

Bar Counsel Report

In Re: JEFFREY GRAY THOMAS
Bar No.: 7538
Case No.: 87346
Filed: 03/08/2024

ORDER DENYING PETITION FOR RECIPROCAL DISCIPLINE AND SUSPENDING ATTORNEY

This is a petition to reciprocally discipline attorney Jeffrey Gray Thomas pursuant to SCR 114. Thomas has been disbarred in California. Thomas did not self-report the California discipline as required by SCR 114(1). Although Thomas filed a brief responding to the State Bar's petition, that brief does not engage with the relevant inquiry under SCR 114.¹

In representing a client in a dispute concerning the sale of real property, Thomas willfully (1) filed and failed to withdraw an untimely motion to vacate a judgment, (2) filed and pursued a frivolous appeal related to that matter, (3) filed and failed to withdraw an improper motion for reconsideration in a second matter, (4) filed and pursued a frivolous appeal from the second matter, (5) failed to comply with and pay four separate sanction orders related to those matters, and (6) threatened opposing counsel that they would be convicted of federal crimes if they did not take specific actions in a related civil lawsuit. These actions violated (1) California Business and Professions Code (CBPC) § 6068(c), which is similar to RPC 3.1 (meritorious claims and contentions) and RPC 8.4(d) (misconduct prejudicial to the administration of justice); (2) CBPC § 6103, which is similar to RPC 3.4(c) (fairness to opposing party and counsel knowingly disobeying an obligation under the rules of a tribunal); and (3) former California Rule of Professional Conduct (CRPC) 5-100(A) (threatening charges to gain advantage in a civil suit). While Nevada does not have a direct equivalent to CRPC 5-100, Thomas' actions in threatening opposing counsel implicate RPC 3.1 (meritorious claims and contentions) and RPC 4.4(a) (respect for rights of third parties). As a result of these violations, the California Supreme Court entered an order disbarring Thomas.²

Under SCR 114(4), we must impose identical reciprocal discipline unless the attorney demonstrates or we determine that (1) the other jurisdiction failed to provide adequate notice, (2) the other jurisdiction imposed discipline despite a lack of proof of misconduct, (3) the established misconduct warrants substantially different discipline in this jurisdiction, or (4) the established misconduct does not constitute misconduct under Nevada's professional conduct rules. The first, second, and fourth exceptions do not apply here. We conclude, however, that "the misconduct warrants substantially different discipline in this state." SCR 114(4)(c).

In particular, we conclude that disbarment is not warranted because disbarment in Nevada is not equivalent to the discipline imposed in California. Disbarment in Nevada is irrevocable whereas in California a disbarred attorney may seek reinstatement after five years. *Compare* SCR 102(1), *with* Cal. State Bar R. Proc. 5.442(B). Given the nature and pervasiveness of the misconduct at issue, we conclude that a five-year-and-one-day suspension is more appropriate than disbarment based on "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) (listing factors to consider when determining appropriate discipline).

Accordingly, we deny the petition for reciprocal discipline but suspend Jeffrey Gray Thomas from the practice of law in Nevada for five years and one day commencing from the date of this order. The parties shall comply with SCR 115 and SCR 121.1.

It is so ORDERED.

Case No.: SBN23-00609
Filed: 01/16/2024

ADMONITION

To [Attorney]:

A Southern Nevada Disciplinary Board Screening Panel convened on January 16, 2024, to consider the above-referenced grievance against you. The Panel concluded that you violated the Nevada Rules of Professional Conduct ("NRPC") and reprimanded you as discussed below. This letter constitutes delivery of the Panel's admonition.

The State Bar received a complaint from opposing counsel that you violated a bankruptcy stay order. You represented a client in a divorce case. After a Stipulated Decree of Divorce was filed and approved the opposing party filed for Chapter 7 Bankruptcy. The Bankruptcy Court issued a Stay Order. You filed an Ex Parte Application seeking a Temporary Restraining Order and Preliminary Injunction with the District Court handling the divorce. This violated the Bankruptcy Court's Stay Order.

The District Court handling the divorce held a hearing to get a clearer picture of what happened. The District Court made findings to assist the Bankruptcy Court. Opposing counsel filed a Motion for Order to Show Cause in the Bankruptcy Court. You do not have the requisite experience to practice in Bankruptcy Court, however, you continued your representation in Bankruptcy Court. You failed to file a witness list, exhibit list, and copies of proposed exhibits prior to evidentiary hearing. The Bankruptcy Court also established a 30-day deadline to submit post-hearing briefs. Opposing counsel filed a post-trial brief, you did not.

Here, the Bankruptcy Court granted in part the motion for contempt. The Bankruptcy Court entered an order awarding damages for violating the automatic stay. The Court Order stated, "[Attorney] is bound by ethical rules that among other responsibilities require competency. Without making a finding of a specific ethical violation, this court believes that [Attorney] overestimated his competency in bankruptcy law. While reprehensible, [Attorney's] actions do not rise to the type of reprehensible behavior that would support the amount Debtor requests in punitive damages."

You also sent emails to the opposing party designed to intimidate or humiliate the other party.

NRPC 1.1 (Competence) states: "A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation." Here, you failed to provide competent representation in the bankruptcy proceeding.

Case No.: SBN23-00714
Filed: 01/20/2024

ADMONITION

To [Attorney]:

A Southern Nevada Disciplinary Board Screening Panel convened on January 16, 2024, to consider the above-referenced grievance against you. The Panel concluded that you violated the Nevada Rules of Professional Conduct ("NRPC") and reprimanded you for your failure to respond to Nevada Supreme Court's Orders. This letter constitutes delivery of the Panel's admonition.

The State Bar received an Order from the Nevada Supreme Court (hereinafter "NSC") referring you to the State Bar for investigation and possible disciplinary proceedings. You failed to comply with multiple Orders from the NSC to file initial appeal documents.

In the underlying district court case, you were appointed to represent a criminal defendant. Your client entered a plea and was sentenced to prison. Your client filed multiple notices for appeal while incarcerated. Because you failed to withdraw from the case you were still listed as counsel of record. The NSC sent you multiple notices, but you had not updated your address with the NSC. As attorney of record, you were responsible for filing the request for rough draft transcripts, the fast-track statement, and appendix. Your repeated failure to comply resulted in your removal as counsel of record and financial sanctions from the NSC.

NRPC 1.3 (Diligence) states: "A lawyer shall act with reasonable diligence and promptness in representing a client." Here, you did not carry the matter forward. At no point did you seek to withdraw from the case and while you were counsel of record you failed to act diligently.

NRPC 1.16 (Declining or Terminating Representation) states: "A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation." Here, you failed to withdraw and failed to continue in your representation.

NRPC 3.2 (Expediting Litigation) states: "A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client." Here, you failed to act with reasonable diligence and promptness in representing your client.

The baseline sanction for your conduct here is reprimand. Standard 4.43 of the ABA Standards for Imposing Lawyer Sanctions (2nd Ed. 2019) states: "Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client and causes injury or potential injury to a client." Standard 6.23 also states: "Reprimand is generally appropriate when a lawyer negligently fails to comply with a court order or rule and causes injury or potential injury to a client or other party or causes interference or potential interference with a legal proceeding." However, you have several mitigating factors that support a downward deviation in discipline from a reprimand to a private admonition.

Based on the foregoing, you are hereby ADMONISHED for violations of NRPC 1.3, NRPC 1.16, and NRPC 3.2. Please promptly conclude this matter by remitting the cost of \$750 within 30 days of the issuance of this sanction. SCR 120(3).

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NRPC 3.1 (Meritorious Claims and Contentions) states: "A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established." Here, you filed motions in the family law matter in violation of the bankruptcy stay order.

NRPC 3.2 (Expediting Litigation) states: "A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client." Here, you failed to comply with orders and failed to file a witness list, exhibit list, and briefings.

NRPC 4.4 (Respect for Rights of Third Persons) states: "In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person." Here, you sent emails that were designed to intimidate and humiliate the opposing party.

NRPC 8.4 (Misconduct) states: "It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice." Here, you failed to comply with a bankruptcy stay order and the rules of the bankruptcy court.

The baseline sanction for your conduct here is reprimand. ABA Standards for Imposing Lawyer Sanctions (2nd Ed. 2019), Standard 4.53 states: "Reprimand is generally appropriate when a lawyer (a) demonstrates failure to understand relevant legal doctrines or procedures and causes injury or potential injury to a client; or (b) is negligent in determining whether he or she is competent to handle a legal matter and causes injury or potential injury to a client." Standard 6.23 states: "Reprimand is generally appropriate when a lawyer negligently fails to comply with a court order or rule, and causes injury or potential injury to a client or other party, or causes interference or potential interference with a legal proceeding." Standard 6.33 states: "Reprimand is generally appropriate when a lawyer is negligent in determining whether it is proper to engage in communication with an individual in the legal system and causes injury or potential injury to a party or interference or potential interference with the outcome of the legal proceeding."

Based on applicable mitigating factors downward deviation is appropriate.

Based on the foregoing, you are hereby ADMONISHED for violations of NRPC 1.1, NRPC 3.1, NRPC 3.2, NRPC 4.4, and NRPC 8.4. 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.

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.

Case No.: SBN23-00837
Filed: 01/20/2024

ADMONITION

To [Attorney]:

A Screening Panel of the Southern Nevada Disciplinary Board reviewed the above-referenced grievance and voted to issue you an ADMONITION for violating 1.6 (Confidentiality of Information), 1.7(a) (Conflict of Interest: Current Clients), and 1.8(b) (Conflict of Interest: Current Clients: Specific Rules) of the Nevada Rules of Professional Conduct ("RPC").

UNDERLYING FACTS

A client retained your law firm in association with a personal injury matter that was filed with the court. This matter was assigned to you and you were the attorney of record. The matter settled but upon receipt of the settlement documents, the client refused to sign the settlement release and further stated, "do what you have to do but I'm not signing anything." You then filed a motion to enforce the settlement against the own [sic] client and attached text messages between yourself and the client in support.

Upon review of the motion to enforce and text messages, the judge immediately struck the motion, ordered all parties to destroy any copies of the motion, and issued an order to show cause. After receipt of your testimony at the show cause hearing, the judge referred you to the State Bar of Nevada.

VIOLATION OF THE RULES OF PROFESSIONAL CONDUCT

RPC 1.6 (Confidentiality of Information) states that

- a) 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,
- b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary: ...
 - (5) To establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client;

You revealed confidential client information without obtaining the client's informed consent and revealing this information was not impliedly authorized in order to carry out representation. Furthermore, when you revealed this information, it was not to the extent reasonably necessary to

establish a claim or defense in a controversy that you caused by filing the motion to enforce against your own client.

RPC 1.7(a) (Conflict of Interest: Current Clients) states that

- a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:
 - (1) The representation of one client will be directly adverse to another client; or
 - (2) There is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

You created a concurrent conflict of interest that was directly adverse to your own client by filing a motion to enforce a settlement against that client and there was significant risk that representation of the client was limited by your own personal interest.

Rule 1.8(b) (Conflict of Interest: Current Clients: Specific Rules) states that "[a] lawyer shall not use information relating to representation of a client to the disadvantage of the client unless the client gives informed consent, except as permitted or required by these Rules."

You used information relating to representation of a client to the disadvantage of that client by filing a motion to enforce and attaching your communications between yourself and the client. The client did not provide informed consent.

APPLICATION OF ABA/SCR STANDARDS

Pursuant to Annotated Standards for Imposing Lawyer Sanctions (2019 ed.) (hereinafter "ABA Standard") 3.0, when imposing a sanction after a finding of lawyer misconduct, the Screening Panel should consider the following factors: (1) the duty violated; (2) the lawyer's mental state; (3) the actual or potential injury caused by the lawyer's misconduct; and (4) the existence of aggravating or mitigating circumstances.

Pursuant to ABA Standard 4.22, SUSPENSION is generally appropriate when a lawyer knowingly reveals information relating to representation of a client not otherwise lawfully permitted to be disclosed and this disclosure causes actual or potential injury to a client.

Pursuant to ABA Standard 4.24, ADMONITION is generally appropriate when a lawyer negligently reveals information relating to representation of a client not otherwise lawfully permitted to be disclosed and this disclosure causes little or no actual or potential injury to a client.

Pursuant to ABA Standard 4.32, SUSPENSION is generally appropriate when a lawyer knows of a conflict of interest and does not fully disclose to a client the possible effect of that conflict and causes injury or potential injury to a client.

Pursuant to ABA Standard 4.34, ADMONITION is generally appropriate when a lawyer engages in an isolated instance of negligence in determining whether the representation of a client may be materially affected by the lawyer's own interests and causes little or no actual or potential injury to a client.

CONCLUSION

Based on the foregoing, you are hereby ADMONISHED for violating RPC 1.6 (Confidentiality of Information), 1.7(a) (Conflict of Interest: Current Clients), and 1.8(b) (Conflict of Interest: Current Clients: Specific Rules). Please promptly conclude this matter by remitting the cost of \$750 within 30 days of the issuance of this Admonition. SCR 120(3).

Please allow this Admonition to serve as a thoughtful reminder of your professional and ethical obligations. We wish you well in your practice of law and trust that no similar problems shall arise in your future.

Case No.: SBN23-00849
Filed: 02/01/2024

ADMONITION

To [Attorney]:

A Screening Panel of the Southern Nevada Disciplinary Board reviewed the above-referenced grievance and voted to issue you an ADMONITION for violating 1.2(a), 1.3, 1.4(a), and 1.15(d) of the Nevada Rules of Professional Conduct ("RPC").

UNDERLYING FACTS

A chiropractor treated your client and filed a \$5,150 lien against your client's recovery. On November 25, 2020, you received a settlement check for the client. You deposited that check on December 12, 2020. You did not send the chiropractor a lien reduction request until November 2022 – almost two years later. The chiropractor attempted to contact you five times between December 2022 and May 2023. You did not reply. The chiropractor's lien department attempted to contact you again in June 2023. You did not reply again. The chiropractor then filed a grievance with the State Bar of Nevada.

You blamed the delay on COVID-19 and relocating your firm. The panel found your explanation insufficient to justify the two-year delay. You did not promptly notify your client or the chiropractor of the settlement or act with reasonable diligence and promptness in representing your client.

Furthermore, during the State Bar of Nevada's investigation, you made the following statement:

"apologized to [the client] for making her feel that I had not sought her specific authority to settle the case for \$18,000.00 instead of the policy limit of \$25,000."

You obtained sufficient lien reductions to disburse the settlement *but only after* the State Bar began its investigation.

You have no prior discipline, this appears to be an isolated incident, and you cooperated fully with the State Bar of Nevada's investigation.

VIOLATION OF THE RULES OF PROFESSIONAL CONDUCT

The Screening Panel concludes that you violated the following rules:

RPC 1.2(a) (Scope of Representation and Allocation of Authority Between Client and Lawyer). "[A] lawyer shall abide by a client's decision concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are

to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter."

You settled the case for less than policy limits and without the client's informed consent.

RPC 1.3 (Diligence). "A lawyer shall act with reasonable diligence and promptness in representing a client."

When you received a settlement insufficient to satisfy the client's liens, you then failed to act with reasonable diligence and promptness to resolve the deficiency. You should have either promptly negotiated the liens or filed an interpleader action. Your two-year delay was inexcusable.

RPC 1.4(a) (Communication). "A lawyer shall:

- 1) Promptly inform the client of any decision or circumstance with respect to which the client's informed consent is required by these Rules;
- 2) Reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- 3) Keep the client reasonably informed about the status of the matter; [and]
- 4) Promptly comply with reasonable requests for information; ..."

You failed to keep the client reasonably informed about the status of the settlement or consult with the client regarding the potential consequences of the lesser settlement.

RPC 1.15(d) (Safekeeping Property). "Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property."

Upon receiving the settlement funds subject to liens, you failed to promptly notify the client and the chiropractor.

APPLICATION OF ABA/SCR STANDARDS

Pursuant to Annotated Standards for Imposing Lawyer Sanctions (2019 ed.) (hereinafter "ABA Standard") 3.0, when imposing a sanction after a finding of lawyer misconduct, the Screening Panel should consider the following factors: (1) the duty violated; (2) the lawyer's mental state; (3) the actual or potential injury caused by the lawyer's misconduct; and (4) the existence of aggravating or mitigating circumstances.

Pursuant to ABA Standard 4.42, a SUSPENSION is generally appropriate when: (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client; or (b) a lawyer engages in a pattern of neglect causes injury or potential injury to a client.

Pursuant to ABA Standard 7.3, a 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.

Pursuant to ABA Standard 7.4, an ADMONITION is generally appropriate when a lawyer engages in an isolated instance of negligence and causes little or no actual or potential injury to a client, the public, or the legal system.

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Rule 102.5(1) of the Nevada Supreme Court Rules (hereinafter “SCR”) defines aggravating circumstances as any considerations or factors that may justify an increase in the degree of discipline to be imposed. Conversely, SCR 102.5(2) defines mitigating circumstances as any considerations or factors that may justify a reduction in the degree of discipline to be imposed.

CONCLUSION

While your substantial experience in the practice of law may justify an increase in degree of discipline to be imposed, the Screening Panel concludes that the following mitigating circumstances justify a reduction in the degree of discipline to be imposed: (1) your absence of a prior disciplinary record, (2) your full and free disclosure or cooperative attitude towards the State Bar of Nevada, and (3) remorse.

Therefore, you are hereby ADMONISHED for violating RPC 1.2(a) (Scope of Representation and Allocation of Authority Between Client and Lawyer), 1.3 (Diligence), 1.4(a) (Communication), and 1.15(d) (Safekeeping Property). Please promptly conclude this matter by remitting the cost of \$750 within 30 days of the issuance of this Admonition. SCR 120(3).

Please allow this Admonition to serve as a thoughtful reminder of your professional and ethical obligations. We wish you well in your practice of law and trust that no similar problems shall arise in your future.

Case No.: SBN23-00836
Filed: 02/01/2024

ADMONITION

To [Attorney]:

A Screening Panel of the Southern Nevada Disciplinary Board reviewed the above-referenced grievance and voted to issue you an ADMONITION for violating 5.1 (Responsibilities of Partners, Managers, and Supervisory Lawyers) of the Nevada Rules of Professional Conduct (“RPC”).

UNDERLYING FACTS

A client retained your law firm in association with a personal injury matter that was filed with the court. This matter was assigned to an associate attorney. The matter settled but upon receipt of the settlement documents, your client refused to sign the settlement release and further stated, “do what you have to do but I’m not signing anything.” Your associate attorney then filed a motion to enforce the settlement against your own client and attached text messages between the attorney and the client in support.

Upon review of the motion to enforce and text messages, the judge immediately struck the motion, ordered all parties to destroy any copies of the motion, and issued an order to show cause. At the show cause hearing, your associate attorney identified you as the supervising attorney and that you had reviewed and signed off on the motion. After receipt of this testimony, the judge referred you and your associate attorney to the State Bar of Nevada.

VIOLATION OF THE RULES OF PROFESSIONAL CONDUCT

RPC 5.1 (Responsibilities of Partners, Managers, and Supervisory Lawyers) states that

- a) A partner in a law firm ... shall make reasonable efforts to ensure that the firm has in effect measures

giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct.

- b) A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct.

You either (a) failed to make reasonable efforts to put measures in place to ensure your associate attorney did not disclose confidential client communications, create concurrent conflicts of interest, and then disclose that confidential information to disadvantage your client or without the client’s informed consent; or (b) failed to adequately supervise your associate attorney and ensure the attorney conformed to RPC 1.6 (Confidentiality of Information), RPC 1.7(a) (Conflict of Interest: Current Clients), and Rule 1.8(b) (Conflict of Interest: Current Clients: Specific Rules).

APPLICATION OF ABA/SCR STANDARDS

Pursuant to Annotated Standards for Imposing Lawyer Sanctions (2019 ed.) (hereinafter “ABA Standard”) 3.0, when imposing a sanction after a finding of lawyer misconduct, the Screening Panel should consider the following factors: (1) the duty violated; (2) the lawyer’s mental state; (3) the actual or potential injury caused by the lawyer’s misconduct; and (4) the existence of aggravating or mitigating circumstances.

Pursuant to ABA Standard 7.4, an ADMONITION is generally appropriate when a lawyer engages in an isolated instance of negligence and causes little or no actual or potential injury to a client, the public, or the legal system.

CONCLUSION

Based on the foregoing, you are hereby ADMONISHED for violating RPC 5.1 (Responsibilities of Partners, Managers, and Supervisory Lawyers). Please promptly conclude this matter by remitting the cost of \$750 within 30 days of the issuance of this Admonition. SCR 120(3).

Please allow this Admonition to serve as a thoughtful reminder of your professional and ethical obligations. We wish you well in your practice of law and trust that no similar problems shall arise in your future.

ENDNOTES:

1. We decline Thomas’ request to stay consideration of the State Bar’s petition.
2. To the extent that Thomas argues that this court should not give full faith and credit to the California Supreme Court’s order of disbarment, we reject the argument, as “a final adjudication in another jurisdiction that an attorney has engaged in misconduct conclusively establishes the misconduct for the purpose of a disciplinary proceeding in this state.” SCR 114(5). For this same reason, we reject Thomas’ argument that the underlying sanction orders were levied due to negligent and not willful misconduct. We also reject Thomas’ argument that the California State Bar disciplinary proceedings deprived him of due process of law, as he received notice of the proceedings and had “a meaningful opportunity to present [his] case.” *J.D. Constr., Inc. v. IBEX Int’l Grp.*, 126 Nev. 366, 376, 240 P.3d 1033, 1040 (2010) (quoting *Mathews v. Eldridge*, 424 U.S. 319, 349 (1976)). Finally, we have considered Thomas’ remaining constitutional arguments and determine that they do not warrant imposing “substantially different discipline,” SCR 114(4)(c), than that imposed in California. *Cf. Miller v. Burk*, 124 Nev. 579, 588-89, 188 P.3d 1112, 1118-19 (2008) (explaining that this court “will not decide constitutional questions unless necessary” to resolve the issues on appeal).



TIP

FROM THE BAR COUNSEL

Good Character Essential Trait for Attorneys

French author and politician Victor Hugo said: “Change your opinions, keep to your principles; change your leaves, keep intact your roots.” Despite our widely varying beginnings, and disparate fields of practice, lawyers as practitioners all share a common root – character.

Hugo’s admonition to us to maintain our principles and roots of character has merit. We all demonstrated proof of this common character when we all presented our credentials as persons of “good moral character.” We all did so before the Nevada Board of Bar Examiners, when we submitted our application to sit for the Nevada Bar Examination. See, Supreme Court Rule (SCR) 50, 51(b). The American Bar Association refers to this separate process as the “Character and Fitness Examination.”

Character is essential for our multi-faceted professional role. “A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice.”¹ Our loyalties are clear, but we sometimes operate in a matrix of tension between loyalties.

Do you remember the character qualifications that we were all required to possess, to be eligible to serve the public with a law license?² Here is a sampling from SCR 51 of what we had in common:

1. An applicant for a license to practice as an attorney and counselor at law in this state shall not be admitted to practice law in this state unless such applicant:
 - (d) Demonstrates that the applicant is of good moral character and is willing and able to abide by the high ethical standards required of attorneys and counselors at law.³
 - (e) Has not been refused admission to practice law in any state or before any court or governmental agency of the United States on the ground of unfitness of character.
- (g) Has not exhibited any past or present conduct or behavior that could call into question the applicant’s ability to practice law in a competent, ethical and professional manner or that would render the applicant unfit to practice law.
- (h) Is not an abuser of alcohol or prescription drugs, or a user of illegal drugs.
- (i) Demonstrates financial responsibility.
- (j) Is in full compliance with any court order, including without limitation, spousal or child support orders.⁴

Let’s pause. Isn’t Hugo’s axiom fitting for us as practitioners? Are we keeping to our principles and keeping intact our roots of good character in serving our clients, as an officer of the legal system, and a citizen bearing “special responsibility?” Also, are our common roots as practitioners binding us together? Our opinions will and should change as we grow as lawyers and human beings. Our principles and roots must remain.

ENDNOTES:

1. Section 1, *Preamble: A Lawyer’s Responsibilities*, Annotated Model Rules of Professional Conduct (10th Ed. 2023).
2. See SCR 52(2)(a) for the investigative scope of the questions. See also, Addendum I, Policies and Procedures of the Board of Bar Examiners and the Moral Character and Fitness Committee, Part IV Moral Character and Fitness, Relevant Conduct (No.22).
3. Nevada’s current Attorney’s Oath of SCR 73 enunciates the “high ethical standards” to include: “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 ...”
4. SCR 116(2) identifies similar minimum standards of character that must be demonstrated by any applicant seeking readmission to practice law following a suspension of more than six months.