

Bar Counsel Report

Case No.: SBN23-00534
Filed: 11/30/2023

ADMONITION

To [Attorney]:

You and your law firm represented Client in a criminal case in the Eighth Judicial District Court. As the trial began, the Judge set an August 2, 2022, hearing to determine whether your associate attorney was fit to handle the representation of your client.

At that hearing, Judge ordered you to remain as your associate attorney's supervising attorney during the duration of the trial. However, you declined to remain for the trial and walked out of the courtroom despite the judge's warning that she would issue an order to show cause and refer you to the State Bar for investigation.

You responded: "Please do so. I'm tired of this profession. See you later."

Following an Order to Show Cause hearing in September 2022, Judge held you in contempt and ordered you to pay \$500 in sanctions.

Standard 6.24 of the ABA Standards for Imposing Lawyer Sanctions states that an Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence in complying with a court order but causes little or to no actual injury to a party or interference with legal proceedings. Accordingly, you are hereby Admonished for violating Rule of Professional Conduct RPC 3.4(c) (Fairness to Opposing Party and Counsel). In accordance with Nevada Supreme Court Rule 120 (Costs) you are assessed costs in the amount of \$1,500.

Case No.: SBN23-00597
Filed: 11/30/2023

ADMONITION

A Screening Panel of the Southern Nevada Disciplinary Board has reviewed the above-referenced grievances and unanimously determined that an Admonition be issued for violation of 5.3(a) and Rule 5.5 of the Rules of Professional Conduct ("RPC").

UNDERLYING FACTS

To [Attorney]:

On September 29, 2022, your client spoke with a non-lawyer who was handling intake for your California-based Multijurisdictional Practice law office. Following that conversation, the Non-lawyer prepared and sent the Client a proposed Engagement Letter and Retainer Invoice, which provided for the "limited scope" representation by your law office for an October 17, 2022, Motion Hearing on his custody motion in a case pending in the Eighth Judicial District Court.

You specifically delegate the intake process for prospective clients to non-lawyers. That process involves the non-lawyer

(i) determining if the legal issue falls within the firm's area of practice, (ii) informing the prospective client of the costs, (iii) collecting the standard pre-determined retainer fee, (iv) preparing and sending an Engagement Letter and Retainer Agreement, which outlines the desired scope of representation, legal fees, and other relevant terms, to the prospective client, and (v) renegotiating client agreements. The client does not communicate with a lawyer until after your office receives a signed Engagement Letter and Retainer Agreement. The Non-lawyer performed all of these tasks for the client in this instance.

After the Non-lawyer secured the retainer and the Client's signature on the Engagement Letter and Retainer Agreement, a Nevada lawyer in your firm contacted the Client. That lawyer then notified another lawyer in your firm that the client's case was more complicated than what was portrayed by the Intake Department. The second lawyer then asked the Non-lawyer if he wanted to alter the client's retainer, but did not hear back. There is no record of a response from the Non-lawyer, or his non-lawyer supervisor, prior to the assigned Nevada lawyer appearing at the hearing on the motion. However, the court did not hear the matter on its merits in that hearing and, instead, consolidated all pending motions for resolution at an Evidentiary Hearing, scheduled for a later date.

The Non-lawyer then sent the client an invoice on November 14, 2022, for an Additional Retainer and, via text on November 15, 2022, scheduled a call with the Client. The Client paid the additional retainer on November 18, 2022. However, the Non-lawyer did not communicate the adjustment to the Client's scope of representation to the Nevada lawyer.

On November 28, 2022, the Client notified the Nevada lawyer that the opposing-party parent did not return the children after her visitation time ended. The Nevada lawyer explained to the Client that a motion to enforce visitation and an order to show cause may be necessary. During the same time period, the Nevada lawyer tried to ascertain if the scope of work included any additional filings.

Records indicate that on December 2, 2022, the Client provided an additional \$2,000 to your office to again adjust the scope of his representation. "Firm management" notified the Nevada lawyer that the Client's "services agreement had been updated" to include work regarding the return of the children. The Nevada lawyer and client exchanged texts only following his payment of the additional funds. The Nevada lawyer assisted the Client with resolving the visitation issue.

On December 29, 2022, the Client contacted the Nevada lawyer again regarding documents he had received from opposing counsel. The Nevada lawyer learned that the Client's deadline for similar pleadings was less than six hours away and the Client asked for his assistance. The Nevada lawyer did assist the Client in preparing and filing the necessary documents that same day.

On December 31, 2022, the Nevada lawyer exchanged emails with the Client regarding the scope of his representation and was told only that "I am paid up in full for everything." It was not clear to the Nevada lawyer if "everything" included the January 24, 2023 Evidentiary Hearing. Neither you, your Non-lawyer employee, nor the other lawyer involved in intake, communicated with the Nevada lawyer regarding any adjustment to the scope of the Client's representation.

The Nevada lawyer was unsuccessful in his follow up attempts to contact the Client regarding the scope of the

representation. Therefore, on January 2, 2023, he notified the Client that he needed to know if your law office would be retained for the upcoming January Evidentiary Hearing, otherwise he would need to withdraw from the case. The Client told the Nevada lawyer via phone that he had spoken with “higher ups” at your law office and that the Nevada lawyer needed to speak with them. Before the Nevada lawyer could identify who the client spoke with, the client said he was “unsatisfied with [his] services and was thinking about hiring another lawyer;” then the client terminated the call.

Records indicate that the Client may have been communicating with your former Marketing Executive, while not responding to the Nevada lawyer. The Marketing Executive is not a licensed attorney and was not a member of your law office Management Team. The contents of that non-lawyer employee’s email to the Client are contradicted by you and the Nevada lawyer.

On January 3, 2023, the Nevada lawyer prepared, filed, and served a Motion to Withdrawal as Counsel of Record. Records indicate that on January 5, 2023, the Client texted the first Non-lawyer and inquired about a refund. The Court conducted a Motion Hearing on January 12, 2023, associated with an Order Shortening Time on the Motion to Withdraw which was attended by the client. The Order granting withdrawal was filed on January 17, 2023. Your client then appeared and represented himself at the January 24, 2023 Evidentiary Hearing.

VIOLATION OF THE RULES OF PROFESSIONAL CONDUCT

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

RPC 5.3 (Responsibilities Regarding Nonlawyer Assistance) was violated when you allowed your nonlawyer staff too much autonomy in the on-boarding and vetting of prospective clients. The entire client retention process is conducted by non-lawyers with no oversight of specific actions and lawyer contact with the client is delayed until the intake process is complete. Further, in this instance, your non-lawyer employee handled two additional fee adjustments including the scope of representation for each.

RPC 5.5(a) (Unauthorized Practice of Law) was violated when you assisted a non-lawyer in engaging in the unauthorized practice of law. In *In re Lerner*, 124 Nev. 1232, 1242 (2008) the Nevada Supreme Court found that routinely conducting initial client consultations and deciding whether the representation should be accepted constituted the practice of law. The Court further found the Nevada lawyer responsible for assisting the non-lawyer in practicing law because the non-lawyer’s conduct was consistent with the lawyer’s policies and procedure for his law office. *Id.* at 1243.

You allowed a non-lawyer employee to determine if the client’s legal issues fell within the firm’s area of practice, communicate with the client about the fees and scope of representation in absence of an attorney, prepared an Engagement Letter/Retainer Agreement, accepted multiple

payments from the client, and negotiated changes in the scope of representation. Your non-lawyer employee’s conduct was consistent with the policies and procedures you established for your multijurisdictional law practice.

APPLICATION OF THE ABA STANDARDS FOR IMPOSING LAWYER SANCTIONS

To determine the appropriate sanction, the screening panel considered the American Bar Association’s ANNOTATED STANDARDS FOR IMPOSING LAWYER SANCTIONS (2019 ed) (ABA Standards). The ABA Standards require analysis of your conduct in the light of four factors: (1) the duty violated, (2) your mental state, (3) the actual or potential injury, and (4) the existence of aggravating or mitigating circumstances. ABA Standard 3.0.

As stated above, you violated your duty to your client and the profession by failing to adequately supervise your non-lawyer employee and assisting him in the authorized practice of law.

In your response to the State Bar’s investigation you stated that your intake procedure complied with the requirements of *In re Lerner* because a lawyer reviewed the nonlawyer’s work after the engagement letter was signed. Although this interpretation is incorrect, it indicates that you attempted to comply with Nevada Rules of Professional Conduct in supervising your non-lawyer employees. Thus, the Panel viewed your mental state when engaging in the misconduct as negligent instead of knowing.

Your conduct also injured your client when he was confused by the disjointed communications between the non-lawyer employees and the Nevada lawyer. This confusion also injured the integrity of the profession, albeit minimally.

ABA Standard 7.4 provides that “[a]dmonition is generally appropriate when a lawyer engages in an isolated instance of negligence in determining whether the lawyer’s conduct violates a duty owed as a professional, and causes little or no actual or potential injury to a client, the public, or the legal system.”

ADMONITION

Based upon the foregoing, you are hereby ADMONISHED for your violation of RPC 5.3 (Responsibilities Regarding Nonlawyer Assistants) and RPC 5.5 (Unauthorized Practice of Law).

Finally, in accordance with Nevada Supreme Court Rule 120 you are assessed costs in the amount of \$750, which is due no later than 30 days after issuance of this admonition.

Case No.: SBN23-00544
Filed: 11/30/2023

ADMONITION

To [Attorney]:

On November 14, 2023, a Screening Panel of the Southern Nevada Disciplinary Board carefully considered the grievance of a local medical provider involving your handling

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of his medical lien. The medical professional's grievance reported that you did not timely alert him of the underlying case settlement two years prior involving his patient-your client, not resolving his lien timely, and not responding to his office's numerous attempts to reach you. The Panel also considered the findings of the State Bar's follow-up investigation which indicated that you later resolved his lien claim in March 2023 to a satisfactory degree.

We write to admonish and remind you of your ethical obligations under Nevada Rules of Professional Conduct ("NRPC") 1.15(d) (Safekeeping Property). Here, you did not promptly notify the medical provider's office that you received funds in which his office had an interest. Specifically, you did not alert his office of your March 2021 settlement of your client's case for which he provided treatment for on a lien basis in late 2019. The lien document bears your signature dated October 15, 2019. The treating physician for your client's injuries for which you provided representation and obtained a settlement affords the medical provider the protection of a "third person" under NRPC 1.15. This rule requires you to: i) promptly notify a client or third person upon receiving funds, ii) promptly deliver to the third person any funds that the third person is entitled to receive, and iii) promptly render a full accounting regarding such property upon request.

The Screening Panel found that this matter constitutes minor misconduct where there is little or no injury, and little likelihood that you will repeat this misconduct. This admonition will serve as private discipline. However, the Office of Bar Counsel may use this admonition here in any subsequent proceeding as an aggravating factor, pursuant to Nevada Supreme Court rules. The Disciplinary Board wishes you the best in your practice and trusts that no similar problems will arise in the future.

Case No.: SBN23-00037
Filed: 12/28/2023

ADMONITION

To [Attorney]:

On December 12, 2023, a Screening Panel of the Southern Nevada Disciplinary Board considered the above-referenced grievance. Based on the evidence presented, the Panel unanimously concluded that you violated the Rules of Professional Conduct ("RPC") and issued you an Admonition.

Justanswer.com (hereinafter "JustAnswer") and Askalawyeroncall.com (hereinafter "Askalawyer") are websites, operated by the same company, which connect users to an expert who answers user questions for a small fee. The websites pay the expert based on the number of questions answered. The websites advertise that customers with legal questions can have a "back and forth" with a lawyer.

On November 7, 2022, you signed a contract with JustAnswer as an expert in Family Law, Legal Estate Law, Real Estate Law, Criminal Law, Employment Law, Business Law, Consumer Protection Law, Bankruptcy Law, Traffic Law,

and Personal Injury Law. You do not have experience in all the areas of law listed above and you have not applied with the State Bar to register for any specialty certifications.

Your profile on JustAnswer and Askalawyeroncall is under your married name. You use your maiden name on LinkedIn, with the State Bar of Nevada, with the State Bar of California, and with the Clark County District Attorney's Office.

While answering legal questions on these websites, you worked for the Clark County District Attorney as a Deputy District Attorney.

NRS 252.070(4) states:

Deputy district attorneys of counties whose population is less than 100,000 may engage in the private practice of law. In any other county, except as otherwise provided in NRS 7.065 and this subsection, deputy district attorneys shall not engage in the private practice of law. An attorney appointed to prosecute a person for a limited duration with limited jurisdiction may engage in private practice which does not present a conflict with his or her appointment.

Similarly, NRS 7.065 states:

Except as otherwise provided by a specific statute, any attorney employed by the State of Nevada or any agency or political subdivision of the State may represent an indigent person in any proceeding if:

1. The attorney first receives the permission of his or her supervisor, if any, to represent the person in that proceeding;
2. The interests of the indigent person in that proceeding do not conflict with the interests of the State or the attorney's employer;
3. The representation is provided through or in association with an organization that provides free legal assistance to indigent persons; and
4. The attorney receives no compensation for the representation.

Violation of these statutes are misdemeanors under NRS 193.151, which states that "[w]henver the performance of any act is prohibited by any statute, and no penalty for the violation of such statute is imposed, the committing of such act shall be a misdemeanor."

RPC 7.1 (Communications Concerning a Lawyer's Services) states that a lawyer "shall not make false or misleading communications about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law or omits a fact necessary to make the statement considered as a whole not materially misleading." You held yourself out to be an "expert" in various areas of law even though you lack experience in all the areas listed. This type of ethical breach caused potential injury to the public.

RPC 7.2 (Communications Concerning a Lawyer's Services: Specific Rules) states, in pertinent part, "[e]very advertisement and written communication that indicates one or more areas of law in which the lawyer or law firm practices shall conform to the requirements of Rule 7.4." RPC 7.4 (Communication of Fields of Practice and Specialization) states,

in pertinent part, that “[a] lawyer may communicate that the lawyer is a specialist or expert or that he or she practices in particular fields of law, provided the lawyer complies with this Rule. Nothing in this Rule shall be construed to prohibit communication of fields of practice unless the communication is false or misleading.” Regarding the use of the word “expert,” this Rule states that a lawyer “may communicate that he or she is a specialist or expert in a particular field of law if the lawyer complies with the provisions of this paragraph.” You held yourself out to be an “expert” without registering for any specialty certifications. This ethical breach caused potential injury to the public and the legal system.

RPC 8.4 (Misconduct) states that “[i]t is professional misconduct for a lawyer to: (a) violate or attempt to violate the RPC, knowingly assist or induce another to do so, or do so through the acts of another; (b) commit a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects; (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation; (d) engage in conduct that is prejudicial to the administration of justice; (e) state or simply imply an ability to influence improperly a government agency or official or to achieve results by means that violate the RPC or other law; or (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or law.” You violated NRS 252.070 and NRS 7.065. Further, you engaged in conduct involving dishonesty, fraud, deceit, and/or misrepresentation by answering legal questions on websites using your married name while employed as a Deputy District Attorney with the Clark County District Attorney’s Office. Further, your conduct reflects adversely on your fitness to practice law.

You acted with knowledge or “conscious awareness” of your conduct. Your conduct caused potential injury to the public, the legal system, and the profession.

Under ABA Standard 5.13, reprimand is generally appropriate when a lawyer knowingly engages in any other conduct that involves dishonesty, fraud, deceit, or misrepresentation and that adversely reflects on the lawyer’s fitness to practice law. Under ABA Standard 7.3, reprimand is generally appropriate when a lawyer negligently 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.

However, you have no prior disciplinary record and you cooperated with bar counsel’s investigation. The panel felt that this mitigation justified a reduction of the discipline imposed from a reprimand to an admonition.

Accordingly, you are hereby **ADMONISHED** for violating RPC 7.1 (Communications Concerning a Lawyer’s Services), RPC 7.2 (Communications Concerning a Lawyer’s Services: Specific Rules), RPC 7.4 (Communication of Fields of Practice and Specialization), and RPC 8.4 (Misconduct).

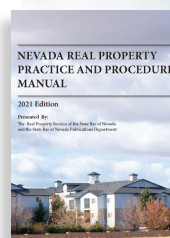
You must reimburse the State Bar of Nevada for costs of \$750 within 30 days. SCR 120.

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.

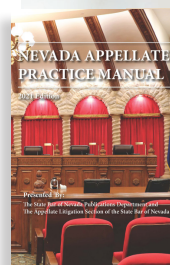
BOOKS FROM THE BAR



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



Nevada Appellate Practice Manual - 2021 Edition



Nevada Business Entities - 2022 Edition



FREE: Contract Templates for Nevada Attorneys

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TIP

FROM THE BAR COUNSEL

Ethical Duties of an Attorney

In a world where the lines between right and wrong often blur, attorneys stand as champions of justice. This vital role involves more than just client advocacy—it's a balancing act between our duties to clients, the public, the legal system, and the profession itself.

An attorney's most obvious duties are to their client. Attorneys must preserve client property, keep client confidences, and avoid conflicts of interest that diminish their loyalty. Also, attorneys owe their clients competence, diligence, and honesty.

However, an attorney's duty extends beyond their client. Attorneys also bear a significant responsibility to the public, the legal system, and the legal profession itself.

Yes, attorneys have an obligation to the public. Members of the public trust attorneys to protect their property, liberty, and their lives. Attorneys must earn that trust. The public expects attorneys to act by the highest standards of honesty and integrity. So, attorneys must embody personal integrity. When an attorney engages in illicit or deceptive conduct, it erodes the public's trust.

Similarly, attorneys have a duty to uphold the integrity of the legal system. This means practicing within the bounds of the law, abstaining from the creation or use of false evidence, avoiding deceitful statements in court, and refraining from filing baseless lawsuits. Additionally, ethical rules prohibit attorneys from improperly delaying trials, engaging in unauthorized communication with parties involved in legal proceedings, and using threats of criminal prosecution to unduly influence the legal process.

Lastly, attorneys have a duty to protect the legal profession itself. Attorneys must commit to ethical advertising and marketing, reasonable fees, avoiding the unauthorized practice of law, and reporting unethical misconduct in others.

In summary, attorneys should understand and honor their duties not only to clients but also to the wider public, the legal system, and the legal profession. Ethical attorneys uphold the integrity of the legal system. They are champions of justice.