



July 22, 2019

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**LETTER OF REPRIMAND**

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David O'Mara, Esq.  
The O'Mara Law Firm, P.C.  
311 E. Liberty Street  
Reno, Nevada 89501

Re: State Bar of Nevada Disciplinary Grievance No. OBC19-0051

Dear Mr. O'Mara:

A Screening Panel of the Northern Nevada Disciplinary Board has reviewed the above-referenced grievance which was opened because of information obtained in a grievance initiated against Brian Moquin, Esq. The Screening Panel has unanimously determined that you be issued a Letter of Reprimand for violations of Rules of Professional Conduct (RPC) in your *pro hac vice* sponsorship of Brian Moquin, Esq.

**FACTUAL BACKGROUND:**

In June 2014 you were retained to serve as "local counsel" by the Plaintiffs in a civil suit in Nevada. As "local counsel," you sponsored California attorney Brian Moquin for *pro hac vice* admission for that particular suit and all involved expected that Mr. Moquin would be the lead counsel for that suit. While your retainer agreement stated a limited scope of representation, that agreement does not relieve you of your obligations as the sponsor of Moquin.

During the course of the civil suit, Moquin was ordered to comply with the Nevada Rules of Civil Procedure regarding discovery in July 2015, January 2017, February 2017, and May 2017. In addition, the trial was continued three times because Moquin continued to fail to comply with discovery requirements. You were aware during the suit that Moquin never fully complied with discovery requirements.

Moquin also failed to file a reply brief and/or submit a Motion for Summary Judgment filed on behalf of your joint clients. Finally, in late 2017, Moquin failed to oppose motions that requested case-ending sanctions against your joint clients.

You communicated with Moquin that he was failing to comply with the applicable procedural rules in the suit and he failed to abide by your requests and demands to remedy the failures. You also expressed your concerns about Moquin's failures to your joint clients, which was evidenced in documents provided in the grievance initiated against Moquin. However, you did not withdraw your sponsorship of Moquin until after the Court granted the case-ending sanction against your clients. You did not communicate to the Court that you would not condone the misuse of the Nevada judicial system by Moquin.

#### **APPLICABLE RULES OF PROFESSIONAL CONDUCT:**

RPC 1.16 (Declining or Terminating Representation) provides that a lawyer shall withdraw if the representation will result in a violation of the Rules of Professional Conduct. It also provides that a lawyer may withdraw if (i) "a client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled," (ii) "the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client," or (iii) "other good cause for withdrawal exists." In this instance, you knew that Moquin was failing to perform crucial tasks on behalf of the client. Moquin's conduct was unacceptable. Had Moquin been your client, it would have been clear that withdrawal was necessary under RPC 1.16 because you would not have been able to abide by the Rules of Professional Conduct without his participation. You had a responsibility to the Court to ensure that Moquin handled the litigation in a procedurally and ethically appropriate manner. You knew that Moquin was not and you did not timely withdraw your sponsorship of Moquin. While you may have believed that withdrawing as counsel would have been detrimental to your clients, you did not balance that belief with an understanding of how continuing to sponsor Moquin was also detrimental.

RPC 8.4(d) (Misconduct- Prejudicial to the Administration of Justice) provides that it is a violation of the Rules of Professional Conduct for a lawyer to engage in conduct that is prejudicial to the administration of justice. You continued to allow Moquin access to the Nevada courtroom, via *pro hac vice* admission, despite knowing that Moquin was (i) failing to abide by the requirements of NRCP and (ii) failing to adequately represent the joint clients. Your continued sponsorship of Moquin was ultimately prejudicial to the administration of justice in the underlying case.

#### **APPLICABLE STANDARDS FOR IMPOSING LAWYER SANCTIONS:**

Standard 7.3 of the ABA Standards for Imposing Lawyer Sanctions states "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."

You identified that the attorney you sponsored for *pro hac vice* admission was mishandling the matter to the detriment of the client, however, you waited an unreasonable amount of time before withdrawing from the representation and signaling to the Court and all others involved that you did not support the *pro hac vice* counsel's conduct.

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**REPRIMAND**

Based upon the foregoing, you are hereby REPRIMANDED for your conduct related to your sponsorship of Moquin, which conduct violated Rule 1.16 and Rule 8.4(d) of the Nevada Rules of Professional Conduct when you failed to terminate the representation and withdraw your sponsorship of an out-of-state attorney despite knowing that the attorney was failing to abide by the requirements of NRCP and adequately represent the joint clients.

Finally, in accordance with Nevada Supreme Court Rule 120 you are assessed costs in the amount of \$1,500.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bruce Hahn", with a long horizontal flourish extending to the right.

Bruce Hahn, Esq., Screening Panel Chair  
Northern Nevada Disciplinary Board

BH/rkf