

STATE BAR OF NEVADA



September 30, 2014

Re: ELY 2014 – NEVADA BOARD OF CONTINUING LEGAL EDUCATION DENIAL OF CREDIT

600 East Charleston Blvd.
Las Vegas, NV 89104-1563
phone 702.382.2200
toll free 800.254.2797
fax 702.385.2878

Dear Ely 2014 Conference Attendee:

9456 Double R Blvd., Ste. B
Reno, NV 89521-5977
phone 775.329.4100
fax 775.329.0522

It is with great regret that I must send this letter to you to inform you the Nevada Board of Continuing Legal Education has denied 2.0 CLE credit hours for the keynote presentation entitled "Skills of the Exceptional Lawyer – Social Intelligence and the Human Dimension" by Jeffrey Newman, Esq. at the 25th Annual Family Law Conference at Ely- 2014. As I recognize that many of you choose to attend the Ely conference to obtain all of your required annual CLE credit hours at one time I recognize the issue this may cause in your ability to meet your annual CLE requirement. The Family Law Section Executive Council has done everything possible to reverse this decision, including requesting reconsideration of the initial denial letter which we received on March 14, 2014. As we believe it is important for our Section members and conference attendees to be fully informed about this situation I have enclosed with this letter a copy of the CLE Board's March 14, 2014 initial denial letter, our March 18, 2014 letter requesting reconsideration, and the CLE Board's June 13, 2014 letter informing that our request for reconsideration was not approved. Since June, the Family Law Section Executive Council has been working with the State Bar of Nevada in an effort to determine available options to mitigate the impact the Nevada CLE Board of Continuing Legal Education's decision will have on you, our Section members and conference attendees.

www.nvbar.org

As you have attended the 2014 conference and expect to receive the 2.0 CLE credits which have now been denied, the section would like to offer alternative options to obtain replacement credits to meet your 2014 CLE requirement. The deadline to exercise these options is **Monday, December 15, 2014.**

- (1) Take advantage of the bonus 3.0 CLE credit hours of ethics programming presented by Sean Carter which were offered as audio files online and included in your materials distributed at the 25th Annual Family Law Conference at Ely- 2014 (CLE affidavit enclosed). You can access these audio programs:
 - a. From the jump drive you received at the conference; OR
 - b. Online via this direct link: <http://www.nvbarcle.org/course-sales-page/2014-ely-family-law-conference-sean-carter>

- (2) If after submitting the 3.0 credits as outlined in option 1 to the CLE Board, you find the need for additional credits to meet the 2014 requirement, please contact the CLE Department of the State Bar of Nevada. 702-382-2200 or cle@nvbar.org.

Thank you for your understanding of this situation and the efforts which your Family Law Section Executive Council has taken to minimize the impact of the Nevada CLE Board of Continuing Legal Education's decision upon our Section members. It has been my pleasure serving as your Section Chair this year and I look forward to you joining us at the 26th Annual Family Law Conference on March 5-6, 2015 and seeing you in Ely.

Sincerely,

A handwritten signature in black ink, appearing to read "Katherine L. Provost". The signature is fluid and cursive, with a large loop at the end.

Katherine L. Provost

Chair, Family Law Section

State of Nevada
Board of Continuing Legal Education

457 Court St., 2nd Floor
Reno, NV 89501
(775) 329-4443

March 14, 2014

Jaime Chilton
State Bar of Nevada
600 E. Charleston Blvd.
Las Vegas, NV 89104

RE: SBN 2014 Family Law/Ely: Session #1: Skills of the Exceptional Lawyer-Social Intelligence and the Human Dimension

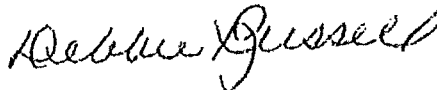
Dear Jaime,

Jason Stoffel, one of our board members, monitored this segment. He provided the handouts the board needed for review of this segment. At a meeting of the CLE Board on March 12, 2014, the handouts were presented to all the members of our Board. After a discussion, the Board determined to deny this segment of the 2014 Family Law under Board Regulation 3 (see enclosed). If you would like, you may submit a written request for reconsideration. The request must set forth the specific reason(s) for the reconsideration.

Please contact our office if you have any questions.

Sincerely,

BOARD OF CONTINUING
LEGAL EDUCATION



Debbie Russell
CLE Manager

/dr

Enc.

Cc: Stephanie Hirsch

TONI SAROCKA - EXECUTIVE DIRECTOR

HARRIET E. CUMMINGS - CHAIR

BRENT T. ADAMS • VICTOR G. DRAKULICH • FRANK C. FLAHERTY • JENNY D. HUBACH • BRYAN K. SCOTT • JASON P. STOFFEL

FAX (775) 329-4201

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WEBSITE: nvcleboard.org

(b) There is a quiet and academic atmosphere during meal time which allows all members of the audience to easily hear the speaker(s); and

(c) CLE is being presented during the entire time for which credit is applied.

6. If less than a credit hour occurs, partial credit must be rounded to the lowest one-half credit. Credits may not be received for less than a total of one-half hour of attendance at any approved educational activity.

<i>REGULATION 3</i> <i>ACADEMIC STANDARDS</i>
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1. A course, or other formal educational activity, may be approved by the Board if the following standards are met:

(a) The course or activity must have as its primary purpose: improving professional skills or competence of attorneys, furthering the education of attorneys in matters of their professional or ethical obligations, and/or improving the attorneys' efficiency in delivery of legal services to the client.

(b) Any course sponsored by a vendor of products or services to law firms or clients of lawyers is rebuttably presumed not to qualify under this standard if any self-promotion of goods or services is part of the presentation.

(c) No promotion or sale of goods or services may occur during any period for which credit is sought and no active member may be required to attend a sales presentation, in any form, to receive credit for a course. See Form 2 or the sponsor's form so long as it is substantially compliant with these regulations.

(d) The course or activity must be an organized program of learning conducted by lawyers or other persons who have specific education, training, experience, or expertise in an area or topic, by reason of which the instructor is considered an expert in the subject matter of the program. Any course conducted or presented by an instructor who does not meet this requirement of expertise is rebuttably presumed not to qualify for credit.

(e) Thorough, readable, up-to-date (including citations) and carefully prepared written materials must be made available to all participants at or before the time the course is presented, unless

(1) the absence of such written materials is reasonable under the circumstances of the particular course or presentation to be made, and

(2) the absence of such written materials is approved in advance by

the Board. All written materials must be understandable by an attorney who did not attend the program. A topical outline without citations or explanatory notations is not sufficient to satisfy this requirement.

(f) The course or activity must be conducted in a comfortable physical setting conducive to learning and shall be monitored by the sponsor for continuous attendance of the active member. The sponsor must use reasonable methods to ensure continuous attendance to include sign in sheets that shall be signed upon arrival at the course or activity, and not made available for exit signature until the course is completed.

(i) Should an attorney in attendance witness an attendee to be in violation of these regulations as to attendance, it is the professional obligation of the attorney witnessing the alleged violation to submit such information concerning the alleged violation to the program monitor. If no action is taken by the program monitor, it is the professional responsibility of the attorney witnessing the alleged violation to report the conduct to bar counsel for the State Bar of Nevada. See RPC 8.3.

(ii) Pursuant to the Rules of Professional Responsibility, to wit, RPC 8.4, it is the obligation of the attendee to comply with the attendance regulations as set forth above.

(g) The course or activity must be open to monitoring by the Board or its members or its authorized representative, without charge or need for advance registration. The sponsor must also utilize a method of monitoring continuous attendance by ensuring that continuous use of cell phones and computers, or the continued attention to unrelated reading materials during the course or activity is prohibited. The sponsor may also utilize computerized attendance systems so long as they comply with the continuous monitoring methods set forth above. In addition, certificates of attendance shall not be provided to course attendees until the end of the course or activity. The proof of attendance shall be retained as set forth within these Regulations.

(h) The course must have the instructor(s) available in the same room or available by closed two-way (interactive) video and audio technology of sufficient quality and range to be heard by all attendees, or the course must provide closed video-only transmission and additionally allow for questions to be called in or sent by facsimile or e-mail during the course. To be considered as live continuing legal education (as opposed to self-study), online (Internet-based) course(s) for which credit is sought will qualify only if they contain all of the following:

(1) Continuous video presentation of the speaker and all visual items referenced by the speaker.

THE DICKERSON LAW GROUP

ROBERT P. DICKERSON
KATHERINE L. PROVOST
RENA G. HUGHES
JOSEF M. KARACSONYI
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HILLS CENTER NORTH BUSINESS PARK
1745 VILLAGE CENTER CIRCLE
LAS VEGAS, NEVADA 89134

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TELEPHONE 388-8600
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March 18, 2014

State of Nevada
Board of Continuing Legal Education
457 Court Street, 2nd Floor
Reno, Nevada 89501
(775) 329-4291
nevadacleboard@sbcglobal.net

RE: SBN 2014 Family Law/Ely Session #1: Skills of the Exceptional Lawyer - Social Intelligence and the Human Dimension

Dear Members of the Nevada Board of Continuing Legal Education, Executive Director Sarocka, and CLE Manager Russell:

The State Bar of Nevada Family Law Section Executive Council ("Family Law Executive Council") requests reconsideration of the Board's March 14, 2014 decision to deny CLE credits for the Social Intelligence presentation by Jeffrey Newman, Esq., at the 25th Annual Family Law Conference on March 6, 2014

The presentation by Mr. Newman is a condensed version of the course of the same name which Mr. Newman has taught at UC Berkley (Boalt Hall) law school each spring, since 2011. Attached is the Power Point presentation, made available to attendees. See **Exhibit 1**.

Mr. Newman is a senior partner at the San Francisco law firm of Farella Braun + Martel. His undergraduate degree is from Stanford University and his J.D. is from UC Berkley (Boalt Hall). His faculty profile is attached as **Exhibit 2**.

The Family Law Executive Council determined to invite Mr. Newman to present at Ely upon the recommendation of Second Judicial District Court Family Law Master Dixie Grossman. Mr. Newman's in depth study of the theory and practices of Daniel Kahneman (author of *Thinking, Fast and Slow*), Amos Tversky (an expert in cognitive bias

and the handling of risk) and Daniel Goleman (author of *Emotional Intelligence*) are relevant to the practice of family law.

Mr. Newman's central thesis, (1) understanding the importance of nonverbal communication and actual listening in negotiations and conversations in a hyper e-mail, note taking world, and (2) the dichotomy between (a) fast, instinctive and emotional decisions (system 1) and slower, deliberate, and logical decisions (system 2), is directly applicable to the negotiation and resolution of family law matters.

The following is highlighted from Mr. Newman's presentation:

1. When lawyers fail to communicate in person, whether with their clients or with opposing counsel, they lose the ability to analyze nonverbal communications. This is a failing because humans are designed to communicate both verbally and, especially, non-verbally. E-mail, for example, strips away the ability to fully communicate and causes confusions with tone, etc. Further, focusing on note taking, etc. when having a dialogue, causes the negotiator to miss critical non-verbal signs and less is remembered from the conversation because of the distractions from note taking, etc. Judges comment that this is why they require counsel to meet and confer on subjects in person, and not just in writing. Following the presentation, many attendees were heard to say that they will be approaching consultations with their clients differently (recognizing the distractions they had previously implanted into the meeting), and will be less reliant on e-mail when trying to communicate thoughts and ideas with the individuals in their cases (especially opposing counsel).

2. Clients are loss-averse: they are more likely to act to avert a loss than to achieve a gain. Another example is that the value client's place on a change in probability (e.g. of winning something) depends on the reference point, and is frequently not grounded in logic. This concept is critical to good negotiating practices in the family law context.

3. System 1 thinking involves associating new information with existing patterns, or thoughts, rather than creating new patterns for each new experience. In a legal metaphor, a judge limited to heuristic thinking will only be able to think of similar historical cases when presented with a new dispute, rather than seeing the unique aspects of that case. In addition to offering an explanation for the statistical problem, the theory also offers an explanation for human biases. Attendees were heard to say that they would be approaching judges in a different way, understanding the immediate existing biases.

Mr. Newman has been at the forefront of this dialogue with lawyers. It is now catching on with other CLE and seminar providers. See the attached **Exhibit 3**, which explains the subject matter in more detail.

The Family Law Executive Council recognizes that the subject matter is academic, but the discussions following the presentation in small groups demonstrate that the presentation improves the professional competence of the attendees who engaged in the program. See the attached **Exhibit 4**, which is a copy of Mr. Newman's power point presentation for the small group demonstration which occurred on day #2 of the conference, following up on what was presented on day #1 in Mr. Newman's presentation. Eric Pulver, Esq., one of our harshest CLE critics historically, told the Council that he will approach his clients and opposing counsel in a whole new way after hearing Mr. Newman's presentation.

The Council requested the State Bar forward the comments received to date from the evaluations submitted for the Ely Conference. The comments are presented below, both good and bad. The Council recognizes this is a small sample, as evaluations will be accepted until March 21, 2014.

"We need more of this . . . a day on Thinking Fast and Slow alone would be worthwhile."

"This speaker was great. Some of the most important tools a family lawyer can have is the ability to read people, and communicate well. Sometimes those skills will take an attorney further than knowing the law. These skills are relevant in every aspect of our daily career lives: during consultations with potential clients, at court with judges and witnesses, at our offices with colleagues and staff. Mr. Newman's presentation touched on all of these aspects and gave us tools."

"Poor speaker. Superficial discussion topics. For someone with such impressive credentials, he was a large disappointment."

"The content of his presentation was great. He's just not the most exciting speaker."

"While the subject matter was interesting, Mr. Newman was very dry and did not keep our attention well."

"Invaluable lecture. Gem after gem of useful tools to use in both the legal field and one's personal life."

"Interesting topic . . . not too sure how to apply it."

"I could have gone another two hours. The time seemed much too short."

"Very applicable to the practice of family law, good hands on suggestions and training."

"I would enjoy hearing Mr. Newman again."

"This was too basic and did not keep the attention of the audience. We have all been to college and learned this stuff there. Give us more depth and stuff we can apply to our practices and interactions."

"Was a little dry, needed some examples or video presentation."

"The content was good and valuable, however, the speaker's presentation style made the efficacy and transmission of the materials weak because of poor presentation."

Of the forty evaluations received to date, the rating between Excellent and Poor is broken down as follows:

7 - Excellent (17.5%)

3 - Very Good (7.5%)

14 - Good (35%)

7 - Fair (17.5%)

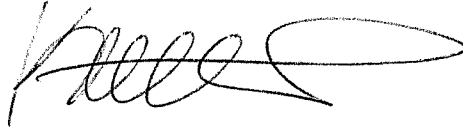
9 - Poor (22.5%)

We recognize that professionals have different opinions as to what is applicable to their individual practices. There has been, and continues to be, much discussion about the "soft" skills that lawyers often lack. We recognize that CLE monitors move cautiously in these areas, especially if the monitor individually finds the content dry. We assert, however, these are critical skills for family law practitioners. Upon the unsolicited comments from attendees, we believe this presentation contained significant intellectual and practical content to improve the professional competence of the participant as an attorney. We ask that the Board of Continuing Legal Education to approve the two general CLE credits for this presentation, or in the alternative, if questions remain, at least one and one-half general CLE credits.

It was our goal to submit this reconsideration request immediately upon receipt of the initial evaluations. If you would like for us to solicit comment additional from the Nevada Supreme Court Justices and District Judges in attendance at the presentation, as well as other attendees, we will do so expeditiously.

The Family Law Executive Council is united in this request for reconsideration and remains immediately available to answer your questions, or present further information as requested. Please feel free to contact me at (702) 388-8600 or by email to katherine@dickersonlawgroup.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Katherine L. Provost', with a large, sweeping flourish extending to the right.

Katherine L. Provost, Esq.
Chair, Family Law Section Executive Council

Cc: State Bar of Nevada, CLE
Family Law Section Executive Council

RECEIVED BY

JUN 15 2014

State of Nevada
Board of Continuing Legal Education STATE BAR OF NEVADA
457 Court St., 2nd Floor
Reno, NV 89501
(775) 329-4443

June 13, 2014

Katherine L. Provost
1745 Village Center Cir.
Las Vegas, NV 89134

RE: Request for Reconsideration
2014 Family Law Course- "Skills of the Exceptional Lawyer..."

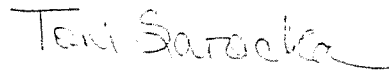
Dear Ms. Provost:

At a meeting held May 20, 2014, the Board of Continuing Legal Education considered your request for reconsideration of the above session from the Family Law Program. Prior to the meeting, each Board member was given a copy of the recorded presentation. Based upon the information provided, the Board determined not to approve your request for reconsideration. Therefore, no CLE credits will be awarded for this part of the Family Law Program.

If you have any questions concerning this matter, please feel free to contact our office.

Sincerely,

BOARD OF CONTINUING LEGAL
EDUCATION



Toni Sarocka
Executive Director

cc: CLE Dept.
State Bar of Nevada

TONI SAROCKA - EXECUTIVE DIRECTOR
HARRIET E. CUMMINGS - CHAIR
BRENT T. ADAMS • VICTOR G. DRAKULICH • FRANK C. FLAHERTY • JENNY D. HUBACH • BRYAN K. SCOTT • JASON P. STOFFEL

FAX (775) 329-4291
E-MAIL: nevadaCLEboard@sbcglobal.net
WEBSITE: nvCLEboard.org



Certificate of Attendance

(Please PRINT)

Name: _____

Bar Number : _____

Program Title: 25th Annual Family Law Conference

Program Location: Ely, Nevada

Program Dates: Thursday, March 6 – Friday, March 7, 2014

AUDIO – SEAN CARTER

	<u>Max. Hours</u>	<u>Actual Hours</u>
(1) Nice Lawyers Finish First	1 (ETHICS)	_____
(2) It's Not the Fruit, It's the Root	1 (ETHICS)	_____
(3) Lawghter is the Best Medicine	1 (AAMH)	_____

TOTAL HOURS CLAIMED:

Ethics: _____

AAMH: _____

By signing below, I certify that I listened to and reviewed the sessions indicated above and I am entitled to claim the hours indicated.

Signature: _____

** Please return this to the State Bar office located in the White Pine Room.
A copy of this will be sent to the Nevada Board of Continuing Legal Education.*