *In the Matter of Taggart* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302, 312-313. Because restitution is a measure of rehabilitation, you are to pay the amount ordered even if at a later date a separate agreement is obtained such that the payee will accept less (or file a motion to modify the restitution condition). *Taggart* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302, 312-313.

Please be advised that the Office of Probation **does not** have the authority to extend compliance due dates or modify the terms and conditions of the discipline order. **Requests for extension of time or modification of the terms and conditions of the discipline order must be filed with the State Bar Court Hearing Department or Review Department.** See, Rules of Procedure of the State Bar of California, rules 5.162 and 5.300, et seq. A copy of the motion must be served upon the Office of Probation.

Lenore L. Albert  
S254967 (16-O-12958, et al.)  
September 11, 2019  
Page 5

**Failure to timely** submit reports or any other proof of compliance **may result in a non-compliance referral** which may lead to the imposition of additional discipline and attendant costs. **Timeliness is a component of compliance. Evidence of late completion will be included in any referral.** However, you are still required to **COMPLETE** all ordered conditions in this matter, even if you have been referred or the completion is late. Additional violations may be subject to a separate non-compliance referral.

Enclosed are copies of the Supreme Court Order and conditions of probation, which you have already received from the Courts or your counsel; Quarterly Report with instructions; Notice of Counsel Representation form; Rule 9.20 - California Rules of Court, Rules 5.330 and 5.332 - Rules of Procedure, 9.20 Compliance Declaration; Proof of Payment Instructions; Rules 5.400-5.411 - Standard 1.2(c)(1) Rules of Procedure.

It is recommended that you maintain a file containing all orders as well as communication between the Office of Probation and yourself. Keep your file in a convenient location so that if you have contact with the Office of Probation, any question can be quickly addressed.

Please note that the Court has determined that the repeated need of the State Bar to actively intervene to seek compliance with disciplinary terms and conditions is inconsistent with the self-governing nature of probation as a rehabilitative part of the attorney discipline system. *In the Matter of Gorman* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567, 573.

Sincerely,



Maricruz Farfan  
Probation Case Specialist

/mf

Enclosures

I declare under penalty of perjury under the laws of the State of California that all of the information provided in this report is true and accurate.

Date: \_\_\_\_\_  
(Actual date of signature)

Signature: \_\_\_\_\_  
**Lenore L. Albert**  
Original handwritten signature (do not use a photocopied, typewritten, stamp, digital or other duplicate signature)

### My Probation Conditions and Deadlines

CONDITION	DEADLINE(S)
1. Schedule Required Meeting	September 12, 2019
2. Participate in Required Meeting	September 27, 2019
3. Review Rules of Professional Conduct and B&P Codes <sup>2</sup>	September 27, 2019/October 10, 2019
4. 9.20 Compliance Declaration	October 7, 2019
5. Quarterly Reports	Quarterly, beginning October 10, 2019
6. Final Report	August 28, 2021

<sup>2</sup> You must read the California Rules of Professional Conduct (Rules of Professional Conduct) and Business and Professions Code sections 6067, 6068, and 6103 through 6126 no later than September 27, 2019. You must provide a declaration, under penalty of perjury, attesting your compliance with this requirement, with your first Quarterly Report due **October 10, 2019**.

## APPENDIX G



Fill in this information to identify the case: of 3

Debtor 1 Lenore LuAnn Albert-Sheridan

Debtor 2 \_\_\_\_\_  
(Spouse, if filing)

United States Bankruptcy Court for the: Central District of California

Case number 8:18-bk-10548-ES

## Official Form 410 Proof of Claim

4/16

**Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.**

**Filers must leave out or redact** information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

**Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.**

### Part 1: Identify the Claim

1. **Who is the current creditor?** The State Bar of California  
Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor \_\_\_\_\_

2. **Has this claim been acquired from someone else?**  No  
 Yes. From whom? \_\_\_\_\_

	Where should notices to the creditor be sent?	Where should payments to the creditor be sent? (if different)
3. <b>Where should notices and payments to the creditor be sent?</b>  <small>Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)</small>	<u>The State Bar of California</u>	_____
	<small>Name</small>	<small>Name</small>
	<u>180 Howard Street</u>	_____
	<small>Number Street</small>	<small>Number Street</small>
	<u>San Francisco CA 94105</u>	_____
	<small>City State ZIP Code</small>	<small>City State ZIP Code</small>
	<small>Contact phone</small> <u>(415) 538-2388</u>	<small>Contact phone</small> _____
<small>Contact email</small> <u>suzanne.grandt@calbar.ca.gov</u>	<small>Contact email</small> _____	
<small>Uniform claim identifier for electronic payments in chapter 13 (if you use one):</small>		
-----		

4. **Does this claim amend one already filed?**  No  
 Yes. Claim number on court claims registry (if known) \_\_\_\_\_ Filed on \_\_\_\_\_  
MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?**  No  
 Yes. Who made the earlier filing? \_\_\_\_\_

**Part 2:** Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?  No  Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: 0 8 7 6

7. How much is the claim? \$ 18,714.00. Does this amount include interest or other charges?  No  Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information.  
Disciplinary costs pursuant to Cal Bus & Prof Code § 6086.10.

9. Is all or part of the claim secured?  No  Yes. The claim is secured by a lien on property.  
**Nature of property:**  
 Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.  
 Motor vehicle  
 Other. Describe: \_\_\_\_\_  
**Basis for perfection:** \_\_\_\_\_  
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)  
**Value of property:** \$ \_\_\_\_\_  
**Amount of the claim that is secured:** \$ \_\_\_\_\_  
**Amount of the claim that is unsecured:** \$ \_\_\_\_\_ (The sum of the secured and unsecured amounts should match the amount in line 7.)  
**Amount necessary to cure any default as of the date of the petition:** \$ \_\_\_\_\_  
**Annual Interest Rate** (when case was filed) \_\_\_\_\_ %  
 Fixed  
 Variable

10. Is this claim based on a lease?  No  Yes. Amount necessary to cure any default as of the date of the petition. \$ \_\_\_\_\_

11. Is this claim subject to a right of setoff?  No  Yes. Identify the property: \_\_\_\_\_

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

No

Yes. Check all that apply:

Amount entitled to priority

Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). \$ \_\_\_\_\_

Up to \$2,850\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ \_\_\_\_\_

Wages, salaries, or commissions (up to \$12,850\*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ \_\_\_\_\_

Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ \_\_\_\_\_

Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ \_\_\_\_\_

Other. Specify subsection of 11 U.S.C. § 507(a)( ) that applies. \$ \_\_\_\_\_

\* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 09/12/2018  
MM / DD / YYYY

/s/ Suzanne C. Grandt

Signature

Print the name of the person who is completing and signing this claim:

Name Suzanne C. Grandt  
First name Middle name Last name

Title Assistant General Counsel

Company The State Bar of California  
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 180 Howard Street  
Number Street

San Francisco CA 94105  
City State ZIP Code

Contact phone (415) 538-2388 Email suzanne.grandt@calbar.ca.gov

STATE BAR COURT OF CALIFORNIA 845 South Figueroa Street, 3rd Floor Los Angeles, CA 90017-2515 (213) 765-1400	FOR STATE BAR COURT USE  <h1 style="margin: 0;">FILED</h1>  AUG 09 2017 E.A.  STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In the Matter of  LEONORE LUANN ALBERT, No. 210876  Member of the State Bar	
CERTIFICATE OF COSTS	CASE NO.: 15O11311, 15O11708, 15O12260.

1. TAXABLE COSTS of the Office of the Chief Trial Counsel (Code Civ. Proc. §1033.5(a)).

\$	Witness fees pursuant to Government Code.
\$	Fees of expert witnesses when ordered by the Court.
\$	Deposition expenses, including transcript and travel costs.
\$	Service of process.
\$	Photocopies of exhibits.
\$	Models and blowups of exhibits.


2. REASONABLE COSTS PURSUANT TO FORMULA APPROVED BY THE BOARD OF TRUSTEES (Bus. & Prof. Code § 6086.10(b)(3)).

\$ <u>16,758.00</u>	Base Charge.
\$ <u>1,956.00</u>	Charge of \$978 for Investigations over one.
\$	Minimum charge for consolidated matter.
\$	Resignation charge (\$ 137.00).

3. OTHER REASONABLE COSTS—Incidental expenses of the Office of the Chief Trial Counsel (Bus. & Prof. Code §6086.10(b)(1); CCP §1033.5(c)).

\$	Reporter's transcript of State Bar Court proceedings.
\$	Cost for certifying court documents.
\$	Staff travel expenses.
\$	

4. \$ 18,714.00 SUBTOTAL



kwiktag® 226 160 476

By: *Herman Cendejas* Dated: 10/21/16  
 Herman Cendejas, Administrative Assistant, Office of Chief Trial Counsel

5. OTHER REASONABLE COSTS OF THE STATE BAR COURT

\$ 00.00

\$ 18,714.00 TOTAL OF ALL COSTS

By: *Elizabeth Allen* Dated: 8/9/17  
 Deputy Court Clerk, Office of the State Bar Court

**CERTIFICATE OF SERVICE**

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Deputy Court Clerk of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on August 9, 2017, I deposited a true copy of the following document(s):

**CERTIFICATE OF COSTS**

in a sealed envelope for collection and mailing on that date as follows:

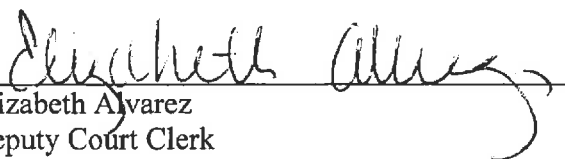
- (X) by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

LENORE L. ALBERT  
LAW OFC LENORE ALBERT  
7755 CENTER AVE STE 1100  
HUNTINGTON BEACH, CA 92647

- (X) by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Brandon Keith Tady, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 9, 2017.

  
Elizabeth Alvarez  
Deputy Court Clerk  
State Bar Court



The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in the State Bar Court.

ATTEST December 18, 2017

State Bar Court, State Bar of California,  
Los Angeles

By Elizabeth Alley  
Clerk

DEC 13 2017

State Bar Court No. 15-O-11311

Jorge Navarrete Clerk

S243927

Deputy

**IN THE SUPREME COURT OF CALIFORNIA**

**En Banc**

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In re LENORE LUANN ALBERT on Discipline.

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The petition for review and request for stay is denied.

The court orders that Lenore LuAnn Albert, State Bar Number 210876, is suspended from the practice of law in California for one year, execution of that period of suspension is stayed, and she is placed on probation for one year subject to the following conditions:

1. Lenore LuAnn Albert is suspended from the practice of law for the first 30 days of probation, and she will remain suspended until the following conditions are satisfied:
  - a. She pays the following sanctions (or reimburses the Client Security Fund, to the extent of any payment from the Fund to the payees, in accordance with section 6140.5), and furnishes proof to the State Bar Office of Probation in Los Angeles: the \$2,675.50, \$1,242.50, and \$1,820 sanctions awards issued on August 31, 2012, by the Superior Court of Orange County in case no. 30-2012-00568954-CL-UD-CJC, plus 10 percent interest per year from August 31, 2012.
  - b. If she remains suspended for two years or more as a result of not satisfying the preceding requirements, she must also provide proof to the State Bar Court of her rehabilitation, fitness to practice, and learning and ability in the general law before her suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)
2. Lenore LuAnn Albert must comply with the other conditions of probation recommended by the Review Department of the State Bar Court in its Opinion filed on June 30, 2017; and
3. At the expiration of the period of probation, if Lenore LuAnn Albert has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

Lenore LuAnn Albert must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

If Lenore LuAnn Albert remains suspended for 90 days or more, she must comply with the requirements of rule 9.20 of the California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 days, respectively, after the effective date of this order. Failure to do so may result in disbarment or

suspension.

Costs are 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.

**CANTIL-SAKAUYE**

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*Chief Justice*