

IN THE SUPREME COURT OF THE STATE OF NEVADA

LYNN R. SHOEN,

Petitioner,

VS.

STATE BAR OF NEVADA,

Respondent.

Electronically Filed
Nov 25 2019 09:33 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No. 79288

**STATE BAR OF NEVADA'S
APPENDIX TO ANSWERING BRIEF**

STATE BAR OF NEVADA
Phillip J. Pattee, Asst. Bar Counsel
Nevada Bar No. 4021
3100 W. Charleston Boulevard, Ste. 100
Las Vegas, Nevada 89102
(702) 382-2200

Attorney for State Bar of Nevada

MARQUIS AURBACH COFFING
Phillip S. Aurbach, Esq.
Nevada Bar No. 1501
10001 Park Run Drive
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Attorney for Petitioner

APPENDIX INDEX

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5.	Order Granting State Bar's Motion to Strike	037-039

DATED this 22st day of November, 2019.

STATE BAR OF NEVADA
DANIAL M. HOOGE, BAR COUNSEL

By: _____

Phillip J. Pattee, Assistant Bar Counsel
Nevada Bar No. 4021
3100 W. Charleston Boulevard, Suite 100
Las Vegas, Nevada 89102
(702) 382-2200

EXHIBIT 1


IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
LYNN R. SHOEN, BAR NO. 1197.

No. 69697

FILED

APR 22 2016

TRAGIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER APPROVING CONDITIONAL GUILTY PLEA AGREEMENT

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that this court approve, pursuant to SCR 113, a conditional guilty plea agreement in exchange for a stated form of discipline for attorney Lynn R. Shoen. Under the agreement, Shoen admitted to over 40 violations including RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.8 (conflict of interest: current clients: specific rules), RPC 1.15 (safekeeping property), RPC 3.4 (fairness to opposing party and counsel), RPC 8.1(a) (bar admission and disciplinary matters), and RPC 8.4 (misconduct).

The agreement provides for a four-year and six-month suspension beginning retroactively on April 24, 2014, when this court temporarily suspended Shoen from the practice of law, and the payment of \$25,100 in restitution to be made in monthly payments and to be paid in full within one year of this court's approval of the guilty plea. During the remaining term of Shoen's suspension, she is required to take 6 CLE classes per year until she is reinstated and she must pass the MPRE examination within 6 months of applying for reinstatement. Further, upon Shoen's reinstatement, she will be prohibited from maintaining her own practice, must work under the supervision of another attorney with at

SUPREME COURT
OF
NEVADA

(O) 1947A 

16-12703

least 15 years of experience, and may never be a signatory to or have any access to any trust account, client or third-party funds of any kind, regardless of their characterization such as a "flat-fee." Additionally, the agreement requires Shoen to pay the costs of all the disciplinary proceedings.

Based on our review of the record, we conclude that the guilty plea agreement should be approved. See SCR 113(1). Considering the duties violated and the aggravating and mitigating circumstances, we conclude that the four-year and six-month suspension, the payment of restitution, and the prohibition on Shoen maintaining her own law practice or having access to client or third-party funds is sufficient to serve the purpose of attorney discipline. See *In re Lerner*, 124 Nev. 1232, 1246, 197 P.3d 1067, 1077-78 (2008) (setting forth factors to be considered); *State Bar of Nev. v. Claiborne*, 104 Nev. 115, 213, 756 P.2d 464, 527-28 (1988) (explaining purpose of attorney discipline). While Shoen's misconduct is egregious and her continued misconduct after the first bar complaint was filed is troublesome, we conclude that the plea agreement's prohibition on her maintaining her own law practice or having access to client or third-party funds sufficiently protects the public and the legal profession.

We hereby impose a four-year and six-month suspension beginning retroactively on April 24, 2014. Further, Shoen shall pay \$25,100 in restitution as outlined in the plea agreement, to be made in monthly payments and paid in full within one year of the date of this order. The payment of restitution is a condition precedent to the submittal of an application for reinstatement. Shoen must take 6 CLE classes per year until she is reinstated and she must pass the MPRE

examination within 6 months of applying for reinstatement. Further, upon Shoen's reinstatement, she is prohibited from maintaining her own practice and must work under the supervision of another attorney who has at least 15 years of experience. Shoen is also prohibited from being a signatory to or having any access to any trust account or client or third-party funds of any kind, regardless of the characterization of those funds, such as "flat-fee." Additionally, Shoen must pay the costs of all the disciplinary proceedings, excluding Bar Counsel and staff salaries, within 180 days of receipt of a billing from the State Bar. See SCR 120. The parties shall comply with SCR 115 and SCR 121.1.

It is so ORDERED.

Parraguirre, C.J.
Parraguirre

Hardesty, J.
Hardesty

Cherry, J.
Cherry

Gibbons, J.
Gibbons

Douglas, J.
Douglas

Saitta, J.
Saitta

Pickering, J.
Pickering

cc: Chair, Southern Nevada Disciplinary Board
Marquis Aurbach Coffing
C. Stanley Hunterton, Bar Counsel, State Bar of Nevada
Kimberly K. Farmer, Executive Director, State Bar of Nevada
Perry Thompson, Admissions Officer, United States Supreme Court

EXHIBIT 2

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE
DISCIPLINE OF LYNN R. SHOEN,
Petitioner,

Nevada State Bar Disciplinary Board,
Respondent.

Case No. _____

Electronically Filed
Jul 29 2019 02:26 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**PETITION FOR A WRIT OF MANDAMUS DIRECTING THE STATE
BAR DISCIPLINARY BOARD TO VACATE ITS ORDER STRIKING
SHOEN'S PETITION FOR REINSTATEMENT**

Marquis Aurbach Coffing

Phillip S. Aurbach, Esq.

Nevada Bar No. 1501

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Las Vegas, Nevada 89145

Telephone: (702) 382-0711

Facsimile: (702) 382-5816

paurbach@maclaw.com

Attorneys for Lynn R. Shoen

LYNN R. SHOEN (“SHOEN”), by and through her attorney, Phillip S. Aurbach, Esq. of the law firm of MARQUIS AURBACH COFFING submits this Petition for a Writ of Mandamus directing the State Bar Attorney Disciplinary Board to vacate its Order Striking SHOEN’S Petition for Reinstatement since the Disciplinary Board did not properly apply SCR Rule 116.

This Petition is based upon the papers and pleadings on file herein, the appendix of exhibits, and the following memorandum of points and authorities.

Dated this 26th day of July, 2019.

MARQUIS AURBACH COFFING

By: /s/ Phillip S. Aurbach

Phillip S. Aurbach, Esq.
Nevada Bar No. 1501
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Lynn R. Shoen

MEMORANDUM OF POINTS AND AUTHORITIES

I.
REQUIRED CONTENTS AND INTRODUCTION

1. **NRAP Rule 21(3) requires the following information:**
 - a. **Whether this matter falls within NRAP 17(a)** (Supreme Court Matters) or 17(b) (Appellate Court Matters). This is a matter of attorney discipline, thus it is a Supreme Court Matter pursuant to NRAP 17(a)(4).
 - b. **The relief sought is**
 - i. Writ of Mandamus directing the State Bar Attorney Disciplinary Board to vacate its Order Striking SHOEN'S Petition for Reinstatement since the Disciplinary Board did not properly apply SCR Rule 116.
 - c. **The issues presented** are whether the Nevada Bar Disciplinary Board properly applied SCR Rule 116 since the Board only considered whether the \$25,100 in restitution had been paid and did not consider the rest of SCR 116 which allows SHOEN to be reinstated **nevertheless** if there are other good and sufficient reasons.
 - d. **The Facts necessary to understand the issues presented.** The facts are set forth below.

- e. **The reasons why the writ should issue including points and authorities.** The reasons and authorities are presented below, but one reason is that SHOEN has no direct appeal from the Disciplinary Board's Order striking her Petition for Reinstatement. A Writ of Mandamus may issue to compel performance of an act which the law enjoins as a duty i.e., the Board had a duty to consider all of SCR Rule 116, but failed in this duty.

2. Introduction

- a. On April 22, 2016 as part of a State Bar Disciplinary Proceeding, this Court entered an Order Approving Conditional Guilty Plea Agreement (**Exhibit 1**, App. 1-4) that:
- i. Temporarily suspended SHOEN from practicing law for 4 years 6 months from April 24, 2014 (through April 23, 2019) and
 - ii. Required SHOEN to:

///

1--Take 6 CLE classes each year until reinstatement;		✓ Completed
2--Take and pass the MPRE exam within 6 months of applying for reinstatement;		✓ Completed
3--Pay restitution to her clients regarding misappropriated trust funds—all of which were fully paid prior to the Conditional Guilty Plea;		✓ Completed prior to the conditional plea

4--Pay \$25,100.00 to her clients for which there were pending fee disputes i.e., withdraw her defenses to the fee dispute claims and pay them in full. This payment was “a condition precedent to the submittal of an application for reinstatement;”		Not completed due to insufficient funds
5--Pay the costs of the State Bar disciplinary proceedings;		Not completed due to insufficient funds
6--Pay \$3,500 the cost of the Bar opposing her current Petition for reinstatement.		✓ Completed

<p>7—Upon reinstatement. SHOEN cannot maintain her own practice; must work under the supervision of another attorney with at least 15 years of experience and may never be a signatory to or have access to any trust account, client or third-party funds of any kind, regardless of their characterization such as a “flat-fee.”</p>	<p>SHOEN has obtained employment with Craig Mueller of MUELLER & ASSOCIATES, INC. who has agreed to:</p> <p>a—meet the requirements of supervision and require no trust account access, as well as</p> <p>b—set aside \$1,500 from each of SHOEN’s paychecks to pay the fee dispute clients in full as well as the previous disciplinary costs. (See Petition for Reinstatement (Exhibit 2, App. 5-23).</p>
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II.
STATEMENT OF FACTS AND PROCEDURAL POSTURE

1. On April 22, 2016 this Court entered an Order Approving Conditional Guilty Plea Agreement attached hereto as **Exhibit 1**. App. 1-4. The Order approved a 4 year and six (6) month suspension retroactive to April 24, 2014¹.

SHOEN was required to:

- a. take 6 CLE classes per year (which she did);
- b. pass the MPRE examination within six (6) months of applying for reinstatement (which she did).
- c. pay \$25,100 to be paid in full by monthly payments within one year of the date of this Court's Order (which she was financially unable to meet);
- d. repay the costs incurred by the Nevada State Bar (which was also financially unable to accomplish).

2. It is undisputed that SHOEN had paid 100% of the misappropriated trust funds that began the disciplinary proceedings which ultimately resulted in this Court's April 22, 2016 Order approving the Conditional Guilty Plea Agreement.

3. It is also undisputed that SHOEN passed the MPRE with a score of 90 in March of 2019 and had taken the requisite number of CLE courses.

¹ This 4 year 6 month period was a critical part of the negotiations so Ms. Shoen would not need to retake the Bar Examination.

4. It is also undisputed that within one year of this Court's Order SHOEN was not able to pay restitution of the \$25,100 in fee disputes (which she agreed not to contest as part of her negotiated plea agreement) because she did not have the funds to make these payments.

5. SHOEN was not able to and she did not pay the costs of the Bar proceedings because she did not have the funds to pay.

6. Although not exactly undisputed, SHOEN'S income was decimated after the suspension of her license, her parents had died, and she and her daughter, Jacqueline Shoen, born March 28, 2006, had substantial health issues. These financial issues were detailed in her Petition for Reinstatement on April 23, 2019 attached hereto as **Exhibit 2**. App. 5-23.

7. The Nevada Bar moved to strike SHOEN's Petition and the Southern Nevada Disciplinary Board granted the Bar's Motion to Strike (*See Exhibit 3*, App. 24-95) because the Chair of the Disciplinary Committee incorrectly concluded that the Committee:

“does not have the authority to hear an application of reinstatement until the restitution is paid”

8. The Bar did not take into account:
- a. SHOEN'S lack of income,
 - b. Her present employment,

- c. Her good conduct for the last 4 ½ years,
- d. Her passage of the MPRE with a score of 90 and the fact that she had taken the requisite number of CLE courses,
- e. The offer by her present employer to hire her at a substantial increase in salary as well as his willingness to put aside funds from her paycheck for these obligations,
- f. SHOEN'S Opposition Points and Authorities attached hereto as **Exhibit 4** (App. 96-203) where this Court has previously allowed attorneys to be reinstated PRIOR TO payment of restitution.

III.

CONCLUSION

For the foregoing reasons, the Court should Order that

1—A writ of Mandamus issue directing the Disciplinary Committee to vacate its Order Striking Shoen's Petition for Reinstatement

///

///

2--Order that Shoen's Petition for Reinstatement filed on April 23, 2019
should be allowed to proceed in as directed in this Order.

Dated this 26th day of July, 2019.

MARQUIS AURBACH COFFING

By: /s/ Phillip S. Aurbach
Phillip S. Aurbach, Esq.
Nevada Bar No. 1501
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Lynn R. Shoen

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE
DISCIPLINE OF LYNN R. SHOEN,
Petitioner,

Nevada State Bar Disciplinary Board,
Respondent.

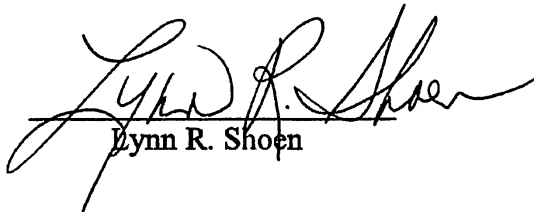
Case No. _____

DECLARATION AND VERIFICATION OF LYNN SHOEN

I, Lynn R. Shoen, have read the Petition for Writ of Mandamus. I know the contents thereof. The Petition is true of my own knowledge, except as to those matters stated on information and belief, and that as to such matters I believe them to be true..

I declare under penalty of perjury under the laws of the State of Nevada (NRS 53.045 and 28 U.S.C. § 1746), that the foregoing is true and correct.

Dated this 26 day of July, 2019.


Lynn R. Shoen

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **PETITION FOR A WRIT OF MANDAMUS
DIRECTING THE STATE BAR DISCIPLINARY BOARD TO VACATE
ITS ORDER STRIKING SHOEN'S PETITION FOR REINSTATEMENT**

was filed electronically with the Nevada Supreme Court on the 26th day of July,
2019. I further certify that I served a copy of this document by mailing a true and
correct copy thereof, postage prepaid, addressed to:

NEVADA BAR COUNSEL
STATE BAR OF NEVADA
3100 W. Charleston Blvd, Suite 100
Las Vegas, NV 89102
Fax: 702-385-2878

/s/ *Javie-Anne Bauer*
An employee of Marquis Aurbach Coffing

EXHIBIT 3



FILED

APR 23 2019

STATE BAR OF NEVADA

BY: [Signature]
OFFICE OF BAR COUNSEL

LYNN R. SHOEN
Nevada Bar No. 001197
1281 Oribia Avenue
Henderson, Nevada 89014
(702) 971-1276
Petitioner in Proper Person

**STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD**

LYNN R. SHOEN,

Petitioner,

vs.

STATE BAR OF NEVADA,

Respondent.

)
)
)
) State Bar of Nevada Case No.
) Case Nos. 09-018-0197, 09-209-
) 0197, 09-094-0197, 09-095-0197,
) 08-122-0197, 09-208-0197, 09-
) 172-0197
)
)
)

PETITION FOR REINSTATEMENT

COMES NOW Petitioner, LYNN R. SHOEN ("Petitioner"), in Proper Person and submits this Petition for Reinstatement to the practice of law pursuant to Supreme Court Rule 116. This Petition is based upon the papers and pleadings on file herein, the attached exhibits, the following memorandum of points and authorities, and the arguments of counsel at the time set for hearing in this matter.

Dated this 23 day of April, 2019

[Signature]
LYNN R. SHOEN

Nevada Bar No. 001197
1281 Oribia Avenue
Henderson, Nevada 89014
(702) 971-1276
Petitioner in Proper Person

1
2
3
4
5 **MEMORANDUM OF POINTS AND AUTHORITIES**
6

7 **I.**

8 **STATEMENT OF FACTS AND PROCEDURAL POSTURE**
9

10 On April 22, 2016 The Nevada Supreme Court filed an ORDER
11 APPROVING CONDITIONAL GUILTY PLEA AGREEMENT. The Order
12 approved a 4 year and six (6) month suspension retroactive to April 24, 2014. She
13 was required to pay \$25,100 in restitution to be paid in full by monthly payments
14 within one year of the court's approval of the guilty plea, she was to take 6 CLE
15 classes per year and she must pass the MPRE examination within six (6) months of
16 applying for reinstatement.
17

18 **II.**

19 **ARGUMENT**
20

21 **A. PETITIONER'S ACTIONS SHOW BY CLEAR AND CONVINCING**
22 **EVIDENCE THAT HE HAS THE MORAL QUALIFICATIONS,**
23 **COMPETENCY AND LEARNING IN LAW REQUIRED FOR ADMISSION**
24 **TO PRACTICE IN NEVADA AS REQUIRED BY SCR 116(2).**

25 Since April 22, 2016, the date approving the Conditional Guilty Plea
26 Agreement, SHOEN has taken the MPRE on March 23, 2019, and is waiting for the
27 results. She has taken the requisite number of CLE courses. She did not pay the
28 restitution in full within one year of the Court's Order because she did not have the

1 funds to pay \$2,000.00 per month toward the restitution. He income was decimated
2 after the suspension of her license, her parents had died, and she and her daughter,
3 Jacqueline had substantial health issues.

4 She has however, maintained employment, has learned a new type of law,
5 personal injury and class action suits, and is currently working for an employer,
6 Craig Mueller, Esq. who has been practicing law for over 20 years. Mr. Mueller
7 has agreed to retain her as an associate in the event her license is reinstated. She
8 will then begin paying full restitution.

9 **MEDICAL ISSUES:**

10 Since the Order Approving Conditional Guilty Plea and has not engaged in
11 any misconduct, has not been arrested, and has spent her time working and raising
12 two (2) children with special needs. Both of her children have learning disabilities,
13 and her daughter, Jaqueline, born March 28, 2006 has severe asthma. Jacqueline is
14 severely allergic to cats, dogs and grass. If she goes to a friend's house, and the
15 friend has a dog or cat, Jacqueline can go into respiratory distress, and she must be
16 rushed to an emergency room for treatment.

17
18 1. Since 2016, Jacqueline has been hospitalized at both St. Rose-Siena
19 Hospital and Summerlin Hospital for asthma and pneumonia, and has been
20 treated at the St. Rose-Siena and Sunrise Hospital Pediatric Emergency
21 Rooms on numerous occasions. Jacqueline's medical bills have been
22 enormous, and the only period during which SHOEN had medical
23 coverage when she worked for Eglet Prince, from December 2016 through
24 February 2018. One of Jacqueline's inhalers alone costs \$375.00. After
25 one hospital visit, the co-pay on her prescriptions alone was \$600.00.

26 2. Since 2014, SHOEN has also had medical issues:
27
28

- 1 a. In 2016 and 2017 she was treated for advanced skin cancer, and the
2 right side of her nose was totally reconstructed by Brandon, Reynolds,
3 M.D.
- 4 b. In 2016 and 2017 she had numerous gall bladder attacks, and her gall
5 bladder was ultimately removed at St. Rose Dominican Hospital. After
6 the gall bladder surgery, she developed an abscess which caused her
7 agony for one year. The abscess was finally diagnosed at St. Rose-
8 Siena Emergency Roo in December of 2017, and was treated.
- 9 c. She suffers from high blood pressure and has been prescribed
10 medication. At least twice, when she was at her physician's office, her
11 blood pressure was 190/100, stroke level.

12
13 **EMPLOYMENT**

14 SHOEN has maintained employment and has engaged in no misconduct of
15 any kind. At the time of her suspensions, she was doing mostly Family Law. Since
16 her suspension, she has learned personal injury litigation and class action suits.

17
18 May 2014-October 2016 She worked for the owner of Neonopolis,
19 assisting with discovery on a large lawsuit in which
20 Downtown Project, a division of Zappos, was a
21 Defendant. For verification please contact Joseph
22 Kistler, Esq., (702) 385-2500.

23
24 December 2016-February 2018 Law clerk /paralegal for Eglet Prince
25 Drafted most of their Complaints, Drafted Joint
26 Case Conference Reports, Drafted Initial
27 Document and Witnesses Disclosures; drafted
28

1 Motions For verification, please contact Joseph
2 Troiano, Esq., (702) 748-7777.

3
4 April 2018 through May 2019 Law Clerk/Paralegal for Deaver & Crafton
5 Drafted most of their Complaints, Drafted Joint
6 Case Conference Reports, Drafted Initial
7 Document and Witness Disclosures; drafted
8 Motions. For verification, please contact Bryce
9 Crafton, (702) 385-5969.

10
11 May 25, 2019 to present Law Clerk for Craig Mueller & Associates
12 Research re Class Action Lawsuit; Drafting
13 Complaint. For verification, please contact Craig
14 Mueller, Esq., (702) 382-1200).

15
16 The requirements for readmission of a suspended attorney are set forth in
17 Supreme Court Rule 116. The petitioning attorney has the burden of demonstrating
18 the elements by clear and convincing evidence. Petitioner respectfully submits that
19 he has met and even exceeded his burden of proof. With respect to reinstatement,
20 the Rule states:

21
22 **Rule 116. Reinstatement.**

23 1. **Order of supreme court required.** An attorney suspended as discipline
24 for more than 6 months may not resume practice unless reinstated by order of the
supreme court.

25 2. **Procedure for reinstatement.** Petitions for reinstatement by a suspended
26 attorney shall be filed with bar counsel's office, which shall promptly refer the
27 petition to the chair of the appropriate disciplinary board. The chair shall promptly
28 refer the petition to a hearing panel, which shall, within 60 days after referral,
conduct a hearing. **The attorney has the burden of demonstrating by clear and
convincing evidence that he or she has the moral qualifications, competency,**

1 and learning in law required for admission to practice law in this state, and
2 that his or her resumption of the practice of law will not be detrimental to the
3 integrity and standing of the bar, to the administration of justice, or to the
4 public interest. Within 60 days after the hearing concludes, bar counsel shall file
5 the record of the proceedings, together with the panel's findings and
6 recommendation, with the supreme court. Receipt of the record shall be
7 acknowledged in writing by the supreme court clerk.

8 The attorney or bar counsel shall have 30 days from the date the supreme court
9 acknowledges receipt of the record within which to file an opening brief or
10 otherwise advise the court if he or she intends to contest the hearing panel's findings
11 and recommendations. If an opening brief is filed, briefing shall thereafter proceed
12 in accordance with NRAP 31(a). Extensions of time to file briefs are disfavored and
13 will only be granted upon a showing of good cause. The parties shall not be required
14 to prepare an appendix, but rather shall cite to the record of the reinstatement
15 proceedings. If no opening brief is filed, the matter will be submitted for decision
16 on the record without briefing or oral argument.

17 **3. Bar counsel to appear.** In proceedings for reinstatement, bar counsel
18 shall represent the state bar and submit any evidence and produce any witnesses
19 relevant to the petition.

20 **4. Tender of costs in advance.** Petitions for reinstatement under this rule
21 shall be accompanied by an advance cost deposit of \$1,000 to cover anticipated
22 costs of the reinstatement proceeding.

23 **5. Decision on reinstatement; conditions.** If the attorney does not meet the
24 burden of proof to justify reinstatement, the petition shall be dismissed by the
25 hearing panel. If the attorney meets the burden of proof, the hearing panel's
26 recommendation for reinstatement shall be entered. Reinstatement may be
27 conditioned upon the attorney's payment of the costs of the proceeding, restitution
28 to parties injured by the petitioner's misconduct, including the Client Security Fund,
any further conditions deemed appropriate by the panel, and such proof of
competency as may be required by the supreme court, which proof may include
certification by the bar examiners of the successful completion of an examination
for admission to practice subsequent to the date of suspension or disbarment. If an
attorney has been continuously suspended for 5 years or more at the time a petition
for reinstatement is filed, irrespective of the term of suspension initially imposed,
successful completion of the examination for admission to practice shall be a
mandatory condition of reinstatement.

6. Successive petitions. A petition for reinstatement under this rule shall not
be filed within 1 year following an adverse judgment on a petition for reinstatement
filed by the same attorney, unless otherwise ordered by the court. (Emphasis
added.)

1
2 **1) PETITIONER HAS THE MORAL QUALIFICATIONS**
3 **REQUIRED FOR ADMISSION TO PRACTICE LAW IN THIS**
4 **STATE.**

5 **a. Multistate Professional Responsibility Examination**

6 The moral qualifications required to practice law in the State of Nevada are
7 codified in the Nevada Rules of Professional Conduct. One of the primary measures
8 of an attorney's knowledge of the NRPC is his or her score on the Multistate
9 Professional Responsibility Examination (MPRE). Petitioner sat for the MPRE on
10 March 23, 2019. She should receive her score in a matter of days.

11
12 **b. Support from the Bench**

13 Support from the Bench. I have been advised the following judges will
14 support my reinstatement: The Honorable A. William Maupin, former Chief Justice
15 of the Nevada Supreme Court; the Honorable Judge Jennifer L. Elliot, former
16 District Judge in the Family Division of the Eighth Judicial District Court, the
17 Honorable Judge Bryce Duckworth, District Judge in the Family Division of the
18 Eighth Judicial District Court; the Honorable Judge Gloria Sanchez, retired,
19 District Court Judge in the Family Division of the Eighth Judicial District Court;
20 the Honorable Denise Gentile.

21
22 They believe that that Petitioner has met the burden of proving his moral
23 qualifications for practicing law as required by SCR 116(2).

24
25 **c. Support from the Bar**

26 Support from members of the Nevada State Bar has been substantial as well.
27
28

1 The following lawyers support reinstatement: 1) Craig Mueller, Esq.; 2) John
2 Hall Howard, Esq.; 3) Kevin M. Kelly, Esq; 4) Christopher R. Tilman, Esq; 5)
3 Radford Smith, Esq.; 6) Lynn Conant Esq.

4 Petitioner anticipates that many more lawyers will supplement this list prior
5 to the hearing in this matter.
6

7 **d. Petitioner's recovery**

8 SHOEN has never had any drug, alcohol or gambling issues.
9

10 Since the Order Approving Conditional Guilty Plea she not been arrested, or
11 engaged in any misconduct of any kind. She has spent her days working, learning a
12 new type of law (personal injury) and caring for her two adopted children.

13 SHOEN misappropriated client funds, a serious offense, but as of October
14 2010, she had accounted for all of the funds misappropriated, and had reimbursed
15 the clients affected.
16

17 The \$25, 100 she currently owes in restitution is for fee disputes. She did not
18 pay back the funds within one year of the April 22, 2016 Order Approving
19 Conditional Guilty Plea.
20

21 SHOEN was unemployed between October 2016 and December 2016, and
22 received no unemployment benefits because she was a contract employee for
23 Neonopolis (i.e. Joshi & Associates). She was also unemployed between February
24 2018 and April 2018., after working for Eglet Prince.

25 The partners of Eglet Prince, who had constantly told SHOEN that she was
26 "a star" and was doing a great job, suddenly announced in February of 2018 that
27 they were dividing her duties, i.e. drafting complaints; handling the Early Case
28

1 Conferences; Initial Disclosures and Joint Case Conference Reports, between other
2 employees.

3 SHOEN has been assured a position as an associate with Craig Mueller &
4 Associates; her health issues have resolved; and she can begin paying back to fee
5 disputes. She simply did not have the funds from April 2016 through April 2017 to
6 pay back \$25,100.00 in restitution. She and her children were living at Budget
7 Suites on Rancho in Las Vegas, Nevada during that period of time.
8

9 **2) PETITIONER HAS THE COMPETENCY AND LEARNING IN**
10 **THE LAW REQUIRED TO PRACTICE LAW IN THIS STATE.**
11

12 Petitioner was initially admitted to practice law in 1979.

13 Her employers since she was suspended on April 24, 2014 have constantly
14 praised her work.

15 At Deaver & Crafton, she was credited with vastly improving its litigation
16 department, with the partners telling her that since she was hired, "it is night and
17 day." SHOEN totally organized the litigation division, and a firm which was
18 constantly sanctioned by the court for delinquent filings, was suddenly ahead of
19 schedule.
20

21 It is important for the Board to know that *none* of the allegations in the
22 original Ethics Complaint related to competence.

23 The Complaint arose from the misappropriation of funds, not from a lack of
24 competency.
25
26
27
28

1 **B. THE EVIDENCE SHOWS THAT PETITIONER'S RESUMPTION**
2 **OF THE PRACTICE OF LAW WILL NOT BE DETRIMENTAL TO**
3 **THE INTEGRITY OF THE BAR, THE ADMINISTRATION OF**
4 **JUSTICE, OR THE PUBLIC INTEREST AND THAT HE CAN**
5 **SATISFY HER BURDEN OF PROOF PURSUANT TO SCR 116(2).**

6 Petitioner has worked continuously and effectively to benefit the integrity
7 of the bar, the administration of justice and the public interest. This has been
8 recognized by many members of the bench, bar. She has performed a fine job for
9 her employers, and has not been sanctioned for any type of misconduct since her
10 suspension on April 24, 2014.

11
12 **C. PETITIONER CAN SHOW BY CLEAR AND CONVINCING**
13 **EVIDENCE THAT HE HAS SATISFIED THE REQUIREMENTS**
14 **FOR REINSTATEMENT SET FORTH IN THE ORDER OF**
15 **SUSPENSION ISSUED BY THE NEVADA SUPREME COURT.**

16 The Order Approving Conditional Guilty Plea Agreement of Suspension
17 issued by the Nevada Supreme Court on April 22, 2016 (attached as **EXHIBIT 1**)
18 sets forth the conditions for reinstatement. Petitioner will address these conditions
19 in the order they were issued by the Court. The overwhelming body of evidence
20 proves that Petitioner has done what the Court told him to do.
21

22
23 1) Petitioner took the MPRE examination.

24
25 2) Petitioner has taken the Requisite CLE.
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1 **3) Petitioner has not engaged in the unauthorized practice of law or**
2 **handled any client funds or trust accounts during his suspension.**

3 As an officer of the Court Petitioner hereby represents, and will so testify at
4 the hearing in this matter, that she has not engaged in the unauthorized practice of
5 law or handled any client funds or trust accounts during her suspension.
6

7 **4) Petitioner has obtained employment with an attorney who has**
8 **practiced for more than 15 years and who is willing to offer her a**
9 **position as an associate**
10 **following his reinstatement. She will not have access to any client**
11 **funds or third party funds and she shall not be a signatory on**
12 **any trust account.**

13 As an officer of the Court Petitioner hereby represents, and will so testify at
14 the hearing in this matter that Petitioner has obtained employment with an attorney
15 who has practiced for more than 15 years and who is willing to offer her a position
16 as an associate following his reinstatement. She will not have access to any client
17 funds or third party funds and she shall not be a signatory on any trust account.
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20 **D. THE NEVADA SUPREME COURT CASE OF STATE BAR OF**
21 **NEVADA V. CLAIBORNE, 104 NEV. 115, 756 P.2D 464 (1988),**
22 **FAVORS REINSTATEMENT OVER ADDITIONAL PUNISHMENT**
23 **OF PETITIONER.**

24 In the Order of Suspension (**EXHIBIT 1**) the Nevada Supreme Court cited
25 **Claiborne**, *supra* for the principle that “[t]he purpose of attorney discipline is to
26 protect the public, the courts, and the legal profession, not to punish the attorney.”
27
28 Page 2. Petitioner respectfully submits that failure to reinstate her for the purpose

1 of paying restitution is tantamount to a failure to protect the public. The clients will
2 not likely be paid in full unless Petitioner is allowed to reach her full earning
3 capacity by practicing law. The courts and the legal profession and the public will
4 also be assured by the fact that one who has fallen from grace came back to restore
5 honor to the practice of law.

6 Conditions can be put in place that will "protect the public, the courts, and
7 the legal profession" within the meaning of Claiborne, *supra*. Petitioner hereby
8 assures the Board that she can be trusted and she will abide by conditions of
9 reinstatement.

10 III.

11 CONCLUSION

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13 Petitioner deeply and humbly apologizes to the clients and the citizens of the
14 State of Nevada for the financial and emotional damage she has caused.

15 Petitioner has undergone a revolution of the mind and has learned how to
16 live within a strict budget. She only asks for the chance to prove to the State Bar
17 and her former clients that she can once again bring honor to the profession and
18 restore them to the financial position they held before they retained Petitioner and
19 paid her fees.

20 Petitioner gives her solemn word as an officer of the Court that she will not
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1 violate the trust placed in him should the Board choose to reinstate.

2 Dated this 23 day of April 2019.

3 Respectfully Submitted,

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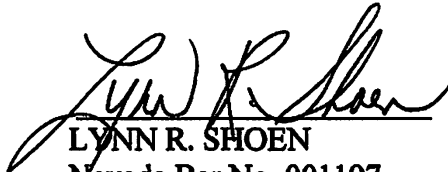
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LYNN R. SHOEN

Nevada Bar No. 001197

1281 Oribia Avenue

Henderson, Nevada 89014

(702) 971-1276

Petitioner in Proper Person

EXHIBIT 4

Case No.: RI19-0556



FILED

MAY 07 2019

STATE BAR OF NEVADA

BY: S. Shoen
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA

SOUTHERN NEVADA DISCIPLINARY BOARD

IN THE MATTER OF REINSTATEMENT OF)
LYNN R. SHOEN)
Nevada Bar No. 1197)

**STATE BAR OF NEVADA'S MOTION TO STRIKE LYNN R. SHOEN'S
PETITION FOR REINSTATEMENT**

The State Bar of Nevada ("State Bar") hereby moves to strike Lynn R. Shoen's Petition for Reinstatement. This Motion is made and based upon the following Memorandum of Points and Authorities and all matters on file herein.

MEMORANDUM OF POINTS AND AUTHORITIES

1. Background Facts.

On or about April 23, 2019, Lynn R. Shoen ("Shoen") petitioned for reinstatement to the practice of law pursuant to Supreme Court Rule ("SCR") 116. *See Exhibit 1, Petition for Reinstatement from the Practice of Law in Nevada.* The State Bar received Shoen's \$1,000 deposit required pursuant to SCR 116(4) and \$2,500.

On April 22, 2016, the Supreme Court of Nevada ("Supreme Court") suspended Shoen from the practice of law for a period of four (4) years and six (6) months, retroactive to the date of the Order of Temporary Suspension filed on April 24, 2014. *See Exhibit 2, Order Approving Conditional Guilty Plea.* The suspension stemmed primarily from Shoen having misappropriated client funds. *See Exhibit 3, Amended Conditional Guilty Plea in Exchange for Stated Form of Discipline ("Amended Plea").*

1 As part of the Order, the Supreme Court approved the Amended Plea and imposed obligations
2 upon Shoen, including a condition precedent to submittal of an application for reinstatement. **Exhibit**
3 **2**, pp. 2-3. Those obligations are:

- 4 1. Shoen shall pay \$25,100 in restitution, as outlined in the plea agreement, to be made in
5 monthly payments and paid in full within one year of the date of the Supreme Court
6 order, and “[t]he payment of restitution is a condition precedent to the submittal of an
7 application for reinstatement.”
- 8 2. Shoen must take six (6) Continuing Legal Education (“CLE”) classes per year until
9 she is reinstated.
- 10 3. Shoen must pass the Multistate Professional Responsibility Examination (“MPRE”)
11 within six (6) months of applying for reinstatement.
- 12 4. Shoen must pay the costs of all the disciplinary proceedings within 180 days of a
13 billing from the State Bar.

14 Therefore, the Supreme Court ordered that making restitution to her clients and the State Bar’s
15 Client Security Fund (“CSF”) is a condition precedent to applying for reinstatement.

16 Shoen has either failed to meet these conditions and/or failed to provide proof of completion
17 with her petition¹.

18 **2. Shoen has not paid restitution prior to petitioning for reinstatement.**

19 The Supreme Court ordered Shoen, as a condition precedent to submitting a reinstatement
20 petition, to pay restitution as outlined in the Amended Plea, which includes clients and CSF. In
21 December 2015, Shoen agreed in the Amended Plea to pay restitution, as follows, **Exhibit 3**, p. 33:

22 ///

23 ///

24 _____
25 ¹ The State Bar has independently confirmed that Shoen did in fact pass the MPRE and that thirty (30) CLE credits had
been submitted to the CLE Board between January 21 and April 25, 2019.

Party	Amount of Restitution
Lisa MacGregor	\$1,000.00
Susan Brunkow	\$1,000.00
Louis Kaminsky	\$14,000.00
Betty Jane Engeberg	\$1,700.00
Bridget Carty	\$4,000.00
Client Security Fund	\$3,400.00
TOTAL	\$25,100.00

As of the date of filing this motion, Shoen has failed to pay restitution to CSF or any of the clients listed above.

As noted earlier, compliance with this condition is a necessary precedent to petitioning for reinstatement. Furthermore, SCR 116(2)(a), requires that the petitioner be in full compliance with the terms and conditions of all prior disciplinary orders. In her petition, Shoen admitted she is not in compliance with the restitution condition. **Ex. 1, pp. 2-3**

While the State Bar appreciates that Shoen has experienced financial difficulties, such events were not the terms which she agreed to in the Amended Plea filed in December 2015, or conditions contained in the Supreme Court's order of April 22, 2016. Payment of restitution, and proof of such payment, must be completed prior to filing a petition for reinstatement.

3. Shoen has not provided the State Bar with proof that she has completed six CLE credits, per year until she is reinstated.

In the Order Approving Conditional Guilty Plea, the Supreme Court ordered that during the remaining term of Shoen's suspension, she must take six (6) CLE classes per year until she is reinstated. Proof of these CLE credits must be made prior to filing the petition for reinstatement.

What was not addressed in the Supreme Court's order – but is a concern for the State Bar – is that Shoen was administratively suspended on January 29, 2015, for failure to comply with the CLE requirement for 2014. *See Exhibit 4, pg. 8.* Shoen is still CLE suspended. Therefore, Shoen will have to be reinstated by the CLE Board as well.

///

4. Shoen has not paid costs of the prior disciplinary matter before petitioning for reinstatement.

In the Order Approving Conditional Guilty Plea, the Supreme Court ordered that Shoen pay costs of the disciplinary proceeding, excluding Bar Counsel and staff salaries. This was to be paid within 180 days of receipt of the billing from the State Bar.

The State Bar sent Shoen two (2) letters notifying her of the costs in the amount of \$5,024.89 owed to the State Bar. The first letter was sent on May 16, 2016, providing a due date of October 19, 2016. The second letter was sent on June 30, 2016, providing her with a copy of the Memorandum of Costs and reminding her of the October 19, 2016, due date. *See Exhibit 5.*

Shoen delivered to the State Bar a \$2,500 check as required in reinstatement proceedings pursuant to SCR 120 (Costs), but she has failed to pay the past due costs.

CONCLUSION

The Supreme Court was clear that Shoen must make restitution *before applying* for reinstatement. Shoen has failed to meet that condition precedent and even acknowledged that she has not done so.

Accordingly, the Petition for Reinstatement should be stricken.

DATED this Seventh day of May, 2019.

STATE BAR OF NEVADA
Daniel M. Hooe, Bar Counsel

By: Phillip J. Pattee
Phillip J. Pattee, Assistant Bar Counsel
State Bar No. 4021
3100 W. Charleston Boulevard, Suite 100
Las Vegas, Nevada 89102

EXHIBIT 5



FILED

MAY 29 2019

Case No.: RI19-0556

STATE BAR OF NEVADA

BY: [Signature]
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA

SOUTHERN NEVADA DISCIPLINARY BOARD

IN THE MATTER OF REINSTATEMENT OF

LYNN R. SHOEN,
Nevada Bar No. 1197

**ORDER GRANTING STATE BAR'S
MOTION TO STRIKE**

The matter, State Bar of Nevada's Motion to Strike Lynn R. Shoen's Petition for Reinstatement, having come before the Chair and upon review of the pleadings and the oral argument of each party, the Motion is hereby granted. The Chair and the Bar does not have the authority to hear an application of reinstatement until the restitution is paid.

DATED this 29th day of May, 2019.

[Signature]
LUKE PUSCHNIG, ESQ.
Nevada Bar No. 3792
3150 Paradise Road
Las Vegas, Nevada 89109

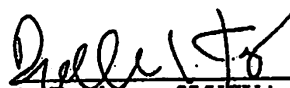
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I deposited a true and correct copy of the foregoing **ORDER GRANTING STATE BAR'S MOTION TO STRIKE** in the U.S. mail, postage prepaid, to the following at their last known address on the 29 day of May, 2019:

Lynn R. Shoen
1281 Oribia Avenue
Henderson, NV 89014

State Bar of Nevada
3100 W Charleston Blvd,
Las Vegas, NV 89102



An Employee of LVCVA

1 **CERTIFICATE OF SERVICE BY MAIL**

2 The undersigned hereby certifies that a true and correct copy of the foregoing
3 **STATE BAR OF NEVADA'S APPENDIX TO ANSWERING BRIEF** was placed
4 in a sealed envelope and sent by U.S. regular mail in Las Vegas, Nevada, postage
5 fully prepaid thereon for first class mail, addressed to:

6 MARQUIS AURBACH COFFING
7 Phillip S. Aurbach, Esq.
8 Nevada Bar No. 1501
9 10001 Park Run Drive
10 Las Vegas, NV 89145

11 Dated this 22 day of November, 2019.

12 
13 _____
14 Kristi A. Faust, an employee of the
15 State Bar of Nevada
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19
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