IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF AMENDMENTS
TO COURT RULES REGARDING
ATTORNEY DISCIPLINE,
SPECIFICALLY, SCR 105.

ADKT 0505

FILED

NOV 05 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY_____
CHIEF DEPUTY CLERK

ORDER AMENDING SUPREME COURT RULE 105

WHEREAS, on March 16, 2015, the Board of Governors of the State Bar of Nevada filed a petition seeking amendment of Supreme Court Rule 105; and

WHEREAS, this court sought comment on the proposed changes from the bench, bar, and public, and conducted a public hearing on July 1, 2015; and
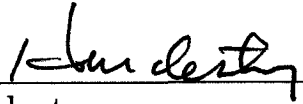
WHEREAS, this court has determined that amendment to SCR 105 is warranted; accordingly,
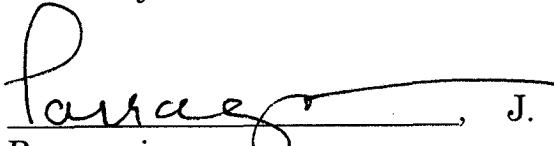
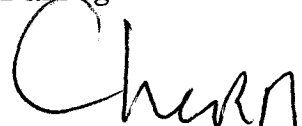IT IS HEREBY ORDERED that the Supreme Court Rule 105 shall be amended as set forth in Exhibit A.

IT IS FURTHER ORDERED that these amendments shall be effective 30 days from the date of this order. The clerk of this court shall cause a notice of entry of this order to be published in the official publication of the State Bar of Nevada. Publication of this order shall be accomplished by the clerk disseminating copies of this order to all subscribers of the advance sheets of the Nevada Reports and all persons and agencies listed in NRS 2.345, and to the executive director of the State Bar of Nevada. The certificate of the clerk of this court as to the accomplishment of the above-described publication of notice of entry and
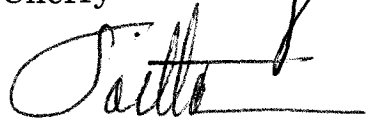
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dissemination of this order shall be conclusive evidence of the adoption and publication of the foregoing rule amendments.
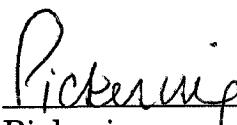
It is so ORDERED.

_____, C.J.
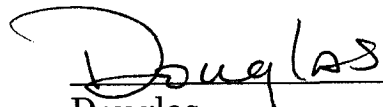Hardesty

_____, J.
Parraguirre

_____, J.
Cherry

_____, J.
Saitta

_____, J.
Gibbons

_____, J.
Pickering

DOUGLAS, J., dissenting: I dissent. I would continue to conduct a complete de novo review based on the questionable nature of some of the fact-finding.

_____, J.
Douglas

cc: Laurence P. Digesti, President, State Bar of Nevada
        Kimberly Farmer, Executive Director, State Bar of Nevada
        Clark County Bar Association
        Washoe County Bar Association
        Administrative Office of the Courts

ADKT 505 – Exhibit A

SUPREME COURT RULE 105

* * *

3. *Review by supreme court.*

(a) *Time and manner of appeal.* A decision of a hearing panel shall be served on the attorney, and service shall be deemed Notice of Entry of Decision for appeal purposes. Except as provided in Rule 105(3)(b), a decision is final and effective 30 days from service, unless an appeal is taken within that time. To the extent not inconsistent with these rules, an appeal from a decision of a hearing panel shall be treated as would an appeal from a civil judgment of a district court and is governed by the Nevada Rules of Appellate Procedure.

(b) [*De novo review*] <u>Review</u> *of public discipline.* Except for disbarments by consent pursuant to Rule 112 or a public reprimand agreed to in writing by the attorney pursuant to Rule 113, a decision recommending a public reprimand, suspension or disbarment shall be automatically reviewed by the supreme court. <u>Although the supreme court's review of the conclusions of law and the recommended discipline is de novo, the court shall employ a deferential standard of review with respect to findings of fact.</u> Review under this paragraph shall be commenced by bar counsel forwarding the record of the hearing panel proceedings to the court within 30 days of entry of the decision. Receipt of the record in such cases shall be acknowledged in writing by the clerk of the supreme court.

The attorney and bar counsel shall have 30 days from the date the supreme court acknowledges receipt of the record within which to file an opening brief or otherwise advise the court of any intent to contest the

hearing panel's findings and recommendations. If an opening brief is filed, briefing shall thereafter proceed in accordance with NRAP 31(a). Extensions of time to file briefs are disfavored and will only be granted upon a showing of good cause. The parties shall not be required to prepare an appendix, but rather shall cite to the record of the disciplinary proceedings. If no opening brief is filed, the matter will be submitted for decision on the record without briefing or oral argument.

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