

**IN THE SUPREME COURT  
STATE OF MISSOURI**

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**IN RE:** )  
 )  
**EDGAR E. LIM,** ) **Supreme Court #SC87849**  
 )  
**Respondent.** )

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**RESPONDENT'S BRIEF**

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**STATEMENT OF JURISDICTION**

Respondent accepts the jurisdiction of this Court.

## **STATEMENT OF FACTS**

### **Disciplinary Case**

By letter dated September 20, 2004, attorney Andrew Neill reported to the Office of Chief Disciplinary Counsel (hereinafter referred to as “Counsel”) what he believed was professional misconduct committed by Respondent. Mr. Neill’s office was, at the time of the misconduct report, representing former clients of Respondent in a suit brought by Respondent against them to collect attorney fees. **App. 2.**<sup>1</sup>

A complaint file was opened and referred to the St. Louis disciplinary committee. The committee voted to file an information against Respondent in October of 2005. The information was served on Respondent in late January of 2006. Respondent filed a timely answer to the information. **App. 3-59.**

In early March of 2006, a disciplinary hearing panel was appointed to hear the case. **App. 60.** The hearing occurred on April 18, 2006. The panel issued its decision on May 18, 2006, recommending the suspension of Respondent’s law license with leave to apply for reinstatement after six months for violations of Rules 4-1.16(d) (failure to surrender client property at termination of representation), 4-1.6(a) (revealed client information without client consent), and 4-1.9 (used information obtained during representation to the disadvantage of a former client). The panel also recommended an

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<sup>1</sup> Respondent’s former clients lived in Michigan at the time of the disciplinary case. They did not participate in the hearing.

admonition of Respondent for violation of Rule 4-7.5(f) (implied practice as a partnership when it was not). **App. 69-72.**

Pursuant to Rule 5.16, Decision of Disciplinary Hearing Panel – Findings and Recommendations, “The disciplinary hearing panel shall render a written decision within 30 days of the completion of the hearing. *The decision shall include a finding regarding each specific act of misconduct charged in the information* and, in those cases where there is a finding of any violation of Rule 4, shall also include a recommendation for discipline.” **Resp. App. 2.**

In the carbon copy letter Respondent received, dated May 30, 2006, said letter stated, “. . . Panel recommends a six-months suspension, six hours of ethics CLE and compliance with Rule 5.28 as a condition of applying for reinstatement, plus admonition for improper use of a firm name.” **Resp. App. 3.** However, said letter never stated the the specific punishment for each *specific act of misconduct (charged in the information)* Respondent was found to have violated. **Resp. App. 3.**

In other words, in said decision, it merely stated that Respondent be suspended for six (6) months for forwarding the letter, dated February 18, 2004, to Immigration and Naturalization Services (hereinafter referred to as “INS”) and be given an admonition for violating Rule 4-7.5(f). **App. 69-72.** Said decision does not *specify* the punishment for each violation Respondent allegedly violated. **App. 69-72.**

Respondent did not concur in the panel’s recommendation. **App. 73-74.** Since there was no concurrence, the record was filed with the Court pursuant to Rule 5.19.

### **Respondent's Background**

Respondent was admitted to the bar in 1975. He has practiced immigration law throughout his career. **App. 91.** Respondent accepted an admonition in 2003 for violation of Rules 4-1.3 (diligence) and 4-3.1 (meritorious claims and contentions). **App. 133-135.** At the time of the disciplinary hearing, Respondent maintained a part-time practice in St. Louis. **App. 89-90.**

### **Conduct Underlying Disciplinary Case**

In 1994, Respondent began representing clients named Ganesh Krishnamurthy and Padma Ganesh (hereinafter referred to as “the Krishnamurthys”). **App. 82, 90.** Respondent was employed to obtain an H-1B1 visa from INS for Mr. Krishnamurthy, and subsequently a labor certification from the Department of Labor. **App. 93.** He was also retained to obtain H-4 visas to allow Mr. Krishnamurthy’s wife, Padma, and son to live in the United States while her husband worked here. **App. 93-94.** Mr. Lim did in fact obtain all three visas and said labor certification. **Resp. App. 4-6.**

Respondent told the Krishnamurthys that his fee would be \$4,500.00. **App. 95.** Respondent has been unable to locate a copy of the executed written fee agreement; however, Respondent testified there was one and that it provided for a late charge of \$20.00 per month on unpaid fees, as well as a 9% annual interest fee charge added to the late fees. **App. 96.** The Krishnamurthys paid Respondent \$1,000.00. **App. 127.**

Respondent terminated his representation of the Krishnamurthys in November of 1997. **App. 16.** In a letter dated November 3, 1997, Respondent advised Mr.

Krishnamurthy that he had obtained said labor certification, but that it would not be released to Mr. Krishnamurthy until all outstanding fee invoices, said to equal \$2,441.11, were paid. The letter states, “Once we are paid, . . . we will release your labor certification which is still our property until you pay for it” (emphasis in original). **App. 136.**

Respondent has diligently looked for said labor certification. **App. 17.** Respondent now believes that he sent said labor certification to the employer as it technically is the property of the employer, not Mr. Krishnamurthy, who was only the beneficiary. **App. 17.**

Because Mr. Krishnamurthy’s employment with the employer was terminated, and the employer no longer wished to sponsor the former for his green card, the labor certification basically became worthless. **Resp. App. 7.** Furthermore, the only residual value to this said certification was to the employer who could substitute another alien in his place and sponsor the latter for his or her green card as said certification is position specific – not worker specific. **App. 43-46.**

Respondent’s daughter, Priscilla Lim, began practicing law with Respondent in late 2002. **App. 137.** The two Lims started an informal partnership. **App. 102.** Neither partner felt it necessary to enter into a formal agreement as they are father and daughter and trust each other completely. The Lims did have a partnership bank account, which was closed on December 15, 2004. **Resp. App. 8-9.** Furthermore, they purchased stationery for their partnership. **App. 104-105.** The letters were sent out on “Lim &

Lim” letterhead in January and February of 2004. **App. 138-139.** Said partnership was began and terminated in 2004 when Respondent’s health had declined. **App. 27.**

In December of 2002, Respondent filed a two count petition against the Krishnamurthys in St. Louis County alleging the Krishnamurthys owed him \$2,441.11 for fees, along with interest at 9%, and that the Krishnamurthys had been unjustly enriched by that same amount by way of legal services performed without payment. **App. 117-118.** The Office of Chief Disciplinary Counsel stated that Respondent, “failed in his effort to collect the alleged unpaid fee by filing suit against the Krishnamurthys in 2002. Mr. Lim’s daughter, at his direction, sent a letter to the former clients advising that a petition for unjust enrichment would be filed against them inasmuch as the fees were still, according to Lim, owed.” **Informant’s Brief 15.**

However, at the time Respondent’s daughter sent the letter to the Krishnamurthys, the initial civil action against the Krishnamurthy’s had been reopened due to another person with the exact same name being erroneously served with the original summons. Hence, at the time said letter was sent by Respondent’s to the correct Krishnamurthys, the civil action was still an active and open case and there was no ruling that said case was barred by the statute of limitations. **App. 18.** In October of 2004, the court where the case was filed ruled that the matter was barred by the applicable statute of limitations. **Resp. App. 10.**

At Respondent’s direction, his daughter sent a letter, dated January 26, 2004, to the Krishnamurthys stating that a petition for unjust enrichment would be filed in circuit

court for the \$6,759.00 in fees, interest, late fees, and court costs allegedly owed to Respondent. The letter further provided that:

Furthermore, since you have not paid us, this proves that you lack good moral character, which the Immigration and Naturalization Services (INS) requires from one prior to allowing him/her naturalization benefits. Thus, if we are not in receipt of your total outstanding balance by February 2, 2004, we must, as officers of the court, notify INS of your amoral character. **App. 138.**

Respondent thereafter, on February 18, 2004, sent a letter to a United States Immigration & Naturalization Service office regarding the Krishnamurthys. The letter stated in part:

Please be advised that Mr. Ganesh Krishnamurthy and Ms. Padma Ganesh, lack the good moral character needed to obtain immigration benefits. They have lied and deceived our office and currently they have an outstanding account balance due us of over \$7,000.00.

Please place this letter in their file to prevent them from obtaining any further immigration benefits. **App. 139.**

Furthermore, Counsel stated that the arithmetic regarding the alleged unpaid fee was less than clear. However, Respondent provided a spreadsheet regarding the calculation of the \$7,128.60 owed by the Krishnamurthys. **App. 144.**

Respondent sent the letter to the INS to inform the agency of what he believed was his former clients' amoral character. **App. 108.** He asked the agency to leave his letter in the Krishnamurthys' file to prevent them from obtaining future benefits. **App. 109.**

There are numerous reasons Respondent believed the Krishnamurthys had amoral character, including, but are not limited to, the following, to-wit:

1. First, Respondent acknowledges that his dispute with the Krishnamurthys was basically fiscal, but he believes that it is amoral to promise to pay someone and then not do so. **App. 114-115.**

2. Secondly, Respondent also stated that the Krishnamurthys repeatedly lied and deceived him, "The only reason this case became so onerous was the fact that Mr. Krishnamurthy had told us repeatedly, one excuse after another, basically running the statute of limitations on us, and we did in fact inform Immigration of his amoral character. . . . I took it upon myself to judge his character, but I felt at the time it was my prerogative as a practitioner, as his creditor, as an officer of the Court, as an immigration practitioner, to notify Immigration of his character. And if I had to do it all over again, I probably would do exactly the same thing." **App. 129.**

3. Third, the Krishnamurthys lied to everyone in Respondent's office, including Respondent's daughter, Priscilla J. Lim, that they were going to obtain copies of their cancelled checks, that they would provide them to us, and asked us to hold off on filing our lawsuit. In reality, Mr. and Mrs. Krishnamurthy changed their residence again

and obviously never furnished us with any cancelled checks or forwarding address. **App. 24-25.**

4. Fourth, Respondent was informed by a former INS official, a Mr. Andrew Nutis, that if someone did not pay to simply write them a letter and they would put it in their file because that establishes their lack of good moral character. **App. 19.**

5. Fifth, Arbor Consulting (Mr. Krishnamurthy's former employer) filed an Amended Petition for unpaid loans/advances to Mr. Krishnamurthy. Furthermore, said employer had to file garnishment papers to collect said judgment; however, a Satisfaction of Judgment and Dismissal of Garnishment were eventually entered. **App. 52-56.**

6. Sixth, Ganesh Krishnamurthy will lie and deceive to get what he does not deserve as he stated, under oath, when establishing his damages in Krishnamurthy et al. v. Priscilla J. Lim, Cause No. 4 04CV01544RWS, that he was terminated from his employer, Synova, Inc., due to the mental agony he had suffered from the letter Respondent's daughter wrote to him dated January of 2004. **Resp. App. 11-14.** However, the truth is that, after subpoenaing his employment records, Mr. Krishnamurthy was terminated from his job due to budget cuts. **Resp. App. 15.**

7. Seventh, after the judge in Krishnamurthy et al. v. Priscilla J. Lim, Cause No. 4 04CV01544RWS, continued the trial date in said case, the Krishnamurthys' attorney told the federal court that they were in route to St. Louis to prepare for trial and asked the Court to order Respondent's daughter pay for their airline tickets. Then the

Krishnamurthys, via their attorney, sent Respondent's daughter an invoice for said airline tickets. **Resp. App. 16.**

8. However, after reviewing the time of departure on said airline ticket, it turns out that the Krishnamurthys did not fly (as their flight did not leave until 7:45 p.m. that evening) and that the monies they used to pay for those tickets could be used for future travels. **Resp. App. 17-18.** Hence, the Krishnamurthys were again asking for something they did not rightfully deserve.

9. Eighth, the Krishnamurthys via their attorney tried to legally threaten Respondent's daughter by sending her a letter stating they will withhold the filing of a federal lawsuit against her personally if she successfully "persuades" her client/father (who is not a party to the federal suit) to *inter alia* dismiss his state court suit against the Krishnamurthys.

10. Said letter does not require her to do anything to withhold the federal lawsuit against her; it only requires that she violate the Canons of Ethics and "persuade" her client/father to drop his separate lawsuit against the Krishnamurthys. As she would not place her own personal interest ahead of her father's, and as she would not violate said canons, they made good their threat by filing suit in Federal Court, styled Ganesh Krishnamurthy, et al. v. Priscilla J. Lim, 4:04CV01544 RWS. **Resp. App. 19-20.**

11. If needed, Respondent can cite many more examples of the Krishnamurthys amoral character. As the Krishnamurthy are liars and deceivers, and as they have proven to Respondent that they would stop at nothing to get what they want, Respondent felt, as

an officer of this court and as an advocate of immigrants in general, that he had a duty to inform INS of their amoral character. Furthermore, Respondent did not want to see the Krishnamurthy cause any further harm to others, as there are honest people in this country who deserve citizenship over them.

**POINT RELIED ON**

**I.**

**THE SUPREME COURT SHOULD NOT DISCIPLINE  
RESPONDENT BECAUSE HE DID NOT VIOLATE:**

**A.     RULE 4-1.16(d) WHICH STATES THAT, “UPON  
TERMINATION OF REPRESENTATION, . . . SURRENDERING  
PAPERS AND PROPERTY TO WHICH THE CLIENT IS  
ENTITLED . . . THE LAWYER MAY RETAIN PAPERS  
RELATING TO THE CLIENT TO THE EXTENT PERMITTED BY  
OTHER LAW.”**

**RESPONDENT DID NOT VIOLATE SAID RULE AS SAID  
LABOR CERTIFICATION IS THE PROPERTY OF THE  
*EMPLOYER*, NOT MR. KRISHNAMURTHY, WHO IS ONLY THE  
BENEFICIARY. FURTHERMORE, RESPONDENT ADVANCED  
EXPENSES WHICH ALLOWED HIM TO RETAIN SAID  
PROPERTY UNTIL SAID EXPENSES WERE PAID.**

**B.     RULE 4-1.6(a) WHICH STATES THAT, “A LAWYER  
SHALL NOT REVEAL INFORMATION RELATING TO  
REPRESENTATION OF A CLIENT . . .”**

**RESPONDENT DID NOT VIOLATE SAID RULE AS HE DID  
NOT BREACH ANY ATTORNEY-CLIENT CONFIDENTIALITY IN  
HIS COMMUNICATIONS WITH INS AS HE DID NOT DISCLOSE**

**ANY INFORMATION THAT THE KRISHNAMURTHYS TOLD HIM IN CONFIDENCE.**

**FURTHERMORE, ALL INFORMATION RESPONDENT COMMUNICATED TO INS WAS NOT RELATED TO HIS REPRESENTATION OF THE KRISHNAMURTHYS, BUT ACQUIRED AFTER THE TERMINATION OF HIS REPRESENTATION.**

**C. RULE 4-1.9(b), WHICH STATES THAT, “A LAWYER WHO HAS FORMERLY REPRESENTED A CLIENT IN A MATTER SHALL NOT THEREAFTER: (b) USE INFORMATION RELATING TO THE REPRESENTATION TO THE DISADVANTAGE OF THE FORMER CLIENT EXCEPT . . . WHEN THE INFORMATION HAS BECOME GENERALLY KNOWN.”**

**RESPONDENT DID NOT VIOLATE THIS RULE AS HE DID NOT USE ANY INFORMATION RELATING TO THE REPRESENTATION OF HIS FORMER CLIENTS, THE KRISHNAMURTHYS, TO THEIR DISADVANTAGE. RESPONDENT’S KNOWLEDGE OF THEIR AMORAL CHARACTER, WHICH HAD BECOME GENERALLY KNOWN, WAS ACQUIRED AFTER HE TERMINATED HIS REPRESENTATION.**

**D. RULE 4-7.5(f), WHICH STATES THAT, “LAWYERS  
MAY STATE OR IMPLY THAT THE PRACTICE IN A  
PARTNERSHIP OR OTHER ORGANIZATION ONLY WHEN  
THAT IS THE FACT.”**

**RESPONDENT DID NOT USE “LIM & LIM” STATIONERY  
IN AN ATTEMPT TO DECEIVE ANYONE AND IN FACT NO ONE  
WAS DECEIVED.**

*Solan v. United States*, 31F.2d 902, 906 (8<sup>th</sup> Cir. 1929)

*Ralich v. United States*, 185 F.2d 784, 786 (8th Cir. 1950)

8 U.S.C.A. §1427(a)(3)

Advisory Committee Formal Opinion #115 (adopted March 4, 1988)

Rule 4-1.16(d)

Rule 4-1.6(a)

Rule 4-1.9(b)

Rule 4-7.5(f)

**POINT RELIED ON**

**II.**

**THE SUPREME COURT SHOULD NOT SUSPEND  
RESPONDENT'S LICENSE FOR SIX MONTHS BECAUSE HE DID  
NOT VIOLATE ANY DUTIES TO HIS FORMER CLIENTS.**

ABA Standards for Imposing Lawyer Sanctions (1992 amendments)

**POINT RELIED ON**

III.

**THE SUPREME COURT SHOULD NOT SUSPEND RESPONDENT'S  
LICENSE FOR SIX MONTHS BECAUSE THE ALLEGED FACTS DO  
NOT WARRANT SUCH DRACONIAN MEASURES.**

*In re Stanley L. Wiles*, 107 S.W.3d 228 (Mo. 2003)

*In re Raymond Howard*, 912 S.W.2d 61, 64 (Mo. 1995)

*In re Donald C. Littleton*, 719 S.W.2d 772, 775-776 (Mo. 1986)

*In re Smith*, 749 S.W.2d 408, 410 (Mo. banc 1988).

Rule 8.4(c)

Rule 4-7.5(f)

Rule 5.28

Rule 4-1.4

Rule 4-1.15(b)

Rule 4-8.4 (d)

Rule 5.225(a)

Rule 1.7(b)

Rule 2.1

Rule 8.2(a)

**POINT RELIED ON**

IV.

**THE SUPREME COURT SHOULD NOT DISCIPLINE RESPONDENT BECAUSE THE DISCIPLINARY COMMITTEE AND PANEL DEPRIVED HIM OF HIS PROCEDURAL DUE PROCESS BY NEVER INFORMING HIM SPECIFICALLY HOW THEIR RECOMMENDATION OF A SIX-MONTH SUSPENSION APPLIED TO EACH CANON OF ETHICS HE ALLEGELY VIOLATED MAKING IT VIRTUALLY IMPOSSIBLE FOR HIM TO KNOW HOW HE IS BEING PUNISHED FOR EACH CHARGE.**

**ARGUMENT**

I.

**THE SUPREME COURT SHOULD NOT DISCIPLINE  
RESPONDENT LIM BECAUSE HE DID NOT VIOLATE:**

**A.     RULE 4-1.16(d), WHICH STATES THAT, “UPON  
TERMINATION OF REPRESENTATION, . . . SURRENDERING  
PAPERS AND PROPERTY TO WHICH THE CLIENT IS  
ENTITLED . . . THE LAWYER MAY RETAIN PAPERS  
RELATING TO THE CLIENT TO THE EXTENT PERMITTED BY  
OTHER LAW.”**

**RESPONDENT DID NOT VIOLATE SAID RULE AS SAID  
LABOR CERTIFICATION IS THE PROPERTY OF THE  
EMPLOYER, NOT MR. KRISHNAMURTHY, WHO IS ONLY THE  
BENEFICIARY. FURTHERMORE, RESPONDENT ADVANCED  
EXPENSES WHICH ALLOWED HIM TO RETAIN SAID  
PROPERTY UNTIL SAID EXPENSES WERE PAID.**

**B.     RULE 4-1.6(a), WHICH STATES THAT, “A LAWYER  
SHALL NOT REVEAL INFORMATION RELATING TO  
REPRESENTATION OF A CLIENT . . .”**

**RESPONDENT DID NOT VIOLATE SAID RULE AS HE DID  
NOT BREACH ANY ATTORNEY-CLIENT CONFIDENTIALITY IN  
HIS COMMUNICATIONS WITH INS AS HE DID NOT DISCLOSE**

**ANY INFORMATION THAT THE KRISHNAMURTHYS HAD TOLD HIM IN CONFIDENCE.**

**FURTHERMORE, ALL INFORMATION RESPONDENT COMMUNICATED TO INS WAS NOT RELATED TO HIS REPRESENTATION OF THE KRISHNAMURTHYS, BUT ACQUIRED AFTER THE TERMINATION OF HIS REPRESENTATION.**

**C. RULE 4-1.9(b), WHICH STATES THAT, “A LAWYER WHO HAS FORMERLY REPRESENTED A CLIENT IN A MATTER SHALL NOT THEREAFTER: (b) USE INFORMATION RELATING TO THE REPRESENTATION TO THE DISADVANTAGE OF THE FORMER CLIENT EXCEPT . . . WHEN THE INFORMATION HAS BECOME GENERALLY KNOWN.”**

**RESPONDENT DID NOT VIOLATE THIS RULE AS HE DID NOT USE ANY INFORMATION RELATING TO THE REPRESENTATION OF HIS FORMER CLIENTS, THE KRISHNAMURTHYS, TO THEIR DISADVANTAGE. RESPONDENT’S KNOWLEDGE OF THEIR AMORAL CHARACTER, WHICH HAD BECOME GENERALLY KNOWN, WAS ACQUIRED AFTER HE TERMINATED HIS REPRESENTATION.**

**D. RULE 4-7.5(f), WHICH STATES THAT, “LAWYERS MAY STATE OR IMPLY THAT THE PRACTICE IN A PARTNERSHIP OR OTHER ORGANIZATION ONLY WHEN THAT IS THE FACT.”**

**RESPONDENT DID NOT USE “LIM & LIM” STATIONERY IN AN ATTEMPT TO DECEIVE ANYONE AND IN FACT NO ONE WAS DECEIVED.**

### **Preface**

Throughout this entire disciplinary case against Respondent, the committee and Counsel have been attempting to fit a round peg in a square hole. There is no conclusive evidence that Respondent has violated any of the rules he is accused of violating. The committee and Counsel have taken each rule and stretched it to fit the facts of this case hoping to find Respondent in violation of said rules.

#### **1. Rule 4-1.16(d)**

1. Rule 4-1.16(d) states that, “Upon termination of representation, . . . surrendering papers and property to which the **client** is entitled . . . the lawyer may retain papers relating to the client to the extent permitted by other law.”

(Emphasis added.)

2. Informant states that the disciplinary hearing panel concluded that Respondent violated Rule 4-1.16(d) in that Respondent failed to surrender **client’s** property at the termination of his representation.

3. The informant's said statement is fatally flawed because Respondent could not have violated said rule as said labor certification is the property of the employer, not Mr. Krishnamurthy, who is only the *beneficiary* of said certificate. **App. 43-46, App. 98.**

4. Respondent has attached documentation, which establishes that said labor certification belongs to the employer - not the beneficiary. **App. 43-46.**

5. Thus, as Mr. Krishnamurthy is not legally entitled to said labor certification, Respondent was not legally required to surrender it to him.

6. Furthermore, the Informant's brief states that, "Advisory Committee Formal Opinion #115 (adopted March 4, 1988) and *In re Cupples*, 952 S.W.2d 226, 234 (Mo. banc 1997) ("The client's files belong to the client, not to the attorney representing the client.")<sup>2</sup> Formal Opinion 115 discusses the lawyer's obligations under Rules 4-1.15(b) and 4-1.16(d) to safeguard and deliver promptly to clients property to which they are entitled."

7. Said statement further establishes that only the client, the employer, is entitled to said labor certification and that Respondent has an obligation to said employer to safeguard and deliver it to said employer only.

8. Furthermore, Mr. Krishnamurthy really has no interest in said labor certification as his employer, the sponsor, terminated its sponsorship when it terminated his employment.

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<sup>2</sup> *In re Cupples* was handed down two and a half months prior to Respondent's letter.

9. Said certification became basically worthless when Mr. Krishnamurthy's employment with the sponsor was terminated as all employers no longer wish to sponsor former employees for their green cards.

10. The only residual value to this said certification is to the employer who can substitute another alien in his place and then sponsor the latter for his or her green card as said certification is *position specific – not worker specific*.

11. Hence, only if the employer wanted said labor certification and Respondent did not furnish it to said employer, would Respondent have violated said Rule.

12. Counsel states in its Brief that, "Mr. Lim offered no evidence to suggest the certificate was obtained by an advance of Mr. Lim's funds, in which event the lawyer may retain the item until reimbursed for the out-of-pocket expense. See Missouri Supreme Court Advisory Committee Formal Opinion #115 (as amended 1988)."

13. However, Respondent has stated in both his Answer, dated February 25, 2006; in his letter to Ms. Adrienne Anderson, dated December 9, 2004, that, "In addition, Mr. Krishnamurthy was invoiced a total of Three Thousand Ninety-five Dollars and Forty-two Cents (\$3,095.42) for his approved labor certification (see Exhibit B), which **included expenses that I advanced for him for his educational evaluation**. Normally I would not advance said expense for a client; however, he told me he did not have the money for it and, as I put too much time and effort into his labor certification to let it be denied, I paid it to save his family

from having to go back home to India. Furthermore, Mr. and Mrs. Krishnamurthy assured me that they would reimburse me later.

“Also, we charged Mrs. Padma Ganesh and her son a total of \$345.69 for their approved H-4 visas (see Exhibit C). **Said fee included their filing fee and expenses.** Furthermore, we only charged them a late fee of Twenty Dollars per month and 9% interest per annum, which was prorated per month, on their total outstanding balance.” (Emphasis added.) **App. 21.**

14. Furthermore, said out-of-pocket expenses were also stated in the invoices sent to the Krishnamurthys.

15. Thus, as Respondent did offer evidence to suggest that said certificate was obtained by an advance of his funds, Respondent was able to retain said labor certificate until he was reimbursed for his out-of-pocket expense.

16. Respondent has diligently looked for said labor certification.

17. Respondent now believes that he sent said labor certification to the *employer*, as it is the property of the employer, and that the reason he wrote in his November 3, 1997 letter that “we will release your labor certification which is still our property” is because the employer agreed he did not have to release said certificate to Mr. Krishnamurthy until Respondent’s fee was paid.

18. Hence, as Mr. Krishnamurthy was not entitled to said labor certification, as the employer was the one who was legally entitled to it, Respondent did not violate said rule by failing to surrender said certification to him.

## 2. Rule 4-1.6(a)

19. Rule 4-1.6(a) states that, “A lawyer shall not reveal information relating to representation of a client. . .” (Emphasis added.)

20. Informant states that the disciplinary hearing panel concluded that Respondent violated Rule 4-1.6(a) in that Respondent revealed information relating to the representation of the Krishnamurthys without the consent of the Krishnamurthys. (Emphasis added.)

21. Furthermore, the Informant’s brief states that, “The letter to the former clients is, in effect, a threat to reveal confidential information<sup>3</sup>, a threat contingent on payment of the fee and its ever escalating surcharges.” **Informant’s Brief 16.** (Emphasis added.)

22. Respondent did not violate said rule as he did not reveal information relating to representation of a the Krishnamurthys to INS in his letter dated February 18,

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<sup>3</sup> Confidential client information is “all information relating to representation of a client, whether in oral, documentary, electronic, photographic, or other forms. . . . In the course of representation, a lawyer may learn confidential information about the client that is not necessary for the representation but which is of a personal . . . nature or other character such that the client evidently would not wish it disclosed. Such information is confidential.” Restatement (Third) of the Law Governing Lawyers § 59 comment b (2002). “Information acquired during the representation . . . or after the representation is confidential so long as it is not generally known.” Id. at comment c.

2004, or breach any attorney-client confidentiality in his communications with INS as he did not disclose any **confidential information** that the Krishnamurthys had told him in confidence.

23. Respondent only used information regarding the Krishnamurthys' amoral character, which he had learned of after the termination of his representation and this was not confidential, i.e. their amoral character, or his opinion that the Krishnamurthys did **not** deserve the privilege of naturalization.

24. Obviously, the Krishnamurthys never informed Respondent in his representation of them, in confidence or otherwise, that they were persons who lacked good moral character.

25. Said character was established and surmised after Respondent terminated his representation of them, and when the Krishnamurthys lied and deceived Respondent and his daughter regarding the payment of their invoices, going to obtain copies of their cancelled checks, asking Respondent to hold off on the filing of suit, etc.

26. In reality, Mr. and Mrs. Krishnamurthy changed their residence without notifying Respondent of their forwarding address and obviously never furnished any cancelled checks.

27. Furthermore, said character was also established by the Amended Petition, Satisfaction of Judgment, and Dismissal of Garnishment filed by Arbor Consulting (Mr. Krishnamurthy's former employer).

28. Furthermore, as established in our Statement of Facts, pages 8-11, the Krishnamurthys are liars and deceivers and they have proven to Respondent, his daughter, and Mr. Kalayeh that they will stop at nothing to get what they want.

29. As Mr. & Mrs. Krishnamurthy are not persons of good moral character, they do **not** deserve the ***privilege***, as one does ***not have the right***, of becoming a U.S. Citizen.

30. Had Respondent revealed information he obtained during his representation of the Krishnamurthys, regarding their visas or their character, then Respondent would have violated said rule.

31. However, Counsel has ***never*** cited any act or fact that Respondent may have acquired ***while*** representing his clients that establishes he may have violated a Rule of Professional Conduct.

32. Hence, as Respondent did not reveal any information relating to his representation of the Krishnamurthys, he could not have violated said rule.

33. Furthermore, Respondent did not breach any attorney-client confidentiality in his communications with INS as he did not disclose any **confidential information** that the Krishnamurthys told him in confidence.

34. The Krishnamurthys **admitted** that INS already had on file their I-94 number, date of birth, social security number and alien number on file, as they voluntarily gave said information to INS when applying for INS benefits. **App. 23.**

35. The only information in said letter that INS did not have on file pertained to the Krishnamurthys' amoral character, which, as mentioned above, was acquired after

Respondent terminated his representation and this information was generally known via Mr. Krishnmaurthy's dealings with his former employer.

36. In 8 U.S.C.A. §1427(a)(3), a person seeking naturalization benefits must, “during all the period referred to in this subsection has been and still is a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States.” **App. 47.**

37. In fact, according to USCIS, naturalization is a “privilege,” “an honor to which only a select few are granted the ability to enjoy,” “the highest title our government can bestow on anyone.” **App. 57-59.**

38. “In *Solan v. United States, supra*, Judge Stone speaking for this court, said: ‘Character is what a man really is. Reputation is what the general run of people who know him think he is.’” *Ralich v. United States*, 185 F.2d 784, 786 (8th Cir. 1950) (citing *Solan v. United States*, 31F.2d 902, 906 (8<sup>th</sup> Cir. 1929)).

39. “As the term ‘character’ refers to qualities of the individual, any evidence, circumstantial or otherwise, bearing upon that question should be pertinent.” *Id.* at 786-787.

40. “The evidence of applicant’s past misconduct was relevant and properly considered for the purpose of determining whether in fact petitioner was a person of good moral character. . .” *Id.* at 787.

41. “There is no evidence of any penitence or moral reformation of character . . .” *Id.*

42. As the Krishnamurthys showed no penitence or moral reformation of their character, Respondent truly believed that they lacked the good moral character to obtain naturalization benefits.

43. Furthermore, Respondent does not want to see the Krishnamurthy cause any further harm to anyone else, as there are honest people in this country who deserve citizenship over them.

44. Thus, Respondent felt, as an officer of this court and as an advocate of immigrants in general, that he had a duty to inform INS of their amoral character to prevent the Krishnamurthys from harming anyone else in the future and simply told INS the *truth* about his former clients - that it is his sincere belief that they do not deserve the privilege of naturalization.

45. Finally, Informant characterizes the Krishnamurthys “ever escalating surcharges;” however, the Krishnamurthys held the key to their “ever escalating surcharges” as all the Krishnamurthys had to do to stop said charges was to pay Respondent what was rightfully owed him and, if they did not pay him, then Informant is correct, said surcharges would continue to accrue.

46. As Respondent did not reveal information *relating* to his representation of a the Krishnamurthys to INS, in his letter dated February 18, 2004, or breach any attorney-client confidentiality in his communications with INS, by disclosing any confidential information that the Krishnamurthys had told him, he did not violate said rule.

### 3. Rule 4-1.9(b)

47. Rule 4-1.9(b) states that, “A lawyer who has formerly represented a client in a matter shall not thereafter: (b) use information relating to the representation to the disadvantage of the former client *except . . .* when the information has become *generally known.*” (Emphasis added.)

48. Informant states that the disciplinary hearing panel believes Respondent has violated 4-1.9(b) in that Respondent used information relating to his representation of the Krishnamurthys to their disadvantage in that Respondent used the fee issue to prejudice the Krishnamurthys’ standing with the INS. (Emphasis added.)

49. Furthermore, the Informant’s brief states that, “Use of confidential information to a former client’s disadvantage puts the lawyer in a conflict of interest position with his former client, which is only permissible if the information has become “generally known.” Rule 4-1.9(b).” (Emphasis added.) **Informant’s Brief 17.**

50. As stated *supra*, in **Rule 4-1.6(a)**, Respondent did not reveal any information relating to his representation of the Krishnamurthys to their disadvantage or breach any attorney-client confidentiality in his communications with INS as he did not disclose any **confidential information** that the Krishnamurthys had told him in confidence.

51. The Informant’s brief cites to *In re Boeltner*, 139 Wash.2d 81, 985 P.2d 328 (banc 1999), *In re Lindenbaum v. State Bar*, 26 Cal.2d 565, 160 P.2d 9 (banc 1945), and *In re Aydelotte*, 206 A.D. 93, 95, 200 N.Y.S. 637 (N.Y. Sup. Ct. 1923) as instances where attorneys had been disciplined or suspended by the bar for threatening to reveal or

revealed confidential information they had learned in the course of representing their clients. (None of which were Missouri cases).

52. Here the distinction between said cases and Respondent's case is the lawyers in those cases threatened to reveal or revealed confidential information they had learned in the course of representing their clients, while in Respondent's case, Respondent did not use any confidential information that he learned in the course of representing his clients, he used only information he had learned after the termination of his representation of said clients.

53. Also, the comments of said rule states that, "Information acquired by the lawyer in the course of representing a client may not subsequently be used by the lawyer to the disadvantage of the client."

54. Furthermore, said rule provides for an exception, which states, "*except . . .* when the information has become generally known." (Emphasis added.)

55. As stated and evident in Rule 4-1.6(a), the Krishnamurthys' amoral character was generally known, as is evidenced by Mr. Kalayeh's suit against Mr. Krishnamurthy, his former employer, as well as the suits between the Krishnamurthys and Respondent and Respondent's daughter.

56. Hence, as the Krishnamurthy's amoral character became generally known, Respondent did not violate this rule as he did not use any information or confidential information relating to the representation of his former clients to their disadvantage, plus said information was generally known.

#### **4. Rule 4-7.5(f)**

57. Rule 4-7.5(f) states that, “Lawyers may state or imply that the practice in a partnership or other organizations only when that is the fact.”

58. Informant states that the disciplinary hearing panel believed Respondent violated Rule 4-7.5(f) in that Respondent held himself out as practicing in a partnership when the entity was never formed.

59. Respondent and his daughter did in fact begin an informal partnership in 2004, which was also terminated the same year.

60. They had began implementing steps to practice as a partnership by purchasing stationery to this effect and opening a bank account together. **Resp. App. 8-9.**

61. However, due to Respondent’s failing health, he decided to retire instead of starting something he could not finish.

62. Respondent did use the letterhead referencing “Lim & Lim” in early 2004, but did so inadvertently and with malice toward none.

63. Respondent did not use “Lim & Lim” stationery in an attempt to deceive anyone and in fact no one was deceived.

64. Counsel even reluctantly conceded that no one was harmed. **App. 71.**

## ARGUMENT

### II.

#### **THE SUPREME COURT SHOULD NOT SUSPEND RESPONDENT’S LICENSE FOR SIX MONTHS BECAUSE HE DID NOT VIOLATE ANY DUTIES TO HIS FORMER CLIENTS.**

1. Again, in Informant’s brief, it states that, “THE SUPREME COURT SHOULD SUSPEND RESPONDENT’S LICENSE WITH NO LEAVE TO APPLY FOR REINSTATEMENT FOR SIX MONTHS BECAUSE HE KNOWINGLY VIOLATED DUTIES TO HIS FORMER CLIENTS IN THAT HE SENT A DISPARAGING LETTER ALLEGING CONFIDENTIAL INFORMATION ABOUT THE CLIENTS TO A THIRD PARTY WITH THE INTENT TO HARM THEM.” (Emphasis added). Brief 20.

2. Also, Informant’s brief states that, “ABA Standard Rule 4.22 provides that “Suspension is generally appropriate when a lawyer knowingly reveals information relating to the representation of a client not otherwise lawfully permitted to be disclosed, and this disclosure causes injury or potential injury to a client.” ABA Standards for Imposing Lawyer Sanctions, Rule 4.22 (1992 amendments).” (Emphasis added.)

#### **Informant’s Brief 20.**

3. As mentioned numerous times above, *supra*, in **Rule 4-1.16(d)** and **Rule 4-1.9(b)**, Respondent did not reveal “information relating to the representation of a client not otherwise lawfully permitted to be disclosed.”

4. Furthermore, Respondent's letter may or may not cause injury or potential injury to the Krishnamurthys.

5. Respondent has no authority or influence over INS.

6. The Krishnamurthys have every right to rebut any and all statements Respondent made to INS.

7. Furthermore, INS may choose to disregard Respondent's letter altogether and grant benefits to the Krishnamurthys.

8. At Respondent's hearing he also stated that it was not until after he discover the pain and agony that Mr. Krishnamurthy put Mr. Arjomand Kalayeh, the owner of Arbor Consulting, through did he realize that the Krishnamurthys were of amoral character and Respondent did not want to anyone else to be harmed by the Krishnamurthys' lies and deception as the Krishnamurthys have proven to him, his daughter, and Mr. Arjomand Kalayeh time and time again that they will stop at nothing to get what they do not deserve.

9. Respondent's statement, "I took it upon myself to judge his character, but I felt at the time it was my prerogative as a practitioner, as his creditor, as an officer of the Court, as an immigration practitioner, to notify Immigration of his character. And if I had to do it all over again, I probably would do exactly the same thing" was not meant to be deliberate and mean-spirited or to show that Respondent was motivated by vindictiveness.

10. Said statement was made as it is the truth of the matter.

11. Respondent has spent a lot of time and money defending himself against the Krishnamurthys as they have filed a Counterclaim against him (which was dismissed); a four count Petition against him, in which two counts were dismissed for failure to state a claim; this disciplinary case against him; a federal court action against his daughter; and a disciplinary case against his daughter.

12. His said statement only goes to establish that Respondent truly believes that he did nothing wrong because if he were to do the exact same thing, with hindsight being 20-20, he would know the effects of his actions.

13. Furthermore, as mention in our Statement of Facts, pages 8-11, the Krishnamurthy are liars and deceivers and as they have proven to Respondent, his daughter, and Mr. Kalayeh that they will stop at nothing to get what they want.

14. Hence, as the evidence herein overwhelmingly establishes that the Krishnamurthys are liars and deceivers, and as they have proven this directly to Respondent, Respondent felt, as an officer of this court and as an advocate of all immigrants in general, that he had a duty to inform INS of their amoral character.

15. Furthermore, Respondent simply did not want the Krishnamurthys to be able to harm anyone else in the future.

16. A six-month suspension of Respondent's license and right to earn a livelihood is unusually harsh and extreme punishment for one letter, which divulged only post-representation information acquired.

17. Respondent has practiced law for over thirty (30) years and has received only one admonition.

18. Furthermore, the client who filed a complaint which resulted in said admonition even came back to Respondent asking that he complete more work for her.

19. Hence, if the only other client who filed a complaint against Respondent really believed Respondent deserved to be disciplined, then why would she return seeking additional work on her behalf?

20. The only reason said client filed a complaint against Respondent was because her new attorney needed an excuse to reopen her case after an Immigration Judge denied her relief; hence, the easiest solution was to argue ineffective assistance of counsel.

21. Respondent has never been suspended or disciplined for any charges similar to the allegations herein.

22. Respondent did the work for the Krishnamurthys, who signed a fee-representation agreement with him, and Respondent was only seeking what was rightfully due him.

23. The Krishnamurthys **admitted** that INS already had on file their I-94 number, date of birth, social security number, and alien number, as they voluntarily gave them this information when they applied for INS benefits. **App. 23.**

24. Hence, the only information in said letter that INS did not have on file pertained to the Krishnamurthys' amoral character, which, as previously mentioned, was acquired **after** Respondent terminated his representation and it was information **generally known** via Mr. Krishnamurthy's dealings with his former employer.

25. Respondent wrote the letter to United States Citizenship and Immigration Services to try to prevent anyone else from becoming a victim of the Krishnamurthys' lies and deceit.

26. However, now Respondent may be the one punished for speaking the truth and trying to prevent said harm to others.

27. Respondent became a lawyer to help people and he has never wavered from this goal.

28. Respondent have helped tens of thousands of immigrants, over the past three decades, especially those who could not afford to pay other lawyers' their outrageous fees.

29. Respondent has tried to make a difference and albeit he is retired, Respondent does not wish to have his name or his reputation besmirched.

30. Respondent does not deserve to be branded or labeled as a "suspended attorney."

31. Respondent respectfully requests that his file be thoroughly reviewed as Respondent should not be forced to end his thirty (30) year career with such a stain on his record.

## ARUGUMENT

### III.

#### **THE SUPREME COURT SHOULD NOT SUSPEND RESPONDENT'S LICENSE FOR SIX MONTHS BECAUSE THE ALLEGED FACTS DO NOT WARRANT SUCH DRACONIAN MEASURES.**

1. The Disciplinary Hearing Panel recommended Respondent be suspended from the practice of law for a period of six (6) months along with an admonition as to his violation of Rule 4-7.5(f); that Respondent complete six (6) hours of CLE credit dedicated to Ethics as a condition precedent to any reinstatement to the practice of law; that all conditions of reinstatement under Rule 5.28 apply if Respondent applies for reinstatement, and all costs be taxed to Respondent.

2. Said recommendation is onerous as Respondent's alleged actions do not call for such harsh sanctions.

3. In *In Re: Stanley L. Wiles*, 107 S.W.3d 228, 229 (Mo. 2003), the Supreme Court of Missouri suspended the attorney's license indefinitely, with leave to apply for reinstatement after six months. The suspension was stayed for one year and the attorney was placed on probation with conditions. *Id.*

4. Wiles had a longer disciplinary history, i.e. thirteen admonitions<sup>4</sup>, than Respondent herein and although his license was suspended indefinitely, he had the ability

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<sup>4</sup> Wiles was admonished in Missouri for four diligence rule violations (Rule 4-1.3), five communication rule violations (Rule 4-1.4), one safeguarding client property rule violation (Rule 4-1.15(b)), and one violation of the rule against engaging in conduct

to apply for reinstatement after six months, his suspension was stayed for one year and he was placed on probation.

5. “Rule 5.225(a) sets forth three factors to determine whether an attorney is eligible for probation. The first prong requires that the lawyer be ‘unlikely to harm the public during the period of probation’ and be ‘adequately supervised.’ Respondent, while committing several violations worthy of admonition in recent years, practiced law as a sole practitioner without reported incident for almost three decades prior to those admonitions. Respondent can be strictly monitored during the period of probation by the Chief Disciplinary Counsel. Accordingly, Respondent meets the first prong to be considered for probation.

“The second requirement for probation eligibility is that the lawyer be ‘able to perform legal services and ... [be] able to practice law without causing the courts or profession to fall into disrepute.’ As evidenced by his longstanding practice, Respondent possesses the required abilities to perform his duties as an attorney and his continued practice of law will not cause the courts or the profession to become the subject of disrepute. As such, Respondent meets the second requirement to be considered for probation.

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prejudicial to the administration of justice (Rule 4-8.4(d)). In the Kansas disciplinary action noted above, the Kansas Supreme Court indicated that Respondent had been given two prior admonitions in Kansas, though the dates and details are not provided.” *Id.* at 229.

“The final requirement to be eligible for probation is that the offending attorney ‘has not committed acts warranting disbarment.’ Here, Respondent's violations, while serious, do not rise to a level that would warrant disbarment. Accordingly, Respondent satisfies all requirements to be considered eligible to receive probation.” *Id.* at 229-230.

6. Furthermore, the Supreme Court of Missouri ordered six-month suspensions in four other cases where the facts in those cases were much more egregious than those alleged in Respondent’s case.

7. *In re: Raymond Howard*, 912 S.W.2d 61, 64 (Mo. 1995), the court ordered the indefinite suspension of the attorney's license to practice law with leave to apply for reinstatement after six months for violating Rules 1.7(b), 2.1 by attempting to force his female clients to prostitute themselves in exchange for legal services, and Rule 8.2(a) by knowingly making false statements about a judge.

8. *In Re: Donald C. Littleton*, 719 S.W.2d 772, 775-776 (Mo. 1986), the court found that the committee met its burden of proof with regard to allegations of improper sexual advancements by the attorney towards his client and that the attorney was guilty of misrepresenting the purpose for which he accepted the bond money because, after the money was not needed for the bond, he kept it as payment for his legal services.

9. The court further found that the cumulative nature of the attorney's misconduct was not appropriate for sanction. *Id.* at 778. The court ordered that the attorney be suspended from the practice of law indefinitely with leave to apply for reinstatement at the end of six months. *Id.* at 779.

10. Client contacted the local bar association, which held an arbitration that the attorney failed to attend. The arbitrator ruled that the attorney should refund the fee paid, and on his continuing delay the state bar notified him that it would proceed with a hearing if he did not explain his conduct. On his failure to respond, he was notified of an informal hearing. The attorney again did not appear, so the committee notified him by certified mail of a formal hearing, but the attorney again failed to attend. *Id.*

11. The court held that though the evidence did not demonstrate that the attorney was unfit to be at the bar, it did show that he clearly neglected his professional duties. *Id.* at 81. The court found that nothing in the record demonstrated prior professional misconduct and ordered that the attorney be suspended from the practice of law for six months. *Id.*

12. Professional misconduct must be established by a preponderance of the evidence in order for this Court to impose discipline. *In re Smith*, 749 S.W.2d 408, 410 (Mo. banc 1988).

## ARUGUMENT

### IV.

**THE SUPREME COURT SHOULD NOT DISCIPLINE  
RESPONDENT BECAUSE THE DISCIPLINARY COMMITTEE  
AND PANEL DEPRIVED HIM OF HIS PROCEDURAL DUE  
PROCESS BY NEVER INFORMING HIM SPECIFICALLY HOW  
THEIR RECOMMENDATION OF A SIX-MONTH SUSPENSION  
APPLIED TO EACH CANON OF ETHICS HE ALLEGELY  
VIOLATED MAKING IT VIRTUALLY IMPOSSIBLE FOR HIM TO  
KNOW HOW HE IS BEING PUNISHED FOR EACH CHARGE.**

1. Respondent is entitled to know specifically which Canon of Ethics he is being charged with violating and what is the related punishment. The said disciplinary committee and hearing panel never formally denoted how their recommended of a six-month suspension applies to the various allegedly violations stated in Informant's panel decision before this Court and this is clearly a violation of Respondent's procedural due process of law.

2. Respondent, like any defendant faced with the deprivation of his right to earn his livelihood, is entitled to know specifically how he is being punished. This is such a fundamental right and part and parcel of due process that it should be the *sine qua non* of this disciplinary case.

3. Respondent did not waive his right to know what he is being punished for as the panel's recommendation is such a essential part of this process. Respondent's

failure to demand such before the hearing panel does not constitute a waiver of this procedural due process right as this panel did not render its decision until May 18, 2006.

4. In fact, a review of the entire transcript of the said disciplinary hearing held on April 18, 2006, makes no reference whatsoever of any punishment for any specific canon of ethics Respondent allegedly violated.

5. To conduct disciplinary proceedings for approximately eighteen (18) months without stating the specific punishment for each rule or charge Respondent was found to have violated is a most egregious oversight. It is virtually impossible for any respondent to defend himself without specifically knowing what is his punishment.

6. For the panel to find Respondent guilty and then impose a blanket six-month suspension for all of his alleged violations is akin to putting the horse before the cart. Worse, yet, such a recommendation smacks of finding a defendant guilty first and then adjusting the charges to fit the punishment later on. At the risk of belaboring a point, it is so axiomatic that due process be afforded all Respondents that any and all findings by a panel which denies a person the right to know how he is being punished for each alleged violation taints and permeates the entire proceeding, rendering the whole process null and void.

## CONCLUSION

There is no conclusive evidence that Respondent has violated any of the rules he is accused of violating. More importantly, the facts herein do not warrant a six-month suspension or even an admonition for briefly using stationery in the name of “Lim and Lim,” as the Lims are father and daughter.

- Rule 4-1.16(d): Mr. Krishnamurthy was only the beneficiary of said labor certification. Hence, he was **not** legally entitled to said labor certification as **said certificate** belonged to the employer. Hence, Respondent did **not** violate said rule.
- Rules 4-1.6(a) and 4-1.9(b): Respondent did **not** reveal any confidential information regarding the Krishnamurthys as he revealed only information that he had learned about the Krishnamurthys **after** his representation was **terminated**, and said information was already **general known**. Hence, Respondent did **not** violate said rules.
- Rule 4-7.5(f): Respondent and his daughter started an informal practice in 2004, which also terminated in 2004 due to his failing health. Respondent inadvertently used said stationery and said stationery was **not** used with the intent to deceive or defraud anyone. Hence, no admonition is warranted here.
- Suspension for six months is **unusually cruel and extreme punishment** and clearly **not** warranted in this case for all the above-mentioned reasons.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 15th day of September, 2006, two copies of Respondent's Brief and a diskette containing the brief in Microsoft Word format have been sent via First Class mail to: Office of Chief Disciplinary Counsel, Ms. Sharon K. Weedon, Staff Counsel, 3335 American Avenue, Jefferson City, MO 65109.

**CERTIFICATION: RULE 84.06(c)**

I certify to the best of my knowledge, information and belief, that this brief:

1. Includes the information required by Rule 55.03;
2. Complies with the limitations contained in Rule 84.06(b);
3. Contains 8,214 words, according to Microsoft Word, which is the word processing system used to prepare this brief; and
4. That Norton Anti-Virus software was used to scan the disk for viruses and that it is virus free.

\_\_\_\_\_  
Priscilla J. Lim

**IN THE SUPREME COURT  
STATE OF MISSOURI**

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**IN RE:** )  
 )  
**EDGAR E. LIM,** ) **Supreme Court #SC87849**  
 )  
**Respondent.** )

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**RESPONDENT'S APPENDIX**

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