PUBLIC MATTER—NOT DESIGNATED FOR PUBLICATION

Filed January 6, 2025

**STATE BAR COURT OF CALIFORNIA**

**REVIEW DEPARTMENT**

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| In the Matter of<br><br>CHAD THOMAS PRATT,<br><br>State Bar No. 149746. | )<br>)<br>)<br>)<br>)<br>) | SBC-23-O-30724<br><br>OPINION AND ORDER |

This is Chad Thomas Pratt's fourth disciplinary proceeding. He was charged with six counts of misconduct surrounding his handling of cases in federal and state court involving ghostwritten pleadings and subsequent filings based on his association with a former client. The hearing judge found him culpable of three counts, including that Pratt committed an act of moral turpitude by misrepresentation, sought to mislead a judge, and engaged in the unauthorized practice of law (UPL). After considering the nature and extent of the misconduct, in balance with aggravation and lack of compelling mitigation, the judge recommended disbarment.

Pratt appeals. He contends he is not culpable of the alleged misconduct and ultimately seeks dismissal. The Office of Chief Trial Counsel of the State Bar (OCTC) does not appeal and asks that we affirm the hearing judge's disbarment recommendation. Upon our independent review of the record (Cal. Rules of Court, rule 9.12), we agree with the judge's culpability findings and most of the aggravating and mitigating findings. Pratt committed moral turpitude, has a history of engaging in similar misconduct, and did not prove compelling mitigation. As he

has three prior records of discipline, all resulting in actual suspension, disbarment is appropriate under our disciplinary standards and case law.

## I. PROCEDURAL BACKGROUND

On June 22, 2023, OCTC filed a Notice of Disciplinary Charges (NDC) alleging six counts of misconduct including a violation of Business and Professions Code,[1] section 6068, subdivision (d) (seeking to mislead a judge); section 6106 (moral turpitude—misrepresentation); section 6106 (moral turpitude—knowingly engaging in UPL) (two counts); and section 6068, subdivision (a) (failure to comply with laws—UPL) (two counts). On October 12, the parties filed a Stipulation as to Facts and Admission of Documents (Stipulation). The hearing judge held trial on October 17 and 18; posttrial briefing followed. On February 1, 2024, the hearing judge issued his decision. Pratt filed a request for review on February 26. Oral arguments were heard on October 16, and the matter was submitted on that day.

## II. RELEVANT FACTUAL BACKGROUND[2]

Pratt was admitted to practice law in California on December 4, 1990. He has three prior records of discipline. The misconduct underlying this proceeding stems from Pratt's representation of Scott Rosenstiel and Rosenstiel's affiliates in federal and state court cases.

Since 2013, Rosenstiel has been seeking to gain title through numerous lawsuits related to property located at 8801 Riderwood Drive, Sunland, California 91040 (Riderwood Property). In June 2017, Rosenstiel was designated as a vexatious litigant by the California courts and in response he used different attorneys—Robert Bachman, Joseph Rosenblit, and Pratt—to continue

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

[2] The facts included in this opinion are based on the Stipulation, trial testimony, documentary evidence, and the hearing judge's factual findings, which we adopt and are entitled to great weight. (Rules Proc. of State Bar, rule 5.155(A).) Our discussion on review is limited to facts germane to issues relevant to culpability.

to pursue his claims in court. He also used acquaintances to serve as shadow plaintiffs. In each of these cases, Rosenstiel prepared and filed the pleadings with the court under his then-attorney's name, affixing the attorney's electronic signature to the documents and using his attorney's Public Access to Court Electronic Records (PACER) account to file the documents in federal court.

### A. Pratt Represents Rosenstiel and His Affiliates in Two Federal Court Matters

#### 1. The *Lewis* Matter

On October 15, 2018, Rosenstiel's then-attorney Bachman filed a complaint to quiet title and for declaratory relief in the United States District Court for the Central District of California, case number 2:18-cv-08615-PSG-JEM, in *LeRoy Albert Lewis, Trustee, Marsha Stern Nevada Irrevocable Spendthrift Trust v. Maximilian Sandor, et al.* (*Lewis* matter). On May 30, 2019, Judge Philip S. Gutierrez granted Pratt's request to substitute in as the attorney of record for plaintiffs in the matter.

Between June 21 and July 29, 2019, four pleadings were filed in the *Lewis* matter under Pratt's name using his PACER account: (1) "Plaintiff's Response to Court's Order to Show Cause ("OSC") of 10 June 2019"; (2) "Notice Of Application and Leave to File Application for This Court to Hear the Application for Entry of Default and Default Judgment and to Excuse Leroy Albert Lewis From Appearing"; (3) "Plaintiff's Response to Court's Order to Show Cause ("OSC") of 24 July 2019"; and (4) "Plaintiff's **Reply** to Defendant's Response to Order to Show Cause ("OSC") of 24 July 2019" (original boldface). Pratt's name, bar number, office address, phone number and email appeared in the caption of each of the documents and the documents also contained his electronic signature. Pratt did not draft or file these pleadings; they were drafted by Rosenstiel.

### 2. The *Rosenstiel* Matter

On January 4, 2019, in a matter related to the Riderwood Property, Bachman filed a complaint for injunctive relief and damages in the United States District Court for the Central District of California, case no. 2:19-cv-00096-PSG-JEM, in *Scott Eric Rosenstiel v. Maximilian Sandor aka Joachim Steingruebner, et al.* (*Rosenstiel* matter). On May 11, Rosenstiel filed a form entitled "Request for Approval of Substitution or Withdrawal of Counsel" seeking to have Pratt replace Bachman as his attorney of record. The form was signed by Bachman, Pratt, and Rosenstiel. The district court granted the request on May 15.

Between May 10 and July 24, 2019, six pleadings were filed in the *Rosenstiel* matter under Pratt's name using his PACER account. As with the pleadings in the *Lewis* matter, although Pratt's name and information appeared in the captions and his electronic signature was affixed in the signature blocks, Rosenstiel drafted the pleadings, not Pratt.

### 3. July 29, 2019 Hearing and the District Court's Dismissal of the *Lewis* and *Rosenstiel* Matters

On July 29, 2019, Judge Gutierrez held a hearing on the *Lewis* and *Rosenstiel* matters. Pratt appeared on behalf of the plaintiffs and Susan Murphy appeared for the defendants. Rosenstiel was also present. At the hearing, Judge Gutierrez questioned Pratt concerning the identity of the drafter of various pleadings filed in the cases on behalf of the plaintiffs and the following exchange occurred:

> THE COURT: There was a pleading received last night around 1:20, 1:30 in the morning. Were you awake?
>
> PRATT: Yes.
>
> THE COURT: Was that from you?
>
> PRATT: Yes.
>
> THE COURT: You've written all of the pleadings in this case?

PRATT: Yes, your Honor.

THE COURT: No one else has ghost written them and used your PACER?

PRATT: No.

THE COURT: Because that seems to be an allegation in a different case; right? Are you aware of that allegation?

PRATT: I'm aware of that allegation.

THE COURT: That's not happening here?

PRATT: That is not happening here.

THE COURT: So you've written everything?

PRATT: Yes.

THE COURT: So then my question becomes so if Mr. Lewis says he knows nothing about this case, how is he a plaintiff in a case alleging allegations on information and belief if he knows nothing about this case?

PRATT: He's just the trustee, Your Honor, that's all, and he's standing as trustee asserting his claims so that we can get the -- try to win this house back, Your Honor.

THE COURT: He's not a strawman?

PRATT: No, Your Honor.

THE COURT: That's an allegation in a different case. There was, I believe, someone who was dead who was still making assertions in another case.

PRATT: I'm aware of that, Your Honor, and I deny that.

THE COURT: Okay. It seems to me, when I've looked at other pleadings that you've submitted in other cases, that the writing style is quite different than in this case, and I'm concerned about that. It seems a lot more direct, maybe rude.

PRATT: I apologize, Your Honor. It was late --

THE COURT: I don't know if you should apologize if you are not writing it. I'm concerned that you are not writing this.

PRATT: I am writing it, Your Honor.

During the hearing, Judge Gutierrez also questioned Murphy who had experience working as opposing counsel against Pratt and was knowledgeable about Rosenstiel's pleadings

as defense counsel in several lawsuits dealing with the Riderwood Property. Murphy affirmed that Rosenstiel had a history of drafting and filing pleadings using his attorneys' PACER accounts. She also stated she believed the same thing was happening with Pratt in the current matters because the writing style mirrored Rosenstiel's prior filings.

On July 31, 2019, Judge Gutierrez issued an order dismissing the *Rosenstiel* matter with prejudice for lack of subject matter jurisdiction. In the dismissal order, the court indicated it "strongly suspects bad faith conduct" on the part of plaintiff and Pratt. Specifically, the judge found that Pratt's claims that he authored the court filing to be "unsatisfactory and implausible as the evidence that *Plaintiff* authored the court filings and submitted [them] under an attorney's name is overwhelming." (Original italics.) Judge Gutierrez listed three primary reasons to support his finding that plaintiff's pleadings were written and filed by Rosenstiel, rather than by an attorney: (1) the format and writing styles of the court filings had stayed the same throughout the course of litigation despite three different attorneys;[3] (2) the filings were drastically different in style and quality compared to filings by those same attorneys in other cases; and (3) Rosenstiel had a history of filing pleadings and briefs he wrote himself under the assumed identity of an attorney.

The hearing judge adopted and relied upon the district court's findings and determined the court's findings were supported by substantial evidence. Specifically, the hearing judge found that three federal matters (*Lewis*, *Rosenstiel*, and *Zielke*)[4] each contained pleadings drafted

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[3] The three attorneys included Bachman, Rosenblit (who represented Rosenstiel in a federal case involving the Riderwood Property, discussed *post*), and Pratt.

[4] *Zielke* was another federal case involving the Riderwood property. (*Marsha Stern, Scott Eric Rosenstiel, and Federal Homeowners Relief Foundation v. Gunter Zielke, et al.,* United States District Court for the Central District of California, No. 2:17-cv-08421-PSG-AJW (*Zielke* matter).) In the *Zielke* matter, Rosenstiel was originally represented by Rosenblit and Bachman, and later by Pratt on appeal.

and filed by Rosenstiel that bore distinctive similarities, both in form and in substance. For instance, the attorney's caption lists the attorneys' license numbers after "California State Bar No." and the telephone number is listed with a "1" in front of the area code and periods instead of dashes. Also unique but consistent across the pleadings is the formatting of dates, with the day written before the month, as opposed to the more common "month-day-year" format used in the United States. The pleadings consistently utilized British English spellings of words, as opposed to the American English spelling such as "emphasised," "authorise," "summarise," "centralised," "notarised," and "disfavoured". Further, footnotes, underlining, and boldface were frequently used throughout each pleading. The hearing judge further considered that, in substance, Rosenstiel's pleadings often utilized extensive block quotes from various sources without any fact-based legal analysis and included irrelevant references to ancestry or race.

The hearing judge also credited the testimonies of Rosenblit and Murphy, which he found to be "highly credible, honest, forthright, direct, and specific." The judge concluded that their testimonies were reasonable, materially consistent, and supported by the documentary evidence. Similar to the statements Murphy made at the district court's July 2019 hearing, during the disciplinary trial she testified that based on her familiarity with Rosenstiel's writing style, the pleadings in *Lewis* and *Rosenstiel* were written by Rosenstiel and not Pratt. Rosenblit also testified that during the time when he represented Rosenstiel in federal court, he did not prepare the court filings that bore his name, but instead Rosenstiel had prepared and filed them. At the disciplinary trial, Pratt testified that he had "collaborated" with Rosenstiel and asserted that the at-issue pleadings were "jointly drafted." However, when specifically asked about his contribution as it pertained to drafting he stated he did not recall. The judge found Pratt's testimony regarding his recollection of the portion of pleadings he purportedly drafted in the

*Lewis* and *Rosenstiel* matters lacked credibility.[5] In sum, the judge concluded the evidence clearly and convincingly supported Judge Gutierrez's findings that Pratt was not truthful in stating that he, and not Rosenstiel, drafted the pleadings filed under Pratt's name. As previously indicated, we adopt the judge's factual findings.

## B. Pratt Represents Rosenstiel and His Affiliates in State Court While Suspended

### 1. Pratt's Unrelated Disciplinary Suspension

On June 29, 2022, in his third disciplinary matter, (State Bar Court No. SBC-20-O-30867; S273221), the Supreme Court ordered Pratt suspended from the practice of law for a minimum of one year and until he showed proof of rehabilitation. On July 7, Pratt filed a petition for rehearing with the Supreme Court. On July 13, the Supreme Court ordered that pursuant to rule 9.18(a) of the California Rules of Court, the June 29, 2022 disciplinary order would become final upon the date Pratt's petition was decided. On August 10, the Supreme Court denied the petition, thus making the discipline final and effective as of that date. That same date, the Supreme Court posted a description of its denial on the online docket for Pratt's case on the Supreme Court's website; however, Pratt did not check the website. Instead, Pratt only monitored his attorney profile on the State Bar website. On August 15, the State Bar Court received the Supreme Court's order denying Pratt's petition, and his profile on the State Bar's website was changed to "not eligible to practice law" that same day.

### 2. The *Madrid* Matter

Pratt represented the plaintiffs in a lawsuit filed on January 16, 2020, in Los Angeles County Superior Court, case number 20BBCV00050, in the matter of *Daniel Madrid and Scott*

[5] As discussed *post*, we note that Pratt admitted to allowing Rosenstiel to prepare and file pleadings under his name in state court matters without Pratt's review or collaboration.

*Eric Rosenstiel v. Candace Howell, et al.* (*Madrid* matter), which alleged various causes of action related to the Riderwood Property. On January 13, 2022, the matter was dismissed without prejudice after neither party appeared for a hearing. On July 14, a motion for relief from dismissal was filed by the plaintiffs which bore Pratt's name in the caption and contained his electronic signature. On Friday, August 12, 2022—two days after Pratt's suspension order became effective—he appeared telephonically on behalf of plaintiffs for a hearing on the motion for relief from dismissal.[6] Judge Frank Tavelman presided over the matter and granted plaintiffs' motion. After the hearing, opposing counsel informed Judge Tavelman that Pratt was not entitled to practice law on August 12 when he appeared before the court. Subsequently, on August 30, Judge Tavelman conducted a further hearing and Pratt did not appear. At the hearing, the judge vacated the order setting aside the dismissal and reinstated the court's January 13 dismissal order. The judge also ordered that a copy of its minute order be sent to the State Bar. On September 1, 2022, OCTC received the minute order and opened an investigation.

**3. Pratt Contacts Rosenstiel and Informs Him to Stop Filing Pleadings**

In early August 2022, Pratt contacted Rosenstiel by telephone and email and instructed him to stop submitting pleadings bearing his name and to not set any hearings. Specifically, between August 2 and 6, he wrote emails instructing Rosenstiel to hire new counsel.[7] For example, on August 2, he wrote: "Need sub out yesterday [¶] Please handle tomorrow." Then on August 3, he wrote: "Need sub out asap [¶] I have provided many attys [¶] Pick one [¶] You will be proper soon . . . ." And in two separate emails on August 6, he wrote: "Just sub me out asap Monday" and "If NOT sub out I will be compelled to file notice of suspension and you will be

[6] Pratt had checked his status on the State Bar website that day and confirmed it still listed him as an active attorney.

[7] The following quoted material containing emails from Pratt to Rosenstiel includes several grammatical errors.

pro per as per Rule Court 9.20 (suspended attorney must notice all when suspended)." Then, on August 8, Pratt wrote Rosenstiel asking him to not file anything in his name or make court appearances. When, on August 15 Pratt emailed Rosenstiel notifying him that he was suspended "as of 8-15-22" and requested for him to not file anything or set any court appearances, Pratt also emphasized the message was urgent and asked to be paid for all past work.

### C. Pratt Apologizes to Judges Gutierrez and Tavelman

On August 7, 2023, Pratt mailed apology letters to Judge Gutierrez and Judge Tavelman. In the letter to Judge Gutierrez, he wrote that he apologized if he "attempted to mislead or misinform [Judge Gutierrez] which was NOT [Pratt's] intention or motive, or what [he] believe[d he] did on JULY 29th, 2019." Pratt maintained that he drafted and filed all pleadings under his name, "in collaboration with [his] former client." In the letter to Judge Tavelman, he wrote that he appeared in court on August 12 "believing in 'good faith' that [he] was indeed a licensed attorney on that date," and he explained that he did not receive the mailed notice from the Supreme Court until the following Monday.

## III. CULPABILITY

All culpability findings in this opinion are established by clear and convincing evidence. (*Conservatorship of Wendland* (2001) 26 Cal.4th 519, 552 [clear and convincing evidence leaves no substantial doubt and is sufficiently strong to command unhesitating assent of every reasonable mind].) After having independently reviewed all arguments set forth by the parties, any arguments not specifically addressed have been considered and rejected as without merit. The hearing judge dismissed counts four (§ 6106—moral turpitude for UPL), five (§ 6068, subd. (a)—violating the law for UPL), and six (§ 6106—moral turpitude for UPL) due to insufficient evidence. Neither party challenges these dismissals on review. We have reviewed the record and affirm the judge's dismissals with prejudice. (*In the Matter of Kroff* (Review

Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838, 843 [dismissal of charges for want of proof after trial on merits is with prejudice].)

### A. Count One: Seeking to Mislead a Judge (§ 6068, subd. (d))[8] Count Two: Moral Turpitude—Misrepresentation (§ 6106)[9]

In counts one and two, OCTC alleges that Pratt sought to mislead Judge Gutierrez and committed moral turpitude by making false and misleading statements in response to Judge Gutierrez's questions at the July 29, 2019 hearing in connection with the *Lewis* and *Rosenstiel* matters. The hearing judge found him culpable of both charges but did not assign any weight in culpability for count two because the misconduct is duplicative of count one. (*In the Matter of Chesnut* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166, 175 [where same facts underlie §§ 6106 and 6068, subd. (d), violations, no additional weight given to § 6106 violation in determining appropriate discipline].) We agree and affirm culpability as discussed below.

OCTC alleged that by Pratt answering "Yes" when asked if he had written all of the pleadings in the cases filed on behalf of the plaintiffs and answering "No" in response to the district court's follow-up question on whether the pleadings had been ghostwritten, he violated section 6068, subdivision (d), and section 6106. Culpability under section 6068, subdivision (d), is established by showing that an attorney acted with the intent to deceive the court, regardless of whether the court was actually deceived. (*In the Matter of Chesnut*, *supra*, 4 Cal. State Bar Ct. Rptr. 166, 174 [attorney must act with intent to deceive to violate § 6068, subd. (d)]; *Davis v. State Bar* (1983) 33 Cal.3d 231, 240 [actual deception of court is not required].) Section 6106

[8] Section 6068, subdivision (d), provides that an attorney has a duty "[t]o 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 fact or law."

[9] Section 6106 provides, "The commission of any act involving moral turpitude, dishonesty, or corruption, whether the act is committed in the course of his relations as an attorney or otherwise, and whether the act is a felony or misdemeanor or not, constitutes a cause for disbarment or suspension."

can be violated by concealment or misleading statements. (*Grove v. State Bar* (1965) 63 Cal.2d 312, 315 [no distinction drawn between "concealment, half-truth, and false statement of fact"]; *In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896, 910 [moral turpitude includes affirmative misrepresentations].)

Our analysis begins with Judge Gutierrez's July 31, 2019 minute order. As noted *ante*, the hearing judge relied on the court's minute order, in part, to support the culpability finding under these counts. In general, "civil findings are not, by themselves, dispositive of the issues in a disciplinary case. [Citations.]" (*In the Matter of Lais* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112, 117.) However, after independently evaluating Judge Gutierrez's findings, we accord them a strong presumption of validity because they are clearly supported by substantial evidence in the record. (*Maltaman v. State Bar* (1987) 43 Cal.3d 924, 947; *In the Matter of Kittrell* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195, 206.) Judge Gutierrez's order expressly evaluated the evidence before the court, including prior dockets involving the Riderwood Property, to support a conclusion that Rosenstiel and Pratt had engaged in bad faith conduct. The judge found that Pratt's continued insistence that he drafted the court filings was "implausible" given the "overwhelming" evidence that Rosenstiel had authored the pleadings himself and submitted them under an attorney's name. The judge considered the fact that, although attorneys Rosenblit, Bachman, and Pratt had each individually appeared as plaintiff counsel in the Riderwood Property matters, the writing style of the court filings remained the same throughout the entire course of litigation. And the judge noted that each of the three attorneys had drastically different writing styles and quality of work in previous filings submitted to the court in unrelated cases, which further added to a suspicion of bad faith. The judge also found that Rosenstiel had a history of filing pleadings and briefs that he wrote himself under the assumed identity of an attorney. After considering the evidence, the judge determined Pratt was

dishonest and rejected Pratt's assertions that he had written the pleadings and briefs filed in the cases at-issue.

We agree with the hearing judge that the record supports a finding that Pratt made misrepresentations and sought to be deceitful when questioned by Judge Gutierrez during the district court's July 29 hearing. We reject as unavailing Pratt's argument on review that there are reasonable doubts as to whether he drafted the pleadings because OCTC did not present Judge Gutierrez as a witness and therefore OCTC did not present any evidence against him. The corroborating documentary evidence in the record describes the substance, format, and writing style of the at-issue pleadings in comparison to Riderwood Property court filings in related cases that were written by Rosenstiel—this evidence strongly supports a finding that Rosenstiel, rather than Pratt, drafted the pleadings in the *Lewis* and *Rosenstiel* matters. While testifying at the disciplinary trial, Pratt stated he "collaborated" with his client in drafting the pleadings. The judge rejected this testimony, finding the testimonies of Murphy and Rosenblit credible and consistent with other documentary evidence to suggest that Pratt did not draft the pleadings. (See *McKnight v. State Bar* (1991) 53 Cal.3d 1025, 1032 [hearing judge best suited to resolve credibility questions "because [he] alone is able to observe the witnesses' demeanor and evaluate their veracity firsthand"].) This credibility determination is also in accord with Judge Gutierrez's findings. Where there is a conflict in the testimony, the hearing judge is "in a particularly appropriate position to resolve that conflict. [Citation.]" (*In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 627; accord, *Gary v. State Bar* (1988) 44 Cal.3d 820, 826.) "[O]ur rules on review require that we give great weight to the judge's findings in such a matter and we are given no good reason to reach a different result." (*In the Matter of Koehler*, *supra*, 1 Cal. State Bar Ct. Rptr. at p. 627.) Even if Pratt had "collaborated" in drafting the pleadings with Rosenstiel, which we do not believe or find supported given the overwhelming

evidence to the contrary discussed *ante*, Pratt repeatedly informed Judge Gutierrez that he had written all of the pleadings filed in the case, which was not true. (See *In the Matter of Chesnut*, *supra*, 4 Cal. State Bar Ct. Rptr. 166, 174 [concealment of material fact misleads judge just as effectively as false statement and violates § 6068, subd. (d)]; *In the Matter of Field* (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171, 177 [attorney's failure to disclose material information to court related to subject of court hearing violated § 6068, subd. (b)].)

Pratt had a duty to render complete and candid disclosures to the court in response to its questions on who authored the at-issue pleadings. Instead, Pratt falsely stated that he had drafted all the pleadings and intentionally failed to disclose material and relevant information to Judge Gutierrez about Rosenstiel drafting and submitting filings using his PACER account. Based on the record, we find the evidence overwhelmingly supports Pratt's culpability under counts one and two. (*In the Matter of Moriarty* (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 511, 520 [same intentional misrepresentation that violates § 6106 also violates § 6068, subd. (d)]; see *In the Matter of Harney* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266, 282 [attorney has responsibility under § 6068, subd. (b), to not withhold material information from court].) Because culpability for count two is based on the same facts that establish culpability under count one, like the hearing judge we assign no additional disciplinary weight. (*In the Matter of Moriarty*, *supra*, 5 Cal. State Bar Ct. Rptr. at p. 520 [no disciplinary weight assigned for additional culpability findings based on same facts].)

### B. Count Three: Failure to Comply with California Laws (§ 6068, subd. (a))

The NDC charged Pratt with UPL for holding himself out as entitled to practice law while suspended on August 12, 2022, in willful violation of sections 6125, 6126, and 6068,

subdivision (a).[10] The NDC alleged Pratt appeared telephonically on behalf of plaintiffs in the *Madrid* matter. The hearing judge found him culpable, and we agree.

Pratt does not dispute he appeared by telephone at the superior court's hearing on behalf of the plaintiff in *Madrid* but maintains on review that he did not know of his suspension until August 15, and thus he cannot be held culpable based upon a mistake of fact. He contends he had a good faith belief that he was still licensed on August 12, because his attorney profile status had not changed on the State Bar website, which he stated he had checked prior to appearing at the hearing. We affirm the hearing judge's finding that Pratt credibly testified when stating he was unaware of his suspension at the time he appeared before the court on August 12; however, as the judge correctly concluded, sections 6125 and 6126 do not require a showing that an attorney knowingly committed UPL in order to constitute a violation of section 6068, subdivision (a). (See *In the Matter of Heiner* (Review Dept.1990) 1 Cal. State Bar Ct. Rptr. 301, 318-319 [violations of §§ 6125, 6126, and 6068, subd. (a), established by single court appearance by attorney who did not know of his involuntary inactive enrollment].)

Between August 2 and 6, 2022, Pratt had emailed Rosenstiel in relation to a different case informing him of his pending suspension and urging him to have another attorney substituted into his case. This establishes Pratt was aware of his impending suspension and knew that he could not practice law as an attorney while suspended. Here, Pratt failed to check the Supreme Court's docket on the Court's website to verify whether his petition for rehearing on his

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[10] Section 6068, subdivision (a), requires an attorney "[t]o support the Constitution and laws of the United States and of this state." A violation of this section is established when an attorney violates section 6126. (*In the Matter of Trousil* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 229, 236-237.) Section 6125 provides that no person shall practice law in California unless an active member of the State Bar, and section 6126 prohibits holding oneself out as entitled to practice law while on suspension. An appropriate method of charging a section 6126 violation is by charging a violation of section 6068, subdivision (a). (*In the Matter of Acuna* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 495, 506.)

disciplinary suspension had been granted. If he had checked the docket, he would have known it was denied and his suspension was effective as of August 10. (See *In the Matter of Burke* (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 448, 455 [purposeful actions, not intent, relevant to UPL culpability]; see also *In the Matter of Heiner*, *supra*, 1 Cal. State Bar Ct. Rptr. 301 [culpability under § 6068, subd. (a), for single court appearance by attorney unaware of involuntary inactive enrollment status].) We thus adopt the hearing judge's finding that Pratt willfully violated sections 6125, 6126 and section 6068, subdivision (a), because he practiced law by appearing telephonically in the *Madrid* matter on August 12, 2022.

## IV. AGGRAVATION AND MITIGATION

Standard 1.5 of the Rules of Procedure of the State Bar title IV, Standards for Attorney Sanctions for Professional Misconduct[11] requires OCTC to establish aggravating circumstances by clear and convincing evidence. Standard 1.6 requires Pratt to meet the same burden to prove mitigation.

### A. Aggravation

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

Standard 1.5(a) provides that a prior record of discipline may be an aggravating circumstance. The hearing judge found Pratt's prior disciplinary records to be an aggravating circumstance warranting substantial weight and we agree.

***Pratt I***[12]

In his first disciplinary matter involving misconduct that occurred in 2010, Pratt stipulated to failing to deposit a $5,000 settlement check into his client trust account (CTA), commingling personal and client funds, and failing to maintain CTA records. His misconduct

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

[12] Supreme Court No. S215044 (State Bar Court No. 12-O-16642).

was aggravated by multiple acts. In mitigation, he had no prior record of discipline and cooperated with the State Bar by entering into a stipulation. Effective March 13, 2014, Pratt was actually suspended for 30 days and received a two-year period of probation.

***Pratt II***[13]

Pratt's misconduct in his second disciplinary matter, which stemmed from his real estate loan modification and litigation law firm, began before the imposition of discipline in *Pratt I*. In this case, Pratt's misconduct began in 2011 and he was found culpable of 14 counts of misconduct, including failing to perform with competence, failing to properly supervise staff, aiding UPL, failing to provide accountings to clients, failing to return unearned fees, and failing to communicate with clients. His misconduct was aggravated by a prior record of discipline, multiple acts, failing to make restitution, and significant harm to his clients. No mitigating circumstances were established. Effective February 16, 2015, he received a one-year actual suspension until he made restitution, with three years' probation.

***Pratt III***[14]

Pratt's third disciplinary matter also involved misconduct related to his real estate loan modification practice, and it occurred during the same time period as *Pratt II*.[15] Effective August 10, 2022, the Supreme Court imposed a two-year probation with conditions, including that Pratt serve a one-year actual suspension and that he provide proof of rehabilitation under standard 1.2(c)(1). He was found culpable of engaging in eight counts of misconduct, spanning from 2011 through 2013, which included committing acts of moral turpitude, failing to comply

[13] Supreme Court No. S222942 (State Bar Court Nos. 13-O-12312; 13-O-12367; 13-O-12757).

[14] Supreme Court No. S273221 (State Bar Court No. SBC-20-O-30867).

[15] Not all the misconduct in the case at bar commenced after the *Pratt III* discipline of August 10, 2022; some misconduct began on June 21, 2019.

with state and federal laws, aiding UPL, collecting illegal fees, and failing to return unearned fees. Aggravating circumstances included two prior records of discipline, multiple acts of misconduct, indifference, and significant harm to clients who were vulnerable victims. In mitigation, the court found good character, excessive delay by the State Bar, and community service.

We agree with the hearing judge regarding the serious nature of his prior records, particularly the fact that the current case and *Pratt III* both involve moral turpitude and UPL. (*In the Matter of Bouyer* (Review Dept.1998) 3 Cal. State Bar Ct. Rptr. 888, 892-893 [three prior disciplines found to be serious aggravating factor]; see also *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 619 ["part of the rationale for considering prior discipline as having an aggravating impact is that it is indicative of a recidivist attorney's inability to conform his or her conduct to ethical norms [citation]"].) Also, Pratt was well aware of the necessity to conform his behavior to ethical norms when discipline was imposed in *Pratt III*, considering his two prior periods of actual suspension. Yet, Pratt continued to engage in serious misconduct. We conclude that Pratt's current misconduct is substantially aggravated by his three prior discipline records as they demonstrate an inability or unwillingness to adhere to his professional obligations. (*In the Matter of Gadda* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416, 443-444 [similarities between prior and current misconduct render previous discipline more serious].)

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

The hearing judge assigned limited weight in aggravation under standard 1.5(b). The judge found multiple acts of misconduct based upon Pratt's false statements to Judge Gutierrez during the July 29, 2019 hearing in the *Lewis* and *Rosenstiel* matters and his UPL by making a court appearance in the *Madrid* matter; however, the judge considered the fact that Pratt's

wrongdoing all arose from his representation of Rosenstiel and his affiliates. We agree and affirm limited aggravating weight under this circumstance. (*In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 646-647 [three instances of misconduct considered multiple acts]; *In the Matter of Carver* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 348, 355 [modest aggravating weight when violations arose from single matter].)

**B. Mitigation**

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

An attorney may be entitled to mitigation if it can be proved that his good faith belief was "honestly held and objectively reasonable." (Std. 1.6(b); *In the Matter of Rose* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 646, 653.) The hearing judge found Pratt's assertion credible that he had a good faith belief he was not aware of his disciplinary suspension in *Pratt III* until August 15, 2022, which was after he engaged in UPL in the *Madrid* matter. Based on this finding the judge assigned limited mitigation to this circumstance.

On review, OCTC argues Pratt should not be afforded any mitigation for good faith because Pratt knew he was about to be suspended but failed to check the Supreme Court docket to determine when his discipline order was issued. Pratt seeks mitigation and argues he had a reasonable and good faith belief he was entitled to practice law because when he checked the State Bar website on August 12, 2022, the day of the *Madrid* hearing, he was still listed as active. Even if Pratt held a good faith belief up until August 15, when his licensing status changed on the State Bar's website, it was objectively unreasonable for him to rely solely on his attorney profile on the State Bar's website without monitoring the Supreme Court's docket to confirm whether his petition for rehearing had been ruled upon. If Pratt was attentive to the Supreme Court's docket prior to him making a court appearance on August 12, it would have confirmed that his disciplinary suspension was imposed on August 10. His lack of attention and failure to

check the status of his petition for rehearing undercuts his good faith argument, and therefore, we assign no weight in mitigation for Pratt's assertion of a good faith belief. (*Sternlieb v. State Bar* (1990) 52 Cal.3d 317, 331 [attorney's honest belief not mitigating because belief was unreasonable].)

**2. Cooperation (Std. 1.6(e)**

Mitigation may be assigned under standard 1.6(e) for cooperation with the State Bar. The hearing judge afforded moderate mitigation for this circumstance. Before trial, Pratt stipulated to detailed facts, along with the admission of documents, that conserved time and resources for the court and OCTC. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 50 [stipulation to relevant facts assists prosecution and is mitigating]; see also *In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 ["more extensive weight in mitigation is accorded those who, where appropriate, willingly admit their culpability as well as the facts"].) Accordingly, we affirm moderate weight for Pratt's cooperation.

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

To receive mitigation under standard 1.6(f), Pratt must establish that he possesses "extraordinary good character attested to by a wide range of references in the legal and general communities, who are aware of the full extent of the misconduct." The hearing judge determined that although Pratt provided a wide range of references from the legal and general communities through his 12 good character letters, the references exhibited no awareness of his present misconduct. The judge reasoned that it appeared the letters were drafted in support of Pratt's petition to modify the actual suspension imposed related to *Pratt III* because the letters solely spoke of his previous misconduct. In disciplinary proceedings, an accused attorney is obligated to present evidence (*Palomo v. State Bar* (1984) 36 Cal.3d 785, 792), and Pratt has the burden of establishing mitigation by clear and convincing evidence (std. 1.6). None of Pratt's

letters referenced knowledge of the misconduct alleged in the NDC. In light of this finding, Pratt failed to meet his burden and did not present extraordinarily good character evidence meriting mitigation under this standard. (*In re Brown* (1995) 12 Cal.4th 205, 223 [mitigation considered for attorney's good character when witnesses aware of misconduct].) We affirm that no mitigation is warranted under standard 1.6(f). (Cf. *In the Matter of Kreitenberg* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469, 476-477 [strong character evidence where only few testimonials were aware of specific facts and circumstances surrounding misconduct entitled attorney to only limited weight as mitigation evidence].)

**4. Community Service**

Pro bono work and community service are mitigating circumstances. (*Calvert v. State Bar* (1991) 54 Cal.3d 765, 785.) The hearing judge found that Pratt's volunteer contributions to his church as an usher and to Knights of Columbus, a religious volunteer organization, warrant moderate weight in mitigation. Pratt testified that he has volunteered with his church for the last two to three years and has been involved with the Knights of Columbus for one year. Although Pratt did not provide specific details as to the amount of hours he spends volunteering, like the hearing judge, we note that letters from two of Pratt's attorney character references generally corroborate his commitment to volunteer service with his church. Based upon the totality of the record, we affirm that moderate weight is appropriate for community service. (E.g. *In the Matter of Dyson* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 280, 287 [little weight given to pro bono activities where attorney testified but evidence fails to demonstrate level of involvement].)

**5. Extreme Emotional Difficulties (Std. 1.6(d))**

Standard 1.6(d) provides that mitigation may be assigned for extreme emotional difficulties if (1) the attorney suffered from them at the time of the misconduct, (2) they are established by expert testimony as being directly responsible for the misconduct, and (3) they no

longer pose a risk that the attorney will commit future misconduct. The hearing judge declined to provide mitigation under this standard finding that Pratt failed to establish the requisite nexus between his dishonest misconduct and his emotional difficulties. On review, Pratt seeks mitigation for his emotional difficulties. OCTC requests that we affirm the judge's finding.

Pratt testified that he experienced severe depression after the passing of his wife in June 2018 due to brain cancer, which led to his subsequent abuse of alcohol coupled with the stress of raising his two children alone. He also testified that he has been sober since March 24, 2020, and a member of the Lawyers Assistance Program (LAP) since August 2021. While we agree that Pratt did not establish the requisite nexus as outlined under standard 1.6(d), some mitigation may be available for extremely stressful family circumstances. (See *Lawhorn v. State Bar* (1987) 43 Cal.3d 1357, 1364 [lay testimony of marital difficulties considered in mitigation]; *In the Matter of Mitchell* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 332, 338 [lay testimony regarding family concerns mitigating].) We consider the emotional difficulties Pratt faced as extremely stressful in nature and find evidence of it contributing to his misconduct. Pratt testified that his wife's health slowly deteriorated over the course of one year, and we note that Pratt's misconduct in the *Lewis* and *Rosenstiel* matters began in 2019, which was shortly after his wife's passing and him using alcohol to cope. Accordingly, we assign some weight in mitigation for emotional difficulties due to his family circumstances.

**6. Remoteness in Time and Subsequent Rehabilitation (Std. 1.6(h))**

Standard 1.6(h) requires a showing of subsequent rehabilitation in addition to remoteness. The hearing judge did not find mitigation for this circumstance. Pratt argues that his misconduct occurred several years ago and given his involvement in LAP, mitigation is warranted. We do not find clear and convincing evidence of additional mitigation. Pratt engaged in moral turpitude in 2019 and UPL in 2022, which does not demonstrate a prolonged period of time under the

standard. (Contra *Amante v. State Bar* (1990) 50 Cal.3d 247 [three years without misconduct considered brief but warrants some mitigation].)

## V. DISBARMENT IS WARRANTED

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

We first determine which standard specifies the most severe sanction for the at-issue misconduct. (Std. 1.7(a) [most severe sanction must be imposed where multiple sanctions apply].) The presumed sanction for Pratt's misconduct is disbarment or actual suspension under standard 2.12(a) (violation of § 6068, subd. (d) (seeking to mislead a judge)), standard 2.10 (violation of § 6068, subd. (a) (UPL)), and standard 2.11 (violation of § 6106 (moral turpitude—misrepresentation)). Notwithstanding those presumed sanctions, the hearing judge correctly determined that standard 1.8(b).[16] is most pertinent in determining the appropriate discipline in this case. This standard, which presumes disbarment, applies to Pratt's disciplinary proceeding as he was previously disciplined with an actual suspension in *Pratt I*, *Pratt II*, and *Pratt III*, and

[16] Standard 1.8(b) provides, in relevant part, that where "a lawyer has two or more prior records of discipline, disbarment is appropriate . . . unless the most compelling mitigating circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct . . . ."

his prior and current record demonstrates Pratt's unwillingness or inability to conform to ethical responsibilities.

We next consider whether any reason exists to depart from the discipline called for by standard 1.8(b). We acknowledge that disbarment is not mandatory in a fourth disciplinary matter, even where compelling mitigating circumstances do not clearly predominate. (*Conroy v. State Bar* (1991) 53 Cal.3d 495, 506-507.) Standard 1.8(b) is not applied reflexively, but "'with an eye to the nature and extent of the prior record. [Citations.]'" (*In the Matter of Jensen* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 283, 292.) However, deviating from standard 1.8(b) requires the court to articulate clear reasons for doing so. (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Pratt has not identified an adequate reason for us to depart from applying standard 1.8(b), and we cannot articulate any. In his first disciplinary matter, Pratt stipulated to three CTA violations. In his second disciplinary case, involving three client matters, he committed 14 ethical violations, including UPL. In his third disciplinary proceeding, involving seven client matters, Pratt committed CTA violations, UPL, moral turpitude through dishonesty, and other misconduct, and he received a minimum one-year suspension until he proved rehabilitation. And now, in his fourth disciplinary matter, Pratt has yet again engaged in UPL and moral turpitude based on his deceitful conduct. Although Pratt argues that his prior disciplines are remote in time, we find that his prior records reveal several instances of similar wrongdoing, all of which resulted in actual suspension. While a "common thread" of misconduct is not a requirement for disbarment under standard 1.8(b), it is an issue to consider. (*In the Matter of Sullivan* (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189, 196.) And although some of Pratt's *prior* records of discipline overlap (the misconduct in both *Pratt II* and *Pratt III* occurred in 2011), the chronology discloses that he has repeatedly failed to adhere to his professional duties as the

misconduct in the instant matter began in 2019, long after his disciplines were effective in *Pratt I* (2014) and *Pratt II* (2015).[17] Pratt then committed UPL in 2022 when the discipline in *Pratt III* became effective. This timeline demonstrates his unwillingness or inability to conform to his ethical responsibilities.

On review, Pratt seeks dismissal, urging that he is rehabilitated and should not receive any further discipline. We do not recommend a more lenient sanction than disbarment. Based on his long record of misconduct beginning in 2010, we conclude that further probation and suspension would be inadequate to prevent Pratt from committing future misconduct. (*In the Matter of Moriarty*, *supra*, 5 Cal. State Bar Ct. Rptr. 511, 528 [disbarment appropriate under standard 1.8(b) for third disciplinary matter where no compelling mitigating circumstances, and multiple instances of similar wrongdoing in disciplinary record].) The standards and decisional law support our conclusion that disbarment is appropriate in this case.[18] The Supreme Court has held that acts of misconduct involving moral turpitude and dishonesty warrant disbarment because they show the attorney "has no appreciation that [his] method of practicing law is totally at odds with the professional standards of this state." (*Lebbos v. State Bar* (1991) 53 Cal.3d 37, 45.) And like the hearing judge, we are equally troubled by Pratt repeatedly seeking to mislead Judge Gutierrez and allowing his former client Rosenstiel, a

[17] Accordingly, the exceptions to disbarment under standard 1.8(b) do not apply here as his mitigation is not compelling and the misconduct underlying his prior disciplines did not occur during the same time period as the current misconduct.

[18] E.g., *In the Matter of Tishgart* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 338 (attorney with minimal mitigation and three prior disciplines disbarred after engaging in UPL); *In the Matter of Burke*, *supra*, 5 Cal. State Bar Ct. Rptr. 448 (attorney with limited mitigation and two priors disbarred after failing to obey court orders and engaging in UPL); *In the Matter of Carver* (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 427 (disbarment where attorney with two prior disciplines committed act of moral turpitude and significant aggravation outweighed limited mitigation); and *In the Matter of Hunter* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 63 (disbarment where attorney with two prior disciplines was unable to conform conduct to ethical norms with multiple aggravating factors and no mitigation).

declared vexatious litigant, to prepare and submit filings under his name. (See *In the Matter of Downey* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151,157 [misleading statements are troubling and oppose fundamental rules of ethics—common honesty—without which profession is "worse than valueless" in administration of justice].) Accordingly, the public, the courts, and the profession are best protected if Pratt is disbarred.[19]

## VI. RECOMMENDATIONS

We recommend that Chad Thomas Pratt, State Bar Number 149746, be disbarred from the practice of law in California and that Pratt's name be stricken from the roll of attorneys.

## VII. CALIFORNIA RULES OF COURT, RULE 9.20

We further recommend that Pratt be ordered to comply with California Rules of Court, rule 9.20 and to perform the acts specified in (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the date the Supreme Court order imposing discipline in this matter is filed.[20] (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45 [the operative date for identification of clients being represented in pending matters and others to be notified is the filing date of the Supreme Court order imposing discipline].)

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[19] The hearing judge determined that a $2,500 monetary sanction was appropriate based on Pratt's testimony that he is a widowed, single parent who relies on loans and odd jobs to support his family. Moreover, while Pratt's current misconduct is serious and involved dishonesty, it primarily revolved around his association with his prior client Rosenstiel and did not cause harm. Considering the facts and circumstances of this case, we agree that a monetary sanction of $2,500 is appropriate. (Rules Proc. of State Bar, rule 5.137.)

[20] Pratt is required to file a rule 9.20(c) affidavit even if Pratt has no clients to notify on the date the Supreme Court files 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 denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).) The court-approved Rule 9.20 Compliance Declaration form is available on the State Bar Court website at <https://www.statebarcourt.ca.gov/Forms>.

## VIII. MONETARY SANCTIONS

We further recommend that Pratt be ordered to pay monetary sanctions to the State Bar of California Client Security Fund in the amount of $2,500 in accordance with Business and Professions Code section 6086.13 and rule 5.137 of the Rules of Procedure of the State Bar. Monetary sanctions are enforceable as a money judgment and may be collected by the State Bar through any means permitted by law. Monetary sanctions must be paid in full as a condition of reinstatement, unless time for payment is extended pursuant to rule 5.137 of the Rules of Procedure of the State Bar.

## IX. COSTS

We further recommend that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment, and may be collected by the State Bar through any means permitted by law. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against an attorney who is disbarred must be paid as a condition of applying for reinstatement.

## X. MONETARY REQUIREMENTS

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

## XI. INVOLUNTARY INACTIVE ENROLLMENT

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

HONN, P. J.

WE CONCUR:

McGILL, J.

RIBAS, J.