

Bar Counsel Report

In Re: JUDE E. NAZARETH
Bar No.: 10695
Case No.: 85325
Filed: 11/17/2022

ORDER OF SUSPENSION

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that attorney Jude E. Nazareth be suspended from the practice of law for six months for violating RPC 1.1 (competence), RPC 1.2 (scope of representation and allocation of authority between client and lawyer), RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.5 (fees), RPC 1.15 (safekeeping property), RPC 1.16 (declining or terminating representation), RPC 3.2 (expediting litigation), and RPC 8.1 (Bar admission and disciplinary matters).

Nazareth and the State Bar originally entered into a conditional guilty plea agreement in which Nazareth admitted to the facts and violations alleged in the disciplinary complaint. The hearing panel rejected the parties' agreed-upon discipline – a stayed six-month suspension – and instead recommended an actual six-month suspension. At the hearing, Nazareth accepted this change to the agreed-upon discipline. Under these circumstances, we treat as admitted the facts and above-listed violations.¹ The record therefore establishes that he violated the above-cited rules by failing to perform work for two clients, including appearing at a court hearing and filing documents; failing to keep the clients apprised of the status of their cases or otherwise respond to client communications; and failing to respond to State Bar inquiries.

The issue for this court is whether the agreed-upon discipline sufficiently protects the public, the courts, and the legal profession. See *State Bar of Nev. v. Claiborne*, 104 Nev. 115, 213, 756 P.2d 464, 527-28 (1988) (explaining the purpose of attorney discipline). In determining the appropriate discipline, we weigh four factors: “the duty violated, the lawyer’s mental state, the potential or actual injury caused by the lawyer’s misconduct, and the existence of aggravating or mitigating factors.” *In re Discipline of Lerner*, 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (2008).

Nazareth admitted that he knowingly violated duties owed to clients and to the profession. Two clients suffered injury and further potential injury when Nazareth failed to diligently complete the work for which they hired him.² Further, his actions caused harm to the legal profession. The baseline sanction for such misconduct, before considering aggravating or mitigating circumstances, is disbarment. Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and*

Standards, Standard 4.41 (Am. Bar Ass’n 2018) (providing that disbarment is appropriate “when a lawyer abandons the practice,” “knowingly fails to perform services for a client,” or “engages in a pattern of neglect with respect to client matters,” causing “serious or potentially serious injury to a client”). The record supports the panel’s findings of two aggravating circumstances (substantial experience in the practice of law and multiple offenses) and four mitigating circumstances (absence of a prior disciplinary record, absence of a dishonest or selfish motive, personal problems, and remorse for his actions). Considering all four factors, we conclude that the discipline agreed upon at the discipline hearing is appropriate.

Accordingly, we hereby suspend Jude E. Nazareth for six months commencing from the date of this order. Nazareth shall also pay the costs of the disciplinary proceedings, including \$1,500 under SCR 120, within 30 days from the date of this order if he has not done so already.³ The parties shall comply with SCR 115 and SCR 121.1.

It is so ORDERED.⁴

In Re: ROBERT L. BACHMAN
Bar No.: 5860
Case No.: 85456
Filed: 11/17/2022

ORDER APPROVING CONDITIONAL GUILTY PLEA AGREEMENT

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that this court approve, pursuant to SCR 113, a conditional guilty plea agreement in exchange for a stated form of discipline for attorney Robert L. Bachman. Under the agreement, Bachman admitted to violating RPC 1.4 (communication), RPC 1.5 (fees), RPC 1.16 (declining or terminating representation), RPC 5.3 (responsibilities of nonlawyer assistants), and RPC 5.4 (professional independence of a lawyer). He agreed to a six-month suspension stayed during a one-year probationary period with conditions.

Bachman has admitted to the facts and violations as part of his guilty plea agreement. The record therefore establishes that he violated the above-cited rules by allowing nonlawyers to meet with two of his clients and handle their cases, by including in his retainer agreement with those clients that retainer deposits were nonrefundable, by including in the retainer that a company that was not a law firm would perform the services the clients hired him for, and by failing to communicate with the clients regarding the status of their cases.

The issue for this court is whether the agreed-upon discipline sufficiently protects the public, the courts, and the legal profession. See *State Bar of Nev. v. Claiborne*, 104 Nev. 115, 213, 756 P.2d 464, 527-28 (1988) (explaining the purpose of attorney discipline). In determining the appropriate discipline, we weigh four factors: “the duty violated, the lawyer’s mental state, the potential or actual injury caused by the lawyer’s misconduct, and the existence of aggravating or mitigating factors.” *In re Discipline of Lerner*, 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (2008).

Bachman admitted that he knowingly violated duties owed to clients, the public, and to the legal system. Two clients suffered injury or potential injury by paying Bachman for legal services he never provided. The baseline sanction for such misconduct, before considering aggravating or mitigating circumstances, is suspension. Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and Standards*, Standard 4.42 (Am. Bar Ass’n 2018) (providing that suspension is appropriate “when a lawyer knowingly fails to perform services for a client and causes injury”), Standard 7.2 (providing that suspension is appropriate “when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system”). The record supports the panel’s findings of two aggravating circumstances (multiple offenses and a vulnerable victim) and one mitigating circumstance (absence of a prior disciplinary record). Considering all four factors, we conclude that the agreed-upon discipline is appropriate.

Accordingly, we hereby suspend Robert L. Bachman for six months, stayed during a one-year probationary period commencing from the date of this order and subject to the following conditions: Bachman provides quarterly reports to the State Bar to include a list of firm employees and responsibilities, and an explanation of how those employees are trained to perform their responsibilities. The report will also include a review of the procedures used when working with the company Debt Solution Services to ensure any legal work required to be performed by that company is done by respondent or another attorney. Bachman will also update his retainer agreement and submit it to the State Bar for review before the probationary term expires. Finally, Bachman shall pay the costs of the disciplinary proceedings, including \$2,500 under SCR 120, before the probationary term expires.⁵ The State Bar shall comply with SCR 121.1.

It is so ORDERED.⁶

In Re: STEVE E. EVENSON
Bar No.: 4596
Case No.: SBN21-99198
Filed: 10/27/2022

PUBLIC REPRIMAND

To Steve E. Evenson:

Courtroom Decorum

In multiple matters you engaged in conduct that exceeded the bounds of advocacy, thereby violating Rule 3.5 (Impartiality and Decorum of the Tribunal) and Rule 8.4(d) (Misconduct- prejudicial to the administration of justice) of the Nevada Rules of Professional Conduct (“RPC”). This included instances when you called the opposing party derogatory names in open court and, without sufficient supporting information, accused opposing counsel of coaching a witness. You acknowledged at the time you engaged in this conduct that it was inappropriate.

A courtroom is a place for intellectual and orderly resolution of conflicts. Decorum and civility are required to “maintain respect for the institution of the court and the rule of law so that people need not feel that they must resort to brute force, mob action, street brawls, or domestic disturbances in order to seek and obtain justice.” *Office of Disciplinary Counsel v. Breiner*, 89 Haw. 167, 173, 969 P.2d 1290 (Haw. 1999). Lawyers are entrusted, as officers of the court, to advocate on behalf of their clients zealously, yet civilly. Lawyers should assist clients in asserting how the law applies to their particular facts without reducing the discussion to the equivalent of the barroom brawl.

Your misconduct in the aforementioned matters did not advance your client’s position in the litigation, thus potentially injuring your client. Your conduct injured the integrity of the profession by implying that lashing out with name-calling and unfounded accusations is appropriate in a judicial proceeding. Your conduct also injured the efficiency of the judiciary by requiring the court to address the obstreperous behavior instead of focusing on resolving your clients’ disputes.

Failure to Abide by Court Direction

In more than ten separate instances between 2018 and 2021, you failed to timely submit a proposed Order to the Court in pending matters. This failure resulted in many subsequent directives from the Court seeking submission of the requested Order. At times, the Court turned to the other party for the proposed Order. In one instance, your client’s request for relief was granted

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and you failed to submit the proposed Order. The Court directed the opposing party to submit the Order. The Court included an additional ruling, which technically extended the time for your client to file an Answer in the matter, and you objected to the entire Order arguing that your client was denied her right to appeal that order in which she prevailed and which stated that your client needed to file an Answer.

Your conduct violated RPC 8.4(d) and was prejudicial to the administration of justice. Your clients were injured by the delay in resolution of their proceedings. Your misconduct also injured the efficiency of the judiciary by requiring the court to repeatedly seek to finalize matters which had already been decided.

Application of the ABA Standards for Imposing Lawyer Sanctions

Standard 6.22 of the ABA Standards for Imposing Lawyer Sanctions states:

Suspension is generally appropriate when a lawyer knows that he or she is violating a court order or rule, and causes injury or potential injury to a client or a party, or causes interference or potential interference with a legal proceeding.

Your knowing violation of RPC 3.5 and RPC 8.4(d) caused injury, or potential injury to your clients, and caused interference, in the form of distraction and delay, with the legal proceeding.

The Panel finds that your lack of prior discipline over a 30-year career practicing law and your acceptance of responsibility for your misconduct warrant a downward deviation from the baseline sanction of suspension to issuance of a Public Reprimand.

PUBLIC REPRIMAND

In light of the foregoing, you violated Rule of Professional Conduct (“RPC”) 3.5 (Impartiality and Decorum of the Tribunal) and RPC 8.4(d) (Misconduct-prejudicial to the administration of justice) and are hereby PUBLICLY REPRIMANDED.

You are also ordered to pay SCR 120 Costs in the amount of \$1,500 plus the hard costs of this proceeding no later than the 30th day after the Panel’s Order issues.

In Re: BRYON THOMAS
Bar No.: 8906
Case No.: SBN22-00261
Filed: 11/18/2022

LETTER OF REPRIMAND

To Bryon Thomas:

Tracy Lee Castl filed a *pro se* Notice of Appeal in the Nevada Supreme Court in January 2021. She was appealing an Eighth Judicial District Court judgment.

Ms. Castl requested, and received, two extensions to file opening briefs. She then hired you to represent her in the appeal. On October 4, 2021, you filed a Notice of Appearance and a third motion for an extension to file the opening brief. The Nevada Supreme Court granted the extension and directed you to file and serve the opening brief by December 3, 2021.

On December 3, 2021, you filed a fourth motion for an extension to file the opening brief. The Nevada Supreme Court granted the extension and directed you to file and serve the transcript request form by December 23, 2021, and to file and serve the opening brief by January 28, 2022.

On February 14, 2022, you filed an untimely fifth motion for an extension of thirty days to file the opening brief. On February 22, 2022, the Nevada Supreme Court denied the motion and directed you to file and serve the opening brief within seven days. The Nevada Supreme Court also warned you that failure to timely file the opening brief could result in sanctions, including dismissal of your client’s appeal.

On March 1, 2022, you filed a sixth motion for an extension of thirty days to file the opening brief. On March 10, 2022, the Nevada Supreme Court denied the motion and directed you to file and serve the opening brief within seven days. The Nevada Supreme Court again warned you that failure to timely file the opening brief could result in sanctions, including dismissal of your client’s appeal.

On March 17, 2022, you filed a seventh motion for an extension of thirty days to file the opening brief. On March 29, 2022, the Nevada Supreme Court denied the motion and directed you to file and serve the opening brief by April 5, 2022. The Nevada Supreme Court also warned you that failure to timely file the opening brief could result in sanctions, including dismissal of the appeal.

On April 7, 2022, you filed an eighth motion for an extension of thirty days to file the opening brief. On April 18, 2022, the Nevada Supreme Court denied the motion and imposed a conditional sanction. You were directed to pay \$250 to the Supreme Court Law Library and provide proof of payment to the Nevada Supreme Court by May 2, 2022. The sanction would automatically be

vacated if you filed the opening brief and any appendix by April 25, 2022. The Nevada Supreme Court warned you that failure to file by opening brief by the April 25, 2022, deadline would result in dismissal of the appeal and possible referral of you to the State Bar of Nevada for a disciplinary investigation.

On April 27, 2022, the respondent's counsel in this appellate matter filed a motion to dismiss based in part on your failure to file an opening brief. The respondent referenced the Nevada Supreme Court's order of April 18, 2022, which stated that failure to timely file the opening brief would result in dismissal of the appeal.

On May 2, 2022, you filed proof of payment of \$250 to the Supreme Court Law Library. On May 4, 2022, you obtained a telephonic extension of time, until May 18, 2022, to respond to the respondent's motion to dismiss.

You filed neither the opening brief nor a response to the motion to dismiss.

On May 13, 2022, the Nevada Supreme Court entered an order which dismissed Ms. Castl's appeal and referred you to the State Bar for investigation.

Accordingly, you are hereby Reprimanded for violating Rule of Professional Conduct 1.3 (Diligence), RPC 3.2 (Expediting Litigation), RPC 3.4(c) (Fairness to Opposing Party and Counsel), and RPC(d) (Misconduct: Engaging in conduct prejudicial to the administration of justice). Finally, in accordance with Nevada Supreme Court Rule 120 (Costs) you are assessed costs in the amount of \$1,500.

In Re: ELLIOTT D. YUG
Bar No.: 5172
Case No.: SBN21-99266
Filed: 10/07/2022

LETTER OF REPRIMAND

To Elliott D. Yug:

In June 2019, Elliott Freer retained you to represent him in a child custody case.

The initial retainer of \$3,200, half of which Mr. Freer paid immediately with a credit card, was processed through your normal operating account at Nevada State Bank. You then transferred the \$1,600 received to another non-IOLTA account, despite not having rendered any services to the client as of that date.

In December 2019, the mother filed a motion to relocate the child. You sent Mr. Freer an email dated December 18, 2019, confirming that you would withdraw as his attorney, leaving Mr. Freer himself to file the opposition due just five (5) days later on December 23, 2019. However, you did not file a motion to withdraw.

Mr. Freer filed the opposition. However, because you

had not withdrawn as his attorney, subsequent pleadings and a court order were sent to you.

You and Mr. Freer appeared together at a hearing on January 28, 2020. The court instructed you to prepare the order from the hearing with specific findings of fact. However, you failed to prepare the order from January 28, 2020, hearing as directed by the court. At the time, you still had not formally withdrawn from the representation.

The court directed you to file three (3) more orders following subsequent hearings. Once again, you failed to file two (2) of the orders, and you did not file the third order in a timely manner. You still were the attorney of record for Mr. Freer for the matter.

You also failed – for a period – to adequately communicate with your client, and Mr. Freer temporarily lost contact with you. Although the case was closed in December 2021, you never withdrew and still are listed as his attorney-of-record.

Accordingly, you are hereby Reprimanded for violating Rule of Professional Conduct 1.3 (Diligence), RPC 1.4 (Communication), RPC 1.15 (Safekeeping Property), RPC 1.16 (Declining or Terminating Representation), and RPC 3.4(c) (Candor to the Tribunal: knowingly disobeying an obligation to a tribunal). Finally, in accordance with Nevada Supreme Court Rule 120 (Costs) you are assessed costs in the amount of \$1,500.

In Re: BYRON A. BERGERON
Bar No.: 7598
Case No.: SBN22-00348
Filed: 11/03/2022

LETTER OF REPRIMAND

To Byron A. Bergeron:

A Screening Panel of the Northern Nevada Disciplinary Board has reviewed the above-referenced grievances and unanimously determined that a Letter of Reprimand be issued for violations of Rule 3.2 (Expediting Litigation) and RPC 3.4 (Fairness to Opposing Party and Counsel) of the Rules of Professional Conduct ("RPC").

Grievances

You were retained to defend a client in two criminal matters pending in Sparks Justice Court. You were paid a total of \$9,500 of a \$15,000 flat fee for the representation. Your fee agreement asserted that the fee is "earned" upon receipt. The client wanted a swift resolution of the matters.

You filed appearances in the criminal matters and then, during the next three months, failed to appear at five separate status hearings between the two

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matters. You did appear at a December 29, 2021, Zoom hearing because the client's spouse came to your office and insisted that you appear. A Preliminary Hearing was set for the two matters during that status hearing. You have asserted that you intentionally failed to appear at the earlier status hearings because you were trying to delay adjudication of your client's matters. This is directly contrary to the client's express desires.

You withdrew from both matters approximately one month after your single actual appearance and before the Preliminary Hearings were scheduled to occur. Your client was then assigned a Public Defender for the two matters.

Six months after you withdrew, and after the client and spouse filed a fee dispute, you returned the \$9,500 you were paid for the representation.

Violation of the Rules of Professional Conduct

Your conduct related to representation of the foregoing client, violated Nevada Rules of Professional Conduct ("RPC") as follows:

RPC 3.2 (Expediting Litigation) for knowingly failing to advance the two criminal matters consist [sic] with the client's intention to resolve them swiftly. Your failure to appear at hearings resulted in at least a three-month delay of the proceedings.

RPC 3.4(d) (Fairness to Opposing Party and Counsel- obeying order of tribunal) for knowingly failing to appear at multiple court hearings. Your failure to appear at the hearings, or request that they be continued, resulted in the court needlessly dedicating time and energy to setting and cancelling multiple hearings.

Application of the ABA Standards for Imposing Lawyer Sanctions

Standard 4.42 provides that "suspension is generally appropriate when [] a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client." In this instance, you knew of your obligations to appear and your client's intention to expedite the matters.

While your conduct did not cause actual injury to the client, it resulted in a delay in the adjudication of the matters. Your conduct did cause injury to the efficiency of the judiciary and the integrity of the profession. This is particularly concerning to the Panel considering the access to justice; the courts spent valuable time addressing matters where you failed to appear when it could have heard other citizens' matters.

The Screening Panel acknowledges that you did not have a dishonest or selfish motive when you engaged in the misconduct and that you do not have any related

prior discipline. These mitigating factors warrant a downward deviation from the sanction of suspension to issuance of this reprimand.

Reprimand

Based upon the foregoing, you are hereby REPRIMANDED for your violations of RPC 3.2 (Expediting Litigation) and RPC 3.4 (Fairness to Opposing Party and Counselobeying order of tribunal). Finally, in accordance with Nevada Supreme Court Rule 120 you are assessed costs in the amount of \$1,500.

ENDNOTES:

1. In future cases where an attorney accepts the hearing panel's proposed change to a conditional guilty plea agreement, best practices would be for the State Bar and the attorney to enter into an amended conditional guilty plea agreement reflecting those changes that becomes part of the record submitted to this court pursuant to SCR 113.
2. Nazareth fully refunded one of the clients.
3. While SCR 120 provides that costs for a suspension are \$2,500, Nazareth and the State Bar agreed to limit such costs to \$1,500 for this matter.
4. The Honorable Mark Gibbons, Senior Justice, participated in the decision of this matter under a general order of assignment.
5. The plea agreement permitted Bachman to pay the costs of the proceedings over the term of his probationary period.
6. The Honorable Mark Gibbons, Senior Justice, participated in the decision of this matter under a general order of assignment.

TIP

FROM THE BAR COUNSEL

Zealous, but Civil

A courtroom is a place for intellectual and orderly resolution of conflicts. Decorum and civility are required to **“maintain respect for the institution of the court and the rule of law so that people need not feel that they must resort to brute force, mob action, street brawls, or domestic disturbances in order to seek and obtain justice.”** *Office of Disciplinary Counsel v. Breiner*, 89 Haw. 167, 173, 969 P.2d 1290 (Haw. 1999). Lawyers are entrusted, as officers of the court, to advocate on behalf of their clients zealously, yet civilly.

Each lawyer that is admitted to the State Bar of Nevada affirms:

“I will maintain the respect due to courts of justice and judicial officers;

“I will support, abide by and follow the Rules of Professional Conduct as are now or may hereafter be adopted by the Supreme Court;

“I will conduct myself in a civil and professional manner, whether dealing with clients, opposing parties and counsel, judicial officers or the general public, and will promote the administration of justice; and

“I will faithfully and honestly discharge the duties of an attorney at law to the best of my knowledge and ability.”

In addition, RPC 3.5 states that “A lawyer shall not engage in conduct intended to disrupt a tribunal.” Name calling or contemptuous language, including body language, will not advance your client’s cause. At best, it will result in a short-term win that will be overruled or undone when heads are cooler. At worst, it will result in greater expense and stress for your client without achieving the ultimate desired success.

An ethical lawyer learns to assert arguments in a respectful and fair manner. It is also important to develop a strategy to explain to your client why disrespectful and unethical behavior will not be successful in the end. Lawyers are not simply “hired guns” who parrot their clients’ most vitriolic opinions. Rather, lawyers should use their specialized training and experience to assist clients in asserting how the law applies to their particular facts without reducing the discussion to the equivalent of the barroom brawl. The clients, the efficiency of the judicial system, and the public’s perception of the legal system will all benefit from civil lawyering.

We might be the “Wild West,” but we do not need to be that wild.

