



FILED

Aug 23, 2024

STATE BAR OF NEVADA

BY: *[Signature]*
OFFICE OF BAR COUNSEL

Case No.: SBN23-00615

STATE BAR OF NEVADA

SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
)
DAVID M. CROSBY, ESQ.,)
BAR NO. 3499)
)
Respondent.)

REPRIMAND

TO: David M. Crosby, Esq.
Fox, Imes & Crosby, LLC
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Las Vegas, NV 89101
crosbydmlaw@gmail.com

A disciplinary panel of the Southern Nevada Disciplinary Board reviewed this matter against you. We unanimously find that you violated Rule 3.1 (Meritorious Claims and Contentions) of the Nevada Rules of Professional Conduct (“RPC”). The misconduct, your mental state, the degree of injury, and a balancing of aggravating and mitigating circumstances requires us to issue a Reprimand with some conditions to ensure your professionalism and adherence to our ethical standards as attorneys. We encourage you to take appropriate action to prevent similar misconduct in the future.

Application Of Attorney Discipline

The Annotated Standards for Imposing Lawyer Sanctions (2019 ed.) (“ABA Standard”) state that when imposing a sanction, a disciplinary panel should consider the

1 following factors: (1) the duty violated; (2) the lawyer’s mental state; (3) the actual or
2 potential injury caused by the lawyer’s misconduct; and (4) the existence of aggravating or
3 mitigating circumstances. ABA Standard 3.0. Pursuant to Rule 102.5 of the Nevada Supreme
4 Court Rules (“SCR”), a disciplinary panel will consider the first three factors to determine a
5 baseline sanction and then consider any aggravating or mitigating circumstances to increase
6 or decrease that sanction. SCR 102.5(2).

7 **Misconduct**

8 RPC 3.1 (Meritorious Claims and Contentions) states in relevant part the following:
9 “[a] lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein,
10 unless there is a basis in law and fact for doing so that is not frivolous, which includes a good
11 faith argument for an extension, modification or reversal of existing law.”

12 In this matter, you violated RPC 3.1 (Meritorious Claims and Contentions) by seeking
13 and obtaining a district court order in a probate matter to transfer a fifty-percent interest in
14 real property that the petitioner was not entitled to receive. The decedent in this matter had
15 previously filed a disclaimer of title to the real property, which was the “sole and separate
16 property” of his wife who predeceased him by fourteen (14) days. You filed petitions on
17 behalf of both husband and wife. However, the real property belonged to the wife as “[a]n
18 Unmarried Woman” per the disclaimer of title. The husband’s estate was not entitled to a
19 fifty-percent interest in the real property but to a share of the community property from the
20 wife’s estate in the separate probate matter. Your prayer of relief for a fifty-percent interest
21 of the real property itself in the husband’s estate was therefore not based in fact or law.

22 **Mental State**

23 A respondent acts negligently if he fails “to heed a substantial risk that circumstances
24 exist or that a result will follow, which failure is a deviation from the standard of care that a
25 reasonable lawyer would exercise in this situation.” ABA Standard, p. xxi. In this matter, you

1 negligently asserted a claim without a basis in law and fact that was not frivolous based upon
2 the contents of the petition, your prayer for relief, and the corresponding order. You could
3 have pled the husband's petition—by your own admission—more clearly to avoid this
4 mistake. The court's consideration of the husband's petition before resolving the wife's
5 petition further compounded this mistake. Since you filed both petitions on behalf of
6 husband and wife, this mistake was still yours and you took responsibility for it.

7 **Injury**

8 An injury can range from “serious or potentially serious” to “little or no actual or
9 potential” injury. ABA Standard, pp. 138–39. In this matter, you caused an injury to another
10 party and/or interference with a legal proceeding. The injury was not “serious or potentially
11 serious” but was greater than “little or no actual or potential” injury. New counsel for the
12 wife's estate was required to file a motion to reopen the husband's estate to unwind the
13 wrongful order. This required added litigation, attorney's fees, costs, and court resources.
14 To your credit, you eventually signed a stipulation and order approving the commissioner's
15 report and recommendation to grant the motion to set aside the estate and accept that you
16 and/or your client are required to pay fees and costs for the added litigation.

17 **ABA Baseline Sanction**

18 Based upon the conduct above, your state of mind, and the injury, the baseline
19 sanction for this matter is a Reprimand. ABA Standard 6.23 states that a Reprimand is
20 generally appropriate when a lawyer negligently fails to comply with a court order or rule
21 and causes injury or potential injury to a client or other party or causes interference or
22 potential interference with a legal proceeding.

23 **Aggravating & Mitigating Circumstances**

24 Although your substantial experience in the practice of law is an aggravating
25 circumstance, your absence of a prior disciplinary record is a mitigating circumstance

1 pursuant to SCR 102.5. A balancing of these two circumstances does not warrant an upward
2 or downward deviation from the ABA baseline sanction: a Reprimand.

3 **Reprimand**

4 In light of the foregoing, you violated RPC 3.1 (Meritorious Claims and Contentions)
5 and are hereby REPRIMANDED. You are ordered to complete twelve (12) additional hours
6 of CLE before August 6, 2025 and submit proof of completion to the Office of Bar Counsel.
7 You shall complete six (6) additional CLE hours in ethics / professional conduct and six (6)
8 additional CLE hours in probate law, which is intended to protect the public and increase
9 the integrity of the legal profession pursuant to SCR 102(2). You are also ordered to pay
10 costs, provided for in SCR 120, in the amount of \$1,500 plus the hard costs of the court
11 reporter and Nationwide Legal Nevada LLC within thirty (30) days after the filing of an order
12 accepting your admission.

13 DATED this _____ day of August, 2024.

14 **SOUTHERN NEVADA DISCIPLINARY BOARD**

15 *Thomas R Sheets*

16 By: Thomas R Sheets (Aug 20, 2024 16:15 PDT)

17 Thomas R. Sheets, Esq.

18 Bar No. 779

19 Formal Hearing Panel Chair
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