

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

**\*\*\*\*\***

VALLEY HEALTH SYSTEM, LLC, A  
NEVADA LIMITED LIABILITY  
COMPANY, D/B/A CENTENNIAL  
HILLS HOSPITAL MEDICAL  
CENTER; AND UNIVERSAL  
HEALTH SERVICES, INC., A  
DELAWARE CORPORATION,

Appellants,

vs.

ESTATE OF JANE DOE, BY AND  
THROUGH ITS SPECIAL  
ADMINISTRATOR, MISTY  
PETERSON,

Respondents.

No. 70083

Electronically Filed  
Jul 07 2017 08:19 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

---

HALL PRANGLE &  
SCHOONVELD, LLC; MICHAEL  
PRANGLE, ESQ.; KENNETH M.  
WEBSTER, ESQ.; AND JOHN F.  
BEMIS, ESQ.,

Petitioners,

vs.

THE EIGHTH JUDICIAL  
DISTRICT COURT OF THE STATE  
OF NEVADA, IN AND FOR THE  
COUNTY OF CLARK; AND THE  
HONORABLE RICHARD SCOTTI,  
DISTRICT JUDGE,

Respondents,

and

MISTY PETERSON, AS SPECIAL  
ADMINISTRATOR OF THE  
ESTATE OF JANE DOE,

Real Party in Interest.

No. 71045

**NOTICE OF SUPPLEMENTAL AUTHORITIES**

Pursuant to Nevada Rule of Appellate Procedure 31(e), the Honorable Richard Scotti, District Court Judge, hereby advises the Court of “pertinent and significant authorities [that have] come to [his] attention after [his] brief has been filed, but before a decision” has been rendered. Judge Scotti files this Notice more than ten days before argument so that it can be given “consideration by the court at oral argument. . . .” NRAP 31(e).<sup>1</sup>

On pages 15 through 17 of the Answer to Petition for Extraordinary Writ Relief, Judge Scotti addressed the contention of Hall Prangle and its attorneys that they did not receive sufficient notice that their own misconduct was at issue in the evidentiary hearing. In addition to the notice inherently provided by the *Young v. Johnny Ribeiro Building, Inc.*, 106 Nev. 88, 787 P.2d 777 (1990) factors, the Eleventh Circuit Court of Appeals has held that “a motion for sanctions under Rule 37, *even one which names only a party*, places both that party and its attorney on notice that the court may assess sanctions against either or both unless they provide the court with a substantial justification for their conduct.” *Devaney v. Cont’l Am. Ins. Co.*, 989 F.2d 1154, 1160 (11th Cir. 1993) (emphasis added) (rejecting attorney’s claim that he was denied due process because the motion practice only named his client as the potential target for sanctions).

---

<sup>1</sup> *Nevada Appellate Practice Manual* § 10:142 (2016 ed.) (“Nothing in the plain language of the rule, however, prohibits a party from also supplementing its brief with pertinent authorities that existed at the time the brief was filed but that the party had not discovered at that time.”).

Thus, a sanctioned attorney's due process rights are satisfied even if the underlying motion for sanctions only names a party as the target of the sanctions, not the attorney. *Id.* (“[T]he motions themselves were thus sufficient to satisfy the Due Process Clause. . .”).

Similarly, the Supreme Court of Connecticut has held that a hearing on whether an attorney violated a rule of professional conduct “is not the trial of a criminal or civil action or suit, but an investigation by the court into the conduct of one of its own officers, and that, therefore, while the complaint should be sufficiently informing to advise the . . . attorney of the charges made against him, it is not required that it be marked by the same precision of statement, or conformity to the recognized formalities or technicalities of pleadings, as are expected in complaints in civil or criminal actions.” *Briggs v. McWeeny*, 796 A.2d 516, 532 (Conn. 2002) (quotations omitted); *see also Thalheim v. Town of Greenwich*, 775 A.2d 947, 962 (Conn. 2001). Applying that standard, other Connecticut courts have determined that an adversary's briefs can adequately put an attorney on notice that a violation of the rules of professional conduct is at issue even if such a notice does not formally come from the court. *See Faile v. Zarich*, No. HHDX04CV065015994S, 2009 WL 3285986, at \*\*9-13 (Conn. Super. Ct. Sept. 10, 2009) (briefing put defense counsel on notice concerning claimed violations of the rules

of professional conduct therefore the court did not act *sua sponte* and attorney's decision not to be represented by her own counsel was a "tactical decision").<sup>2</sup>

Here, although the Order Setting Evidentiary Hearing did not specifically mention potential sanctions against Hall Prangle, PA0602, Plaintiff's moving papers did even more than required by the Eleventh Circuit. Plaintiff specifically cited Nevada Rule of Professional Conduct 3.3 and argued that Hall Prangle violated that standard. Answer to Pet. 17; PA0744. This was enough to put Hall Prangle on notice and to satisfy due process.<sup>3</sup> Judge Scotti was not required to do anything further when investigating the conduct of an officer of the court.

Lastly, pages 21 to 22 of the Answer to the Petition for Extraordinary Writ Relief addressed whether Hall Prangle made a false statement of fact to the District Court. The comments to ABA Model Rule of Professional Conduct 3.3—which is identical—explain "[a] lawyer acting as an advocate in an adjudicative proceeding has an obligation to present the client's case with persuasive force. Performance of that duty while maintaining confidences of the client, however, is qualified by the advocate's duty of candor to the tribunal. Consequently, although a lawyer in an adversary proceeding is not required to present an impartial exposition of the law or to vouch for the evidence submitted in a cause, *the lawyer must not allow the tribunal to be misled by false statements of law*

---

<sup>2</sup> Hall Prangle also relies upon Connecticut authority. Pet. 23, 30.

<sup>3</sup> Any error was cured by the Motion for Reconsideration. Answer to Pet. 18-20.

*or fact or evidence that the lawyer knows to be false.”* Model Rules of Prof’l Conduct R. 3.3 cmt. 2 (emphasis added).<sup>4</sup>

Recognizing that direct evidence of a lawyer’s “knowledge” will be rare, the comments continue: “A lawyer’s knowledge that evidence is false, however, can be inferred from the circumstances.” *Id.* cmt. 8 (citing Rule 1.0(f)). Likewise, Hall Prangle’s “knowing” violation can be inferred from the totality of the circumstances, including the failure to timely disclose witnesses and evidence. NRPC 1.0(f).

Dated: July 6, 2017.

ADAM PAUL LAXALT  
Attorney General

/s/ Jordan T. Smith  
Jordan T. Smith, Assistant Solicitor General  
Nevada Bar No. 12097  
Office of the Attorney General  
555 East Washington Avenue, Suite 3900  
Las Vegas, NV 89101  
Telephone: (702) 486-3420  
Email: jsmith@ag.nv.gov

---

<sup>4</sup>[https://www.americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct/rule\\_3\\_3\\_candor\\_toward\\_the\\_tribunal/comment\\_on\\_rule\\_3\\_3.html](https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_3_3_candor_toward_the_tribunal/comment_on_rule_3_3.html).

## CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Office Word 2013 in size 14 Garamond font.

I further certify that this brief complies with the page or type-volume limitations of NRAP 31(e) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points or more and contains 868 words as calculated by the Microsoft Word Count function.

Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires that every assertion in this brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

By: /s/ Jordan T. Smith  
Jordan T. Smith, Esq., Bar No. 12097

## **CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed and served the foregoing Notice of Supplemental Authorities in accordance with the Court's electronic filing system on this 6th day of July, 2017. Participants in the case who are registered with the Court's electronic filing system will receive notice that the document has been filed and is available on the Court's electronic filing system.

/s/ Jordan T. Smith  
An employee of the Office of the Attorney General