

Bar Counsel Report

In Re: MICHAEL R. PANDULLO
Bar No.: 10707
Case No.: 89530
Filed: 03/06/2025

ORDER OF CONDITIONAL REINSTATEMENT

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation to conditionally grant suspended attorney Michael R. Pandullo's petition for reinstatement. As no briefs have been filed, this matter stands submitted for decision based on the record. SCR 116(6).

In March 2020, we suspended Pandullo from the practice of law for six months and one day. *In re Discipline of Pandullo*, No. 79873, 2020 WL 1492131 (Nev. Mar. 23, 2020) (Order of Suspension). The suspension order required that, before seeking reinstatement, Pandullo participate in the Nevada Lawyers Assistance Program (NLAP) and comply with any treatment recommendations, pay restitution, and pay the costs of the Bar proceedings. *Id.* In October 2020, Pandullo petitioned for reinstatement, but we denied the petition based on Pandullo's failure to demonstrate by clear and convincing evidence that he satisfied the SCR 116(5) reinstatement criteria. *In re Reinstatement of Pandullo*, No. 82733, 2021 WL 3101269 (Nev. Jul. 21, 2021) (Order Denying Reinstatement). In 2024, after fully complying with the terms of our March 23, 2020, order, Pandullo again petitioned for reinstatement. Following hearings, the panel entered findings of fact, conclusions of law, and a unanimous recommendation to reinstate Pandullo, subject to certain conditions.

Based on our de novo review, we agree with the panel's conclusions that Pandullo has satisfied his burden in seeking reinstatement by clear and convincing evidence. SCR 116(5); *Application of Wright*, 75 Nev. 111, 112-13, 335 P.2d 609, 610 (1959) (reviewing a petition for reinstatement de novo). We also approve the conditions of reinstatement as recommended by the hearing panel, summarized as follows. First, for one year after reinstatement, Pandullo must (1) continue treatment with the current treatment provider or a provider of similar licensure and follow all treatment recommendations; (2) submit quarterly reports to the Bar from the treatment provider regarding treatment progress; and (3) submit to random drug testing at least monthly for the first six months and at least every two months for the second six months. Second, for one year after reinstatement, Pandullo must meet with a Bar-approved mentor on a monthly basis to discuss Pandullo's calendar, workload, stress levels and stress management, goals, and other relevant issues. The mentor shall provide guidance to Pandullo to assist him in maintaining his law practice, and Pandullo must ensure that the mentor submits monthly progress reports to the Bar. Pandullo must also pay the costs of the reinstatement proceeding, including \$2,500 under SCR 120, within 30 days from the date of this order, if he has not done so already.

With these conditions, we hereby reinstate Michael R. Pandullo to the practice of law in Nevada effective on the date of this order. See SCR 116(9) (allowing for conditions on reinstatement).

It is so ORDERED.

In Re: ELAINE A. DOWLING
Bar No.: 8051
Case No.: 90209
Filed: 04/10/2025

ORDER OF REINSTATEMENT

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's unanimous recommendation to reinstate suspended attorney Elaine A. Dowling. As no briefs have been filed, this matter stands submitted for decision on the record. SCR 116(6).

This court suspended Dowling from the practice of law for one year based on violations of RPC 5.5 (unauthorized practice of law), RPC 1.3 (diligence), RPC 1.15 (safekeeping property), and RPC 8.1 (bar admission and disciplinary matters). *In re Discipline of Dowling*, No. 85767, 2023 WL 2604977 (Nev. Mar. 22, 2023) (Order of Suspension). After completing the suspension and complying with the disciplinary order's conditions, Dowling petitioned for reinstatement. Following a hearing, the panel unanimously recommended that this court reinstate Dowling subject to certain conditions.

Based on our de novo review, we agree with the panel's conclusion that Dowling satisfied the burden of showing qualifications for reinstatement by clear and convincing evidence. See SCR 116(5) (providing that an attorney seeking reinstatement must demonstrate compliance with certain criteria "by clear and convincing evidence"); *Application of Wright*, 75 Nev. 111, 112-13, 335 P.2d 609, 610 (1959) (reviewing a petition for reinstatement de novo). We also approve the following four conditions, as recommended by the hearing panel. Dowling shall (1) obtain an approved mentor within 30 days from the date of this order, maintain the mentorship relationship for one year with in-person meetings at least monthly to discuss issues outlined in the hearing panel's recommendation, and provide quarterly reports to the State Bar countersigned by the mentor; (2) not engage in the solo practice of law for two years; (3) not have access to a client trust account for two years; and (4) complete all HandleBar learning modules and review the State Bar's trust accounting manual within one year. Additionally, Dowling shall pay the costs of the reinstatement proceeding, including \$2,500 under SCR 120, within 30 days from the date of this order if she has not done so already.

With these conditions, we hereby reinstate Elaine A. Dowling to the practice of law in Nevada effective on the date of this order. See SCR 116(9) (allowing for conditions on reinstatement).

It is so ORDERED.

Bar Counsel Report

Case No.: SBN24-00364
Filed: January 10, 2025

ADMONITION

To [Attorney]:

On December 10, 2024, a Screening Panel of the Southern Nevada Disciplinary Board considered a grievance against your practice conduct. In May 2024, the Nevada Supreme Court directed the State Bar to investigate your handling of an appeal before the court. The investigation revealed the following:

You were retained to provide a defense of a client in a 2019 civil matter in a Clark County District Court. Your client later engaged you to file an appeal to an adverse District Court judgment in June 2023. You timely filed an appeal as counsel of record. The Nevada Supreme Court referred the matter to a settlement program.

In mid-October 2023, the Nevada Supreme Court issued an Order Reinstating Briefing after the settlement effort failed. The order recited that your client's opening brief and appendix would be due mid-January 2024. You timely advised the court that no transcripts were needed. You did not, however, file the opening brief and appendix.

In late February 2024, the Nevada Supreme Court issued an order directing the filing of the overdue brief and appendix within seven days. This order noted: "Failure to comply may result in the imposition of sanctions, including dismissal of this appeal and referral of counsel ... to the State Bar for investigation." You did not file the opening brief and appendix as directed.

In mid-March 2024, the Nevada Supreme Court issued a third order directing the filing of the opening brief and appendix, granting you to March 18. Our court repeated its earlier warning of potential sanctions for failure to timely file. You did not file the opening brief and appendix as directed.

In late April 2024, the Nevada Supreme Court issued an "Order Conditionally Imposing Sanctions," noting the opening brief and appendix was not filed. The order noted the payment of the \$250 sanction would be automatically vacated if the opening brief and appendix were filed, or a motion to extend time was filed. Absent timely filing, the monetary sanction would no longer be conditional, and payment was required. Finally, this order cautioned that failure to comply might result in appeal dismissal and referral for investigation into possible violation of Rules of Professional Conduct ("RPC") 1.3 (Diligence), 3.2(a) (Expediting Litigation) and 8.4(d) (Misconduct). You did not file the opening brief and appendix as directed.

In late May 2024, the Nevada Supreme Court issued an "Order Dismissing Appeal and Referring Counsel to State Bar for Investigation." The order stated in part: "This court has repeatedly stated that all appeals are expected to be 'pursued in a manner meeting high standards of diligence, professionalism, and competence' and '[I]t is incumbent upon on Respondent

as part of her professional obligations of competence and diligence to her clients, to know and comply with all the applicable court rules.'"

We write to admonish and remind you of your ethical obligations under the Nevada Rules of Professional Conduct. The applicable rules are as follows:

RPC 1.3 (Diligence). Your repeated failure to file the opening brief and appendix demonstrated a lack of reasonable diligence in representing your client, violating RPC 1.3. Clients rely on their counsel to protect their rights by adhering to procedural deadlines.

RPC 3.2(a) (Expediting Litigation). Your failure to meet filing deadlines delayed the appellate process and caused unnecessary judicial intervention, contravening RPC 3.2(a). Lawyers have a duty to expedite litigation consistent with their clients' interests.

RPC 8.4(d) (Misconduct). Your conduct ignoring multiple court orders and sanctions was prejudicial to the administration of justice, in violation of RPC 8.4(d). Such actions undermine the integrity of the legal profession.

The Screening Panel found mitigating circumstances. Those circumstances included your candid admissions of responsibility, your multiple practice relocations out-of-state, and some evidence that you did not receive some of the orders. The Panel found this matter constituted minor misconduct where there was ultimately little injury to your client and the court, your proof of payment of the court sanctions, and little likelihood that you will repeat this misconduct.

This admonition serves as private discipline. However, it may be used as an aggravating factor in any future disciplinary proceedings. We trust this experience will reinforce your commitment to the highest professional standards.

We wish you success in your legal practice and trust that no similar issues will arise in the future.

Case No.: SBN24-00364
Filed: January 10, 2025

ADMONITION

To [Attorney]:

A Northern Nevada Disciplinary Board Formal Hearing Panel convened on March 7, 2025, to consider the above-referenced grievance against you. The Panel concluded that you violated the Nevada Rules of Professional Conduct ("NRPC") and admonishes you for the same. This letter constitutes delivery of the Panel's admonition.

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Bar Counsel Report

Violation of RPC 1.6 (Confidentiality)

On or about October 2, 2023, a client emailed you requesting legal advice on how to respond to a public records request. The client identified that you might have a conflict of interest that would preclude you from advising it on the matter.

You then shared the client's request for legal advice with another lawyer who was not a part of your law firm. That lawyer proceeded to forward the request for legal advice to a third-party. However, your client did not give you explicit or implicit authorization to disclose its communication to anyone else, including another lawyer.

NRPC 1.6 (Confidentiality) states: "[a] lawyer shall not reveal information relating to representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is permitted by [one of the listed exceptions]." Here, you failed to appreciate the importance of maintaining client confidentiality and the potential adverse consequences of improperly sharing client information. The Panel does recognize that your disclosure was to another lawyer with whom you were attempting to consult and that lawyer failed to appreciate the need for confidentiality. This factor supports that your breach of your confidentiality obligation was negligent.

Violation of RPC 3.4 (Fairness to Opposing Party and Counsel)

You represented the Plaintiffs in a federal lawsuit against WCSD requesting it be enjoined from enforcing Regulation 5161 (Gender Identity and Gender Non-conformity- Students) and Regulation 9200 (Harassment and Discrimination Prohibited) and that the regulations be invalidated (hereinafter referred to as "the Gender-Identity Lawsuit"). You filed a Complaint in the Gender-Identity Lawsuit on or about March 27, 2023.

On or about April 10, 2023, and/or April 17, 2023, a WCSD employee sent you a Zoom link to a series of WCSD internal training regarding content that could be related to the Gender-Identity Lawsuit. The Zoom trainings were scheduled for April 17, 19, and 20, 2023, respectively. The WCSD email with the training Zoom links stated "these links are only intended for registrants of [the training]. Please do not share these links with any other person or party."

The WCSD employee was registered to attend the Zoom training but did not. You, or someone on your behalf, used the forwarded Zoom link to attend and/or attempt to attend one, or more, training session without authorization from WCSD and in direct contravention of the limitations set by WCSD when providing the Zoom link information.

The Zoom training would have been, at least, relevant to the discovery of admissible evidence and disclosed during discovery in the Gender-Identity Lawsuit had you waited to request the information through discovery. Further, FRCP 26(d) prohibits a party from seeking discovery from any source before the parties have conferred at the initial conference, as required by FRCP 26(f). There was no initial conference in the Gender-Identity Lawsuit and, on or about May 30, 2023,

the parties stipulated to stay discovery in the matter. Thus, obtaining the Zoom training information through the employee connection violated the Federal Rules of Civil Procedure and the court's directive that discovery was stayed.

NRPC 3.4 states, in relevant part, "[a] lawyer shall not ... [k]nowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists." The Federal Rules of Civil Procedure and your own agreement in the Gender-Identity Lawsuit obligated you to wait to obtain information from WCSD and you, or your agent, surreptitiously obtained information relevant to the lawsuit in disregard of these obligations. The Panel found that your mental state when engaging in this violation was "knowing" because the Rules of Civil Procedure are clear and you were aware of the stay on discovery. However, the Panel acknowledges that you likely would have obtained this information through discovery had you followed proper procedures.

The baseline sanction for your violation of RPC 1.6 (Confidentiality) is reprimand, consistent with ABA Standards for Imposing Lawyer Sanctions (2nd Ed. 2019), Section 4.23. The baseline sanction for your violation of RPC 3.4 (Fairness to Opposing Party and Counsel) is suspension, consistent with ABA Standard 6.22.

A downward deviation from these baselines is warranted because of your cooperation with the disciplinary process and acceptance of responsibility for the misconduct.

Based on the foregoing, you are hereby **ADMONISHED** for violations of NRPC 1.6 and 3.4. Please promptly conclude this matter by remitting the cost of \$750 within 30 days of the issuance of this sanction. SCR 120(3). Please allow this Admonition to serve as a thoughtful reminder of your Professional ethical obligations. We wish you well in your practice and trust that no similar problems will arise in the future.

Crafting Ethical Fee Agreements

In the glitzy world of Nevada’s entertainment law, where attorneys broker deals for casino performers and film producers, the allure of unconventional fee structures—contingency arrangements, equity stakes, or hybrid models—can dazzle even the most seasoned practitioner.

Yet, beneath the neon glow lies a sobering ethical obligation: ensuring fee agreements comply with Nevada Rule of Professional Conduct (RPC) 1.5. This rule demands reasonable fees and clear communication. It is a cornerstone of ethical practice, not just for entertainment lawyers but for any attorney carving out a niche. The Office of Bar Counsel has seen how easily these agreements can veer into ethical quagmires, risking client trust and disciplinary action. This month, as we explore niche law practices, let’s unpack the ethical dilemmas around fee agreements and discuss practical tips to keep your practice on solid ground.

The temptation to bend RPC 1.5 often stems from the unique pressures of niche fields. Take entertainment law: an attorney might represent a rising stand-up comedian, agreeing to a percentage of future gig earnings in lieu of upfront fees, banking on the client’s big break. Or they might negotiate a flat fee for a complex film financing deal, only to find the scope ballooning beyond expectation. These arrangements, while creative, can blur ethical lines if not carefully structured. RPC 1.5(a) lists factors for reasonableness—time, labor, novelty, skill, and customary fees—while 1.5(b) mandates clear communication of fees in writing, preferably before representation begins. Violations aren’t just theoretical; they’ve led to real-world consequences.

Consider *In re Hale*, 135 Nev. 660, 447 P.3d 1085 (2019), where an attorney faced discipline for excessive fees in a personal injury case. The Nevada Supreme Court found that converting a contingency fee to a \$1,000 per hour fee upon withdrawal or early termination was unreasonable under RPC 1.5. Her termination fee appeared punitive and failed to account for the case’s low complexity and quick resolution. Though not an entertainment law case, the principle applies: niche attorneys must justify fees based on the work’s actual

demands, not only the money involved. Similarly, *In re Ahmad*, 135 Nev. 659, 451 P.3d 542 (2019), underscored the need for written fee agreements. Ahmad obtained a \$21,000 sanction against a bankruptcy creditor, but kept the information and the award from the client. He claimed the clients agreed to pay him the entire award, but they disputed his claim. When the clients found out, they were confused and angry. Ahmad received a one-year suspension, a warning for niche practitioners who might assume informal agreements suffice in tight-knit industries.

The ethical risks multiply in niche practices where client relationships feel personal. Entertainment lawyers, for instance, often work closely with artists, fostering trust that can lull them into complacency. A handshake deal with a nightclub DJ might seem harmless, but without a written agreement, misunderstandings about scope or payment can escalate. RPC 1.5(c) is explicit: contingency fees require written agreements detailing the percentage, expenses, and whether fees are deducted before or after expenses. Even flat or hourly fees demand clarity to avoid disputes.

Beyond Nevada, national cases reinforce these lessons. In *In re Fordham*, 423 Mass. 481, 668 N.E.2d 816 (1996), an experienced and well-respected civil lawyer accepted a DUI case for an acquaintance. Most criminal attorneys charged between \$5,000 and \$10,000 to represent a criminal defendant in a DUI case at the time. Fordham was used to civil practice and charged hourly rates. Although Fordham obtained a not-guilty verdict, his more than \$50,000 bill shocked the client. The disciplinary board in Massachusetts found Fordham’s fees reasonable. But the Supreme Court of Massachusetts disagreed. It found that the DUI case was not novel and Fordham’s inexperience resulted in hundreds of preparation hours charged to the client. The court found Fordham’s \$50,000 fee exorbitant and unreasonable, violating the Massachusetts equivalent of Rule 1.5, because it far exceeded the work’s value. The case reminds niche attorneys to tether fees to objective metrics, not time spent on actions with little or no value to the client. These precedents collectively signal that ethical fee agreements aren’t just paperwork—they’re a shield against disciplinary scrutiny and client distrust.

So, how can niche practitioners, from entertainment to environmental law, navigate these waters? The answer lies in proactive, transparent systems that prioritize compliance with RPC 1.5 while accommodating the unique demands of specialized fields.

Attorneys' Fees

Practical Tips for Ethical Fee Agreements

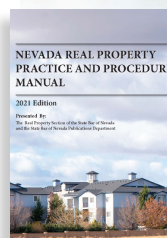
- **Draft Clear, Written Agreements:** Always provide a written fee agreement before representation begins, outlining the fee structure (hourly, flat, or contingency), scope of work, and expense handling. For contingency fees, specify the percentage and deduction order, per RPC 1.5(c).
- **Assess Reasonableness Regularly:** Evaluate fees against RPC 1.5(a) factors—time, skill, and customary rates. If a project's scope changes (e.g., a film deal grows complex), amend the agreement to reflect additional work.
- **Explain Terms in Plain Language:** Avoid legalese that confuses clients, especially in niche fields where clients may lack legal sophistication. A clear explanation builds trust and reduces disputes.
- **Document Client Consent:** For non-standard arrangements, like equity-based fees in entertainment law, obtain written client consent after fully disclosing risks and alternatives.
- **Review Fees Periodically:** Conduct internal audits of fee agreements to ensure ongoing reasonableness, particularly in long-term niche engagements where costs can creep.

These steps aren't just about compliance; they're about fostering trust in an era when clients, from comedians to conservationists, demand transparency. As niche law practices flourish in Nevada, ethical fee agreements remain the bedrock of a sustainable practice. By anchoring your agreements in RPC 1.5's principles, you protect your clients, your reputation, and the integrity of our profession.

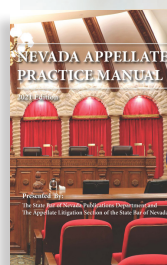
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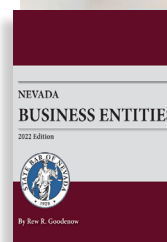
The State Bar of Nevada has several reference publications available to meet the needs of Nevada attorneys, from comprehensive guides to compilations of templates in a variety of practice areas.



Nevada Real Property Practice and Procedure Manual - 2021 Edition



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