



FILED

MAY 07 2018

STATE BAR OF NEVADA  
SOUTHERN NEVADA SCREENING PANEL

STATE BAR OF NEVADA  
BY: Sandra R.  
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA, )  
Complainant, )  
vs. )  
Bret O. Whipple, ESQ., )  
Nevada Bar No. 6168, )  
Respondent. )

LETTER OF REPRIMAND

To: Bret Whipple, Esq.  
1100 S. Tenth St.  
Las Vegas, NV 89104

Grievance File OBC17-1481

On Tuesday, April 24, 2018, a Screening Panel of the Southern Nevada Disciplinary Panel convened to determine whether you violated the Rules of Professional Conduct.

According to their findings, you were the attorney for Charles Rodrick ("Rodrick"), a resident of Arizona. Rodrick retained you as local counsel through Arizona attorney Mike Harnden ("Harnden") to represent Rodrick in the matter of Andre Wilson v. Perfect Privacy et al., (the "Defamation Case").

You and Rodrick entered into an unwritten retainer agreement whereby Rodrick payed you a \$400 retainer to be billed against at \$200 an hour.

Harnden associated onto the Defamation Case by verified petition on December 4, 2015. The petition named you as designated resident Nevada counsel. On the same day, you also filed a Motion to Dismiss (on Anti-SLAPP grounds) which had been prepared by Harnden.

On April 20, 2016, approximately four months after removal, the United States District Court remanded the Defamation Case back to the State Court on jurisdictional grounds.

On May 26, 2016, a month after the Defamation Case had been remanded, you filed a Notice of Readiness of anti-SLAPP Motion and Request for Setting Argument and/or Decision. However, you failed to file the anti-SLAPP Motion to Dismiss with the State Court.

On June 14, 2016, the Plaintiff in the Defamation Case filed a Motion for Permanent Injunction.

1 On July 11, 2016, with the (defective) Notice of Readiness of anti-SLAPP Motion and the  
2 Motion for Permanent Injunction hearings pending, you filed a Motion to Withdraw. Your basis for the  
3 Motion to Withdraw was claims that Harnden had become unresponsive and failed to communicate  
4 with you in a timely manner, and that Rodrick had only paid you \$400.

5 Our request to you for emails between Harnden and Respondent did not support your claims of  
6 a breakdown in communication on Harnden's end. In fact, it shows Harnden's emails going  
7 unanswered by your office.

8 A hearing was held on July 18, 2016 regarding Plaintiff's Motion for Permanent Injunction.  
9 You failed to attend the hearing. Harnden attended but, as he was not yet admitted pro hac vice, he was  
10 not allowed to argue on behalf of Rodrick and was only allowed to give a status report. The minutes of  
11 that hearing indicate that Rodrick at no point filed an opposition to the Motion for Permanent  
12 Injunction in State Court, but that such an Opposition had been filed previously in the United States  
13 Court. The Court granted the Motion for Permanent Injunction as unopposed, albeit only as a  
14 preliminary injunction.

15 On June 29, 2016, Plaintiff in the Defamation Case filed a notice of intent to take default  
16 judgment against Rodrick for failing to file an Answer.

17 On July 25, 2016, again while your Motion to Withdraw was pending, you filed a Notice of  
18 Motion and Motion to Associate Counsel, which attached Harnden's pro hac vice application and  
19 identified you as the Nevada attorney of record. As part of the application you filed a sworn declaration  
20 acknowledging your responsibilities pursuant to SCR 42, including being present at all matters in open  
21 court unless otherwise ordered, and ensuring that the proceeding was tried and managed in accordance  
22 with Nevada's procedural and ethical rules.

23 On July 28, 2016, again while your Motion to Withdraw was pending, a hearing on Rodrick's  
24 Special Motion to Dismiss (anti-SLAPP) was held. You again failed to attend. Harnden was present but  
25 was still not allowed to argue on behalf of Rodrick. Harnden states that he had spoken to your office

1 prior to the hearing and was told that either you or an associate would attend the hearing. The Motion  
2 was denied as being not properly being before the Court, as you had only filed the Motion in the United  
3 States Court, not the State Court.

4 On August 11, 2016, your Motion to Withdraw was granted. On August 18, 2016, Harnden  
5 wrote to you stating that alternate Nevada counsel had been obtained in the Defamation Case. On  
6 August 25, 2016 Harnden's pro hac vice application was denied. The Court advised counsel to, "follow  
7 the rules for such motion."

8 On November 17, 2016, Rodrick was sanctioned \$5,000 in response to Rodrick's Motion to Set  
9 Aside Default. According to the minutes the sanction as awarded due to the "Defendants' repeated  
10 failure to comply with local rules, which resulted in an unreasonable multiplication of proceedings."

11 Ultimately, Rodrick's new counsel successfully had the Defamation Case dismissed on anti-  
12 SLAPP grounds. Rodrick was awarded attorney's fees, which were reduced by 40%. According to the  
13 minutes of the attorney's fees hearing, this reduction was due to the court taking issue with the removal  
14 of the case to the United States District Court, and the fallout from the remand, which included  
15 Rodrick's lack of understanding of the State Court's relationship with the United States District Court.

16 On June 4, 2017, Rodrick emailed you requesting an "affidavit of fees for work done by your  
17 firm so I can submit them to the court for my ANTI-SLAPP win." You did not timely respond to  
18 Rodrick's email.

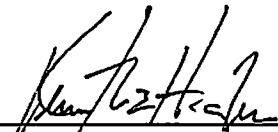
19 RPC 1.3 states, "A lawyer shall act with reasonable diligence and promptness in representing a  
20 client."

21 RPC 1.4 states, "A lawyer shall: ...(4) Promptly comply with reasonable requests for  
22 information..."

23 Your actions in representing Rodrick clearly violated the above-listed Rules of Professional  
24 Conduct. As such, you are hereby **REPRIMANDED**. In addition, within 30 days of this Letter of  
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1 Reprimand you are required to remit to the State Bar of Nevada the amount of \$1,500 pursuant to  
2 Supreme Court Rule 120(3).

3 Dated this 7<sup>th</sup> day of May, 2018

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6 Ken Hogan, Esq.  
7 Chair, Screening Panel  
8 Southern Nevada Screening Panel  
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