

1 Case Number: OBC20-1176



FILED

OCT 25 2021

STATE BAR OF NEVADA

BY: *[Signature]*
OFFICE OF BAR COUNSEL

7 STATE BAR OF NEVADA

8 SOUTHERN NEVADA DISCIPLINARY BOARD

9 STATE BAR OF NEVADA,)

10 Complainant,)

11 vs.)

12 SANDY VAN, ESQ.)

STATE BAR NO. 10785)

13 Respondent.)

PUBLIC REPRIMAND

14 _____)
15 TO: Sandy Van, Esq.

16 c/o Rob Bare, Esq.
17 Law Office of Rob Bare
18 150 Las Vegas Blvd N #1812
Las Vegas, NV 89101

19 Glenn Machado, Esq.
20 Reisman Sorokac
8965 South Eastern Avenue, Suite 382
Las Vegas, Nevada 89123

21 On or about January 17, 2017, Robert Guerette (“Robert”) retained you to represent
22 him in injuries he sustained in a vehicle accident. The vehicle that caused the accident was
23 driven by Cecil Stratton (“Stratton”) and owned by William and Maryann Gildas (“the
24 Gildas”). The Gildas had a \$15,000/\$30,000 liability policy on their vehicle with AAA
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1 Insurance. Stratton was also covered by his own \$100,000/\$300,000 liability policy with
2 Nationwide Insurance.

3 On March 22, 2017, AAA Insurance sent a "Release of All Claims" ("Release") to your
4 office for the policy limits of \$15,000 which proposed to release all claims against the Gildas
5 and Stratton, although the cover letter did reference that Stratton had a policy with
6 Nationwide and provided the claim number. Nationwide offered \$5,968 shortly thereafter,
7 but it was rejected by Robert as he needed more treatment.

8 You met with Robert sometime thereafter and advised him that the two policies
9 available to compensate him totaled \$115,000.

10 Robert died on August 6, 2017, from unrelated causes before agreeing to settle his
11 case. You were informed about Robert's death on or about August 8, 2017.

12 On August 10, 2017, you signed the AAA Release from AAA Insurance and settled
13 Robert's claim for \$15,000. Your signature on the AAA release also released any further
14 claims against Stratton. You failed to realize this when you signed the AAA release.

15 After Robert's death, you began communicating with Courtney Guerette
16 ("Courtney"), Robert's daughter, regarding Robert's estate.

17 Because you had not yet realized that the claims against Stratton had been released,
18 on November 11, 2017, you sent Nationwide a demand for policy limits. In response to the
19 demand, Nationwide requested additional records, including court documents identifying
20 the executor of Robert's Estate.

21 On September 17, 2018, Courtney met with another firm attorney who advised her
22 that if Nationwide did not offer its \$100,000 policy limits, the Estate would need to file suit
23 against Stratton. Courtney, as the administrator of Robert's Estate, signed a retainer
24 agreement with your office the same day. On September 26, 2018, Nationwide offered
25 \$16,694.24 to settle Robert's claim and Courtney rejected the offer.

1 On October 30, 2018, your office filed suit against Stratton and the Gildas on behalf
2 of Robert's Estate.

3 AAA Insurance retained attorney Daniel Curriden ("Curriden") to defend the Gildas
4 in the lawsuit. On or about December 13, 2018, Curriden sent an email to another lawyer
5 in your office following up on a conversation from the previous day in which he requested
6 that his clients be dismissed due to the signed Release.

7 You and your office reviewed the signed AAA Insurance Release and realized that it
8 released all defendants. Therefore, you signed a Voluntary Dismissal of the lawsuit on
9 January 24, 2019. The Voluntary Dismissal was filed on February 15, 2019.

10 Neither you, nor anyone else in your office, notified Courtney of the effect of the
11 release or the dismissal at the time that the voluntary dismissal was executed and filed.

12 Your office then began seeking reductions of Robert's liens. Between February 2019
13 and October 2019, your office attempted to meet with Courtney and asked her to sign forms
14 so that the Medicare liens could be negotiated. Courtney failed to keep multiple
15 appointments. At no time during this period did you, or anyone else in your office,
16 communicate to Courtney that the lawsuit had been dismissed or that the AAA Insurance
17 Release applied to all the defendants.

18 You failed to answer Courtney's late 2019 requests for information related to the
19 total amount recovered and potential disbursement breakdown.

20 On February 7, 2020, you represented to counsel for Robert's Estate that the "final
21 number" for settlement of Robert's claim was \$31,694.27 and the estate would receive
22 \$4,728.76. You did not indicate to the estate lawyer that there were no funds from
23 Nationwide.

24 You represented to Courtney that you had recovered \$115,000 on behalf of the
25 Estate, and the money would be disbursed as soon as Robert's Estate's attorney authorized

1 release. On February 18, 2020, Courtney emailed you questioning why you had not
2 provided her with anything to review or sign regarding the disbursement. Courtney
3 expressed concern that she was not getting the full story and wanted to make sure that “no
4 type of malpractice or malicious activity is going on.”

5 Your written response was to request to discuss her concerns on the phone, but “for
6 the malpractice issue you would only get the amount of the case being settled and this was
7 the top amount.” You also explained that the firm negotiated a Medicare lien and litigated
8 the case, which was a lot more work than settling a case in pre-litigation.

9 You also emailed Courtney a proposed settlement sheet which identified a 40
10 percent attorney fee because a lawsuit was filed.

11 During the February 2020 communications you did not tell Courtney that Stratton
12 had been released via the AAA Insurance Release that was executed in 2017.

13 In late February 2020, Courtney retained attorney Lukas McCourt (“McCourt”) to
14 represent the interests of the Estate moving forward because she feared some sort of
15 malpractice. On March 9, 2020, another lawyer in your office spoke to McCourt and
16 advised him that the firm had not settled the claim with Nationwide but believed that the
17 Estate would be entitled to claim contractual damages up to the amount of the \$100,000
18 value of the policy, less fees and costs as compensation for the mistake in releasing Stratton.
19 The lawyer informed McCourt that you were willing to pay that sum to replace the
20 Nationwide policy proceeds that could not be collected. This communication was the first
21 time Courtney heard that the Firm had been unable to settle the Nationwide claim.

22 On March 12, 2020, the other lawyer emailed McCourt and confirmed that the Firm
23 did not, and could not, recover on the \$100,000 Nationwide policy.

24 In August 2020, you remitted the \$15,000 from the AAA Insurance settlement to
25 McCourt to hold in trust for Robert’s Estate. On December 7, 2020, McCourt filed the

1 Complaint against you, your firm, and other lawyers that worked at your office alleging
2 malpractice. On or about April 15, 2021, you settled the malpractice lawsuit and it was
3 dismissed with prejudice.

4 Violations of the Rules of Professional Conduct

5 RPC 1.3 (Diligence) requires a lawyer to act with reasonable diligence in
6 representing a client. You knowingly violated RPC 1.3 when you failed to thoroughly review
7 the AAA Release which applied to both alleged tortfeasors. Your client was injured by your
8 failure, but such injury was remedied by the resolution of the malpractice lawsuit.

9 Pursuant to RPC 1.4 (Communication), a lawyer has a duty to (i) reasonably and
10 accurately communicate with a client so that informed decisions can be made in the
11 representation and (ii) respond to reasonable requests for information. Pursuant to RPC
12 8.4(c) (Misconduct), a lawyer also has a duty to refrain from engaging in conduct that
13 involves dishonestly, fraud, deceit, or misrepresentations.

14 You knowingly violated these obligations when you (i) failed to report to your client
15 that a claim had been extinguished, (ii) failed to respond to the client's requests for
16 information, and (iii) made misleading and/or dishonest statements in an effort to disguise
17 the inability to collect against the Nationwide policy and the voluntary dismissal of the
18 Complaint. This misconduct injured (i) your clients because of the delay in addressing the
19 claim and (ii) the integrity of the profession.

20 Application of the ABA Standards for Imposing Lawyer Sanctions

21 Pursuant to Standard 4.42 of the ABA Standards for Imposing Lawyer Sanctions,
22 the appropriate baseline sanction for your violation of RPC 1.3 (Diligence) is suspension.
23 Moreover, Standard 4.62 provides that suspension is the appropriate baseline sanction for
24 your knowing deception of a client that caused injury or potential injury to the client.

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1 **CERTIFICATE OF SERVICE**

2 The undersigned hereby certifies a true and correct copy of the **PUBLIC REPIRMAND** was
3 deposited electronically to:

- 4 1. Luke Puschnig, Esq. (Panel Chair): mercadans@cox.net
5 2. Rob Bare, Esq. (Counsel for Respondent): RobBare32@gmail.com
6 3. Glenn Machado, Esq. (Counsel for Respondent): gmachado@rsnvlaw.com
7 4. Emily Strand, Esq. (Counsel for Respondent): emily@fumolaw.com
8 5. Osvaldo Fumo, Esq. (Counsel for Respondent): ozzie@fumolaw.com
9 6. Kait Flocchini, Esq. (Assistant Bar Counsel): kaitf@nvbar.org

10 DATED this 26th day of October 2021.

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12 *Sonia Del Rio*
13 _____
14 Sonia Del Rio an employee of
15 the State Bar of Nevada.
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