



**“Effective protection depends on prevention, education and consistent and timely enforcement of the Rules of Professional Conduct.”**

# Bar Counsel

DAVID A. CLARK, ESQ., Bar Counsel

## A CHANGE IN YOUR BAR COUNSEL

For the first time in 15 years the State Bar of Nevada has a new Bar Counsel. With his election to the District Court, Rob W. Bare leaves a legacy of service that will be a hard act to follow.

The Board of Governors recently approved expanding the Office of Bar Counsel for the first time in a decade. We have added another attorney and another paralegal/investigator to address the increasing number and complexity of the discipline complaints we receive each year.

Judge Bare set a standard for reaching out to lawyers to help them practice ethically and avoid the perils of the discipline process. He wanted the Office of Bar Counsel to be as much about assisting lawyers and preventing misconduct as it was about prosecuting lawyers for misconduct. That effort continues with the state bar's new policy regarding practice takeovers — working closely with the court and colleagues to step in for disabled and deceased attorneys to assist the clients left behind. The state bar is finalizing written procedures and recruiting attorneys in several practice areas to be ready to handle these cases quickly in order to minimize prejudice to the clients.

The Office of Bar Counsel will continue answering the more than 3,500 ethics calls per year from lawyers seeking advice on complying with the Rules of Professional Conduct. State bar attorneys will also continue to speak at CLE seminars and write articles on ethical matters facing attorneys in their daily practice.

Many disciplinary complaints arise from substance abuse or emotional problems in an attorney's personal life. For years the Office of

Bar Counsel has worked with Lawyers Concerned for Lawyers to provide attorneys with an avenue through which to seek help while maintaining their ability to practice law. The Supreme Court has been proactive in addressing the problems of attorneys convicted of DUIs and other crimes related to substance abuse.

Judge Bare maintained an open door policy to allow attorneys the ability to seek out help before their practice and clients suffered. The Office of Bar Counsel will remain committed to reaching out to attorneys struggling with personal problems in order to prevent harm to the public and the legal system as well as to the lawyer.

Since the inception of the Office of Bar Counsel, all of its attorneys have worked out of the Las Vegas office. Attorneys traveled to Reno on an ad hoc basis to prosecute cases and process complaints. However, my first priority is to establish a full-time Assistant Bar Counsel in the Reno office. While the volume of cases in the Reno office is much lower than in Las Vegas, it is time that northern Nevada bar members and their clients have the benefit of a dedicated attorney who has a full-time presence in their community.

The state bar has standing under NRS 7.285 to prosecute the unauthorized practice of law (UPL) and, over the years, has obtained civil injunctive relief, issued cease-and-desist letters and assisted law enforcement in efforts to protect the public from the unlicensed and unregulated practice of law. However, the primary mission of the Office of Bar Counsel has always been attorney discipline and UPL enforcement has sometimes waned

when resources have been stretched. I know this because when I was hired 10 years ago my duties included part-time UPL enforcement. Over the past few years, the state bar has pursued UPL vigorously through the discipline process when licensed attorneys were involved. However, much greater enforcement is needed.

As part of the expansion of our office and the upgrading of our database, it is my goal to fully incorporate UPL complaints into the investigation and enforcement processes of the Office of Bar Counsel, giving such matters added priority in relation to discipline grievances. The addition of a full-time attorney in Reno furthers this goal by allowing the state bar a much more consistent and thorough UPL enforcement presence in northern Nevada.

In order to make the Office of Bar Counsel more efficient, it is my goal to digitize the tracking and processing of complaints and prosecution files. This goal coincides with the state bar's conversion of all its records to a unified database system. It will include an improved website portal to allow for the filing of online grievances.

Further, the office will be reorganized to establish an intake department. This will allow faster initial assessment of complaints and should shorten the investigation phase for many cases.

As our Supreme Court has stated, the purpose of attorney discipline is the protection of the public and the legal system. Effective protection depends on prevention, education and consistent and timely enforcement of the Rules of Professional Conduct. With the help of our dedicated attorneys and staff, such will be the mission of the Office of Bar Counsel. ■

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A 35-year resident of Nevada, David Clark has worked at the State Bar of Nevada for more than a decade before becoming Bar Counsel in January 2011. Prior to that, he practiced for 10 years in civil litigation in California and Las Vegas.



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