Debtor during the family court proceedings. (ECF No. 60-7 at 3:20-4:7). While Judge Perry's comments are dicta and otherwise irrelevant, they do expose the family court's frustration with Debtor—and thus expose an undoubtedly stressful and emotionally taxing case.

Additionally, while the Debtor attested to her stomach pain, anxiety and her trip to a radiologist, she did not submit any medical records or medical receipts into evidence to assist in quantifying Debtor's damages. See Snow Declaration, ¶¶ 17-19. Moreover, while Debtor's live-in partner, Philip David Dace, testified at the March 4, 2022, hearing as to Debtor's emotional distress, most (although not all) of Mr. Dace's pre-trial declaration filed in anticipation of his testimony focused on activities that occurred in the family court during the pre-petition period. See ECF No. 53 (Declaration of Philip David Dace), revealing the pre-existing emotional distress that pre-dated Debtor's filing of this bankruptcy case.

Although the foregoing does indicate that there is a non-compensable aspect to Debtor's emotional distress, the totality of the circumstances set forth in the record support the causal connection between the emotional distress suffered and the stay violation. The Court cannot ignore that the actions taken by Grimes and Velazquez-Gonzalez seeking to incarcerate Debtor were extreme, if not egregious, and that a reasonable person would suffer emotional harm under similar circumstances. Debtor's claim of $95,000 in emotional distress damages, however, is unwarranted under the facts of this case and when compared to similar decisions addressing similar situations. Debtor was under the threat of incarceration for five days (from December 17, 2021, through December 22, 2021), but was not incarcerated. Debtor's five-day fear of being incarcerated is less egregious than the four days of actual incarceration suffered under similar circumstances by the debtor in In re Valentine, 611 B.R. 622, 652 (Bankr. E.D. Mo. 2020) that resulted in only a $400 emotional distress award ($100 for each night of incarceration). Such fear is also less egregious than the debtor's emotional distress for missing his father's funeral caused by an actual incarceration that violated the automatic stay, which resulted in a $4,400 emotional distress award that was vacated by the appellate court in Young v. Repine (In re Young), 536 F.3d 512, 518 & 522 (5th Cir. 2008). In light of the foregoing, the Court awards Debtor an emotional distress award of $1,000 ($200 for each of the five days Debtor was under fear of incarceration)—awarded

jointly and severally against Velazquez-Gonzalez, Grimes, and the Firm.

Finally, Debtor requests a punitive damages award of $50,000. As recently explained:

> Punitive damages also may be awarded under Section 362(k)(1) for a willful violation of the automatic stay "in appropriate circumstances." A reckless or callous disregard for the law or the rights of others warrants an award of punitive damages under the statute. *See Goichman v. Bloom (In re Bloom)*, 875 F.2d 224, 228 (9th Cir. 1989); *In re Stefani*, 2019 WL 762661, at *8 (Bankr. S.D. Cal. Feb. 15, 2019). An award of punitive damages typically bears a relationship to the amount of compensatory damages awarded and may take the form of a multiplier of the compensatory damage award. *See Philip Morris USA v. Williams*, 549 U.S. 346, 353, 127 S.Ct. 1057, 166 L.Ed.2d 940 (2007). A punitive damages award may not be based on perceived injuries to parties that are not before the court. *Id*. at 353-54, 127 S.Ct. 1057. An award of punitive damages should take into consideration (1) the degree of reprehensibility of the defendant's conduct, (2) the disparity between the harm suffered by the plaintiff and the amount of the punitive damages award, and (3) the difference between the punitive damage award and the civil penalties authorized or imposed in comparable cases. *See Arizona v. ASARCO LLC*, 773 F.3d 1050, 1054 (9th Cir. 2014), *citing State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408, 123 S.Ct. 1513, 155 L.Ed.2d 585 (2003).

In re Moon, 613 B.R. 317, 358 (Bankr. D. Nev. 2020), *aff'd in part, vacated in part, rev'd in part*, 2021 WL 62629 (B.A.P. 9th Cir. Jan. 7, 2021).

District Judge Gordon recently addressed the reprehensibility prong, finding:

> The reprehensibility of [a creditor's] conduct is the most important guidepost. *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408, 419 (2003). To determine reprehensibility, courts consider whether:
>
> > the harm caused was physical as opposed to economic; the tortious conduct evinced an indifference to or a reckless disregard of the health or safety of others; the target of the conduct had financial vulnerability; the conduct involved repeated actions or was an isolated incident; and the harm was the result of intentional malice, trickery, or deceit, or mere accident.
>
> *Ramirez v. TransUnion LLC*, [redacted] 2020), *rev'd and remanded on other grounds*, [redacted] 2190 (2021).

Rushmore Loan Mgmt. Servs., LLC v. Moon (In re Moon), 2023 WL 1779643, at *11 (D. Nev.

Feb. 6, 2023). In this case, the action against Debtor was an isolated incident that lasted approximately five days and resulted in emotional distress that was compounded by the pre-existing anxiety Debtor suffered in an already stressful and distressing family court proceeding.

Regarding the disparity between the punitive damages award and the compensatory damages award, District Judge Gordon found that a multiplier of 1.5 was appropriate to "serve[] the twin goals of punishment and deterrence." Id. at *12. Judge Gordon acknowledged that this ratio "will result in an award that is substantially higher than … comparable awards" but found that "a higher award is warranted because [the creditor's] stay violation was not a situation involving a rogue employee, but the acts of representatives that [the creditor] touts as properly trained." Id. at *13 (citation omitted). Judge Gordon was clear, however, that ""[t]here is no bright-line rule" regarding the appropriate ratio of punitive damages to compensatory damages. Id. at 11.

Adopting Judge Gordon's guidance in calculating an award of punitive damages, this Court considered comparable cases including In re Repine, 536 F.3d at 518 & 521 and In re Valentine, 611 B.R. at 654. Both cases involved family law disputes with more egregious facts than those in this case where the Courts have awarded substantially less in punitive damages than those Debtors requested. See In re Repine, 536 F.3d at 518 & 521 (affirming a punitive damages award of $5,000); In re Valentine, 611 B.R. at 654 (assessing a punitive damages award of $1,000).

Here, Grimes' actions resulting in a violation of the stay are more akin to the action of a rogue employee as opposed to a representative trained by the Firm to violate the automatic stay in the manner done in this case. Still, Grimes is bound by ethical rules that among other responsibilities require competency. Without making a finding of a specific ethical violation, this Court believes that Grimes overestimated his competency in bankruptcy law. While reprehensible, Grimes' actions do not rise to the type of reprehensible behavior that would support the amount Debtor requests in punitive damages.

The same is true regarding the Firm. It, too, has ethical obligations to which it must adhere, including an obligation to supervise the attorneys in its employ. Without making a finding of a specific ethical violation, this Court believes that the Firm's supervision of Grimes was lacking.

But such failures, while unfortunate, are not so reprehensible to support Debtor's full request for punitive damages.

Consequently, and keeping in mind the twin goals of punishment and deterrence, the Court awards $2,000 in punitive damages (a multiplier of two vis-a-vis only the emotional distress award). Similarly to the court in In re Valentine, the Court's punitive damages award is assessed only against Grimes and the Firm, and not Velasquez-Gonzalez. See, e.g., 611 at 653-54.

For these reasons,

IT IS HEREBY ORDERED that the Motion for Contempt for Violation of the Automatic Stay Under § 362(a) and Damages Against Creditor, Enrique Velazquez-Gonzalez, His Counsel, Melvin R. Grimes, Esq. and Law Firm, Roberts Stoffel, Family Law Group ("Motion") (ECF No. 11) is **GRANTED** regarding damages. Specifically, Enrique Velazquez-Gonzalez, Melvin R. Grimes, Esq., and the Roberts Stoffel Family Law Group shall be jointly and severally liable to Debtor in the following amounts:

(1) $11,769.97 in attorneys' fees and costs incurred by Benjamin B. Childs, Esq.,

(2) $38,278.50 in attorneys' fees and costs incurred by Christopher P. Burke, Esq.,

(3) $1,450.35 in actual expenses incurred by Debtor for the March 4, 2022, hearing transcript before this Court, and

(4) $1,000 in emotional distress damages.

IT IS FURTHER ORDERED that Melvin R. Grimes, Esq., and the Roberts Stoffel Family Law Group shall be jointly and severally liable to Debtor for $2,000 in punitive damages.

IT IS SO ORDERED.

Copy sent via CM/ECF Electronic Filing

Copy sent via BNC to:

LUBA SNOW

[redacted]

CONN APPLIANCES, INC.
C/O BECKET AND LEE LLP
[redacted]
A 19355-0702

PHILIP DACE
[redacted]

MELVIN R GRIMES on behalf of Creditor ENRIQUE IVAN VELAZQUEZ-GONZALEZ
ROBERTS STOFFELL FAMILY LAW GROUP
[redacted]

EDDIE MEESE
REALTY EXPERTISE
[redacted]

# # #

EXHIBIT P

[redacted]

Fw: Gonzalez divorce Case # D-18-575860-D

Wed, Mar 15, 08:44

[redacted]

Here's my summary of the judge's ruling

Has to be communication
CBX tickets to be provided -going & coming
No travel out of Nueva Leon
Communication - every night at 20:00 for 5 - 10 minutes. Non-custodial parent initiates.
Although not addressed - can they just agree to use talking parents video app for the calls?

Please advise.

BENJAMIN B. CHILDS, ESQ.
[redacted]
Fax 385 1847
[redacted]

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[redacted]

Sent: Wednesday, March 15, 2023 8:11 AM

[redacted]

Subject: Re: Gonzalez divorce Case # D-18-575860-D

I'll call you in 5

BENJAMIN B. CHILDS, ESQ.
[redacted]

[redacted]

Fw: Gonzalez divorce Case # D-18-575860-D

[redacted]

As soon as we have confirmation that these two tasks are completed, Luba will be at the exchange point within 45 minutes.

BENJAMIN B. CHILDS, ESQ.
[redacted]

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[redacted]
Sent: Wednesday, March 15, 2023 8:54 AM
[redacted]
Subject: RE: Gonzalez divorce Case # D-18-575860-D

We agree to talking parents calls this week only… this is not a permanent change… we can address that after this week.

Enrique will purchase the CBX tickets and provide copies.

Will she be exchanging the child?
[Quoted text hidden]

[redacted]

Fw: Gonzalez divorce Case # D-18-575860-D

[redacted]

Here's the passport, so that eliminates that objection.
If he does it all the time, he would certainly know whether it's required or not.

BENJAMIN B. CHILDS, ESQ.
[redacted]

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From: Melvin Grimes <melvin@lvfamilylaw.com>
Sent: Wednesday, March 15, 2023 9:34 AM
[redacted]
Subject: RE: Gonzalez divorce Case # D-18-575860-D

I just looked up the CBX issue and it does not appear that Passport is required. However, Enrique believes she will simply put up another barrier. She can either pay for the CBX and they reimburse at the exchange... or they will provide after they receive [redacted]

Talking Parents video has been enabled.

[Quoted text hidden]
BellaPassport031523.pdf

[redacted]

Fw: Gonzalez divorce Case # D-18-575860-D

[redacted]

Your assumption is noted and denied.

I assume you are advising him NOT to buy the CBX ticket and provide proof to Luba.
And since you have not denied that video option has NOT been initiated with Talking Parents, that's an admission that it has NOT been enabled.

BENJAMIN B. CHILDS, ESQ.
[redacted]

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[redacted]
Sent: Wednesday, March 15, 2023 9:44 AM
[redacted]
Subject: RE: Gonzalez divorce Case # D-18-575860-D

I am assuming that you are advising your client not to exchange the child. Please be aware we are going to file a Motion for an OSC. My client have now left and are picking up their daughter and going on vacation. If your client chooses to be reasonable in the next 15-20 minutes have her contact them via talking parents.

We have complied with your demands and yet you just set more obstacles.

And... as I read this your client is stating that my client is lying and has not enabled video... he has and I have confirmed. Your client is simply not going to follow orders or even the direction of the Judge. I have a hearing now... and I cannot continue the back and forth.

[Quoted text hidden]

[redacted]

Fw: Gonzalez divorce Case # D-18-575860-D

[redacted]

Plus, as of 09:39, he has NOT enabled video call option on Talking Parents. See attached.

Here's at least my preliminary finding.
In his pyche report [attached], Enrique desribed being "almost kidnapped" by people with ties to the cartel and he "witnessed his cousin being shot when he was working in a pawnshop with this stepfather". [Page 7]
The stepfather who is abusive to him [Page 6]
And apparently his entire family is abusive , including his aunt and uncle. [Page 7]

So he's emphatic about taking the child to visit his abusive family.

BENJAMIN B. CHILDS, ESQ.
[redacted]

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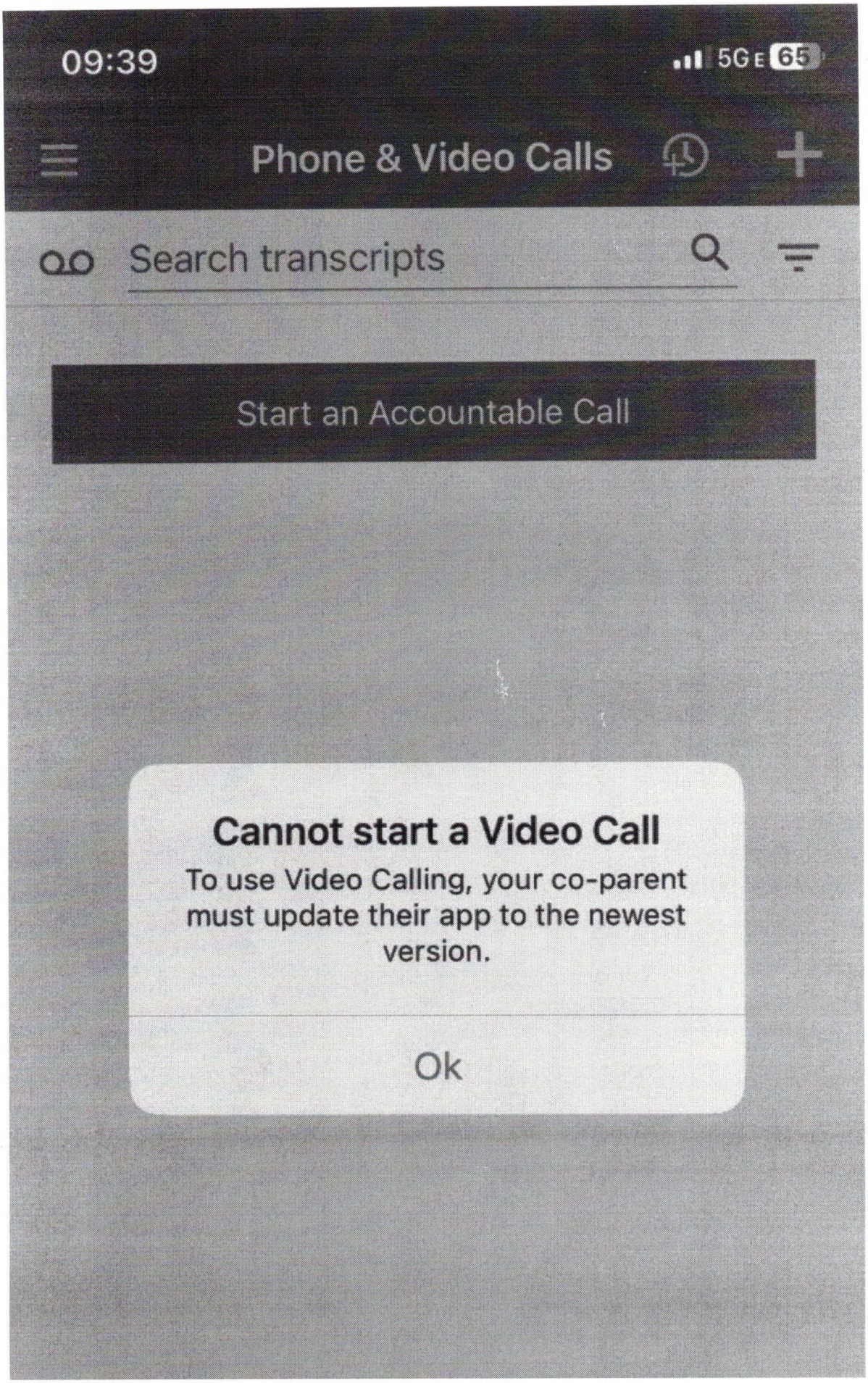
[redacted]

Sent: Wednesday, March 15, 2023 9:38 AM
[Quoted text hidden]
MST9A32.pdf, BellaTalking Parents031523.pdf


09:39
5G E 65
Phone & Video Calls
Search transcripts
Start an Accountable Call
Cannot start a Video Call
To use Video Calling, your co-parent must update their app to the newest version.
Ok

[redacted]

Fw: Gonzalez divorce Case # D-18-575860-D

[redacted]

First, demanding IMMEDIATE action when Luba is in my office is unreasonable. She lives 40 minutes from my office and the exchange point is 20 minutes away from her home.

Second, then no, she cannot provide [redacted] at the exchange point right now for the following reasons :

1. Enrique has NOT enabled Talking Parents Video Call option. He can do this immediately.
2. CBX tickets have not been provided. He can buy these on the internet.

Either of these can be remedied literally in minutes.

He can buy the tickets online right now, and he is refusing, so there is not a complete itinerary. Itinerary is ahead of time, not in-game at time of travel.

i·tin·er·ar·y

noun
noun: **itinerary**; plural noun: **itineraries**

1. a planned route or journey.
    - a travel document recording a route or journey.

Here's the website to purchase CBX tickets.

https://www.crossborderxpress.com/en/tickets

> CBX Tickets | Cross Border Xpress
>
> Cross Border Xpress | Cross to San Diego without exiting the Tijuana International Airport. Buy your CBX ticket here. Take advantage of discounts for family packages, frequent travelers, and groups.
>
> www.crossborderxpress.com

BENJAMIN B. CHILDS, ESQ.

[redacted]

[redacted]

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[redacted]

Sent: Wednesday, March 15, 2023 9:09 AM

[redacted]

Subject: RE: Gonzalez divorce Case # D-18-575860-D

Mr. Childs,

Your client is demanding that Enrique provide the CBX before drop off. He will buy round trip at the CBX terminal and provide Luba copies. That is what the Judge said.

Demanding the enabling of Talking Parents Video as a condition for release of the child is ridiculous. He has agreed.

They are not buying the CBX until they have [redacted] and the passport because they are not going to waste the money while waiting for the next condition.

[Quoted text hidden]

EXHIBIT T

STATE BAR OF NEVADA

March 1, 2024

Benjamin B. Childs
[redacted]

RE: G [redacted]

www.nvbar.org

A Screening Panel of the Southern Nevada Disciplinary Board has reviewed the above-referenced grievance file stemming from your complaint concerning attorney Melvin Grimes. The Panel concluded that Mr. Grimes violated the Rules of Professional Conduct and should be admonished.

An Admonition has been issued to Mr. Grimes for violations of RPC 1.1 (Competence), RPC 3.1 (Meritorious Claims and Contentions), RPC 3.2 (Expediting Litigation), RPC 4.4 Respect for Rights of Third Persons) and RPC 8.4 (Misconduct).

Thank you for bringing this matter to our attention.

Sincerely,

Shain Manuele

Shain Manuele (Feb 29, 2024 11:34 MST)

Shain G. Manuele, Esq.
Assistant Bar Counsel

SGM/jm

Enclosure

Grievant Childs - Admonition issued to Grimes

Final Audit Report 2024-02-29

Created:	2024-02-29
[redacted]	
Status:	Signed
Transaction ID:	CBJCHBCAABAAyn5SczAxAov7SaxuSN603AJs1rDhloio

"Grievant Childs - Admonition issued to Grimes" History

[redacted]

2024-02-29 - 6:33:47 PM GMT- IP address: 98.164.161.214

[redacted]

2024-02-29 - 6:34:09 PM GMT

[redacted]

2024-02-29 - 6:34:32 PM GMT- IP address: 216.169.82.24

[redacted]

Signature Date: 2024-02-29 - 6:34:44 PM GMT - Time Source: server- IP address: 216.169.82.24

Agreement completed.

2024-02-29 - 6:34:44 PM GMT

EXHIBIT U

STATE BAR OF NEVADA

December 29, 2023

Benjamin B. Childs
[redacted]

RE: G [redacted]

www.nvbar.org

A Screening Panel of the Southern Nevada Disciplinary Board has reviewed the above-referenced grievance file stemming from your complaint concerning attorney Amanda Roberts. The Panel concluded that Ms. Roberts violated the Rules of Professional Conduct and should be admonished.

An Admonition has been issued to Ms. Roberts for violations of RPC 5.1 (Responsibilities of Partners, Managers, and Supervisory Lawyers).

Thank you for bringing this matter to our attention.

Sincerely,

Shain Manuele

Shain Manuele (Feb 15, 2024 13:04 PST)

Shain Manuele, Esq.
Assistant Bar Counsel

SGM/jm

Enclosure