

1 Case Number: OBC15-0562



FILED

AUG 19 2016

STATE BAR OF NEVADA
BY: *[Signature]*
OFFICE OF BAR COUNSEL

7 STATE BAR OF NEVADA

8 NORTHERN NEVADA DISCIPLINARY BOARD

9 STATE BAR OF NEVADA,)
10)

Complainant,)

11 vs.)

PUBLIC REPRIMAND

12 BRADLEY M. BALLARD, ESQ.)

STATE BAR NO. 4912)

13 Respondent.)
14)

15 TO: Bradley M. Ballard, Esq.
6440 Sky Pointe Dr., Suite 140-132
16 Las Vegas, Nevada 89131

17 Cyndie Daley retained you to represent her in a lawsuit pending in the Eighth
18 Judicial District Court. The retainer agreement stated (i) Daley was to pay you a retainer
19 of \$2,500, (ii) your hourly billable rate was \$150, (iii) you would provide Daley with monthly
20 billing statements, and (iv) the retainer funds were to be applied to fees and costs as they
21 were incurred, beginning with the first invoice.

22 The lawsuit was regarding a car and had been filed by your client's ex-mother-in-
23 law. Prior to retaining you, Daley had filed an Answer in the lawsuit. When she retained
24 you there was an arbitration deadline looming. Upon retention, you immediately began
25 analyzing Daley's options in defending against the lawsuit and prepared a draft Arbitration

1 Hearing brief. You expended no less than 18 hours of billable time over the course of the
2 first nine days of the representation.

3 Shortly after Daley retained you, her ex-mother-in-law was convinced to drop the
4 lawsuit by other family members. Daley informed you of the intention to drop the lawsuit
5 and requested a refund of the retainer monies.

6 Because of the representation that the lawsuit would be dropped, you prepared a
7 Stipulation and Order for Dismissal on Daley's behalf. That Stipulation was signed by the
8 opposing party's counsel and ultimately accepted and filed by the Court on December 3,
9 2013.

10 In February, 2014, Daley attempted to contact you to get retainer monies returned.
11 On February 6, 2014, you e-mailed Daley to apologize for not responding sooner and to
12 explain that the refund would be sent out no later than February 7, 2014.

13 Daley did not receive the refund by February 12, 2014, and therefore, e-mailed you
14 to ask about the refund monies. You did not respond to the February 12, 2014 e-mail and
15 so, on March 3, 2014, Daley e-mailed you again. You promptly responded to that e-mail
16 and indicated that the check you sent was never cashed, and therefore, you were stopping
17 payment on it and reissuing a check to her. You asked Daley to confirm her address. That
18 same day, Daley replied by e-mail with her address, which was the same address on the
19 Retainer Agreement.

20 However, you did not send the refund check in March, 2014. You did not reply to
21 Daley's next six e-mails, over the course of three months, that continued to request a status
22 on the refund.

23 Daley contacted you again, approximately seven months later, and left a message
24 at your office regarding the refund check. On April 1, 2015, you e-mailed Daley to
25 apologize for the delay in resending the refund. You promised to send the refund the next

1 day, via certified mail to the address previously provided. On April 3, 2015, Daley e-mailed
2 confirming that the address was correct. You e-mailed Daley that same day, stating that
3 the refund had been sent and providing a certified mail tracking number. Daley received,
4 by certified mail, a partial retainer refund check in the amount of \$800.

5 Daley assumed the refund would be for the entire \$2,500 since she believed she
6 never received any documents from you indicating that she was charged for any work. You
7 provided the State Bar with an Invoice showing you work over 18 hours in August, 2013
8 and you reported that this invoice was provided to Daley after the services were provided.
9 However, you did not provide Daley with another copy of the invoice in response to her
10 requests for a refund. You represented that, although you earned all of the monies paid,
11 you agreed to provide a partial refund because you felt that Daley would not expect to have
12 paid so much for the services provided and you hoped that a partial refund would remedy
13 her dissatisfaction. However, there is no evidence that you conveyed this to Daley.

14 This conduct violated Rule 1.4 (Communication) of the Nevada Rules of
15 Professional Conduct ("RPC") because you failed to timely respond to Daley's reasonable
16 inquiries for information and to provide her sufficient information when you did respond to
17 her.

18 Communication with the State Bar

19 On or about April 22, 2015, Daley filed a grievance with the State Bar stating that
20 you failed to provide her with pertinent documents relating to her case, monthly billing
21 statements, and did not properly refund the retainer funds. On June 10, 2015, the State
22 Bar provided Daley's complaint to you and requested a written response. No response
23 was received.

24 On July 14, 2015, the State Bar sent you a copy of the prior correspondence, and
25 indicated that if you failed to provide a response to the State Bar, an investigation would

1 be opened and additional proceeding under RPC 8.1 would be considered as a separate
2 disciplinary violation. Although you received the correspondence, you still did not provide
3 a response to the State Bar.

4 On August 7, 2015, you were notified that the matter would be proceeding to
5 a disciplinary panel. A Complaint in this matter was filed on January 26, 2016. You failed
6 to respond to the Complaint until after you were served with a Notice of Entry of Default.
7 When you did Answer the Complaint, you admitted your failure to timely send the refund,
8 but you failed to provide information regarding the work done on behalf of Daley. You also
9 failed to provide Initial Disclosures by the deadline set in the Order After Initial Case
10 Conference.

11 These failures to participate in the disciplinary process violated RPC 8.1(b) (Bar
12 Admissions and Disciplinary Matters) and resulted in the disciplinary proceeding taking
13 much longer to resolve.

14 Mitigating Factors

15 In mitigation, you were dealing with multiple health and personal issues during this
16 time period, which contributed to your failures to adequately communicate with your client
17 and the State Bar. You also have no prior discipline.

18 ///

19

20 ///

21

22 ///


23

24 ///

25

1 In light of the foregoing, you are hereby PUBLICLY REPRIMANDED for violating
2 RPC 1.4 (Communication) and RPC 8.1 (Bar Admissions and Disciplinary Matters) and
3 ordered to pay \$1,500, plus the State Bar's hard costs of the disciplinary proceeding, within
4 30 days of the issuance of this Public Reprimand.

5 DATED this 1st day of August 2016.

6
7
8 By: 
9 RUSTY GRAF, ESQ.
10 Formal Hearing Panel Chair
11 Southern Nevada Disciplinary Board
12
13
14
15
16
17
18
19
20
21
22
23
24
25