

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Electronically Filed
Oct 09 2020 04:09 p.m.
Case No. Elizabeth A. Brown
Clerk of Supreme Court

**RECORD OF DISCIPLINARY PROCEEDINGS,
PLEADINGS AND TRANSCRIPT OF HEARING**

Brian C. Padgett, Esq.
Nevada Bar No. 7474
611 S. 6th Street
Las Vegas, NV 89101
Respondent

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

2)
3 **IN RE:**)

4 **BRIAN C. PADGETT, ESQ.**)
NEVADA BAR NO. 7474)

**CASE SUMMARY FOR
RECORD ON APPEAL**

5)
6)
7)
8)
9)
10)
11)
12)
13)
14)
15)
16)
17)
18)
19)
20)
SUMMARY OF NATURE OF THE CASE

OBC19-0604

Brian C. Padgett (hereinafter “Mr. Padgett”), Bar No. 7474, was retained by Bruce Familian (hereinafter “Mr. Familian”) to represent DKB, LLC, for an inverse condemnation case against Clark County on or about July 25, 2012. The case went to trial and DKB was awarded \$116,508 by the jury. Mr. Familian then retained Lewis Roca Rothgerber Christie LLP (hereinafter “Lewis & Roca”) to file an appeal as he was not satisfied with the amount awarded by the jury. On or about November 8, 2017, Clark County deposited \$151,599.83 with the District Court representing the jury verdict plus interest.

On or about June 8, 2018, Mr. Padgett filed a Motion on Order Shortening Time to Direct Disbursement of Funds on Deposit. Lewis & Roca were not served with Mr. Padgett’s motion which was eventually granted. Mr. Familian emailed Mr. Padgett asking why the disbursement motion was filed without his knowledge and instructed Mr. Padgett to stop the process of withdrawing the funds. Mr. Familian specifically asked Mr. Padgett not to touch on deposit with the District Court should

1 not be touched during the appeal. However, Mr. Padgett had already received
2 \$151,599.63 of the judgment funds from the Court on or about October 22, 2018.

3 On or about June 19, 2019, Mr. Padgett attempted to obtain an additional
4 \$13,845.45 from funds that Clark County deposited with the District Court by
5 submitting a proposed order directly to the Court without copying any other parties
6 or filing a motion. The Court returned the proposed order to Respondent and
7 provided copies to Lewis & Roca.

8 OBC19-0798

9 Ian Ritchie (hereinafter "Mr. Ritchie") was hired as the head of security for
10 CWNevada (hereinafter "CWN"), a marijuana dispensary of which Mr. Padgett is
11 the CEO, from approximately 2017 to March 26, 2019. In or around May 2015, Mr.
12 Ritchie was sued by his former employer, Pro-Tect Security, for violating the terms
13 of a non-compete agreement.

14 Although Mr. Ritchie was not counsel of record for Mr. Ritchie or Round
15 Table Security (Mr. Ritchie's company), he advised Mr. Ritchie that he should agree
16 to be jointly and severally liable for the judgment, and that Mr. Padgett, himself,
17 would be paying the judgment. Following Mr. Padgett's advice, the lawsuit was
18 settled with Mr. Ritchie agreeing to be jointly and severally liable for payment to
19 Pro-Tect Security along with Round Table Security. Neither Mr. Padgett, Mr.
20 Ritchie, or Round Table Security satisfied the settlement.

1 In or around February 2017, Pro-Tect Security sued Mr. Ritchie for breach of
2 contract. On or about March 12, 2018, Respondent entered his appearance on behalf
3 of Mr. Ritchie. On or about June 28, 2018, the Court entered summary judgment in
4 favor of Pro-Tect Security and against Mr. Ritchie for \$129,999.92. On or about
5 July 27, 2018, Mr. Padgett filed a Notice of Appeal with the District Court. Mr.
6 Padgett continued to communicate to Mr. Ritchie that Mr. Padgett would give him
7 the money to pay off Pro-Tect Security. Ultimately, Mr. Padgett withdrew as
8 counsel from the appeal. Mr. Ritchie was not able to secure new counsel, and his
9 appeal was dismissed.

10 **NUMBER OF GRIEVANCES INCLUDED IN CASE**

11 Two (2) grievance files.

12 **THE RULES OF PROFESSIONAL CONDUCT**

13 OBC19-0604 and OBC19-0798 were consolidated into one matter. The
14 alleged violations in the Formal Complaint were as follows: (1) RPC 1.2 (Scope of
15 Representation and Allocation of Authority Between Client and Lawyer); (2) RPC
16 1.4 (Communication); (3) RPC 1.8 (Conflict of Interest: Current Clients: Specific
17 Rules); (4) RPC 1.15 (Safekeeping Property); (5) RPC 3.3 (Candor Toward the
18 Tribunal); (6) RPC 8.1 (Bar Admission and Disciplinary Matters); and (7) RPC 8.4
19 (Misconduct).

1 **THE NATURE OF THE RULE VIOLATIONS**

2 The Formal Hearing Panel found by clear and convincing evidence that Mr.
3 Padgett violated: (1) RPC 1.2 (Scope of Representation and Allocation of Authority
4 Between Client and Lawyer); (2) RPC 1.4 (Communication); (3) RPC 1.8 (Conflict
5 of Interest: Current Clients: Specific Rules); (4) RPC 1.15 (Safekeeping Property);
6 (5) RPC 3.3 (Candor Toward the Tribunal); (6) RPC 8.1 (Bar Admission and
7 Disciplinary Matters); and (7) RPC 8.4 (Misconduct).

8 **SUMMARY OF THE RECOMMENDATION**

9 Mr. Padgett should receive a suspension from the practice of law for five (5)
10 years and be required to retake the Nevada Bar Exam. Additionally, Pursuant to
11 SCR 120, Respondent shall pay a \$2,500 fee plus the actual costs of this proceeding
12 within ninety (90) days of receipt of a billing from the State Bar.

13 DATED this 29th day of July, 2020.

14 **STATE BAR OF NEVADA**
15 **DANIEL M. HOOGE, BAR COUNSEL**

16 */s/ Gerard Gosioco*
 /s/ Gerard Gosioco (Jul 29, 2020 14:52 PDT)

17 **Gerard Gosioco, Assistant Bar Counsel**
18 Nevada Bar No. 14371
19 3100 West Charleston Boulevard, Suite 100
20 Las Vegas, Nevada 89102
 (702) 382-2200

INDEX

Description	Page Nos.	Vol. No.
Certificate of Service- Record of Appeal Dated October 9, 2020	ROA Page 096	I
Complaint, Designation of Hearing Panel Members, and Affidavit of Mailing Filed December 23, 2019	ROA Page 001-018	I
Entry of Default Filed March 24, 2020	ROA Page 056-059	I
Findings of Fact, Conclusions of Law, and Recommendation After Formal Hearing Filed July 30, 2020	ROA Page 082-091	I
First Amended Complaint and Affidavit of Mailing Filed January 7, 2020	ROA Page 019-033	I
Notice of Amended Formal Hearing Filed April 9, 2020	ROA Page 070-072	I
Notice of Formal Hearing Filed May 22, 2020	ROA Page 080-081	I
Notice of Intent to Proceed on a Default Basis Filed January 31, 2020	ROA Page 034-047	I
Notice of Telephonic Case Conference Filed March 5, 2020	ROA Page 050-051	I
Order Appointing Formal Hearing Panel Filed April 3, 2020	ROA Page 067-069	I
Order Appointing Hearing Panel Chair Filed March 4, 2020	ROA Page 048-049	I
Scheduling Order Filed March 19, 2020	ROA Page 052-055	I
State Bar of Nevada's Memorandum of Costs Filed August 24, 2020	ROA Page 092-095	I
State Bar's Final Disclosure of Witnesses and Documents Filed May 12, 2020	ROA Page 073-079	I
State Bar's Initial Disclosure of Witnesses and Documents File March 24, 2020	ROA Page 060-066	I

TRANSCRIPTS & EXHIBITS

Description	Page Nos.	Vol. No.
Transcript of Proceedings Held on June 8, 2020	ROA Page 097-151	II
State Bar's Exhibit 1	ROA Page 152-225	II
State Bar's Exhibit 2	ROA Page 226	II
State Bar's Exhibit 3	ROA Page 227-232	II
State Bar's Exhibit 4	ROA Page 233-234	II
State Bar's Exhibit 5	ROA Page 235-245	II
State Bar's Exhibit 6	ROA Page 246-264	II
State Bar's Exhibit 7	ROA Page 265-266	II
State Bar's Exhibit 8	ROA Page 267	II
State Bar's Exhibit 9	ROA Page 268-269	II
State Bar's Exhibit 10	ROA Page 270-286	II
State Bar's Exhibit 11	ROA Page 287-307	II
State Bar's Exhibit 12	ROA Page 308-310	II
State Bar's Exhibit 13	ROA Page 311	II
State Bar's Exhibit 14	ROA Page 312	II
State Bar's Exhibit 15	ROA Page 313-315	II
State Bar's Exhibit 16	ROA Page 316	II

1	State Bar's Exhibit 17	ROA Page 317	II
2	State Bar's Exhibit 18	ROA Page 318-322	II
3	State Bar's Exhibit 19	ROA Page 323-408	II
4	State Bar's Exhibit 20	ROA Page 409-511	II
5	State Bar's Exhibit 21	ROA Page 512-515	II
6	State Bar's Exhibit 22	ROA Page 516-641	II
7	State Bar's Exhibit 23	ROA Page 642-643	II
8	State Bar's Exhibit 24	ROA Page 644-650	II
9	State Bar's Exhibit 25	ROA Page 651-654	II
10	State Bar's Exhibit 26	ROA Page 655-663	II
11	State Bar's Exhibit 27	ROA Page 664	II
12	State Bar's Exhibit 28	ROA Page 665-666	II
13	State Bar's Exhibit 29	ROA Page 667-671	II
14	State Bar's Exhibit 30	ROA Page 672-676	II
15	State Bar's Exhibit 31	ROA Page 677-678	II
16	State Bar's Exhibit 32	ROA Page 679-688	II
17	State Bar's Exhibit 33	ROA Page 689-690	II
18	State Bar's Exhibit 34	ROA Page 691-693	II
19	State Bar's Exhibit 35	ROA Page 694-696	II
20	State Bar's Exhibit 36	ROA Page 697-701	II



FILED

DEC 23 2019

STATE BAR OF NEVADA

BY: SMM.
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
BRIAN PADGETT, ESQ.,)
Nevada Bar No. 7474)
Respondent.)

COMPLAINT

TO: Brian Padgett, Esq.
611 S. 6th Street
Las Vegas, NV 89101

PLEASE TAKE NOTICE that pursuant to Supreme Court Rule ("SCR") 105(2) a
VERIFIED RESPONSE OR ANSWER to this Complaint **must be filed** with the Office of Bar
Counsel, State Bar of Nevada, 3100 W. Charleston, Blvd, Suite 100, Las Vegas, Nevada, 89102,
within twenty (20) days of service of this Complaint. The procedure regarding service is
addressed in Supreme Court Rule 109.

GENERAL ALLEGATIONS

1. Complainant, State Bar of Nevada ("State Bar") alleges that Respondent, Brian
Padgett, Esq. ("Respondent"), Nevada Bar No. 7474, who is currently an active member of the
State Bar of Nevada having been licensed to practice law in the State of Nevada since December
28, 2000, and at all times pertinent to this Complaint having a principal place of business for the

1 practice of law located in Clark County, Nevada, has engaged in acts of misconduct in violation
2 of the Nevada Rules of Professional Conduct ("RPC"), warranting the imposition of professional
3 discipline as set out herein.

4 **OBC 19-0604/Bruce Familian**

5 2. On or about July 25, 2012, Bruce Familian ("Familian") retained Respondent to
6 represent DKB, LLC ("DKB") in an inverse condemnation case against Clark County.

7 3. On September 11, 2012, Respondent filed a Complaint in Inverse Condemnation,
8 initiating case No. A-12-668136-C in the Eight Judicial Circuit Court (the "Inverse Condemnation
9 Case").

10 4. The Inverse Condemnation Case went to trial and DKB was awarded \$116,508 by
11 the jury.

12 5. Following trial, several post-judgment motions were filed regarding attorney's fees,
13 costs, and prejudgment interest on the award. An Order granting the prejudgment interest was filed
14 on November 3, 2017, but the Court requested additional briefing regarding fees and costs.

15 6. Familian retained attorneys Dan Polsenberg ("Polsenberg") and Joel Henriod
16 ("Henroid") of Lewis & Roca ("L&R") to file an appeal of the Inverse Condemnation Case (the
17 "Appeal") as he was not satisfied with the amount awarded by the jury.

18 7. L&R filed a Notice of Appearance in the Inverse Condemnation Case on June 12,
19 2017.

20 8. On or about November 8, 2017, Clark County deposited \$151,599.83 with the
21 District Court, representing the jury verdict plus interest.

22 9. On June 8, 2018, Respondent filed a Motion on Order Shortening Time to Direct
23 Disbursement of Funds on Deposit (the "Motion for Disbursement").

10. On June 12, 2018, an Order granting the Motion for Disbursement was filed.

11. L&R were not served with the Motion for Disbursement.

12. On or about June 20, 2018, Henroid discovered that the Motion for Disbursement and the Order granting same had been filed.

13. Henroid contacted Respondent's office and expressed concern that they had withdrawn the funds without notifying Familian or L&R, stated that he believed withdrawing the funds might jeopardize Familian's case, and notified Respondent that Familian did not authorize the withdrawal.

14. On June 22, 2018, Familian emailed Respondent asking why the Motion for Disbursement was filed without Familian's knowledge and why it had been done on shortened time. The email requested the status of the funds and an accounting explaining what happened to any funds received by Respondent.

15. Respondent replied that he did not yet have the check in hand, but that in his opinion retrieving the funds would not jeopardize Familian's rights on appeal. Respondent stated that he would send Familian a copy of the outstanding bill which Familian could pay out of pocket or from the released funds.

16. Familian instructed Respondent to stop the process of withdrawing the funds and requested the current bill, stating that he had not received one in over a year.

17. On June 29, 2018, Respondent's office emailed Familian a copy of an invoice dated June 26, 2018 for \$69,945.73 for services from November 2016 through may 2017, indicating that Familian had yet to be billed for post-trial work.

18. On October 16, 2018, the Court filed its Decision and Order awarding DKB over \$400,000 in attorney's fees and costs.

19. The same day, Respondent filed a Notice of Filing of Attorney's Lien. The Attorney's Lien Notice did not include an amount.

20. Respondent never filed a Motion to Enforce the Attorney's Lien, as required by NRS 18.015.

21. On October 25, 2018, Familian emailed Respondent and stated that he had no objection if Respondent took the approximately \$70,000 he was owed from the attorney fee award proceeds, but specifically stated that the funds on deposit with the court for the judgment and interest should not be touched during the appeal.

22. However, Familian had already received \$151,599.83 of the judgment funds from the Court on October 22, 2018.

23. As feared by Henriod, Clark County made the argument that DKB had forfeited its right to interest on the judgment from the date that the Court granted the Motion for Disbursal, though the Court ultimately rejected that argument.

24. Respondent never provided with Familian a billing invoice after the June 29, 2018 bill for \$69,945.73.

25. On July 19, 2019, Respondent attempted to obtain an additional \$13,845.45 from funds that Clark County had deposited with the District Court by submitting a proposed order directly to the court without copying any other parties or filing a motion. The court returned the proposed order to Respondent and courtesy copies to Polsenberg.

OBC19-0798/Ian Ritchie

26. Ian Ritchie (“Ritchie”) was hired as the head of security for CWNevada (“CWN”), a marijuana dispensary of which Respondent is the CEO, from approximately 2017 to March 26, 2019.

27. Prior to his employment at CWN, Ritchie was employed as the director of sales for Pro-Tect Security ("ProTect").

28. While employed with ProTect, Ritchie signed a non-compete agreement.

29. Despite the non-compete agreement, Ritchie left ProTect and founded Round Table Security (“RTS”).

30. In or about May, 2015, ProTest sued, *inter alia*, Ritchie for violating the non-compete agreement. (the “non-compete lawsuit”)

31. Ultimately, the non-compete lawsuit was settled with Ritchie agreeing to be jointly and severally liable for payments to ProTect along with RTS.

32. Though Respondent was not counsel of record in the non-compete lawsuit, Respondent advised Ritchie that he should agree to be joint and severally liable on the judgment, and that Respondent would pay the judgment.

33. Neither Respondent, Ritchie, or RTS satisfied the settlement.

34. In February of 2017, ProTect sued, *inter alia*, Ritchie for breach of contract. (the “Breach Case”)

35. On March 12, 2018, Respondent entered his appearance on behalf of Ritchie in the Breach Case.

36. On June 29, 2018, the Court entered summary judgment in favor of ProTect and against Ritchie for \$129,999.92.

37. On July 27, 2018, Respondent filed a Notice of Appeal in the District Court. (the “Breach Appeal”)

38. On December 4, 2018, a Nevada Supreme Court mandated settlement conference was held in the Breach Appeal.

39. Respondent continued to communicate to Ritchie that Respondent would give Ritchie money to pay off ProTect.

40. Ultimately, Respondent withdrew as counsel of record from the Breach Appeal.

41. Ritchie was unable to secure new counsel, and the Breach Appeal was dismissed.

42. In his response to the State Bar, Respondent stated, "I am not permitted to advance funds to a client, nor would I have agreed to do so in Mr. Ritchie's Case..."

Count One

RPC 1.2 (Scope of Representation and Allocation of Authority Between Client and Lawyer)

43. RPC 1.2 States, in relevant part:

... a lawyer shall abide by a client's decision concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued...

44. By withdrawing funds from the court, against the express wishes of Familian and his appeal counsel, Respondent exceeded his authority.

45. Respondent knew or should have known of his duty not to exceed his authority.

46. As a result of Respondent's misconduct, Familian suffered actual or potential injury.

47. In light of the foregoing, including without limitation paragraphs 1 through 46, Respondent has violated RPC 1.2.

Count Two

RPC 1.4 (Communication)

48. RPC 1.4 States, in relevant part:

(a) A lawyer shall:

1 (1) Promptly inform the client of any decision or circumstance with respect to which the
2 client's informed consent is required by these Rules;

3 (2) Reasonably consult with the client about the means by which the client's objectives
4 are to be accomplished;

5 (3) Keep the client reasonably informed about the status of the matter...

6 act with reasonable diligence and promptness in representing a client.

7 (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the
8 client to make informed decisions regarding the representation.

9 49. Respondent failed to adequately communicate with Familian when he submitted
10 motions and orders for disbursement to the court without informing Familian.

11 50. Respondent knew or should have known of his duty to communicate.

12 51. As a result of Respondent's misconduct, Familian suffered actual or potential harm.

13 **Count Three**

14 **RPC 1.8 (Conflict of Interest; Current Clients; Specific Rules)**

15 52. RPC 1.8 states, in relevant part:

16 (e) a lawyer shall not provide financial assistance to a client in connection with pending or
17 contemplated litigation...

18 53. Respondent offered to pay the actual amount of the judgment against Ritchie.

19 54. Respondent knew or should have known that he was prohibited from advancing the
20 amount of the judgment to Ritchie.

21 55. As a result of Respondent's misconduct, Ritchie suffered actual or potential harm.

22 56. In light of the forgoing, including without limitation paragraphs 1 through 55,
23 Respondent has violated RPC 1.8.

Count Four

RPC 1.15 (Safekeeping Property)

57. RPC 1.15 states, in relevant part:

(e) When in the course of representation a lawyer is in possession of funds or other property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved.

58. A dispute existed between Familian and Respondent concerning the funds removed from the judgment amount, held by the court.

59. Despite this dispute, Respondent failed to safekeep the funds.

60. Respondent knew or should have known of his responsibility to safekeep these funds.

61. As a result of Respondent's misconduct, Familian suffered actual or potential harm.

62. In light of the foregoing, including without limitation paragraphs 1 through 61, Respondent has violated RPC 1.15.

Count Five

RPC 3.3 (Candor Toward the Tribunal)

63. RPC 3.3 states, in relevant part:

(d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not those facts are adverse.

1 64. Respondent made an ex-parte motion to the court regarding the distribution of funds,
2 as well as submitting proposed orders ex-parte, without informing the court of the material fact
3 that Familian had requested that the funds remain on deposit with the court.

4 65. Respondent knew or should have known of his duty of candor to the court.

5 66. As a result of Respondent's misconduct, Familian suffered actual or potential harm.

6 67. In light of the foregoing, including without limitation paragraphs 1 through 66,
7 Respondent has violated RPC 3.3

8 **Count Six**

9 **8.1 (Bar Admission and Disciplinary Matters)**

10 68. RPC 8.1 states, in relevant part:

11 ...a lawyer in connection ... with a disciplinary matter, shall not:

12 (a) Knowingly make a false statement of material fact.

13 69. In his response to State Bar investigators regarding the Ritchie matter,
14 Respondent stated that he had not offered to advance funds to Ritchie.

15 70. This was a false statement of material fact.

16 71. Respondent knew or should have known that he was making a false statement of
17 material fact to the State Bar.

18 72. As a result of Respondent's misconduct, the legal profession suffered actual or
19 potential injury.

20 73. In light of the forgoing, including without limitation paragraphs 1 through 72,
21 Respondent has violated RPC 8.1.

22 ///

23 ///

Count Seven

RPC 8.4 (Misconduct)

74. RPC 8.4 states, in relevant part:

It is professional misconduct for a lawyer to:

(a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

...

(c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) Engage in conduct that is prejudicial to the administration of justice;...

75. Respondent violated, or attempted to violate the rules of professional conduct as described above.

76. Respondent engaged in acts involving dishonestly, fraud, deceit or misrepresentation both by deceitfully offering to pay Ritchie in the breach of contract matter and by misrepresenting material facts to the State Bar.

77. Respondent engaged in conduct that is prejudicial to the administration of justice by submitting ex-parte motions and proposed orders to the court in the Familian matter against his client's wishes and without proper notice, as well as without providing all relevant facts to the court.

78. Respondent knew or should have known of his responsibility not to commit professional misconduct.

79. As a result of Respondent's misconduct, the legal profession, Familian, and Ritchie suffered actual or potential harm.

1 80. In light of the foregoing, including without limitation paragraphs 1 through 79,
2 Familian has violated RPC 8.4.

3 WHEREFORE, Complainant prays as follows:

- 4 1. That a hearing be held pursuant to Nevada Supreme Court Rule 105;
5 2. That Respondent be assessed the costs of the disciplinary proceeding pursuant to
6 SCR 120(1); and,
7 3. That pursuant to SCR 102, such disciplinary action be taken by the Southern
8 Nevada Disciplinary Board against Respondent as may be deemed appropriate under the
9 circumstances.

10
11 DATED this 23 day of December, 2019.

12 **STATE BAR OF NEVADA**

13 Daniel M. Hooge, Bar Counsel

14 By: 

15 Matthew R. Carlyon, Assistant Bar Counsel
16 Nevada Bar No. 12712
17 3100 W. Charleston Blvd, Ste. 100
18 Las Vegas, Nevada 89102

Case Nos.: OBC19-0604; OBC19-0798



FILED

DEC 23 2019

STATE BAR OF NEVADA
BY: S. M. R.
OFFICE OF BAR COUNSEL

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

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
BRIAN PADGETT, ESQ.,)
Nevada Bar No. 7474)
Respondent.)

**DESIGNATION OF HEARING
PANEL MEMBERS**

TO: Brian Padgett, Esq.
611 S. 6th Street
Las Vegas, NV 89101

The following are members of the Disciplinary Board for the Southern District of Nevada.
Pursuant to Nevada Supreme Court Rule (SCR) 105, you may issue peremptory challenge to five (5) such individuals by delivering the same in writing to the Office of Bar Counsel within twenty (20) days of service of the complaint.

The Chair of the Southern Nevada Disciplinary Board will thereafter designate a hearing panel of three (3) members of the Disciplinary Board, including at least one member who is not an attorney, to hear the above-captioned matter.

///

///

///

1. Hogan, Kenneth
2. Marsh, Russell
3. Bloxham, Ronald C.
4. Bradley, Annette
5. Brady, Katlyn
6. Bragonje, John E.
7. Briscoe, Shemilly
8. Brookhyser, Amanda J.
9. Carman, Jacqueline
10. Chiu, Andrew
11. Chrisman, James
12. Christensen, Nell
13. Cook, Marc
14. Cox, Bryan
15. David, Ira
16. DiGiacomo, Sandra
17. Edwards, F. Thomas
18. Fox, Matthew
19. Garth, Adam
20. Ghandi, Nedda
21. Giunta, Robert
22. Givens, Yolanda
23. Guingcangco, Angela
24. Heshmati, Parish

- 1 25. Hostetler, Jennifer
- 2 26. Katschke, Franklin
- 3 27. Kelley, Robert A.
- 4 28. Lalli, Christopher J.
- 5 29. Leavitt, James
- 6 30. Lee, Michael
- 7 31. Levy, Anat
- 8 32. Lloyd, Jennifer
- 9 33. Maier, Jason
- 10 34. Naqvi, Farhan
- 11 35. Oh, Michael
- 12 36. Oswalt, Dana
- 13 37. Pezzillo, Brian
- 14 38. Puschnig, Paul "Luke"
- 15 39. Remitio, Jericho
- 16 40. Rickard, Jarrod
- 17 41. Rodriguez, Miriam
- 18 42. Romeo, Vincent
- 19 43. Royal, Daniel DO
- 20 44. Saladino, Maria Veronica
- 21 45. Sanchez, Africa
- 22 46. Sarafina, Jen
- 23 47. Shafer, Jay
- 24 48. Sheets, Thomas R.

49. Sloane, Jeffrey
50. Smith, Sarah E.
51. Sweetin, James
52. Throne, Dawn
53. Titzer, Steve
54. Villani, Jacob
55. Waite, Dan-C
56. Werner, Reed J.
57. Winesett, Shann
58. Albregts, Mary
59. Falconi, Alexander
60. Gold, Joelyne
61. Holland, William M.
62. Kho, Nicholas
63. Ossowski, Grace
64. Ossowski, Peter
65. Rubin, Kellie C.
66. Weatherford, Harvey

DATED this 23 day of December, 2019.

STATE BAR OF NEVADA

Daniel M. Hooge, Bar Counsel

By: 

Matthew R. Carlyon, Assistant Bar Counsel
Nevada Bar No. 12712
3100 W. Charleston Blvd, Ste. 100
Las Vegas, Nevada 89102

#10620



FILED

DEC 23 2019

STATE BAR OF NEVADA
BY: SMR
OFFICE OF BAR COUNSEL

Case Nos.: OBC19-0604; OBC19-0798

STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
 Complainant,)
 vs.)
)
 BRIAN PADGETT, ESQ.,)
 Nevada Bar No. 7474)
)
 Respondent.)

AFFIDAVIT OF MAILING

STATE OF NEVADA)
)§
 COUNTY OF CLARK)

Kristi Faust, under penalty of perjury, being first and duly sworn, deposes and says as follows:

1. That Affiant is employed with the State Bar of Nevada and, in such capacity, Affiant is Custodian of Records for the Discipline Department of the State Bar of Nevada.
2. That Affiant states that the enclosed documents are true and correct copies of the **COMPLAINT, FIRST DESIGNATION OF HEARING PANEL MEMBERS, and STATE BAR OF NEVADA'S PEREMPTORY CHALLENGES** in the matter of the *State Bar of Nevada vs. Brian Padgett, Esq.*, Case No. OBC19-0604; OBC19-0798.

//


1 //

2 3. That pursuant to Supreme Court Rule 109, the Complaint, First Designation of
3 Hearing Panel Members, and State Bar of Nevada's Peremptory Challenges were
4 served on the following by placing copies in an envelope which was then sealed and
5 postage fully prepaid for regular and certified mail, and deposited in the United States
6 mail at Las Vegas, Nevada to:

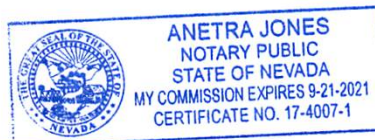
7 Brian Padgett, Esq.
8 611 S. 6th Street
9 Las Vegas, NV 89101

10 **CERTIFIED MAIL RECEIPT 7019 2280 0001 8733 2241**

11 Dated this 23 day of December, 2019.

12 
13 Kristi Faust, an employee
14 of the State Bar of Nevada

15 SUBSCRIBED AND SWORN to before
16 me on this 23rd day of December, 2019.



17 
18 NOTARY PUBLIC
19
20
21
22
23
24
25

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Brian Padgett, Esq.
611 S. 6th Street
Las Vegas, NV 89101

2. Article Number (Transfer from service label)

2019 2280 0001 8733 2241

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature 	
B. Received by (Printed Name)	C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

RECEIVED BY

JAN 07 2020

STATE BAR OF NEVADA

3. Service Type
- | | |
|--|---|
| <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ |
| <input type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricted Delivery |
| <input checked="" type="checkbox"/> Certified Mail Restricted Delivery | <input checked="" type="checkbox"/> Return Receipt for Merchandise |
| <input type="checkbox"/> Collect on Delivery | <input checked="" type="checkbox"/> Signature Confirmation™ |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail | |
| <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) | |

Domestic Return Receipt

Case Nos.: OBC19-0604; OBC19-0798



FILED

JAN 07 2020

STATE BAR OF NEVADA
BY: *Smm.*
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
BRIAN PADGETT, ESQ.,)
Nevada Bar No. 7474)
Respondent.)

FIRST AMENDED COMPLAINT

TO: Brian Padgett, Esq.
611 S. 6th Street
Las Vegas, NV 89101

PLEASE TAKE NOTICE that pursuant to Supreme Court Rule ("SCR") 105(2) a **VERIFIED RESPONSE OR ANSWER** to this Complaint **must be filed** with the Office of Bar Counsel, State Bar of Nevada, 3100 W. Charleston, Blvd, Suite 100, Las Vegas, Nevada, 89102, **within twenty (20) days of service of this Complaint.** The procedure regarding service is addressed in Supreme Court Rule 109.

GENERAL ALLEGATIONS

1. Complainant, State Bar of Nevada ("State Bar") alleges that Respondent, Brian Padgett, Esq. ("Respondent"), Nevada Bar No. 7474, who is currently an active member of the State Bar of Nevada having been licensed to practice law in the State of Nevada since December 28, 2000, and at all times pertinent to this Complaint having a principal place of business for the

1 practice of law located in Clark County, Nevada, has engaged in acts of misconduct in violation
2 of the Nevada Rules of Professional Conduct ("RPC"), warranting the imposition of professional
3 discipline as set out herein.

4 **OBC 19-0604/Bruce Familian**

5 2. On or about July 25, 2012, Bruce Familian ("Familian") retained Respondent to
6 represent DKB, LLC ("DKB") in an inverse condemnation case against Clark County.

7 3. On September 11, 2012, Respondent filed a Complaint in Inverse Condemnation,
8 initiating case No. A-12-668136-C in the Eight Judicial Circuit Court (the "Inverse Condemnation
9 Case").

10 4. The Inverse Condemnation Case went to trial and DKB was awarded \$116,508 by
11 the jury.

12 5. Following trial, several post-judgment motions were filed regarding attorney's fees,
13 costs, and prejudgment interest on the award. An Order granting the prejudgment interest was filed
14 on November 3, 2017, but the Court requested additional briefing regarding fees and costs.

15 6. Familian retained attorneys Dan Polsenberg ("Polsenberg") and Joel Henriod
16 ("Henroid") of Lewis & Roca ("L&R") to file an appeal of the Inverse Condemnation Case (the
17 "Appeal") as he was not satisfied with the amount awarded by the jury.

18 7. L&R filed a Notice of Appearance in the Inverse Condemnation Case on June 12,
19 2017.

20 8. On or about November 8, 2017, Clark County deposited \$151,599.83 with the
21 District Court, representing the jury verdict plus interest.

22 9. On June 8, 2018, Respondent filed a Motion on Order Shortening Time to Direct
23 Disbursement of Funds on Deposit (the "Motion for Disbursement").

1 10. On June 12, 2018, an Order granting the Motion for Disbursement was filed.

2 11. L&R were not served with the Motion for Disbursement.

3 12. On or about June 20, 2018, Henroid discovered that the Motion for Disbursement
4 and the Order granting same had been filed.

5 13. Henroid contacted Respondent's office and expressed concern that they had
6 withdrawn the funds without notifying Familian or L&R, stated that he believed withdrawing the
7 funds might jeopardize Familian's case, and notified Respondent that Familian did not authorize
8 the withdrawal.

9 14. On June 22, 2018, Familian emailed Respondent asking why the Motion for
10 Disbursement was filed without Familian's knowledge and why it had been done on shortened
11 time. The email requested the status of the funds and an accounting explaining what happened to
12 any funds received by Respondent.

13 15. Respondent replied that he did not yet have the check in hand, but that in his opinion
14 retrieving the funds would not jeopardize Familian's rights on appeal. Respondent stated that he
15 would send Familian a copy of the outstanding bill which Familian could pay out of pocket or
16 from the released funds.

17 16. Familian instructed Respondent to stop the process of withdrawing the funds and
18 requested the current bill, stating that he had not received one in over a year.

19 17. On June 29, 2018, Respondent's office emailed Familian a copy of an invoice dated
20 June 26, 2018 for \$69,945.73 for services from November 2016 through may 2017, indicating that
21 Familian had yet to be billed for post-trial work.

22 18. On October 16, 2018, the Court filed its Decision and Order awarding DKB over
23 \$400,000 in attorney's fees and costs.

19. The same day, Respondent filed a Notice of Filing of Attorney's Lien. The Attorney's Lien Notice did not include an amount.

20. Respondent never filed a Motion to Enforce the Attorney's Lien, as required by NRS 18.015.

21. On October 25, 2018, Familian emailed Respondent and stated that he had no objection if Respondent took the approximately \$70,000 he was owed from the attorney fee award proceeds, but specifically stated that the funds on deposit with the court for the judgment and interest should not be touched during the appeal.

22. However, Respondent had already received \$151,599.83 of the judgment funds from the Court on October 22, 2018.

23. As feared by Henriod, Clark County made the argument that DKB had forfeited its right to interest on the judgment from the date that the Court granted the Motion for Disbursal, though the Court ultimately rejected that argument.

24. Respondent never provided with Familian a billing invoice after the June 29, 2018 bill for \$69,945.73.

25. On July 19, 2019, Respondent attempted to obtain an additional \$13,845.45 from funds that Clark County had deposited with the District Court by submitting a proposed order directly to the court without copying any other parties or filing a motion. The court returned the proposed order to Respondent and courtesy copies to Polsenberg.

OBC19-0798/Ian Ritchie

26. Ian Ritchie ("Ritchie") was hired as the head of security for CWNevada ("CWN"), a marijuana dispensary of which Respondent is the CEO, from approximately 2017 to March 26, 2019.

27. Prior to his employment at CWN, Ritchie was employed as the director of sales for Pro-Tect Security ("ProTect").

28. While employed with ProTect, Ritchie signed a non-compete agreement.

29. Despite the non-compete agreement, Ritchie left ProTect and founded Round Table Security (“RTS”).

30. In or about May, 2015, ProTest sued, *inter alia*, Ritchie for violating the non-compete agreement. (the “non-compete lawsuit”)

31. Ultimately, the non-compete lawsuit was settled with Ritchie agreeing to be jointly and severally liable for payments to ProTect along with RTS.

32. Though Respondent was not counsel of record in the non-compete lawsuit, Respondent advised Ritchie that he should agree to be joint and severally liable on the judgment, and that Respondent would pay the judgment.

33. Neither Respondent, Ritchie, or RTS satisfied the settlement.

34. In February of 2017, ProTect sued, *inter alia*, Ritchie for breach of contract. (the “Breach Case”)

35. On March 12, 2018, Respondent entered his appearance on behalf of Ritchie in the Breach Case.

36. On June 29, 2018, the Court entered summary judgment in favor of ProTect and against Ritchie for \$129,999.92.

37. On July 27, 2018, Respondent filed a Notice of Appeal in the District Court. (the “Breach Appeal”)

38. On December 4, 2018, a Nevada Supreme Court mandated settlement conference was held in the Breach Appeal.

39. Respondent continued to communicate to Ritchie that Respondent would give Ritchie money to pay off ProTect.

40. Ultimately, Respondent withdrew as counsel of record from the Breach Appeal.

41. Ritchie was unable to secure new counsel, and the Breach Appeal was dismissed.

42. In his response to the State Bar, Respondent stated, “I am not permitted to advance funds to a client, nor would I have agreed to do so in Mr. Ritchie’s Case...”

Count One

RPC 1.2 (Scope of Representation and Allocation of Authority Between Client and Lawyer)

43. **RPC 1.2 States, in relevant part:**

... a lawyer shall abide by a client's decision concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued...

44. By withdrawing funds from the court, against the express wishes of Familian and his appeal counsel, Respondent exceeded his authority.

45. Respondent knew or should have known of his duty not to exceed his authority.

46. As a result of Respondent's misconduct, Familian suffered actual or potential injury.

47. In light of the foregoing, including without limitation paragraphs 1 through 46, Respondent has violated RPC 1.2.

Count Two

RPC 1.4 (Communication)

48. RPC 1.4 States, in relevant part:

(a) A lawyer shall:

1 (1) Promptly inform the client of any decision or circumstance with respect to which the
2 client's informed consent is required by these Rules;

3 (2) Reasonably consult with the client about the means by which the client's objectives
4 are to be accomplished;

5 (3) Keep the client reasonably informed about the status of the matter...
6 act with reasonable diligence and promptness in representing a client.

7 (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the
8 client to make informed decisions regarding the representation.

9 49. Respondent failed to adequately communicate with Familian when he submitted
10 motions and orders for disbursement to the court without informing Familian.

11 50. Respondent knew or should have known of his duty to communicate.

12 51. As a result of Respondent's misconduct, Familian suffered actual or potential harm.

13 **Count Three**

14 **RPC 1.8 (Conflict of Interest; Current Clients; Specific Rules)**

15 52. RPC 1.8 states, in relevant part:

16 (e) a lawyer shall not provide financial assistance to a client in connection with pending or
17 contemplated litigation...

18 53. Respondent offered to pay the actual amount of the judgment against Ritchie.

19 54. Respondent knew or should have known that he was prohibited from advancing the
20 amount of the judgment to Ritchie.

21 55. As a result of Respondent's misconduct, Ritchie suffered actual or potential harm.

22 56. In light of the forgoing, including without limitation paragraphs 1 through 55,
23 Respondent has violated RPC 1.8.

1

2

3

4

7

9

0

2

4

6

7

8

9

64. Respondent made an ex-parte motion to the court regarding the distribution of funds, as well as submitting proposed orders ex-parte, without informing the court of the material fact that Familian had requested that the funds remain on deposit with the court.

65. Respondent knew or should have known of his duty of candor to the court.

66. As a result of Respondent's misconduct, Familian suffered actual or potential harm.

67. In light of the foregoing, including without limitation paragraphs 1 through 66,
Respondent has violated RPC 3.3

Count Six

8.1 (Bar Admission and Disciplinary Matters)

68. RPC 8.1 states, in relevant part:

...a lawyer in connection ... with a disciplinary matter, shall not:

(a) Knowingly make a false statement of material fact.

69. In his response to State Bar investigators regarding the Ritchie matter, Respondent stated that he had not offered to advance funds to Ritchie.

70. This was a false statement of material fact.

71. Respondent knew or should have known that he was making a false statement of material fact to the State Bar.

72. As a result of Respondent's misconduct, the legal profession suffered actual or potential injury.

73. In light of the forgoing, including without limitation paragraphs 1 through 72, Respondent has violated RPC 8.1.

///

///

Count Seven

RPC 8.4 (Misconduct)

74. RPC 8.4 states, in relevant part:

It is professional misconduct for a lawyer to:

(a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

...

(c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) Engage in conduct that is prejudicial to the administration of justice;...

75. Respondent violated, or attempted to violate the rules of professional conduct as described above.

76. Respondent engaged in acts involving dishonesty, fraud, deceit or misrepresentation both by deceitfully offering to pay Ritchie in the breach of contract matter and by misrepresenting material facts to the State Bar.

77. Respondent engaged in conduct that is prejudicial to the administration of justice by submitting ex-parte motions and proposed orders to the court in the Familian matter against his client's wishes and without proper notice, as well as without providing all relevant facts to the court.

78. Respondent knew or should have known of his responsibility not to commit professional misconduct.

79. As a result of Respondent's misconduct, the legal profession, Familian, and Ritchie suffered actual or potential harm.


1 80. In light of the foregoing, including without limitation paragraphs 1 through 79,
2 Respondent has violated RPC 8.4.

3 WHEREFORE, Complainant prays as follows:

- 4 1. That a hearing be held pursuant to Nevada Supreme Court Rule 105;
5 2. That Respondent be assessed the costs of the disciplinary proceeding pursuant to
6 SCR 120(1); and,
7 3. That pursuant to SCR 102, such disciplinary action be taken by the Southern
8 Nevada Disciplinary Board against Respondent as may be deemed appropriate under the
9 circumstances.

10
11 DATED this 7 day of January, 2020.

12 **STATE BAR OF NEVADA**
13 Daniel M. Hooge, Bar Counsel

14 By: 
15 Matthew R. Carlyon, Assistant Bar Counsel
16 Nevada Bar No. 12712
17 3100 W. Charleston Blvd, Ste. 100
18 Las Vegas, Nevada 89102
19
20
21
22
23
24
25

Case Nos.: OBC19-0604; OBC19-0798



FILED

JAN 07 2020

STATE BAR OF NEVADA

BY: [Signature]
OFFICE OF BAR COUNSEL

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

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
BRIAN PADGETT, ESQ.,)
Nevada Bar No. 7474)
Respondent.)

AFFIDAVIT OF MAILING

STATE OF NEVADA)
)§
COUNTY OF CLARK)

Kristi Faust, under penalty of perjury, being first and duly sworn, deposes and says as follows:

1. That Affiant is employed with the State Bar of Nevada and, in such capacity, Affiant is Custodian of Records for the Discipline Department of the State Bar of Nevada.
2. That Affiant states that the enclosed documents are true and correct copies of the AMENDED COMPLAINT in the matter of the *State Bar of Nevada vs. Brian Padgett, Esq.*, Case No. OBC19-0604; OBC19-0798.

//

//

1 3. That pursuant to Supreme Court Rule 109, the Amended Complaint were served on
2 the following by placing copies in an envelope which was then sealed and postage
3 fully prepaid for regular and certified mail, and deposited in the United States mail at
4 Las Vegas, Nevada to:

5 Brian Padgett, Esq.
6 611 S. 6th Street
7 Las Vegas, NV 89101

8 **CERTIFIED MAIL RECEIPT 7018 3090 0000 3915 2420**

9 Dated this 7th day of January, 2020.

10 
11 Kristi Faust, an employee
12 of the State Bar of Nevada

13 SUBSCRIBED AND SWORN to before
14 me on this 7th day of January, 2020.

15 
16 NOTARY PUBLIC
17
18
19
20
21
22
23
24
25

RECEIVED

JAN 13 2020

OFFICE OF BAR COUNSEL

United States
Postal Service

LAS VEGAS
NV 890
14 JAN 20
PM 4:11



SCANNED

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

State Bar of Nevada
ATTN: Kristi Faust, Hearing Paralegal
3100 W. Charleston Blvd., Suite 100
Las Vegas, Nevada 89102

Awarded Complaint

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Brian Padgett, Esq.
611 S. 6th Street
Las Vegas, NV 89101

STATE BAR OF NEVADA

JAN 15 2020

RECEIVED BY

COMPLETE THIS SECTION ON DELIVERY

A. Signature

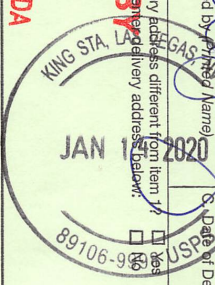
☒ Agent

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?
YES, enter delivery address below:

☐ Yes ☒ No



3. Service Type

- ☐ Adult Signature
- ☒ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☒ Return Receipt for Merchandise
- ☒ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

2. Article Number (Transfer from service label)

701A 3090 0000 3915 2420



FILED

JAN 31 2020

STATE BAR OF NEVADA
BY: *[Signature]*
OFFICE OF BAR COUNSEL

Case Nos.: OBC19-0604; OBC19-0798

STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN PADGETT, ESQ.,
Nevada Bar No. 7474

Respondent.

NOTICE OF INTENT TO
PROCEED ON A DEFAULT BASIS

TO: Brian Padgett, Esq.
611 S. 6th Street
Las Vegas, NV 89101

PLEASE TAKE NOTICE THAT unless the State Bar receives a responsive pleading in the above-captioned matter by **February 24, 2020**, it will proceed on a default basis and ***the charges against you shall be deemed admitted.*** Supreme Court Rule 105 (2) states in relevant part:

A copy of the complaint shall be served on the attorney and it shall direct that a verified response or answer be served on bar counsel within 20 days of service . . . In the event the attorney fails to plead, **the charges shall be deemed admitted**; provided, however, that an attorney who fails to respond within the time provided may thereafter obtain permission of the appropriate disciplinary board chair to do so, if failure to file is attributable to mistake, inadvertence, surprise, or excusable neglect. (Emphasis added.)

//

//

1 Another copy of the Complaint previously served upon you accompanies this
2 Notice.

3 Dated this 31 day of January, 2020.

4 **STATE BAR OF NEVADA**
5 Daniel M. Hooge, Bar Counsel

6
7 By: 

Gerard Gosioco, Assistant Bar Counsel
3100 W. Charleston Blvd, Ste. 100
Las Vegas, Nevada 89102

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

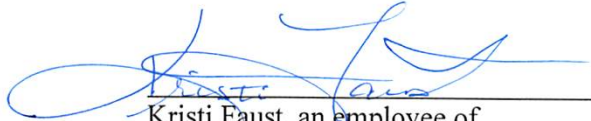
CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies a true and correct copy of the foregoing **NOTICE OF INTENT TO PROCEED ON A DEFAULT BASIS** was deposited in the United States Mail at Las Vegas, Nevada, postage fully pre-paid thereon for first-class regular mail and certified mail, return receipt requested, addressed to:

Brian Padgett, Esq.
611 S. 6th Street
Las Vegas, NV 89101
Respondent

CERTIFIED MAIL RECEIPT NO.: 7019 1640 0000 7877 8814

DATED this 31 day of January, 2020.



Kristi Faust, an employee of
the State Bar of Nevada.



FILED

DEC 23 2019

STATE BAR OF NEVADA
BY: S. M. M.
OFFICE OF BAR COUNSEL

Case Nos.: OBC19-0604; OBC19-0798

STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
 Complainant,)
 vs.)
)
 BRIAN PADGETT, ESQ.,)
 Nevada Bar No. 7474)
)
 Respondent.)

COMPLAINT

TO: Brian Padgett, Esq.
611 S. 6th Street
Las Vegas, NV 89101

PLEASE TAKE NOTICE that pursuant to Supreme Court Rule ("SCR") 105(2) a
VERIFIED RESPONSE OR ANSWER to this Complaint must be filed with the Office of Bar
Counsel, State Bar of Nevada, 3100 W. Charleston, Blvd, Suite 100, Las Vegas, Nevada, 89102,
within twenty (20) days of service of this Complaint. The procedure regarding service is
addressed in Supreme Court Rule 109.

GENERAL ALLEGATIONS

1. Complainant, State Bar of Nevada ("State Bar") alleges that Respondent, Brian
Padgett, Esq. ("Respondent"), Nevada Bar No. 7474, who is currently an active member of the
State Bar of Nevada having been licensed to practice law in the State of Nevada since December
28, 2000, and at all times pertinent to this Complaint having a principal place of business for the

1 practice of law located in Clark County, Nevada, has engaged in acts of misconduct in violation
2 of the Nevada Rules of Professional Conduct ("RPC"), warranting the imposition of professional
3 discipline as set out herein.

4 **OBC 19-0604/Bruce Familian**

5 2. On or about July 25, 2012, Bruce Familian ("Familian") retained Respondent to
6 represent DKB, LLC ("DKB") in an inverse condemnation case against Clark County.

7 3. On September 11, 2012, Respondent filed a Complaint in Inverse Condemnation,
8 initiating case No. A-12-668136-C in the Eighth Judicial Circuit Court (the "Inverse Condemnation
9 Case").

10 4. The Inverse Condemnation Case went to trial and DKB was awarded \$116,508 by
11 the jury.

12 5. Following trial, several post-judgment motions were filed regarding attorney's fees,
13 costs, and prejudgment interest on the award. An Order granting the prejudgment interest was filed
14 on November 3, 2017, but the Court requested additional briefing regarding fees and costs.

15 6. Familian retained attorneys Dan Polsenberg ("Polsenberg") and Joel Henriod
16 ("Henriod") of Lewis & Roca ("L&R") to file an appeal of the Inverse Condemnation Case (the
17 "Appeal") as he was not satisfied with the amount awarded by the jury.

18 7. L&R filed a Notice of Appearance in the Inverse Condemnation Case on June 12,
19 2017.

20 8. On or about November 8, 2017, Clark County deposited \$151,599.83 with the
21 District Court, representing the jury verdict plus interest.

22 9. On June 8, 2018, Respondent filed a Motion on Order Shortening Time to Direct
23 Disbursement of Funds on Deposit (the "Motion for Disbursement").

- 1 10. On June 12, 2018, an Order granting the Motion for Disbursement was filed.
- 2 11. L&R were not served with the Motion for Disbursement.
- 3 12. On or about June 20, 2018, Henroid discovered that the Motion for Disbursement
4 and the Order granting same had been filed.
- 5 13. Henroid contacted Respondent's office and expressed concern that they had
6 withdrawn the funds without notifying Familian or L&R, stated that he believed withdrawing the
7 funds might jeopardize Familian's case, and notified Respondent that Familian did not authorize
8 the withdrawal.
- 9 14. On June 22, 2018, Familian emailed Respondent asking why the Motion for
10 Disbursement was filed without Familian's knowledge and why it had been done on shortened
11 time. The email requested the status of the funds and an accounting explaining what happened to
12 any funds received by Respondent.
- 13 15. Respondent replied that he did not yet have the check in hand, but that in his opinion
14 retrieving the funds would not jeopardize Familian's rights on appeal. Respondent stated that he
15 would send Familian a copy of the outstanding bill which Familian could pay out of pocket or
16 from the released funds.
- 17 16. Familian instructed Respondent to stop the process of withdrawing the funds and
18 requested the current bill, stating that he had not received one in over a year.
- 19 17. On June 29, 2018, Respondent's office emailed Familian a copy of an invoice dated
20 June 26, 2018 for \$69,945.73 for services from November 2016 through may 2017, indicating that
21 Familian had yet to be billed for post-trial work.
- 22 18. On October 16, 2018, the Court filed its Decision and Order awarding DKB over
23 \$400,000 in attorney's fees and costs.

1 19. The same day, Respondent filed a Notice of Filing of Attorney's Lien. The
2 Attorney's Lien Notice did not include an amount.

3 20. Respondent never filed a Motion to Enforce the Attorney's Lien, as required by
4 NRS 18.015.

5 21. On October 25, 2018, Familian emailed Respondent and stated that he had no
6 objection if Respondent took the approximately \$70,000 he was owed from the attorney fee award
7 proceeds, but specifically stated that the funds on deposit with the court for the judgment and
8 interest should not be touched during the appeal.

9 22. However, Familian had already received \$151,599.83 of the judgment funds from
10 the Court on October 22, 2018.

11 23. As feared by Henriod, Clark County made the argument that DKB had forfeited its
12 right to interest on the judgment from the date that the Court granted the Motion for Disbursal,
13 though the Court ultimately rejected that argument.

14 24. Respondent never provided with Familian a billing invoice after the June 29, 2018
15 bill for \$69,945.73.

16 25. On July 19, 2019, Respondent attempted to obtain an additional \$13,845.45 from
17 funds that Clark County had deposited with the District Court by submitting a proposed order
18 directly to the court without copying any other parties or filing a motion. The court returned the
19 proposed order to Respondent and courtesy copies to Polsenberg.

20 **OBC19-0798/Ian Ritchie**

21 26. Ian Ritchie ("Ritchie") was hired as the head of security for CWNevada
22 ("CWN"), a marijuana dispensary of which Respondent is the CEO, from approximately 2017 to
23 March 26, 2019.

1 27. Prior to his employment at CWN, Ritchie was employed as the director of sales
2 for Pro-Tect Security ("ProTect").

3 28. While employed with ProTect, Ritchie signed a non-compete agreement.

4 29. Despite the non-compete agreement, Ritchie left ProTect and founded Round
5 Table Security ("RTS").

6 30. In or about May, 2015, ProTect sued, *inter alia*, Ritchie for violating the non-
7 compete agreement. (the "non-compete lawsuit")

8 31. Ultimately, the non-compete lawsuit was settled with Ritchie agreeing to be
9 jointly and severally liable for payments to ProTect along with RTS.

10 32. Though Respondent was not counsel of record in the non-compete lawsuit,
11 Respondent advised Ritchie that he should agree to be joint and severally liable on the judgment,
12 and that Respondent would pay the judgment.

13 33. Neither Respondent, Ritchie, or RTS satisfied the settlement.

14 34. In February of 2017, ProTect sued, *inter alia*, Ritchie for breach of contract. (the
15 "Breach Case")

16 35. On March 12, 2018, Respondent entered his appearance on behalf of Ritchie in
17 the Breach Case.

18 36. On June 29, 2018, the Court entered summary judgment in favor of ProTect and
19 against Ritchie for \$129,999.92.

20 37. On July 27, 2018, Respondent filed a Notice of Appeal in the District Court. (the
21 "Breach Appeal")

22 38. On December 4, 2018, a Nevada Supreme Court mandated settlement conference
23 was held in the Breach Appeal.

39. Respondent continued to communicate to Ritchie that Respondent would give Ritchie money to pay off ProTect.

40. Ultimately, Respondent withdrew as counsel of record from the Breach Appeal.

41. Ritchie was unable to secure new counsel, and the Breach Appeal was dismissed.

42. In his response to the State Bar, Respondent stated, "I am not permitted to advance funds to a client, nor would I have agreed to do so in Mr. Ritchie's Case..."

Count One

RPC 1.2 (Scope of Representation and Allocation of Authority Between Client and Lawyer)

43. RPC 1.2 States, in relevant part:

... a lawyer shall abide by a client's decision concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued...

44. By withdrawing funds from the court, against the express wishes of Familian and his appeal counsel, Respondent exceeded his authority.

45. Respondent knew or should have known of his duty not to exceed his authority.

46. As a result of Respondent's misconduct, Familian suffered actual or potential injury.

47. In light of the foregoing, including without limitation paragraphs 1 through 46, Respondent has violated RPC 1.2.

Count Two

RPC 1.4 (Communication)

48. RPC 1.4 States, in relevant part:

(a) A lawyer shall:

1 (1) Promptly inform the client of any decision or circumstance with respect to which the
2 client's informed consent is required by these Rules;

3 (2) Reasonably consult with the client about the means by which the client's objectives
4 are to be accomplished;

5 (3) Keep the client reasonably informed about the status of the matter...
6 act with reasonable diligence and promptness in representing a client.

7 (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the
8 client to make informed decisions regarding the representation.

9 49. Respondent failed to adequately communicate with Familian when he submitted
10 motions and orders for disbursement to the court without informing Familian.

11 50. Respondent knew or should have known of his duty to communicate.

12 51. As a result of Respondent's misconduct, Familian suffered actual or potential harm.

13 **Count Three**

14 **RPC 1.8 (Conflict of Interest; Current Clients; Specific Rules)**

15 52. RPC 1.8 states, in relevant part:

16 (e) a lawyer shall not provide financial assistance to a client in connection with pending or
17 contemplated litigation...

18 53. Respondent offered to pay the actual amount of the judgment against Ritchie.

19 54. Respondent knew or should have known that he was prohibited from advancing the
20 amount of the judgment to Ritchie.

21 55. As a result of Respondent's misconduct, Ritchie suffered actual or potential harm.

22 56. In light of the forgoing, including without limitation paragraphs 1 through 55,
23 Respondent has violated RPC 1.8.

Count Four

RPC 1.15 (Safekeeping Property)

57. RPC 1.15 states, in relevant part:

(e) When in the course of representation a lawyer in in possession of funds or other property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved.

58. A dispute existed between Familian and Respondent concerning the funds removed from the judgment amount, held by the court.

59. Despite this dispute, Respondent failed to safekeep the funds.

60. Respondent knew or should have known of his responsibility to safekeep these funds.

61. As a result of Respondent's misconduct, Familian suffered actual or potential harm.

62. In light of the foregoing, including without limitation paragraphs 1 through 61, Respondent has violated RPC 1.15.

Count Five

RPC 3.3 (Candor Toward the Tribunal)

63. RPC 3.3 states, in relevant part:

(d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not those facts are adverse.

64. Respondent made an ex-parte motion to the court regarding the distribution of funds, as well as submitting proposed orders ex-parte, without informing the court of the material fact that Familian had requested that the funds remain on deposit with the court.

65. Respondent knew or should have known of his duty of candor to the court.

66. As a result of Respondent's misconduct, Familian suffered actual or potential harm.

67. In light of the foregoing, including without limitation paragraphs 1 through 66, Respondent has violated RPC 3.3

Count Six

8.1 (Bar Admission and Disciplinary Matters)

68. RPC 8.1 states, in relevant part:

...a lawyer in connection ... with a disciplinary matter, shall not:

(a) Knowingly make a false statement of material fact.

69. In his response to State Bar investigators regarding the Ritchie matter, Respondent stated that he had not offered to advance funds to Ritchie.

70. This was a false statement of material fact.

71. Respondent knew or should have known that he was making a false statement of material fact to the State Bar.

72. As a result of Respondent's misconduct, the legal profession suffered actual or potential injury.

73. In light of the forgoing, including without limitation paragraphs 1 through 72,
Respondent has violated RPC 8.1.

///



Count Seven

RPC 8.4 (Misconduct)

74. RPC 8.4 states, in relevant part:

It is professional misconduct for a lawyer to:

(a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

...

(c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) Engage in conduct that is prejudicial to the administration of justice;...

75. Respondent violated, or attempted to violate the rules of professional conduct as described above.

76. Respondent engaged in acts involving dishonestly, fraud, deceit or misrepresentation both by deceitfully offering to pay Ritchie in the breach of contract matter and by misrepresenting material facts to the State Bar.

77. Respondent engaged in conduct that is prejudicial to the administration of justice by submitting ex-parte motions and proposed orders to the court in the Familian matter against his client's wishes and without proper notice, as well as without providing all relevant facts to the court.

78. Respondent knew or should have known of his responsibility not to commit professional misconduct.

79. As a result of Respondent's misconduct, the legal profession, Familian, and Ritchie suffered actual or potential harm.

1 80. In light of the foregoing, including without limitation paragraphs 1 through 79,
2 Familian has violated RPC 8.4.

3 WHEREFORE, Complainant prays as follows:

- 4 1. That a hearing be held pursuant to Nevada Supreme Court Rule 105;
5 2. That Respondent be assessed the costs of the disciplinary proceeding pursuant to
6 SCR 120(1); and,
7 3. That pursuant to SCR 102, such disciplinary action be taken by the Southern
8 Nevada Disciplinary Board against Respondent as may be deemed appropriate under the
9 circumstances.

10
11 DATED this 23 day of December, 2019.

12 STATE BAR OF NEVADA
13 Daniel M. Hooge, Bar Counsel

14 By: _____

15 Matthew R. Carlyon, Assistant Bar Counsel
16 Nevada Bar No. 12712
17 3100 W. Charleston Blvd, Ste. 100
18 Las Vegas, Nevada 89102



FILED

MAR 04 2020

STATE BAR OF NEVADA
BY: B. Felix
OFFICE OF BAR COUNSEL

Case Nos.: OBC19-0604; OBC19-0798

STATE BAR OF NEVADA

SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN PADGETT, ESQ.

NV BAR No. 7474

Respondent.

**ORDER APPOINTING
HEARING PANEL CHAIR**

IT IS HEREBY ORDERED that the following member of the Southern Nevada
Disciplinary Board has been designated as the Hearing Panel Chair.

1. Dana Oswalt, Esq., Chair

DATED this 2nd day of March, 2020.

STATE BAR OF NEVADA

By:

Kenneth E. Hogan, Esq.
Nevada Bar No. 10083
Chair, Southern Nevada Disciplinary Board

CERTIFICATE OF SERVICE

The undersigned hereby certifies a true and correct copy of the foregoing **ORDER APPOINTING HEARING PANEL CHAIR** was deposited in the United States Mail at Las Vegas, Nevada, postage fully pre-paid thereon for first-class regular mail addressed to:

Brian Padgett, Esq.
611 S. 6th Street
Las Vegas, NV 89101

and via email to:

1. Dana Oswalt, Esq. (Panel Chair): dana@bensonbingham.com
2. Brian Padgett, Esq. (Respondent): brian@briancpadgett.com
3. Gerard Gosioco, Esq. (Bar Counsel): gerardg@nvbar.org

DATED this 4 day of March, 2020.

By: Kristi Faust
Kristi Faust, an employee of
the State Bar of Nevada.

Case Nos.: OBC19-0604; OBC19-0798



FILED

MAR 05 2020

STATE BAR OF NEVADA
BY: *B. Kelly*
OFFICE OF BAR COUNSEL

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

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN PADGETT, ESQ.,
Nevada Bar No. 7474

Respondent.

**NOTICE OF TELEPHONIC INITIAL
CASE CONFERENCE**

PLEASE TAKE NOTICE, the telephonic Initial Case Conference in the above-entitled matter is set for **Wednesday, March 18, 2020, at 2:00 p.m.** The State Bar conference call number is 1-877-594-8353, participant passcode is 16816576#.

Dated this 5 day of March, 2020.

STATE BAR OF NEVADA
Daniel M. Hooge, Bar Counsel

By: _____

Gerard Gosioco
Gerard Gosioco, Assistant Bar Counsel
3100 W. Charleston Blvd, Ste. 100
Las Vegas, Nevada 89102

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies a true and correct copy of the foregoing **NOTICE OF TELEPHONIC INITIAL CASE CONFERENCE** was deposited in the United States Mail at Las Vegas, Nevada, postage fully pre-paid thereon for first-class regular mail and certified mail, return receipt requested, addressed to:

Brian Padgett, Esq.
611 S. 6th Street
Las Vegas, NV 89101
Respondent

And via electronic mail to:

1. Dana Oswalt, Esq. (Panel Chair): dana@bensonbingham.com
2. Brian Padgett, Esq. (Respondent): brian@briancpadgett.com
3. Gerard Gosioco, Esq. (Bar Counsel): gerardg@nvbar.org

DATED this 5 day of March, 2020.



Kristi Faust, an employee of
the State Bar of Nevada.



FILED

MAR 19 2020

STATE BAR OF NEVADA
BY: B. Felix
OFFICE OF BAR COUNSEL

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

STATE BAR OF NEVADA,)
Complainant,)
vs.)
BRIAN C. PADGETT, ESQ.,)
Nevada Bar No. 7474)
Respondent.)

SCHEDULING ORDER

Pursuant to Rule 17 of the Disciplinary Rules of Procedure ("DRP"), on Wednesday, March 18, 2020, at 2:00 p.m., Dana P. Oswalt, Esq., the Formal Hearing Panel Chair, met telephonically with Gerard Gosioco, Esq., Assistant Bar Counsel, on behalf of the State Bar of Nevada, to conduct the Initial Case Conference in this matter. Respondent failed to appear.

During the Case Conference the parties discussed disclosures, discovery issues, the potential for resolution of this matter prior to the hearing, a status conference, and the hearing date.

1. The Formal Hearing for this matter is hereby set for **three (3) days starting at 9:00 a.m. on June 6, 7, and 8, 2020** and shall take place at the State Bar Office located at 3100 W. Charleston Blvd., Suite 100, Las Vegas, Nevada 89102.

2. On or before **March 23, 2020, at 5:00 p.m.**, the State Bar of Nevada's initial disclosures shall be served on all parties. The documents provided by the State Bar shall be bates stamped with numerical designations. *See* DRP 17 (a).

1 3. On or before **April 2, 2020, at 5:00 p.m.**, Respondent's initial disclosures shall be
2 served on all parties. The documents provided by the Respondent shall be bates stamped with
3 alphabetical exhibit designations. *See* DRP 17 (a).

4 4. On or before **April 13, 2020, at 5:00 p.m.**, the parties shall file and serve any
5 Motions.

6 5. On or before **April 23, 2020, at 5:00 p.m.**, all oppositions to the Motions, if any,
7 shall be filed and served on the parties.

8 6. On or before **April 28, 2020, at 5:00 p.m.**, all replies to any opposition, if any, shall
9 be filed and served on the parties.

10 7. On or before **May 12, 2020, at 5:00 p.m.**, the parties shall serve a Final
11 Designation of witnesses expected to testify and exhibits expected to be presented at the Formal
12 Hearing in this matter, pursuant to SCR 105(2)(d), DRP 17(a) and DRP 21.

13 8. All documents disclosed shall be bates stamped, the State Bar will use numerical
14 exhibit designations and Respondent will use alphabetical exhibit designations, pursuant to DRP
15 17.

16 9. On **May 26, 2020, at 2:00 p.m.**, the parties shall meet telephonically with Dana P.
17 Oswalt, Esq. for the Pre-hearing Conference. Any pending issues, including pending Motions, will
18 be addressed at the Pre-hearing Conference. The parties shall use the State Bar conference bridge
19 (877) 594-8353 and the passcode is 16816576#.

20 Pursuant to DRP 23, at the Pre-hearing conference (i) the parties shall discuss all matters
21 needing attention prior to the hearing date, (ii) the Chair may rule on any motions or disputes
22 including motions to exclude evidence, witnesses, or other pretrial evidentiary matter, and (iii) the
23 parties shall discuss and determine stipulated exhibits proffered by either the State Bar or
24 Respondent as well as a stipulated statement of facts, if any.

25

10. The parties stipulate to waive SCR 105(2)(d) to allow for the formal appointment of the remaining hearing panel members on a date that is greater than 45 days prior to the scheduled hearing.

Based on the parties' verbal agreement to the foregoing during the telephonic Initial Conference and good cause appearing, **IT IS SO ORDERED.**

Dated this 19th day of March, 2020.

SOUTHERN NEVADA DISCIPLINARY BOARD

By:

Dana P. Oswalt, Esq.
Hearing Panel Chair


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies a true and correct copy of the foregoing **Scheduling Order** was sent via electronic mail to:

1. Dana P. Oswalt, Esq. (Hearing Panel Chair): dana@bensonbingham.com
2. Brian Padgett, Esq. (Respondent): brian@briancpadgett.com
3. Gerard Gosioco, Esq. (Assistant Bar Counsel): gerardg@nvbar.org

DATED this 19 day of March, 2020.



Sonia Del Rio, an employee of
the State Bar of Nevada.



FILED

MAR 24 2020

STATE BAR OF NEVADA
BY: B. Felix
OFFICE OF BAR COUNSEL

Case No.: OBC19-0604; OBC19-0798

STATE BAR OF NEVADA

SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN C. PADGETT, ESQ.,
Nevada Bar No. 7474,

Respondent.

ENTRY OF DEFAULT

TO: Brian C. Padgett, Esq.
611 S. 6th St.
Las Vegas, NV 89101

PROCEDURAL HISTORY

The State Bar of Nevada filed and served its Complaint and First Designation of Hearing Panel Members, in accordance with Supreme Court Rule 109, upon BRIAN C. PADGETT, Esq. (hereinafter "Respondent"), on or about December 23, 2019. A First Amended Complaint was filed on or about January 7, 2020. The First Amended Complaint was delivered to the Respondent's SCR 79 address on or about January 7, 2020.

A Notice of Intent to Proceed on a Default Basis (hereinafter "Notice") was filed and served via certified mail on or about January 31, 2020. The State Bar received a return receipt postcard showing the Notice was delivered on or about January 14, 2020. The Notice was also served via (1) Certified Return Receipt U.S. Mail at the SCR 79 address.

Although Respondent was supposed to provide a response to the State Bar's First Amended Complaint by February 24, 2020. Respondent did not provide his "response" to the State Bar until

1 February 26, 2020. Rather than admit, deny, or respond to any of the State Bar's allegations,
2 Respondent goes on a tangent about how he is the owner of a cannabis firm, and that there is a
3 conspiracy to takeover his cannabis firm, as well as damage his "standing in the practice of law."
4 Respondent fails to provide one substantive response to the State Bar's allegations.

5 On or about March 18, 2020, an Initial Case Conference ("ICC") was held. Respondent was
6 not present during the ICC.

7 **ORDER**

8 **IT APPEARING** that the Respondent, BRIAN C. PADGETT, Esq., is in default for failure
9 to plead or otherwise defend as required by law, **DEFAULT** is hereby entered against Respondent.

10 The allegations set forth in the First Amended Complaint filed on or about January 7, 2020,
11 are deemed admitted.

12 The Formal Hearing regarding the appropriate sanction to issue in this matter shall be
13 conducted on the 8th of June 2020, starting at 9:00 a.m., at the State Bar of Nevada's office located
14 at 3100 W. Charleston Blvd., Ste. 100, Las Vegas, NV 89102.

15 **IT IS SO ORDERED.**

16 Dated this 24 of March, 2020.

17 Dana P. Oswalt
Dana P. Oswalt (Mar 24, 2020)

18 Dana Oswalt, Esq., Hearing Panel Chair
Southern Nevada Disciplinary Board

19 Submitted by:
20 STATE BAR OF NEVADA
DANIEL M. HOOGE, BAR COUNSEL

21 /s/ Gerard Gosioco
22 By: /s/ Gerard Gosioco (Mar 24, 2020)
23 Gerard Gosioco, Esq.
Assistant Bar Counsel
24 3100 W. Charleston Blvd., Ste. 100
Las Vegas, NV 89102
25







Entry of Default

Final Audit Report

2020-03-24

Created:	2020-03-24
By:	Sonia Del Rio (soniad@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAXhSKR1yHyN7cb7L6f6pGaTdTfH9IYkDH

"Entry of Default" History

-  Document created by Sonia Del Rio (soniad@nvbar.org)
2020-03-24 - 7:11:11 PM GMT - IP address: 24.253.47.29
-  Document emailed to /s/ Gerard Gosioco (gerardg@nvbar.org) for signature
2020-03-24 - 7:11:31 PM GMT
-  Email viewed by /s/ Gerard Gosioco (gerardg@nvbar.org)
2020-03-24 - 7:12:09 PM GMT - IP address: 70.173.56.155
-  Document e-signed by /s/ Gerard Gosioco (gerardg@nvbar.org)
Signature Date: 2020-03-24 - 7:12:36 PM GMT - Time Source: server- IP address: 70.173.56.155
-  Document emailed to Dana P. Oswalt (dana@bensonbingham.com) for signature
2020-03-24 - 7:12:38 PM GMT
-  Email viewed by Dana P. Oswalt (dana@bensonbingham.com)
2020-03-24 - 7:14:30 PM GMT - IP address: 184.184.230.226
-  Document e-signed by Dana P. Oswalt (dana@bensonbingham.com)
Signature Date: 2020-03-24 - 7:15:52 PM GMT - Time Source: server- IP address: 184.184.230.226
-  Signed document emailed to Sonia Del Rio (soniad@nvbar.org), /s/ Gerard Gosioco (gerardg@nvbar.org) and Dana P. Oswalt (dana@bensonbingham.com)
2020-03-24 - 7:15:52 PM GMT



Adobe Sign

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF SERVICE


The undersigned hereby certifies a true and correct copy of the foregoing **ENTRY OF**
DEFAULT was deposited via U.S. Mail to:

Brian C. Padgett, Esq.
611 S. 6th St.
Las Vegas, NV 89101

And via email to:

1. Dana Oswalt, Esq. (Panel Chair): dana@bensonbingham.com
2. Brian C. Padgett, Esq. (Respondent): brian@briancpadgett.com
3. Gerard Gosioco, Esq. (Assistant Bar Counsel): gerardg@nvbar.org

DATED this 24 day of March, 2020.

By: 
Sonia Del Rio,
an employee of the State Bar of Nevada.



FILED

MAR 24 2020

STATE BAR OF NEVADA

BY: D. Felix
OFFICE OF BAR COUNSEL

Case No: OBC19-0604; OBC19-0798

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

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN C. PADGETT, ESQ.,
Nevada Bar No. 7474

Respondent.

**STATE BAR'S INITIAL DISCLOSURE
OF WITNESSES AND DOCUMENTS**

PLEASE TAKE NOTICE that the following is a list of witnesses and a summary of evidence which may be offered against Respondent at the time of the Formal Hearing, in the above-entitled complaint.

A. Documentary Evidence

Any and all documentation contained in the State Bar of Nevada's files including but not limited to, correspondence, emails, memorandums, text messages, notes, payments, invoices, bank records, receipts, billing entries and pleadings regarding grievance file numbers OBC19-0604 and OBC19-0798.

Any and all documentation contained in records of the State Bar of Nevada regarding Respondent's licensure, compliance with reporting requirements, and disciplinary history.

The State Bar reserves the right to supplement this list as necessary.

Exhibit#	Document	Bates Stamped
1.	Formal Hearing Packet	will be produced prior to hearing
2.	Affidavit of Prior Discipline	will be produced at the time of hearing
3.	Engagement Letter Dated July 26, 2012	SBN Exhibit 3 001-006
4.	Lewis & Roca's Notice of Appearance File June 12, 2017	SBN Exhibit 4 001-002
5.	Declaration of Joel Henroid	SBN Exhibit 5 001-011
6.	Motion on Order Shortening Time to Direct Disbursement of Funds on Deposit Filed June 8, 2018	SBN Exhibit 6 001-019
7.	Order Granting Immediate Disbursement of Proceeds Filed June 18, 2018	SBN Exhibit 7 001-002
8.	Email from Lewis & Roca to Respondent Dated June 20, 2018	SBN Exhibit 8 001
9.	Email between Respondent and Familian Dated June 22, 2018	SBN Exhibit 9 001-002
10.	Email to Familian attaching June 26, 2018 invoice Dated June 29, 2018	SBN Exhibit 10 001-017
11.	Decision and Order, Case No. A-12-668136-C Filed October 16, 2018	SBN Exhibit 11 001-021
12.	Notice of Attorney's Lien Filed October 16, 2018	SBN Exhibit 12 001-003
13.	Email from Familian to Respondent Filed October 25, 2018	SBN Exhibit 13 001
14.	Check for Judgement Proceeds Dated October 22, 2018	SBN Exhibit 14 001
15.	Declaration of Abraham Smith	SBN Exhibit 15 001-003
16.	Respondent's Accounting of DKB Funds	SBN Exhibit 16 001
17.	NRS18.015	SBN Exhibit 17 001
18.	Leventhal v. Black & Lobello	SBN Exhibit 18 001-005
19.	Respondent's invoices to DKB/Familian	SBN Exhibit 19 001-086
20.	Motion for Attorney's Fees Filed February 2, 2017	SBN Exhibit 20 001-103
21.	Respondent's July 19, 2019, attempt to collect additional funds	SBN Exhibit 21 001-004
22.	Motion to Enforce Attorney's Lien filed in Case No. A-16-731822-C on February 26, 2019	SBN Exhibit 22 001-126

23.	Notice of Appearance in Case No. A-17-751033-C Filed March 12, 2018	SBN Exhibit 23 001-002
24.	Notice of Entry of Order Filed July 5, 2018	SBN Exhibit 24 001-007
25.	Docket- Nevada Supreme Case No. 76584	SBN Exhibit 25 001-004
26.	Text Messages between Respondent and Ritchie	SBN Exhibit 26 001-009
27.	Minutes from February 19, 2019 Hearing	SBN Exhibit 27 001
28.	Notice of Withdrawal Filed March 19, 2019	SBN Exhibit 28 001-002
29.	Motion to Withdraw Filed March 25, 2019	SBN Exhibit 29 001-005
30.	Motion to Withdraw Filed April 1, 2019	SBN Exhibit 30 001-005
31.	Order Granting Motion to Withdraw Filed April 18, 2019	SBN Exhibit 31 001-002
32.	Affidavit Claiming Exemption from Execution Dated March 20, 2019	SBN Exhibit 32 001-010
33.	Diana Ritchie's Letter of Resignation Dated November 27, 2018	SBN Exhibit 33 001-002

The State Bar incorporates by reference all documents identified by Respondent in these matters.

B. Witnesses and Brief Statement of Facts

1. Respondent, Brian C. Padgett, Esq., will be called and would be expected to testify regarding his conduct and communications surrounding the events related to, and any and all documents pertinent to, each of the charged violations of the Rules of Professional Conduct, including but not limited to facts pertaining to the breach of his professional responsibilities as an attorney, his mental state pursuant to ABA Standards, the harm resulting from his conduct, and any aggravating and mitigating factors pursuant to Supreme Court Rule 102.5. Respondent is expected to provide testimony regarding the facts and circumstances regarding OBC19-0604 and OBC19-0798.

1 2. Louise Watson, an investigator with the State Bar of Nevada Office of Bar Counsel,
2 is expected to provide testimony regarding her investigation of OBC19-0604 and OBC19-0798,
3 including but not limited to, information and documents provided by Respondent and Grievant(s),
4 communications with Respondent and Grievant(s), and Respondent's disciplinary history.

5 3. Bruce Familian is expected to offer testimony regarding the facts and circumstances
6 regarding Case No. OBC19-0604, including but not limited to, the facts and circumstances
7 surrounding the allegations contained in said grievance.

8 4. Joel Henriod, Esq., is expected to offer testimony regarding the facts and
9 circumstances regarding Case No. OBC19-0604, including but not limited to, the facts and
10 circumstances surrounding the allegations contained in said grievance.

11 5. Daniel Polsenberg, Esq., is expected to offer testimony regarding the facts and
12 circumstances regarding Case No. OBC19-0604, including but not limited to, the facts and
13 circumstances surrounding the allegations contained in said grievance.

14 6. Abraham Smith, Esq., is expected to offer testimony regarding the facts and
15 circumstances regarding Case No. OBC19-0604, including but not limited to, the facts and
16 circumstances surrounding the allegations contained in said grievance.

17 7. Ian Ritchie is expected to offer testimony regarding the facts and circumstances
18 regarding Case No. OBC19-0798, including but not limited to, the facts and circumstances
19 surrounding the allegations contained in said grievance.

20 ///

21 ///

22 ///

23 ///

24 ///

25

1 8. Diana Ritchie is expected to offer testimony regarding the facts and circumstances
2 Regarding Case No. OBC19-0798, including but not limited to, the facts and circumstances
3 surrounding the allegations contained in said grievance.

4 Dated this 24 day of March, 2020.

5
6 **STATE BAR OF NEVADA**
7 **DANIEL M. HOOGE, BAR COUNSEL**

8 */s/ Gerard Gosioco*
9 /s/ Gerard Gosioco (Mar 24, 2020)

10 **Gerard Gosioco, Assistant Bar Counsel**
11 Nevada Bar No. 14371
12 3100 West Charleston Boulevard, Suite 100
13 Las Vegas, Nevada 89102
14 (702) 382-2200
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF SERVICE

The undersigned hereby certifies a true and correct copy of the foregoing **STATE BAR'S**
INITIAL DISCLOSURE OF WITNESSES DOCUMENTS was deposited via U.S. Mail to:

Brian C. Padgett, Esq.
611 S. 6th St.
Las Vegas, NV 89101

And via email to:

1. Dana Oswalt, Esq. (Panel Chair): dana@bensonbingham.com
2. Brian C. Padgett, Esq. (Respondent): brian@briancpadgett.com
3. Gerard Gosioco, Esq. (Assistant Bar Counsel): gerardg@nvbar.org

DATED this 24 day of March, 2020.

By: *Sonia Del Rio*
Sonia Del Rio,
an employee of the State Bar of Nevada.









SBN Initial Disclosures

Final Audit Report

2020-03-24

Created:	2020-03-24
By:	Sonia Del Rio (soniad@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAQK2M4lxaf3o2LMo0URg3xbJ-iuLpniJ

"SBN Initial Disclosures" History

-  Document created by Sonia Del Rio (soniad@nvbar.org)
2020-03-24 - 5:28:27 PM GMT- IP address: 24.253.47.29
-  Document emailed to /s/ Gerard Gosioco (gerardg@nvbar.org) for signature
2020-03-24 - 5:29:19 PM GMT
-  Email viewed by /s/ Gerard Gosioco (gerardg@nvbar.org)
2020-03-24 - 5:30:09 PM GMT- IP address: 70.173.56.155
-  Document e-signed by /s/ Gerard Gosioco (gerardg@nvbar.org)
Signature Date: 2020-03-24 - 5:30:53 PM GMT - Time Source: server- IP address: 70.173.56.155
-  Document emailed to Sonia Del Rio (soniad@nvbar.org) for signature
2020-03-24 - 5:30:54 PM GMT
-  Email viewed by Sonia Del Rio (soniad@nvbar.org)
2020-03-24 - 5:31:39 PM GMT- IP address: 24.253.47.29
-  Document e-signed by Sonia Del Rio (soniad@nvbar.org)
Signature Date: 2020-03-24 - 5:31:58 PM GMT - Time Source: server- IP address: 24.253.47.29
-  Signed document emailed to /s/ Gerard Gosioco (gerardg@nvbar.org) and Sonia Del Rio (soniad@nvbar.org)
2020-03-24 - 5:31:58 PM GMT



Adobe Sign



FILED

APR 03 2020

STATE BAR OF NEVADA
BY: *[Signature]*
OFFICE OF BAR COUNSEL

Case Nos: OBC19-0798; OBC19-0604

STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN PADGETT, ESQ.

NV BAR No. 7474

Respondent.

**ORDER APPOINTING
FORMAL HEARING PANEL**

IT IS HEREBY ORDERED that the following members of the Southern Nevada Disciplinary Board have been designated as members of the formal hearing panel in the above-entitled action. The hearing will be convened on the 1st day of June, 2020 starting at 9:00 a.m. at the State Bar of Nevada, located at 3100 W. Charleston Blvd. Ste. 100, Las Vegas, NV 89102.

1. Dana Oswalt, Esq., Chair;
2. Farhan Naqvi, Esq.
3. Peter Ossowski, Laymember

DATED this 1 day of April, 2020.

STATE BAR OF NEVADA

By: *Kenneth E Hogan*
Kenneth E. Hogan, Esq.
Nevada Bar No. 10083
Chair, Southern Nevada Disciplinary Board






Hearing Panel Ord_Padgett

Final Audit Report

2020-04-01

Created:	2020-04-01
By:	Cathi Britz (cathib@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAA3IncUod_gbQHIBn7MjpqKyLIYiAd9rBs

"Hearing Panel Ord_Padgett" History

-  Document created by Cathi Britz (cathib@nvbar.org)
2020-04-01 - 4:35:25 PM GMT- IP address: 71.38.7.111
-  Document emailed to Kenneth E Hogan (ken@h2legal.com) for signature
2020-04-01 - 4:36:17 PM GMT
-  Email viewed by Kenneth E Hogan (ken@h2legal.com)
2020-04-01 - 5:06:27 PM GMT- IP address: 184.53.16.166
-  Document e-signed by Kenneth E Hogan (ken@h2legal.com)
Signature Date: 2020-04-01 - 5:06:57 PM GMT - Time Source: server- IP address: 184.53.16.166
-  Signed document emailed to Cathi Britz (cathib@nvbar.org) and Kenneth E Hogan (ken@h2legal.com)
2020-04-01 - 5:06:57 PM GMT



Adobe Sign

CERTIFICATE OF SERVICE

The undersigned hereby certifies a true and correct copy of the foregoing **ORDER APPOINTING HEARING PANEL** was served *via email* to:

1. Dana Oswalt, Esq. (Panel Chair): dana@bensonbingham.com
2. Farhan Naqvi, Esq. (Panel Member): Naqvi@naqvilaw.com
3. Peter Ossowski (Laymember): p_e_ossowski@yahoo.com
4. Brian Padgett, Esq. (Respondent): brian@briancpadgett.com
5. Gerard Gosioco, Esq. (Bar Counsel): gerardg@nvbar.org

DATED this 31st day of April, 2020.

By: Kristi Faust
Kristi Faust, an employee of
the State Bar of Nevada.

Case No.: OBC19-0604; OBC19-0798



FILED

APR 09 2020

STATE BAR OF NEVADA
BY: *[Signature]*
OFFICE OF BAR COUNSEL

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

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN C. PADGETT, ESQ.,
Nevada Bar No. 7474,

Respondent.

**NOTICE OF AMENDED
FORMAL HEARING DATE**

TO: Brian C. Padgett, Esq.
611 S. 6th St.
Las Vegas, NV 89101

PLEASE TAKE NOTICE that the formal hearing in the above-entitled action previously scheduled for June 1, 2020, has been re-scheduled for **one day on Monday, June 8, 2020, at the hour of 9:00 a.m.** The hearing will be conducted at the State Bar of Nevada located at 3100 W. Charleston Blvd., Suite 100, Las Vegas, NV 89102, (702) 382-2200.

Please be further advised that you are entitled to be represented by counsel, to cross-examine witnesses, and to present evidence.

DATED this 9 day of April, 2020.

STATE BAR OF NEVADA
Daniel M. Hooge, Bar Counsel

By: */s/ Gerard Gosioco*
/s/ Gerard Gosioco (Apr 9, 2020)

Gerard Gosioco, Assistant Bar Counsel
3100 W. Charleston Blvd., Suite 100
Las Vegas, NV 89104
(702) 382-2200

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF SERVICE

The undersigned hereby certifies a true and correct copy of the foregoing **NOTICE OF AMENDED FORMAL HEARING DATE** was personally served to:

Brian C. Padgett, Esq.
611 S. 6th St.
Las Vegas, NV 89101

and via email to:

1. Dana Oswalt, Esq. (Panel Chair): dana@bensonbingham.com
2. Farhan Naqvi, Esq. (Panel Member): Naqvi@naqvilaw.com
3. Peter Ossowski (Laymember): p_e_ossowski@yahoo.com
4. Brian Padgett, Esq. (Respondent): brian@briancpadgett.com
5. Gerard Gosioco, Esq. (Bar Counsel): gerardg@nvbar.org

DATED this 9 day of April, 2020.

By: Kristi Faust
Kristi Faust, an employee of
the State Bar of Nevada.








2020.04.08 Padget--Notice of Formal Hearing

Final Audit Report

2020-04-09

Created:	2020-04-09
By:	Kristi Faust (kristif@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAHHow7uDvKk0DNZBSQcrC-6SzlyXaQqzF

"2020.04.08 Padget--Notice of Formal Hearing" History

-  Document created by Kristi Faust (kristif@nvbar.org)
2020-04-09 - 4:28:11 PM GMT- IP address: 68.224.139.231
-  Document emailed to /s/ Gerard Gosioco (gerardg@nvbar.org) for signature
2020-04-09 - 4:30:01 PM GMT
-  Email viewed by /s/ Gerard Gosioco (gerardg@nvbar.org)
2020-04-09 - 4:30:47 PM GMT- IP address: 70.173.56.155
-  Document e-signed by /s/ Gerard Gosioco (gerardg@nvbar.org)
Signature Date: 2020-04-09 - 4:32:05 PM GMT - Time Source: server- IP address: 70.173.56.155
-  Document emailed to Kristi Faust (kristif@nvbar.org) for signature
2020-04-09 - 4:32:07 PM GMT
-  Email viewed by Kristi Faust (kristif@nvbar.org)
2020-04-09 - 4:48:03 PM GMT- IP address: 68.224.139.231
-  Document e-signed by Kristi Faust (kristif@nvbar.org)
Signature Date: 2020-04-09 - 4:48:14 PM GMT - Time Source: server- IP address: 68.224.139.231
-  Signed document emailed to /s/ Gerard Gosioco (gerardg@nvbar.org) and Kristi Faust (kristif@nvbar.org)
2020-04-09 - 4:48:14 PM GMT



Adobe Sign



FILED

MAY 12 2020

STATE BAR OF NEVADA
BY: *D. Felix*
OFFICE OF BAR COUNSEL

Case No: OBC19-0604; OBC19-0798

STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN C. PADGETT, ESQ.,
Nevada Bar No. 7474

Respondent.

**STATE BAR'S FINAL DISCLOSURE
OF WITNESSES AND DOCUMENTS**

PLEASE TAKE NOTICE that the following is a list of witnesses and a summary of evidence which may be offered against Respondent at the time of the Formal Hearing, in the above-entitled complaint.

A. Documentary Evidence

Any and all documentation contained in the State Bar of Nevada's files including but not limited to, correspondence, emails, memorandums, text messages, notes, payments, invoices, bank records, receipts, billing entries and pleadings regarding grievance file numbers OBC19-0604 and OBC19-0798.

Any and all documentation contained in records of the State Bar of Nevada regarding Respondent's licensure, compliance with reporting requirements, and disciplinary history.

The State Bar reserves the right to supplement this list as necessary.

Exhibit#	Document	Bates Stamped
1.	Formal Hearing Packet	will be produced prior to hearing
2.	Affidavit of Prior Discipline	will be produced at the time of hearing
3.	Engagement Letter Dated July 26, 2012	SBN Exhibit 3 001-006
4.	Lewis & Roca's Notice of Appearance File June 12, 2017	SBN Exhibit 4 001-002
5.	Declaration of Joel Henroid	SBN Exhibit 5 001-011
6.	Motion on Order Shortening Time to Direct Disbursement of Funds on Deposit Filed June 8, 2018	SBN Exhibit 6 001-019
7.	Order Granting Immediate Disbursement of Proceeds Filed June 18, 2018	SBN Exhibit 7 001-002
8.	Email from Lewis & Roca to Respondent Dated June 20, 2018	SBN Exhibit 8 001
9.	Email between Respondent and Familian Dated June 22, 2018	SBN Exhibit 9 001-002
10.	Email to Familian attaching June 26, 2018 invoice Dated June 29, 2018	SBN Exhibit 10 001-017
11.	Decision and Order, Case No. A-12-668136-C Filed October 16, 2018	SBN Exhibit 11 001-021
12.	Notice of Attorney's Lien Filed October 16, 2018	SBN Exhibit 12 001-003
13.	Email from Familian to Respondent Filed October 25, 2018	SBN Exhibit 13 001
14.	Check for Judgement Proceeds Dated October 22, 2018	SBN Exhibit 14 001
15.	Declaration of Abraham Smith	SBN Exhibit 15 001-003
16.	Respondent's Accounting of DKB Funds	SBN Exhibit 16 001
17.	NRS18.015	SBN Exhibit 17 001
18.	Leventhal v. Black & Lobello	SBN Exhibit 18 001-005
19.	Respondent's invoices to DKB/Familian	SBN Exhibit 19 001-086
20.	Motion for Attorney's Fees Filed February 2, 2017	SBN Exhibit 20 001-103
21.	Respondent's July 19, 2019, attempt to collect additional funds	SBN Exhibit 21 001-004
22.	Motion to Enforce Attorney's Lien filed in Case No. A-16-731822-C on February 26, 2019	SBN Exhibit 22 001-126

23.	Notice of Appearance in Case No. A-17-751033-C Filed March 12, 2018	SBN Exhibit 23 001-002
24.	Notice of Entry of Order Filed July 5, 2018	SBN Exhibit 24 001-007
25.	Docket- Nevada Supreme Case No. 76584	SBN Exhibit 25 001-004
26.	Text Messages between Respondent and Ritchie	SBN Exhibit 26 001-009
27.	Minutes from February 19, 2019 Hearing	SBN Exhibit 27 001
28.	Notice of Withdrawal Filed March 19, 2019	SBN Exhibit 28 001-002
29.	Motion to Withdraw Filed March 25, 2019	SBN Exhibit 29 001-005
30.	Motion to Withdraw Filed April 1, 2019	SBN Exhibit 30 001-005
31.	Order Granting Motion to Withdraw Filed April 18, 2019	SBN Exhibit 31 001-002
32.	Affidavit Claiming Exemption from Execution Dated March 20, 2019	SBN Exhibit 32 001-010
33.	Diana Ritchie's Letter of Resignation Dated November 27, 2018	SBN Exhibit 33 001-002

The State Bar incorporates by reference all documents identified by Respondent in these matters.

B. Witnesses and Brief Statement of Facts

1. Respondent, Brian C. Padgett, Esq., will be called and would be expected to testify regarding his conduct and communications surrounding the events related to, and any and all documents pertinent to, each of the charged violations of the Rules of Professional Conduct, including but not limited to facts pertaining to the breach of his professional responsibilities as an attorney, his mental state pursuant to ABA Standards, the harm resulting from his conduct, and any aggravating and mitigating factors pursuant to Supreme Court Rule 102.5. Respondent is expected to provide testimony regarding the facts and circumstances regarding OBC19-0604 and OBC19-0798.

1 2. Louise Watson, an investigator with the State Bar of Nevada Office of Bar Counsel,
2 is expected to provide testimony regarding her investigation of OBC19-0604 and OBC19-0798,
3 including but not limited to, information and documents provided by Respondent and Grievant(s),
4 communications with Respondent and Grievant(s), and Respondent's disciplinary history.

5 3. Bruce Familian is expected to offer testimony regarding the facts and circumstances
6 regarding Case No. OBC19-0604, including but not limited to, the facts and circumstances
7 surrounding the allegations contained in said grievance.

8 4. Joel Henriod, Esq., is expected to offer testimony regarding the facts and
9 circumstances regarding Case No. OBC19-0604, including but not limited to, the facts and
10 circumstances surrounding the allegations contained in said grievance.

11 5. Daniel Polsenberg, Esq., is expected to offer testimony regarding the facts and
12 circumstances regarding Case No. OBC19-0604, including but not limited to, the facts and
13 circumstances surrounding the allegations contained in said grievance.

14 6. Abraham Smith, Esq., is expected to offer testimony regarding the facts and
15 circumstances regarding Case No. OBC19-0604, including but not limited to, the facts and
16 circumstances surrounding the allegations contained in said grievance.

17 7. Ian Ritchie is expected to offer testimony regarding the facts and circumstances
18 regarding Case No. OBC19-0798, including but not limited to, the facts and circumstances
19 surrounding the allegations contained in said grievance.

20 ///

21 ///

22 ///

23 ///

24 ///

25

1 8. Diana Ritchie is expected to offer testimony regarding the facts and circumstances
2 Regarding Case No. OBC19-0798, including but not limited to, the facts and circumstances
3 surrounding the allegations contained in said grievance.

4 Dated this 12 day of May, 2020.

6 **STATE BAR OF NEVADA**
7 **DANIEL M. HOOGE, BAR COUNSEL**

8 */s/ Gerard Gosioco*
9 /s/ Gerard Gosioco (May 12, 2020)

10 **Gerard Gosioco, Assistant Bar Counsel**
11 Nevada Bar No. 14371
12 3100 West Charleston Boulevard, Suite 100
13 Las Vegas, Nevada 89102
14 (702) 382-2200

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Brian C. Padgett, Esq.
611 S. 6th St.
Las Vegas, NV 89101

1. Dana Oswalt, Esq. (Panel Chair): dana@benzonbingham.com
2. Brian C. Padgett, Esq. (Respondent): brian@briancpadgett.com
3. Gerard Gosioco, Esq. (Assistant Bar Counsel): gerardg@nvbar.org

DATED this 12 day of May, 2020.

By: Sonia Del Rio
Sonia Del Rio,
an employee of the State Bar of Nevada.









Padgett, Brian Final Disclosure (OBC19-0604; OBC19-0798)

Final Audit Report

2020-05-12

Created:	2020-05-12
By:	Sonia Del Rio (soniad@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAA_vkSmDylMeY7GXoGNm8C_gW3NvvlRwd

"Padgett, Brian Final Disclosure (OBC19-0604; OBC19-0798)" History

-  Document created by Sonia Del Rio (soniad@nvbar.org)
2020-05-12 - 7:24:35 PM GMT- IP address: 24.253.55.206
-  Document emailed to /s/ Gerard Gosioco (gerardg@nvbar.org) for signature
2020-05-12 - 7:25:14 PM GMT
-  Email viewed by /s/ Gerard Gosioco (gerardg@nvbar.org)
2020-05-12 - 10:45:49 PM GMT- IP address: 70.173.56.155
-  Document e-signed by /s/ Gerard Gosioco (gerardg@nvbar.org)
Signature Date: 2020-05-12 - 10:46:13 PM GMT - Time Source: server- IP address: 70.173.56.155
-  Document emailed to Sonia Del Rio (soniad@nvbar.org) for signature
2020-05-12 - 10:46:14 PM GMT
-  Email viewed by Sonia Del Rio (soniad@nvbar.org)
2020-05-12 - 10:48:54 PM GMT- IP address: 24.253.55.206
-  Document e-signed by Sonia Del Rio (soniad@nvbar.org)
Signature Date: 2020-05-12 - 10:49:54 PM GMT - Time Source: server- IP address: 24.253.55.206
-  Signed document emailed to Sonia Del Rio (soniad@nvbar.org) and /s/ Gerard Gosioco (gerardg@nvbar.org)
2020-05-12 - 10:49:54 PM GMT



Adobe Sign

Case No.: OBC19-0604; OBC19-0798



FILED

MAY 22 2020

STATE BAR OF NEVADA
BY: *B. Felix*
OFFICE OF BAR COUNSEL

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

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN C. PADGETT, ESQ.,

Nevada Bar No. 7474,

Respondent.

**NOTICE OF
FORMAL HEARING**

PLEASE TAKE NOTICE that the formal hearing in the above-entitled action scheduled for one day on Monday, June 8, 2020, at the hour of 9:00 a.m., The hearing will be conducted virtually via ZOOM through the State Bar of Nevada. The State Bar of Nevada will email an access link on June 5, 2020.

Please be further advised that you are entitled to be represented by counsel, to cross-examine witnesses, and to present evidence.

DATED this 21 day of May, 2020.

**STATE BAR OF NEVADA
Daniel M. Hooge, Bar Counsel**

By: */s/ Gerard Gosioco*
Gerard Gosioco, Assistant Bar Counsel
3100 W. Charleston Blvd., Suite 100
Las Vegas, NV 89104
(702) 382-2200

1 **CERTIFICATE OF SERVICE**


2 The undersigned hereby certifies a true and correct copy of the foregoing **NOTICE OF**
3 **FORMAL HEARING** was deposited in the United States Mail at Las Vegas, Nevada, postage
4 fully pre-paid thereon for first-class regular mail to:

5 Brian C. Padgett, Esq.
6 611 S. 6th St.
Las Vegas, NV 89101

7 *and via email to:*

- 8 1. Dana Oswalt, Esq. (Panel Chair): dana@bensonbingham.com
9 2. Farhan Naqvi, Esq. (Panel Member): Naqvi@naqvilaw.com
3. Peter Ossowski (Laymember): p_e_ossowski@yahoo.com
10 4. Brian Padgett, Esq. (Respondent): brian@briancpadgett.com
5. Gerard Gosioco, Esq. (Assistant Bar Counsel): gerardg@nvbar.org

11 DATED this 22 day of May, 2020.

12 By: 
13 Sonia Del Rio, an employee of
14 the State Bar of Nevada.
15
16
17
18
19
20
21
22
23
24
25

Case Nos.; OBC19-0604; OBC19-0798



STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN C. PADGETT,
STATE BAR NO. 7474

Respondent.

FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND RECOMMENDATION
AFTER FORMAL HEARING

This matter involving attorney BRIAN C. PADGETT, Esq. (hereinafter "Respondent"), Bar No. 7474, initially came before a designated Formal Hearing Panel of the Southern Nevada Disciplinary Board (hereinafter "Panel") at 9:00 a.m. on Monday, June 8, 2020, at the office of the State Bar of Nevada in Las Vegas, Nevada. The Panel consisted of Chair Dana P. Oswalt, Esq., Farhan R. Naqvi Esq., and Peter Ossowski, Laymember. Assistant Bar Counsel, Gerard Gosioco, Esq., represented the State Bar of Nevada (hereinafter "State Bar"). Respondent was not present.

1 The State Bar presented materials consisting of pleadings and State Bar documents,
2 which were admitted into evidence as Exhibits 1 through 36. *See* Transcript, pp. 8-9.

3 Based upon the evidence presented, the Panel unanimously issues the following
4 Findings of Fact, Conclusions of Law, and Recommendation:

5 **FINDINGS OF FACT**

6 1. Respondent is an attorney licensed to practice law in the State of Nevada and
7 was admitted to the State Bar of Nevada on or about December 28, 2000.

8 2. During the period in question, Respondent maintained a law practice in Clark
9 County, Nevada.

10 3. OBC19-0604. On or about July 25, 2012, Bruce Familian (hereinafter "Mr.
11 Familian") retained Respondent to represent DKB, LLC, in an inverse condemnation case
12 against Clark County. *See* Transcript, p. 10. On or about September 11, 2012, Respondent
13 filed a Complaint initiating Case Number A-12-668136-C in the Eighth Judicial District
14 Court. *Id.*

15 The case went to trial, and DKB was awarded \$116,508 by the jury. *Id.* Following
16 trial, several post-judgment motions were filed regarding attorney's fees and costs of
17 prejudgment interest on the award. *Id.* An Order granting the prejudgment interest was
18 filed on November 3, 2017, but the Court requested additional briefing regarding fees and
19 costs. *Id.*

20 Mr. Familian then retained attorneys Dan Polsenberg and Joel Henriod (hereinafter
21 "appellate attorneys") to file an appeal of the inverse condemnation case as Mr. Familian
22 was not satisfied with the amount awarded by the jury. *Id.* At 11. On or about June 12,
23 2017, Mr. Familian's appellate attorneys filed a Notice of Appearance. *Id.* On or about
24
25

1 November 8, 2017, Clark County deposited \$151,599.83 with the District Court
2 representing the jury verdict plus interest. *Id.*

3 On or about June 8, 2018, Respondent filed a Motion on Order Shortening Time to
4 Direct Disbursement of Funds on Deposit. *Id.* On or about June 12, 2018, an Order
5 granting Respondent's Motion was filed. *Id.* Mr. Familian's appellate attorneys were not
6 served with Respondent's Motion. *Id.*

7 On or about June 20, 2018, Mr. Henriod discovered that Respondent's Motion and
8 an Order granting the same had been filed. *Id.* Mr. Henriod then contacted Respondent's
9 office and expressed concern that they had withdrawn the funds without notifying Mr.
10 Familian or his appellate attorneys. *Id.* Mr. Henriod stated that he believed withdrawing
11 the funds might jeopardize Mr. Familian's case and notified Respondent that Mr. Familian
12 did not authorize the withdrawal. *Id.*

13 On or about June 22, 2018, Mr. Familian emailed Respondent asking why the
14 motion for disbursement was filed without his knowledge and why it had been done on
15 shortened time. *Id.* at 11-12. The email requested the status of funds and an accounting
16 explaining what happened to any funds received by Respondent. *Id.* at 12. Respondent
17 replied that he did have the check in hand, but that in his opinion, retrieving the funds
18 would not jeopardize Mr. Familian's rights on appeal. *Id.*

19 Respondent stated that he would send Mr. Familian a copy of his outstanding bill,
20 which he can pay out of pocket or from the release of funds. *Id.* Mr. Familian then
21 instructed Respondent to stop the process of withdrawing the funds and requested the
22 current bill stating that he had not received one in over a year. *Id.* On or about June 29,
23 2018, Respondent's office emailed Mr. Familian a copy of the invoice dated June 26, 2018,

1 for \$69,945.73 for services that were rendered from November 2016 through May 2017,
2 indicating that Mr. Familian had not been billed for any post-trial work. *Id.*

3 On or about October 16, 2018, the Court filed a decision and awarded DKB over
4 \$400,000 in attorney's fees and costs. *Id.* That same day, Respondent filed a Notice of
5 Filing of Attorney's Lien, but did not include an amount. *Id.* at 12-13. Respondent never
6 filed a motion to enforce the attorney's lien as required by NRS 18.015. *Id.* at 13.

7 On or about October 25, 2018, Mr. Familian emailed Respondent and stated that he
8 had no objection to him taking the approximately \$70,000 Mr. Familian owed from the
9 attorney's fee award proceeds. *Id.* In addition, Mr. Familian specifically stated to
10 Respondent that the funds on deposit with the Court for the judgment and interest should
11 not be touched during the appeal. *Id.* However, Respondent had already received
12 \$151,599.63 of the judgment funds from the Court on or about October 22, 2018. *Id.*

13 On or about June 19, 2019, Respondent attempted to obtain an additional
14 \$13,845.45 from funds that Clark County deposited with the District Court by submitting
15 a proposed order directly to the Court without copying any other parties or filing a motion.
16 *Id.* The Court returned the proposed order to Respondent and provided copies to Mr.
17 Familian's appellate attorneys. *Id.* at 13-14.

18 4. OBC19-0798. Ian Ritchie (hereinafter "Mr. Ritchie") was hired as the head
19 of security for CWNevada (hereinafter "CWN"), a marijuana dispensary of which
20 Respondent is the CEO, from approximately 2017 to March 26, 2019. *Id.* at 14. Prior to
21 Mr. Ritchie's employment at CWN, he was employed as the Director of Sales for Pro-Tect
22 Security. *Id.* While employed with Pro-Tect Security, Mr. Ritchie signed a non-compete
23 agreement. *Id.* Despite the non-compete, Mr. Ritchie left Pro-Tect Security and founded
24 Round Table Security. *Id.*

1 In or around May 2015, Pro-Tect Security sued Mr. Ritchie for violating the terms
2 of the non-compete. *Id.* Although Respondent was not counsel of record for Mr. Ritchie
3 or Round Table Security, he advised Mr. Ritchie that he should agree to be jointly and
4 severally liable for the judgment, and that Respondent, himself, would be paying the
5 judgment. *Id.* Following Respondent's advice, the lawsuit was settled with Mr. Ritchie
6 agreeing to be jointly and severally liable for payment to Pro-Tect Security along with
7 Round Table Security. *Id.* Neither Respondent, Mr. Ritchie, or Round Table Security
8 satisfied the settlement. *Id.*

9 In or around February 2017, Pro-Tect Security sued Mr. Ritchie for breach of
10 contract. On or about March 12, 2018, Respondent entered his appearance on behalf of
11 Mr. Ritchie. *Id.* at 14-15. On or about June 28, 2018, the Court entered summary judgment
12 in favor of Pro-Tect Security and against Mr. Ritchie for \$129,999.92. *Id.* On or about July
13 27, 2018, Respondent filed a Notice of Appeal with the District Court. *Id.* at 15. Respondent
14 continued to communicate to Mr. Ritchie that Respondent would give him the money to
15 pay off Pro-Tect Security. *Id.* Ultimately, Respondent withdrew as counsel from the
16 appeal. *Id.* Mr. Ritchie was not able to secure new counsel, and his appeal was dismissed.
17 *Id.* When the State Bar asked Respondent about this incident, he simply responded that
18 he is "not permitted to advance funds to a client, nor would [he] have agreed to do so in
19 Mr. Ritchie's case." *Id.*

20 5. On or about December 23, 2019, the State Bar filed a disciplinary Complaint.

21 6. On or about January 7, 2020, the State Bar filed a First Amended Complaint
22 which charged Respondent with the following violations of the Rule of Professional
23 Conduct ("RPC"): (1) RPC 1.2 (Scope of Representation and Allocation of Authority
24 Between Client and Lawyer); (2) RPC 1.4 (Communication); (3) RPC 1.8 (Conflict of
25

1 Interest: Current Clients: Specific Rules); (4) RPC 1.15 (Safekeeping Property); (5) RPC 3.3
2 (Candor Toward the Tribunal); (6) RPC 8.1 (Bar Admission and Disciplinary Matters); and
3 (7) RPC 8.4 (Misconduct).

4 7. A return receipt provided to the State Bar showed that the First Amended
5 Complaint was delivered to Respondent on or about January 14, 2020.

6 8. On or about February 26, 2020, Respondent provided a response to the State
7 Bar's First Amended Complaint.

8 9. The response did not address any of the State Bar's allegations; rather,
9 Respondent went on a tangent about how he is the owner of a cannabis firm, and that there
10 is a conspiracy to take over his cannabis firm which included "damaging [his] standing in
11 the practice of law."

12 10. On or about January 31, 2020, a Notice of Intent to Proceed on a Default
13 Basis was filed.

14 11. On or about March 4, an Order Appointing Hearing Panel Chair was filed.

15 12. On or about March 18, 2020, an Initial Case Conference ("ICC") was held.

16 13. Respondent was not present during the ICC.

17 14. On or about March 24, 2020, an Entry of Default was ordered and filed.

18 15. On or about March 24, 2020, the State Bar filed its Initial Disclosure of
19 Witnesses and Documents.

20 16. On or about April 3, 2020, an Order Appointing Formal Hearing Panel was
21 filed.

22 17. On or about April 9, 2020, a Notice of Amended Formal Hearing Date was
23 filed.

18. On April 10, 2020, and April 13, 2020, Judith Mae All (hereinafter “Ms. All”) of Nationwide Legal Nevada, LLC, attempted to personally serve Respondent at 611 South 6th Street, Las Vegas, Nevada, 89101, with all previously filed documents pertaining to this case, but to no avail.

19. On April 24, 2020, April 26, 2020, and April 29, 2020, Tyler Trewet (hereinafter “Mr. Trewet”) of Nationwide Legal Nevada, LLC, attempted to personally serve Respondent at 1672 Liege Drive, Henderson, Nevada, 89012, with previously filed documents pertaining to this case, but to no avail.

20. On or about May 12, 2020, the State Bar filed its Final Disclosure of
Witnesses and Documents.

21. On or about May 22, 2020, a Notice of Hearing was filed.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Panel hereby issues the following
Conclusions of Law:

1. The Southern Nevada Disciplinary Board has jurisdiction over Respondent and the subject matter of these proceedings pursuant to Supreme Court Rule (“SCR”) 99.

2. Venue is proper in Clark County.

3. The State Bar must prove by clear and convincing evidence that Respondent violated any Rules of Professional Conduct. See Nev. Sup. Ct. R. 105(2)(f); *In re Stuhff*, 108 Nev. 629, 633-634, 837 P.2d 853, 856; *Gentile v. State Bar*, 106 Nev. 60, 62, 787 P.2d 386, 387 (1990).

4. The Panel unanimously finds that the foregoing findings of fact prove by clear and convincing evidence that:

- 1 a. Respondent intentionally violated RPC 1.2 (Scope of Representation
2 and Allocation of Authority Between Client and Lawyer) which caused injury to Mr.
3 Familian. *See* Transcript, p. 38.
- 4 b. Respondent knowingly violated RPC 1.4 (Communication) which
5 caused injury to Mr. Familian and Mr. Ritchie. *Id.*
- 6 c. Respondent knowingly violated RPC 1.8 (Conflict of Interest: Current
7 Clients: Specific Rules) which caused injury to Mr. Familian and Mr. Ritchie. *See*
8 Transcript, p. 38.
- 9 d. Respondent knowingly violated RPC 1.15 (Safekeeping Property)
10 which caused injury to Mr. Familian and Mr. Ritchie. *See* Transcript, p. 38.
- 11 e. Respondent knowingly violated RPC 3.3 (Candor Toward the
12 Tribunal) which caused injury to Mr. Familian and Mr. Ritchie. *See* Transcript, p.
13 38.
- 14 f. Respondent knowingly violated RPC 8.1 (Bar Admission and
15 Disciplinary Matters) which caused injury to Mr. Familian and Mr. Ritchie. *See*
16 Transcript, p. 38.
- 17 g. Respondent knowingly violated RPC 8.4 (Misconduct) which caused
18 injury to Mr. Familian and Mr. Ritchie. *See* Transcript, p. 38.
- 19 5. The appropriate level of discipline must be determined considering “all
20 relevant factors and mitigating circumstances on a case-by-case basis.” *State Bar of*
21 *Nevada v. Claiborne*, 104 Nev. 11, 219, 756 P.2d 464, 531 (1988). We evaluate The
22 American Bar Association Standards for Imposing Lawyer Sanctions’ four factors to be
23 considered in determining the appropriate disciplinary sanction: “the duty violated, the
24 lawyer’s mental state, the potential or actual injury caused by the lawyer’s misconduct, and
25

1 the existence of aggravating or mitigating factors.” *See In re Discipline of Lerner*, 124 Nev.
2 1232, 1246, 197 P.3d 1067, 1078 (2008).

3 6. Pursuant to Standard 4.12 of the ABA Standard for Imposing Lawyer
4 Sanctions, the appropriate baseline sanction for Respondent’s violation of RPC 1.15
5 (Safekeeping Property) is suspension.

6 7. Pursuant to SCR 102.5(1), the Panel unanimously found the following
7 aggravating factors exist:

- 8 a. A dishonest or selfish motive;
- 9 b. A pattern of misconduct;
- 10 c. Multiple offenses;
- 11 d. Bad faith obstruction of the disciplinary proceeding by intentionally
12 failing to comply with rules or orders;
- 13 e. Refusal to acknowledge the wrongful nature of conduct;
- 14 f. Substantial experience in the practice of law; and
- 15 g. Indifference to making restitution.

16 8. Pursuant to SCR 102.5(2), the Panel unanimously found the following
17 mitigating factors exist:

- 18 a. Absence of a prior disciplinary record.

19 **RECOMMENDATION**

20 Based upon the foregoing Findings of Fact and Conclusions of Law, the Panel hereby
21 recommends that:

- 22 1. Respondent be suspended for a period of five (5) years;
- 23 2. Respondent be required to retake the Nevada Bar Exam; and

1 3. Pursuant to SCR 120, Respondent shall pay a \$2,500 fee plus the actual costs
2 of this proceeding, excluding Bar Counsel and staff salaries no later than the 30th day after
3 the Supreme Court's Order in this matter or service of a Memorandum of Costs, whichever
4 is later.

5
6 DATED this 30 day of July, 2020.

7 *Dana P. Oswalt*
8 Dana P. Oswalt (Jul 30, 2020 11:22 PDT)
9 **Dana P. Oswalt, Esq., Chair**
 Southern Nevada Disciplinary Panel

Case Nos.: OBC19-0604; OBC19-0798



FILED

AUG 24 2020

STATE BAR OF NEVADA
BY: *B. Felix*
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA

SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
)
BRIAN C. PADGETT, ESQ.,)
NV Bar No. 7474)
)
Respondent.)

STATE BAR OF NEVADA'S
MEMORANDUM OF COSTS

Description	Amount
Court Reporter Fee & Transcript Fee Hearing Held on June 8, 2020	\$643.40
Nation Wide Legal Services	\$60.00
Certified Mail Costs (2 x \$6.78)	\$13.56
TOTAL	\$716.96

1. I am Assistant Bar Counsel with the State Bar of Nevada. I have personal knowledge of the above-referenced costs and disbursements expended.

2. The costs set forth above are true and correct to the best of my knowledge and belief and were necessary and reasonably incurred and paid in connection with this matter. True and correct copies of invoices supporting these costs are attached to this Memorandum of Costs.

3. As stated in the Findings of Fact, Conclusions of Law and Recommendation, Respondent shall be ordered to pay the fees and costs of these proceedings within thirty (30)

1 days of receipt of the State Bar of Nevada's Memorandum of Costs in this matter pursuant to
2 Supreme Court Rule 120(1).

3 Dated this 24 day of August, 2020.

4 **STATE BAR OF NEVADA**
Daniel M. Hooge, Bar Counsel

5
6 By: */s/ Gerard Gosioco*
/s/ Gerard Gosioco (Aug 24, 2020 16:44 PDT)
Gerard Gosioco, Assistant Bar Counsel
3100 W. Charleston Boulevard, Ste. 100
Las Vegas, Nevada 89102
Attorney for State Bar of Nevada

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies a true and correct copy of the foregoing **STATE BAR OF NEVADA'S MEMORANDUM OF COSTS** was deposited in the United States Mail at Las Vegas, Nevada, postage fully pre-paid thereon for certified mail addressed to:

Brian Padgett, Esq.
611 S. 6th Street
Las Vegas, NV 89101

CERTIFIED MAIL RECEIPT NO. 7019 2970 0001 1910 4683

DATED this 25 day of August, 2020.

By: Sonia Del Rio
Sonia Del Rio, an employee of
the State Bar of Nevada






Memo of Costs

Final Audit Report

2020-08-24

Created:	2020-08-24
By:	Sonia Del Rio (soniad@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAA5y4vuqpB_fhpPKQx8Zi3raw-P9xrgN6C

"Memo of Costs" History

-  Document created by Sonia Del Rio (soniad@nvbar.org)
2020-08-24 - 11:39:10 PM GMT - IP address: 70.175.53.4
-  Document emailed to /s/ Gerard Gosioco (gerardg@nvbar.org) for signature
2020-08-24 - 11:39:28 PM GMT
-  Email viewed by /s/ Gerard Gosioco (gerardg@nvbar.org)
2020-08-24 - 11:44:33 PM GMT - IP address: 68.104.81.227
-  Document e-signed by /s/ Gerard Gosioco (gerardg@nvbar.org)
Signature Date: 2020-08-24 - 11:44:58 PM GMT - Time Source: server- IP address: 68.104.81.227
-  Signed document emailed to /s/ Gerard Gosioco (gerardg@nvbar.org) and Sonia Del Rio (soniad@nvbar.org)
2020-08-24 - 11:44:58 PM GMT

IN RE: DISCIPLINE OF
BRIAN C. PADGETT, ESQ.
NEVADA BAR NO. 7474

VOLUME II

RECORD OF DISCIPLINARY PROCEEDINGS,
PLEADINGS AND TRANSCRIPT OF HEARING

Brian C. Padgett, Esq.
Nevada Bar No. 7474
611 S. 6th Street
Las Vegas, NV 89101
Respondent

INDEX

Description	Page Nos.	Vol. No.
Certificate of Service- Record of Appeal Dated October 9, 2020	ROA Page 096	I
Complaint, Designation of Hearing Panel Members, and Affidavit of Mailing Filed December 23, 2019	ROA Page 001-018	I
Entry of Default Filed March 24, 2020	ROA Page 056-059	I
Findings of Fact, Conclusions of Law, and Recommendation After Formal Hearing Filed July 30, 2020	ROA Page 082-091	I
First Amended Complaint and Affidavit of Mailing Filed January 7, 2020	ROA Page 019-033	I
Notice of Amended Formal Hearing Filed April 9, 2020	ROA Page 070-072	I
Notice of Formal Hearing Filed May 22, 2020	ROA Page 080-081	I
Notice of Intent to Proceed on a Default Basis Filed January 31, 2020	ROA Page 034-047	I
Notice of Telephonic Case Conference Filed March 5, 2020	ROA Page 050-051	I
Order Appointing Formal Hearing Panel Filed April 3, 2020	ROA Page 067-069	I
Order Appointing Hearing Panel Chair Filed March 4, 2020	ROA Page 048-049	I
Scheduling Order Filed March 19, 2020	ROA Page 052-055	I
State Bar of Nevada's Memorandum of Costs Filed August 24, 2020	ROA Page 092-095	I
State Bar's Final Disclosure of Witnesses and Documents Filed May 12, 2020	ROA Page 073-079	I
State Bar's Initial Disclosure of Witnesses and Documents File March 24, 2020	ROA Page 060-066	I

TRANSCRIPTS & EXHIBITS

Description	Page Nos.	Vol. No.
Transcript of Proceedings Held on June 8, 2020	ROA Page 097-151	II
State Bar's Exhibit 1	ROA Page 152-225	II
State Bar's Exhibit 2	ROA Page 226	II
State Bar's Exhibit 3	ROA Page 227-232	II
State Bar's Exhibit 4	ROA Page 233-234	II
State Bar's Exhibit 5	ROA Page 235-245	II
State Bar's Exhibit 6	ROA Page 246-264	II
State Bar's Exhibit 7	ROA Page 265-266	II
State Bar's Exhibit 8	ROA Page 267	II
State Bar's Exhibit 9	ROA Page 268-269	II
State Bar's Exhibit 10	ROA Page 270-286	II
State Bar's Exhibit 11	ROA Page 287-307	II
State Bar's Exhibit 12	ROA Page 308-310	II
State Bar's Exhibit 13	ROA Page 311	II
State Bar's Exhibit 14	ROA Page 312	II
State Bar's Exhibit 15	ROA Page 313-315	II
State Bar's Exhibit 16	ROA Page 316	II

1	State Bar's Exhibit 17	ROA Page 317	II
2	State Bar's Exhibit 18	ROA Page 318-322	II
3	State Bar's Exhibit 19	ROA Page 323-408	II
4	State Bar's Exhibit 20	ROA Page 409-511	II
5	State Bar's Exhibit 21	ROA Page 512-515	II
6	State Bar's Exhibit 22	ROA Page 516-641	II
7	State Bar's Exhibit 23	ROA Page 642-643	II
8	State Bar's Exhibit 24	ROA Page 644-650	II
9	State Bar's Exhibit 25	ROA Page 651-654	II
10	State Bar's Exhibit 26	ROA Page 655-663	II
11	State Bar's Exhibit 27	ROA Page 664	II
12	State Bar's Exhibit 28	ROA Page 665-666	II
13	State Bar's Exhibit 29	ROA Page 667-671	II
14	State Bar's Exhibit 30	ROA Page 672-676	II
15	State Bar's Exhibit 31	ROA Page 677-678	II
16	State Bar's Exhibit 32	ROA Page 679-688	II
17	State Bar's Exhibit 33	ROA Page 689-690	II
18	State Bar's Exhibit 34	ROA Page 691-693	II
19	State Bar's Exhibit 35	ROA Page 694-696	II
20	State Bar's Exhibit 36	ROA Page 697-701	II

STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
 Complainant,)
)
 vs.)
)
 BRIAN C. PADGETT, ESQ.,)
 Nevada Bar No. 7474,)
 Respondent.)
 _____)

REPORTER'S TRANSCRIPT OF ZOOM HEARING PROCEEDINGS
BEFORE HEARING PANEL CHAIRMAN DANA P. OSWALT
Grievance File Nos.: OBC19-0640 and OBC19-0798

Taken on Monday, June 8, 2020

At 9:09 a.m.

Las Vegas, Nevada

Reported by: Carla N. Bywaters, CCR 866

Job No. 52308

HEARING

June 08, 2020

1 APPEARANCES:

2 Panel Members:

3 DANA P. OSWALT, ESQ., Chair

4 FARHAN R. NAQVI, ESQ., Panel Member

5 PETER OSSOWSKI, Lay Member

6 Also Present:

7 JOHN GERARD GOSIOCO, ESQ., Assistant Bar Counsel

8 SONIA DEL RIO, Hearing Paralegal

9

* * * * *

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

HEARING

June 08, 2020

1	E X H I B I T S		
2	NUMBER	DESCRIPTION	ADMITTED
3	Complainant's		
4	1	State Bar Hearing Packet	8
5	2	Declaration of Sonia Del Rio Custodian of Records	8
6	3	07/26/12 Padgett Letter	9
7	4	06/12/17 Notice of Appearance	9
8	5	Declaration of Joel D. Henriod	9
9	6	Motion on Order Shortening Time to Direct Disbursement of Funds on Deposit	9
10	7	Order Granting Immediate Disbursement of Eminent Domain Proceeds	9
11	8	06/20/18 Henriod E-mail	9
12	9	06/22/18 Familian E-mail Thread	9
13	10	06/29/18 Sugden E-mail Thread	9
14	11	10/15/18 Decision and Order	9
15	12	10/16/18 Notice of Filing of Attorney's Lien Pursuant to NRS 18.015	9
16	13	10/25/18 Familian E-mail	9
17	14	10/22/18 Photo of Check Deposit	9
18	15	Declaration of Abraham G. Smith	9
19	16	DKB Accounting of A-12-668136-C	9
20	17	Nevada Revised Statute 18.015	9
21	18	07/11/13 NV Supreme Court Opinion	9
22	19	Familian Invoices Paid and Balance Owed	9
23			
24			
25			

HEARING

June 08, 2020

1	E X H I B I T S (cont.)		
2	NUMBER	DESCRIPTION	ADMITTED
3	Complainant's		
4	20	11/07/16 Plaintiff's Motion for Attorney's Fees	9
5	21	07/19/19 District Court Memo	9
6	22	02/26/19 Motion to Enforce Attorney's Lien Pursuant to NRS 18.015	9
7	23	03/12/18 Notice of Appearance of Counsel	9
9	24	07/05/18 Notice of Entry of Order Granting Trade Show Services, Ltd's Motion for Summary Judgment and Denying Ian Ritchie's Countermotion to Void the Settlement Agreement	9
10			
11			
12	25	76584: Case View Paperwork	9
13	26	Copies of Padgett Text Messages	9
14	27	Case A-17-761033-C Court Minutes	9
15	28	03/19/19 Notice of Withdrawal as Attorney of Record for Defendant Ian Ritchie Pursuant to Nevada Supreme Court Rule 46	9
16			
17			
18	29	03/25/19 Motion for Permission to Withdraw as Counsel	9
19	30	04/01/19 Motion for Permission to Withdraw as Counsel	9
20			
21	31	Order Regarding Motions	9
22	32	03/20/19 Affidavit Claiming Exemption from Execution	9
23	33	11/27/18 Diana Letter	9
24	34	Case No. OBC19-0640 Complaint	9
25			

HEARING

June 08, 2020

1	E X H I B I T S (cont.)		
2	NUMBER	DESCRIPTION	ADMITTED
3	Complainant's		
4	35	Case No. OBC19-0798 Complaint	9
5	36	Affidavit of Due Diligence	9
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

HEARING

June 08, 2020

1 P R O C E E D I N G S

2 LAS VEGAS, NEVADA; JUNE 8, 2020;

3 9:09 A.M.

4 - - -

5 CHAIR OSWALT: Okay. This is the time set for
6 the Formal Hearing for Case Numbers OBC19-0604 and
7 OBC19-0798, State Bar of Nevada versus Brian Padgett.
8 And it's my understanding Mr. Padgett is not present
9 today; is that correct?

10 MR. GOSIOCO: That's correct.

11 CHAIR OSWALT: Okay. So I will turn it over
12 to the State Bar if you would like to begin.

13 MR. GOSIOCO: Absolutely. Thank you so much.
14 Good morning, everybody. My name is Gerard Gosioco.
15 I'm Assistant Bar Counsel here with the State Bar of
16 Nevada, and I'm the one handling the case for Brian
17 Padgett OBC19-0640 as well as OBC19-0798. Now, before
18 we begin, I would like to, if Panel Chair would allow me
19 to, go through a brief procedural history of this case
20 just so we understand how we got to the Default Hearing
21 today.

22 CHAIR OSWALT: Absolutely.

23 MR. GOSIOCO: Thank you so much.

24 So, like I said, this case -- these cases have
25 been -- we have entered an entry of default in this

1 case. And by way of procedural history, the Complaint
2 was filed on December 23rd, 2013. The State Bar filed a
3 First Amended Complaint approximately two weeks -- or
4 two or three weeks later on January 7th, 2020. On
5 January 14th, 2020, I personally called Mr. Padgett and
6 left him a voice mail.

7 We were supposed to speak on the phone. Two
8 days later on January 16th, 2020, I received an e-mail
9 from Mr. Padgett asking for an extension. We spoke the
10 following day on January 17th, 2020, and he asked me if
11 I would be willing to stipulate to a deadline of January
12 31st, 2020. I did stipulate to that deadline, allowed
13 Mr. Padgett to file an answer by that date; however,
14 nothing was filed by January 31st.

15 I did speak to Mr. Padgett on January 27th,
16 and there was another State Bar employee present. I did
17 inform Mr. Padgett that, because the deadline's
18 approaching, if he doesn't file by that, by the 31st,
19 I'll be filing a notice, which would make his deadline
20 approximately February 24th, 2020.

21 I also explained to Mr. Padgett the
22 ramifications of what happens when I file a notice and
23 if he doesn't file an answer by that point, and he did
24 state that he understood. Nothing was filed, so a
25 notice was filed on January 31st, 2020. The Order

1 Appointing Hearing Chair was filed March 4th, 2020. The
2 Scheduling Order was filed March 19th, 2020, and the
3 entry of default was filed March 24th, 2020.

4 Our initial disclosures were mailed February
5 24th -- or March 24th, 2020. Order Appointing a Formal
6 Hearing Panel filed April 3rd, 2020. The notice of
7 amended formal hearing date was filed April 9th, 2020,
8 and we did make personal service attempts on Mr. Padgett
9 on April 15th, April 24th, April 26th, April 29th of
10 2020.

11 The final disclosures from the State Bar was
12 filed May 12th, 2020, and the notice of formal hearing
13 was filed May 22nd, 2020. Now, because we did file an
14 entry of default in this case, the State Bar would
15 respectfully move to admit Exhibits 1 and 2.

16 CHAIR OSWALT: That's fine, yes.

17 (Exhibits 1 and 2 were admitted into
18 evidence.)

19 MR. GOSIOCO: Thank you. Additionally, the
20 State Bar would also like to admit Exhibits 1 through
21 33, which were listed in the final disclosures. That
22 was Exhibit 1, pages 67 through 70, and the State Bar
23 would move to admit those as Exhibits 3 through 35.

24 CHAIR OSWALT: So I'm looking at what I have
25 from the disclosures. I'm only showing 31 exhibits,

1 although, I believe 1 and 2 were the Complaint.

2 MR. GOSIOCO: One second. Let's see. 1 and 2
3 are the Complaints. I actually have 33 dated in our
4 final disclosures.

5 CHAIR OSWALT: Okay. I think that I just have
6 the Complaints staged separately, and so mine are off by
7 one, because I have a total of 31 plus the Complaints,
8 which makes 33.

9 MR. GOSIOCO: Okay. I do have, at least in
10 our final, 33, and the first one is the hearing packet
11 today that we just admitted, and the second one is the
12 Affidavit of Prior Discipline, so total right now is 33
13 with just the disclosures.

14 CHAIR OSWALT: Okay. Then, yes, that's fine.

15 (Exhibits 3 through 35 were admitted into
16 evidence.)

17 MR. GOSIOCO: Thank you. And, lastly, I would
18 like to admit Exhibit 36, which is the Affidavit of Due
19 Diligence, when we tried to personally serve Mr. Padgett
20 two months ago.

21 CHAIR OSWALT: That will be admitted as well.

22 (Exhibit 36 was admitted into evidence.)

23 MR. GOSIOCO: Perfect. Thank you so much.
24 Now, at this point, I do want to briefly go over the
25 allegations, and so what I will do here is I will share

1 my screen going off of Exhibit 1 that we just admitted
2 and reading through the Amended Complaint. One second,
3 let me get me that pulled up. Okay.

4 Okay. Can everyone see my screen?

5 (No audible response.)

6 Okay. Perfect. So as I stated, this First
7 Amended Complaint was filed on January 7th, 2020.
8 Mr. Padgett did not file an answer or a response to
9 this. However, I will -- like I said, I'll just briefly
10 go through the allegations starting on paragraph 2.
11 Starting on paragraph 2, we are discussing Case Number
12 OBC19-0640.

13 So on or about July 25th, 2012, Bruce Familian
14 retained Respondent to represent DKB, LLC, in an inverse
15 condemnation case against Clark County. On September
16 11th, 2012, Respondent filed a Complaint in the inverse
17 condemnation initiating Case Number A-12-668136-C in the
18 Eighth Judicial District Court.

19 The inverse condemnation case went to trial,
20 and DKB was awarded \$116,508 by the jury. Following
21 trial, several post judgment motions were filed
22 regarding attorney's fees, costs of prejudgment interest
23 on the award. An Order granting the prejudgment
24 interest was filed on November 3rd, 2017, but the Court
25 requested additional briefing regarding fees and costs.

1 Familian then retained Attorneys Dan
2 Polsenberg and Joel Henriod of Lewis and Roca to file an
3 appeal of the inverse condemnation case as Mr. Familian
4 was not satisfied with the amount awarded by the jury.
5 Lewis and Roca filed a Notice of Appearance in the case
6 on June 12th, 2017. On or about November 8th, 2017,
7 Clark County deposited \$151,599.83 with the District
8 Court representing the jury verdict plus interest.

9 On June 8th, 2018, Respondent filed a Motion
10 on Order Shortening Time to direct disbursement of funds
11 on the deposit. Four days later, on June 12th, 2018, an
12 order granting the motion for disbursement was filed.
13 Lewis and Roca who was now Mr. Familian's counsel was
14 not served with a motion for disbursement.

15 On or about June 20, 2018, Henriod discovered
16 the motion for disbursement and the order granting the
17 same had been filed. Mr. Henriod then contacted
18 Mr. Padgett's office and expressed concern that they had
19 withdrawn the funds without notifying the client,
20 Mr. Familian, or Lewis and Roca.

21 He stated that he believed withdrawing the
22 funds might jeopardize Mr. Familian's case and notified
23 Mr. Padgett that Mr. Familian did not authorize the
24 withdrawal. On June 22, 2018, Familian e-mailed
25 Respondent asking why the motion for disbursement was

1 filed without his knowledge and why it had been done on
2 shortened time.

3 The e-mail requested the status of funds and
4 an accounting explaining what happened to any funds
5 received by Respondent. Respondent replied that he did
6 have the check in hand, but that, in his opinion,
7 retrieving the funds would not jeopardize Mr. Familian's
8 rights on appeal.

9 Respondent said that he would send
10 Mr. Familian a copy of the outstanding bill, which he
11 can pay out of pocket or from the release of funds.
12 Mr. Familian then instructed Mr. Padgett to stop the
13 process of withdrawing the funds and requested the
14 current bill stating that he had not received one in
15 over a year.

16 On June 29, 2018, Respondent's office e-mailed
17 Mr. Familian a copy of the invoice dated June 26th,
18 2018, for \$69,945.73 for services that were rendered
19 from November 2016 through May 2017 indicating that
20 Mr. Familian had not been billed for any post trial
21 work.

22 On October 16th, 2018, the Court filed a
23 decision and awarded DKB over \$400,000 in attorney's
24 fees and costs. That same day Respondent filed a notice
25 of filing of attorney's lien. The attorney's lien did

1 not include an amount. Mr. Padgett never filed a motion
2 to enforce the attorney's lien as required by
3 NRS 18.015.

4 On October 25, 2018, Mr. Familian e-mailed
5 Mr. Padgett and stated that he had no objection to --
6 Mr. Padgett took approximately \$70,000 that he was owed
7 from the attorney fee award proceeds. But he
8 specifically stated that the funds on deposit with the
9 Court for the judgment and interest should not be
10 touched during the appeal.

11 However, at this point, Mr. Padgett had
12 already received \$151,599.83 of the judgment funds from
13 the Court on October 22, 2018. As appeared by
14 Mr. Henriod, Clark County made the argument that DKB had
15 forfeited its right to interest on the judgment from the
16 date the Court granted the motion for disbursal, though,
17 the Court ultimately rejected that argument. Respondent
18 never provided Mr. Familian with a billing invoice after
19 June 29, 2018 -- the June 29, 2018, bill for 69,945.73.

20 Lastly, on June 19th, 2019, Respondent
21 attempted to obtain an additional \$13,845.45 from funds
22 that Clark County had deposited with the District Court
23 by submitting a proposed order directly to the Court
24 without copying any parties or filing a motion. The
25 Court returned the proposed order to the Respondent and

1 provided courtesy copies to Mr. Polsenberg, and then
2 that's OBC19-0604.

3 And briefly I want to go over OBC19-0798. In
4 that matter, Ian Ritchie was hired as the head of
5 security for CWNevada, a marijuana dispensary, of which
6 Mr. Padgett is a CEO. He has been the CEO from
7 approximately 2017 to March 26th, 2019. Prior to
8 Mr. Ritchie's employment at CWN, he was employed as the
9 Director of Sales for Pro-Tect Security.

10 While employed with Pro-Tect, Mr. Ritchie
11 signed a non-compete agreement. Despite the
12 non-compete, Mr. Ritchie left Pro-Tect and founded Round
13 Table Security. On or about May 2015, Pro-Tect sued
14 Mr. Ritchie for violating the non-compete. Ultimately,
15 the non-compete lawsuit was settled with Ritchie
16 agreeing to be jointly and severally liable for payment
17 to Pro-Tect along with RTS.

18 Though Mr. Padgett was not the counsel of
19 record in the non-compete lawsuit, Mr. Padgett did
20 advise Mr. Ritchie that he should be jointly -- he
21 should agree to be jointly and severally liable on the
22 judgment, and that Mr. Padgett himself would be paying
23 the judgment. Neither Mr. Padgett, Mr. Ritchie, or RTS
24 satisfied the settlement.

25 In February of 2017, Pro-Tect sued Mr. Ritchie

1 for breach of contract -- contract, I apologize. On
2 March 12, 2018, Respondent entered his appearance on
3 behalf of Mr. Ritchie in a breach case. On June 28, 28
4 -- 29, 2018, the Court entered summary judgment in favor
5 of Pro-Tect and against Mr. Ritchie for \$129,999.92.

6 On July 27, 2018, Respondent filed a notice of
7 appeal in the District Court. On December 4th, 2018,
8 Nevada Supreme Court mandated a settlement conference
9 was held in the breach appeal. Mr. Padgett continued to
10 communicate with Mr. Ritchie that Respondent would give
11 Mr. Ritchie -- he would give Mr. Ritchie the money to
12 pay off Pro-Tect.

13 Ultimately, Mr. Padgett withdrew as counsel
14 for the breach -- of record from the breach appeal.
15 Mr. Ritchie was not able to secure new counsel, and the
16 appeal was dismissed. When we asked Mr. Padgett about
17 this incident, he just simply responded he's not
18 permitted to advance funds to a client nor would I have
19 agreed to do so in Mr. Ritchie's case.

20 Now, those are the allegations, and at this
21 point, I would like to go through the counts briefly in
22 the allegations. So as to Count One, which is -- we're
23 alleging -- a violation of RPC 1.2 Scope of
24 Representation & Allocation of Authority Between Client
25 & Lawyer.

1 That Rule, in relevant part, states that "a
2 lawyer shall abide by a client's decision concerning the
3 objectives of representation as required by Rule 1.4 and
4 shall consult with the client as to the means by which
5 they are to be pursued."

6 Count Two, we're alleging that Mr. Padgett
7 violated Rule -- RPC 1.4: Communications. 1.4 states,
8 in relevant part, that "A lawyer shall: (1) promptly
9 inform the client of any decision or circumstance with
10 respect to which the client's informed consent is
11 required by these rules;

12 "(2) reasonably consult with a client about
13 the means by which the client's objectives are to be
14 accomplished; (3) keep the client reasonably informed
15 about the status of the matter and act with reasonable
16 diligence and promptness in representing the client";
17 and (b) "a lawyer shall explain the matter to the extent
18 reasonably necessary to permit the client to make
19 informed decisions regarding the representation."

20 As to Count Four, we are alleging that
21 Mr. Padgett violated RPC 1.8: Conflict of Interest:
22 Current Clients: Specific Rules. Now that Rule, in
23 relevant part, states that "A lawyer shall not provide
24 financial assistance to a client in connection with
25 pending or contemplated litigation."

1 As to Count Four, we are alleging that
2 Mr. Padgett violated RPC 1.15: Safekeeping Property.
3 That Rule, in relevant part, states that "When in the
4 course of representation, a lawyer is in possession of
5 funds or other property in which two or more persons
6 claim interests, the property shall be kept separate by
7 the lawyer until the dispute is resolved."

8 Count 5, we are alleging that Mr. Padgett
9 violated RPC 3.3: Candor Toward the Tribunal. That
10 Rule, in relevant part, states that "In an ex parte
11 proceeding, a lawyer shall inform the tribunal of all
12 material facts known to the lawyer that will enable the
13 tribunal to make an informed decision whether or not
14 those facts are adverse."

15 Count Six, we are alleging that Mr. Padgett
16 violated Rule 8.1: Bar Admission & Disciplinary Matters,
17 in relevant part, that lawyer [sic] states that "a
18 lawyer in connection with a disciplinary matter shall
19 not (a) knowingly make a false statement of material
20 fact."

21 And, lastly, as to Count Seven, we are
22 alleging that Mr. Padgett violated RPC 8.4 Misconduct.
23 Now, that Rule, in relevant part, states "It is
24 professional misconduct for a lawyer to (a) violate or
25 attempt to violate the Rules of Professional Conduct,

1 knowingly assist or induce another to do so or do so
2 through the acts of another;

3 (c) states that "It is professional misconduct
4 for a lawyer to engage in conduct involving dishonesty,
5 fraud, deceit, or misrepresentation"; and lastly, "It is
6 misconduct for a lawyer to engage in conduct that is
7 prejudicial to the administration of justice."

8 Those are the facts as we have alleged, and
9 because we are in a Default Hearing, those allegations
10 will be deemed admitted. At this point, I would like to
11 go over the penalty phase with the Panel. In the
12 penalty phase, we are asked to look at -- we go off of
13 the ABA Annotated Standards for imposing sanctions on
14 lawyers. The ABA recommends that we look at four
15 different factors when determining what disciplinary
16 sanction is appropriate in a case.

17 The first thing we're to look at is the duty
18 violated. The second factor is to look at the mental
19 state of the Respondent Mr. Padgett. No. 3 is to
20 determine whether there have been injuries to the
21 client. And No. 4, it is -- No. 4 we have to look at
22 the stipulated -- we have to look at the aggravating and
23 mitigating factors to determine whether or not the
24 baseline sanction, if it warrants a deviation upwards or
25 about downwards.

1 So I will go through each of the four factors
2 for each of the counts. As to Count One, RPC 1.2 Scope
3 of Representation & Allocation of Authority Between the
4 Client & Lawyer. Mr. Padgett -- one second, my computer
5 just froze on me -- okay. Perfect. Sorry about that.

6 So as to Count One, RPC 1.2, that Rule again
7 states that essentially "A lawyer shall abide by the
8 client's decision concerning the objectives of
9 representation and shall consult with the client as to
10 the meanings by which they are to be pursued."

11 Now, this duty was violated by Mr. Padgett
12 when he withdrew the funds from Mr. Familian's case,
13 even though -- he withdrew \$151,000 from Mr. Familian's
14 settlement award despite his express wish --
15 Mr. Familian's express wishes and his appellate
16 counsel's wishes to keep the funds there. So, by not
17 following this directive, Mr. Padgett is in violation of
18 RPC 1.2, because he did not abide by the client's
19 decision concerning the objectives of the
20 representation.

21 As to Count Two, RPC 1.4: Communication, the
22 duty here owed was that Mr. Padgett should probably
23 inform clients of any decisions or circumstances that
24 required the client's consent and to reasonably consult
25 with the client about the means by which his objectives

1 are to be accomplished, to reasonably inform the client
2 of the status of the matter, and should explain the
3 matter to the extent reasonably necessary to permit the
4 client to make informed decisions regarding the
5 representation.

6 Mr. Familian [sic] failed to uphold this duty
7 when he knowingly failed to adequately communicate with
8 Mr. Familian when he filed the motion for disbursement
9 as well as the order for disbursement. At that point,
10 he -- yes, that was -- unfortunately Mr. Familian was
11 not aware of this until his appellate counsel was
12 looking at the case and realized that Mr. Padgett had
13 filed the motion and order in this case. And so without
14 consulting with Mr. Familian about filing a motion and
15 order, Mr. Padgett did violate Rule 1.4: Communication.

16 As to Count Three, RPC 1.8: Conflict of
17 Interest: Current Clients and Specific Rules, again,
18 that Rule essentially states that a lawyer shall not
19 provide financial assistance to a client in connection
20 with pending or contemplated litigation. In OBC19-0798
21 with the Ian Ritchie case, Mr. Padgett violated his duty
22 under 8.1 when he offered Mr. Ritchie to pay the amount
23 of the judgment against him.

24 Mr. Padgett knew that he was prohibited from
25 advancing the amount of the judgment to Mr. Ritchie, and

1 that's demonstrated by his response to the State Bar
2 saying that he's not allowed to advance fees and costs.
3 So, for those reasons, Mr. Padgett did violate Rule 1.8
4 under Count Three.

5 As to Count Four, that concerns RPC 1.15:
6 Safekeeping Property. This Rule establishes that
7 Mr. Padgett has a duty to keep the funds separate if
8 there's a dispute. So it states that "When in the
9 course of representation a lawyer is in possession of
10 funds or other property in which two or more persons
11 claim interest, the property shall be kept separate by
12 the lawyer until the dispute is resolved."

13 The reason why Mr. Padgett violated this duty
14 is because there was a dispute as to the amount
15 Mr. Padgett was entitled to between him and Mr. Familian
16 concerning the judgment by the Court. Despite this
17 dispute, Mr. Familian was under the -- Mr. Familian --
18 I'm sorry -- Mr. Familian believed that he was owed
19 approximately \$70,000; however, Mr. Padgett ended up
20 withdrawing \$151,000, close to \$152,000.

21 Clearly, there was a dispute as to how much he
22 earned. So when there is a dispute, as Rule 1.15
23 states, those funds in dispute must be kept separate
24 until that dispute is resolved. So, for those reasons,
25 Mr. Padgett did violate his duty under 1.15:

1 Safekeeping Property.

2 As to Count Five, that is an allegation of
3 Mr. Padgett violating Rule 3.3: Candor Toward the
4 Tribunal. Again, that Rule states, in relevant part, "a
5 lawyer shall inform the tribunal all material facts
6 known to the lawyer that will enable the tribunal to
7 make an informed decision, whether or not those facts
8 are adverse."

9 Mr. Padgett violated this duty when he filed
10 the Ex Parte Motion for disbursement to the courts as
11 well as the order to the court without informing the
12 court of the material fact that Mr. Familian had
13 requested that those funds remain on deposit with the
14 Court for his appellate case. And that's -- for those
15 reasons, Mr. Padgett did violate his duty under
16 Rule 3.3.

17 As to Count Six, that concerns Rule 8.1: Bar
18 Admission & Disciplinary Matters. In relevant part,
19 that states that "a lawyer in connection with a
20 disciplinary hear -- matter shall not knowingly make a
21 false statement of material fact."

22 Mr. Padgett violated this duty, as I explained
23 briefly earlier, when he told State Bar investigators
24 that he had not offered to advance funds to Mr. Ritchie
25 for his case, although despite the fact that Mr. Ritch

1 -- there are -- we have correspondence between
2 Mr. Ritchie and Mr. Padgett indicating that he was -- he
3 did offer to advance funds to Mr. Ritchie.

4 So, for that reason, for knowingly making a
5 false statement of material fact to State Bar
6 investigators, Mr. Padgett did invite his duty under
7 8.1.

8 Lastly, as to Count Seven, that allegation is
9 concerning RPC 8.4: Misconduct. Again, that states, in
10 relevant part, that it's "misconduct for a lawyer to
11 violate or attempt to violate the RPC or knowing --
12 knowingly assist or induce another to do so."

13 It's professional "misconduct for a lawyer to
14 engage in conduct involving dishonesty, fraud, deceit or
15 misrepresentation," and it's "misconduct for a lawyer to
16 engage in conduct that is prejudicial to the
17 administrative -- administration of justice."

18 Now, Mr. Padgett violated this duty under 8.4
19 when he engaged in acts involving dishonesty, fraud,
20 deceit or misrepresentation both by deceitfully offering
21 to pay Mr. Ritchie for a breach of a contract matter and
22 also by misrepresenting those facts to the State Bar.

23 Additionally, Mr. Padgett also engaged in
24 conduct that is prejudicial to the administration of
25 justice when he submitted ex parte motions and -- an ex

1 parte motion and order to the Court in the Familian case
2 despite Mr. Familian's wishes to keep the money with the
3 Court. And so, for those reasons, we do believe that
4 Mr. Padgett has violated his duty under 8.4: Misconduct.

5 Now, as I stated earlier, the ABA wants us to
6 go through four different factors. I just went over the
7 first factor as to the duty Mr. Padgett owed to
8 Mr. Familian as well as Mr. Ritchie. As to the second
9 factor the ABA wants us to look at, they do want us to
10 look at the mental state of Mr. Padgett.

11 Now, the State Bar, in its Amended Complaint
12 alleged that Mr. Padgett's mental state for all seven
13 counts was that he did -- he violated those duties
14 knowingly. And in the ABA Guidelines, the Second
15 Edition, they define a knowing mental state as did have
16 a conscious awareness of the nature or attendant
17 circumstances of his conduct but didn't have the
18 conscious objective or purpose to accomplish a
19 particular result.

20 And so, for those matters, we do believe that
21 he committed all those acts knowingly. Briefly, as to
22 the first one with the Scope of Representation, he
23 knowingly withdrew the funds against the wishes of
24 Mr. Familian and his appellate accountant and did so,
25 anyway, so he knowingly committed that violation.

1 As to Count Two, RPC 1.4: Communication,
2 Mr. Padgett knowingly did fail to communicate with
3 Mr. Familian that he was filing a motion and an order
4 for disbursal. Because of the fact he didn't notify
5 them, he knowingly filed that motion without talking to
6 Mr. Familian.

7 As to Count Three, the conflict of interest,
8 Mr. Padgett did knowingly offer to pay the amount of the
9 judgment against Mr. Ritchie as evidenced by this
10 correspondence between the two.

11 As to Count Four, Mr. Padgett knowingly
12 withdrew the funds from Mr. Familian's judgment, even
13 though there was a dispute that was occurring, so he
14 should have kept that. He should have only withdrawn
15 approximately \$70,000, because that's the amount that
16 was not in dispute. And so, for those reasons, he did
17 knowingly withdraw those funds when he should have kept
18 them separate.

19 As to Count Five, Candor Toward the Tribunal,
20 Mr. Padgett did knowingly file an ex parte motion and an
21 order disbursing the funds despite the fact that
22 Mr. Familian advised against it. As to Count Six -- so
23 for Count Five, Mr. Padgett did knowingly file those
24 motions.

25 As to Count Six, the Bar Admission &

1 Disciplinary Matters, as I stated, he's not supposed to
2 make a false statement of material fact. When State Bar
3 asked Mr. Padgett about what's going on with
4 Mr. Ritchie's case, he did state that he did not advance
5 funds despite the fact that we have evidence
6 contradicting that, so Mr. Padgett did knowingly make a
7 false statement of material fact.

8 Lastly, as to Count Seven, the Misconduct,
9 Mr. Padgett knowingly engaged in acts involving
10 dishonesty, fraud, deceit or misrepresentation in the
11 Ritchie case by offering to pay by misrepresenting
12 material facts to the State Bar as well as engaging in
13 conduct that is prejudicial to the administration of
14 justice by submitting the ex parte motion and order in
15 the Familian case, and so that satisfies the second
16 factor that the ABA wants us to look at.

17 As to the third factor, the ABA wants us to
18 look at what injury occurred. Now, with all seven of
19 these Counts, ultimately, Mr. -- in the first case,
20 OBC19-0604, in Mr. Familian's case, his appeal didn't go
21 anywhere. He -- to the best of our knowledge, he's
22 still yet to receive any funds from the \$150- almost
23 \$152,000 that was awarded to him and that Mr. Padgett
24 withdrew, and so there was absolutely injury in
25 Mr. Familian's case.

1 As to Mr. Ritchie's case in OBC19-0798, there
2 was injury. Mr. Ritchie did file an appeal in his
3 breach of contract matter, because of relying on
4 Mr. Padgett's offer to pay for the judgment, he really
5 wasn't doing anything. He wasn't able to secure
6 appellate counsel, and that appeal went nowhere as well,
7 and so, for those reasons, there was injury to
8 Mr. Ritchie.

9 And, lastly, the ABA wants us to look at the
10 stipulat -- the aggravating, any aggravating or
11 mitigating factors for Mr. Padgett during these
12 allegations. And where we find these aggravating and
13 mitigating factors is found in Supreme Court Rule 102.5,
14 and so as to the aggravating factors, there are quite a
15 few. I listed seven on mine.

16 So the first one would be (b), for -- I
17 believe it's 102.5(1)(b), yes. And so, (b), an
18 aggravating factor is a dishonest or selfish motive.
19 Based on his conduct of withdrawing funds that were in
20 dispute with -- withdrawing money that's in dispute for
21 filing ex parte motions or attempting to later receive
22 an additional \$14,000 from that judgment for
23 Mr. Familian's case, he did have a dishonest and selfish
24 motive as to receiving more money.

25 And just by way of reference, as to that, that

1 attempt, so the motion for disbursement that Mr. Padgett
2 filed, it was filed on June 8th, 2018. The Order for
3 that motion was filed four days later. On June 12th,
4 2018, and not until July 17th of 2019, that is when --
5 you know, over a year later -- Mr. Padgett did file a
6 proposed order attempting to receive an additional
7 approximately \$14,000 from the award to Mr. Familian.

8 Another factor that I listed as an aggravating
9 factor is under Supreme Court Rule 102.5(1)(c), and that
10 factor is a pattern of misconduct. If you look at the
11 timeline of these allegations as well as when he filed,
12 when he tried to obtain another \$14,000, those are kind
13 of spread out, and so there is a pattern of misconduct
14 with Mr. Padgett.

15 Another factor is 102.5(1)(d), which is
16 multiple offenses. As you can see, this wasn't just a
17 one-time thing. This was ongoing. There were multiple
18 different offenses that occurred. Another factor was
19 102.5(1)(e), and that factor states bad faith
20 obstruction of a disciplinary proceeding by failing to
21 comply with rules or orders.

22 As I stated earlier, I did speak to
23 Mr. Padgett. I informed him of when his answer
24 deadline. We stipulated to an agreement for a new
25 deadline. I informed him of the notice, that I would be

1 filing it, yet he still didn't file a verified answer or
2 a response.

3 By the time the Scheduling Order was in place
4 detailing all these events, Mr. Padgett did not comply
5 with the Scheduling Order whatsoever. There was no
6 initial disclosure filed. There was no final disclosure
7 filed, no answer filed. In addition, I believe it was
8 either the Initial Case Conference or the prehearing
9 conference that Mr. Padgett was to attend, and he did
10 not call in.

11 Another factor listed was S.C.R. 102.5(1)(g).
12 That factor is the refusal to acknowledge the wrongful
13 nature of the conduct. That's easily demonstrated in
14 the Familian case where, despite filing the ex parte
15 motion and order, Mr. Familian and his appellate counsel
16 told Mr. Padgett not to touch the remaining funds that
17 are in dispute. Despite that, more than a year later,
18 he attempted to obtain an additional approximately
19 \$14,000.

20 And as to the Ritchie case, you know, he told
21 the State Bar that he's not supposed to be advancing
22 fees or costs; however, in correspondence between
23 Mr. Padgett and Mr. Ritchie, it does demonstrate that he
24 did have the intent and did let Mr. Ritchie know that he
25 would pay for that amount. And so, for those reasons,

1 there is, I think, a clear refusal to acknowledge the
2 wrongful nature of his conduct.

3 Another factor for aggravating factors is
4 S.C.R. 102.5(1)(i), and that factor is the substantial
5 experience in the practice of law. Mr. Padgett was
6 barred in Nevada on December 28th, 2000, and so he's
7 been in practice for almost 20 years, 19 and a half
8 years, so he does have -- he's not a new attorney. He
9 should have known better after practicing for 19 and a
10 half years.

11 And, lastly S.C.R. 102.5(1)(j), that factor
12 states an indifference to making restitution. As I
13 stated, to the best of my knowledge, to the best of my
14 investigator's knowledge, Mr. Familian has not received
15 any of the profits from the approximately \$152,000 that
16 was in dispute.

17 As well as Mr. Ritchie's case, when he was
18 stating, he told Mr. Ritchie that he was going to pay --
19 pay the judgment, Mr. Ritchie relied on that promise,
20 and, as a result, Mr. Ritchie did not obtain new
21 appellate counsel. His appeal didn't go anywhere.

22 And I think that those facts in conjunction
23 with one another demonstrate Mr. Padgett's indifference
24 to making restitution, especially in Mr. Familian's
25 case. And so, for those reasons -- and that's the last

1 factor that the ABA would like us to look at.

2 Now, as far as what my recommendation is,
3 based on these facts, the ABA's handbook gives us a
4 guideline and gives us a baseline sanction level. It's
5 very akin to practicing in federal court in criminal
6 cases where everything's scored out, where you do A, B,
7 and C, and you get this, you know, this is where you're
8 at. So, similarly, we have something like that.

9 And over, in this case, we are looking at ABA
10 Standard 4.12, and that standard states that suspension
11 is generally appropriate when a lawyer knows or should
12 know that he is dealing improperly with client property
13 and causes injury or potential injury to a client.

14 Now, this is based off, really, the Count Four
15 of the allegation of RPC 1.15. That's where ABA
16 Standard 4.12 comes into play. As it's stated,
17 "Suspension is generally appropriate when a lawyer knows
18 that he's dealing improperly with client property and
19 causes injury."

20 As I stated earlier -- and I'm going to use
21 Mr. Familian's case as an example, OBC19-0604 --
22 Mr. Padgett knew that he was dealing improperly with
23 Mr. Familian's funds. That's demonstrated by the fact
24 that Mr. Familian told him that he could withdraw
25 approximately \$70,000 from that but to keep the

1 remaining proceeds with Clark County until the dispute
2 is resolved. He did not do that.

3 Mr. Padgett still withdrew the entire amount,
4 and not only that, over a year later, after he filed the
5 motion and the order for disbursement, he attempted to
6 do so again and obtain an additional approximately
7 \$14,000 almost a year -- more than a year later, a year
8 and a month later.

9 And so that conduct and those acts clearly
10 demonstrate that Mr. Padgett knew that he was dealing
11 improperly with Mr. Familian's property. And, as I
12 stated, Mr. Familian has not received any of those
13 funds.

14 I would dispute that his appeal didn't go
15 anywhere, so there was clearly, clearly injury to
16 Mr. Familian. And so the baseline for that, I think
17 it's clear-cut that a suspension is warranted here.
18 Now, the question is how long of a suspension. Now, as
19 I said, we are also to look at the aggravating and
20 mitigating factors.

21 When going through the aggravating and
22 mitigating factors, I listed seven different aggravating
23 factors, again, that's dishonest -- No. 1, dishonest or
24 selfish motive; No. 2, a pattern of misconduct; No. 3,
25 multiple offenses; No. 4, bad faith obstruction of the

1 disciplinary proceeding by failing to comply with the
2 rules or orders, No. 5, refusal to acknowledge the
3 wrongful nature of his conduct; No. 6, substantial
4 experience in the practice of law; and, No. 7, an
5 indifference to making restitution.

6 Now, when I looked at the mitigating factors,
7 I went through all of them. I did not believe that
8 there were any mitigating factors that applied to this
9 case today, so the only thing you're looking at is these
10 seven aggravating factors that I listed as well as the
11 ABA suspension baseline.

12 When you take the baseline sanction of
13 suspension coupled with the seven aggravating factors
14 that I listed, the State Bar would be seeking a
15 suspension of Mr. Padgett for a period of five years.

16 In addition to that, we are, pursuant Supreme
17 Court Rule 120, which is costs, Mr. Padgett shall pay a
18 fee of \$2,500 for the proceedings for the -- assuming a
19 suspension is decided upon, the fee would be \$2,500 and
20 anything of the costs for these disciplinary
21 proceedings.

22 So not only the \$2,500 as mandated by
23 S.C.R. 120 for the suspension, but all the hard costs
24 that the State Bar incurred for putting on these -- with
25 this case; and, with that, the State Bar rests. And if

1 the Panel has any questions for me, I'll be happy to
2 answer them.

3 CHAIR OSWALT: This is Dana Oswalt. I don't
4 have any questions at this time.

5 MR. NAQVI: This is Farhan Naqvi. I was
6 wondering if Mr. Padgett has any prior history of
7 discipline with the State Bar.

8 MR. GOSIOCO: Currently, Mr. Padgett -- when
9 we filed this case, Mr. Padgett did not have any
10 disciplinary record. However, I will state that
11 tomorrow, assuming if Mr. Padgett handles -- if he's
12 back in the same way as he did this case, I will be
13 filing another Notice of Intent to proceed on a default
14 basis on a different case of his tomorrow.

15 MR. NAQVI: Thank you.

16 CHAIR OSWALT: How many open complaints does
17 Mr. Padgett have with the State Bar, aside from the two
18 that we're dealing with during this hearing?

19 MR. GOSIOCO: He has one other case, and
20 that's going to be handled by the Northern Board,
21 because all the facts in the grievance are listed there,
22 so we filed it there. But he does have one, we did file
23 a complaint. I can't remember the date offhand, but I
24 do know that today is the deadline for him to file a
25 verified answer or response.

1 CHAIR OSWALT: Okay. So he had -- in addition
2 to these cases, he has one down south and one up north?

3 MR. GOSIOCO: So these two are the ones in the
4 south, but the case I'm referring to where he has an
5 answer due today is up north.

6 CHAIR OSWALT: Okay.

7 MR. NAQVI: This is Farhan Naqvi again. Did
8 Mr. Padgett, when you spoke to him over the phone,
9 advise you of the circumstances for his failure to
10 timely file whatever he needed to and why he was
11 requesting an extension? And did you have a
12 conversation with him after the fact when he failed to
13 meet the extension that you granted him regarding the
14 reasons?

15 MR. GOSIOCO: Well, based on my recollection
16 and based on the notes I put -- whenever I speak to
17 somebody, I always make a note of it, including the
18 subject matter that was discussed. The only thing I can
19 remember him speaking of was that he was busy, that he
20 had -- I can look at -- I know he mentioned that he had
21 trials that were coming up and several motions that were
22 due.

23 And from my recollection, like I stated, that
24 was the only reasoning he offered for not filing an
25 answer or a response. Now, as to your second question

1 whether I contacted him after, I did attempt to contact
2 him. Since those conversations on the phone, I was not
3 able to contact Mr. Padgett.

4 MR. NAQVI: One other question, when you
5 referenced the e-mail that he sent saying something to
6 the effect of "I wouldn't advance a client money to pay
7 some sort of a judgment," which I believe you indicated
8 was contrary to some representations that are part of
9 the file, what are you referring to specifically?

10 MR. GOSIOCO: So, specifically, this was the
11 case in Mr. Ritchie's -- this was Mr. Ritchie's case,
12 OBC19-0798, the issue there was we were trying to
13 determine whether or not he did tell Mr. Ritchie that he
14 was going to advance funds, that he would be paying that
15 judgment for Mr. Ritchie.

16 Now, when the complaint came in, and we did
17 speak -- our investigators did speak to Mr. Padgett.
18 Now, when they spoke to Mr. Padgett and they asked
19 whether or not that was true, whether or not Mr. Padgett
20 did in fact offer Mr. Ritchie to pay for the settlement
21 -- for the award, he stated that, "No -- and let me see
22 if I can exactly what he said.

23 When he spoke to the -- when he was questioned
24 about that, he did state that "I'm not permitted to
25 advance funds to a client nor would I have agreed to do

1 so in Mr. Ritchie's case." We do have an exhibit that
2 was included, which was Exhibit -- it's in Exhibit 1, I
3 believe --

4 CHAIR OSWALT: Are you referring to the text
5 messages?

6 MR. GOSIOCO: Yes.

7 CHAIR OSWALT: So I have them saved as
8 Exhibit 24, but since I don't have the first two, I
9 believe it's Exhibit 26 in your packet.

10 MR. GOSIOCO: Yes, I believe that's correct.
11 Let me see.

12 CHAIR OSWALT: And page 4 of 9 of that one is
13 where he says he will pay it.

14 MR. GOSIOCO: Yes. And so that's specifically
15 the statement I was referring to.

16 MR. NAQVI: Okay. Perfect. Thank you for
17 referring me to that.

18 MR. GOSIOCO: Does the Panel have any other
19 questions for me?

20 CHAIR OSWALT: This is Dana Oswalt. I do not.

21 MR. NAQVI: This is Farhan Naqvi. I do not.

22 MR. GOSIOCO: Okay. Seeing that there are no
23 questions, the State Bar respectfully rests.

24 CHAIR OSWALT: Okay. Since Respondent did not
25 appear, I think we are ready to deliberate. I believe

1 someone was going to set up a breakout room for us to go
2 to?

3 MR. GOSIOCO: Yes. I believe Sonia will be
4 taking care of that right now.

5 CHAIR OSWALT: Okay.

6 MR. NAQVI: Thank you.

7 (Recess taken.)

8 CHAIR OSWALT: Okay. So we are back on the
9 record for Case Number OBC19-0604 and OBC19-0798.

10 The Screening Pan -- or the Screening Panel --
11 the Hearing Panel has deliberated, and we did agree with
12 the Bar that there were Rule violations of Rule 1.2,
13 1.4, 1.8, 1.15, 3.3, 8.1, and 8.4 as alleged in the
14 Complaint. We also agreed with the Bar, with the
15 exception of the violation of 1.2, and we felt that was
16 an intentional violation.

17 The remainder of the Counts were in the
18 knowing mental state, so that would be for Rule 1.4,
19 1.8, 1.15, 3.3, 8.1, and 8.4. We also did make a
20 finding that actual injuries were incurred or sustained
21 by both Familian and the Ritchie, so in both of the
22 complaints that we're dealing with today.

23 As far as aggravating and mitigating standards
24 -- or factors, we did agree with the Bar as far as
25 aggravation that there was 102.5(1)(b), a dishonest or

1 selfish motive; also under that same Rule, (c), with a
2 pattern of misconduct; (d), multiple offenses; (e), bad
3 faith in the disciplinary proceedings; (g), the refusal
4 to acknowledge the wrongful nature of the acts; (i),
5 substantial experience in the practice of law; and (j),
6 indifference to making restitution.

7 As far as mitigating factors, we did find that
8 there was an absence of prior discipline. We did under
9 -- we do understand that there are open complaints, but,
10 as of now, we haven't seen any that have been
11 adjudicated and resulted in actual discipline to the
12 Respondent, and so we added that as a mitigation -- or a
13 mitigating factor.

14 And we agree that a five-year suspension in
15 light of the information that we do have is appropriate,
16 that he should be responsible for the \$2,500 under
17 S.C.R. 120 as well as the actual costs of the
18 proceedings.

19 MR. GOSIOCO: Thank you. (Inaudible) with the
20 five-year suspension? I know per S.C.R. 116, if an
21 attorney is suspended for consecutive five years or more
22 that they're required to take retake the bar exam. Was
23 that deliberated as well?

24 CHAIR OSWALT: So it was my understanding that
25 it was anything greater than a five-year suspension

1 results in the requirement to take the bar again. So,
2 no, we did not discuss that, but I was thinking we would
3 have needed to suspend him an additional day. Am I
4 wrong about that?

5 MR. GOSIOCO: Let me just double-check. So I
6 have under Supreme Court Rule 116(5), and that's
7 entitled "Decision on Reinstatement and Conditions,"
8 there is a sentence that says, "If an attorney has been"
9 -- okay, yeah, five years or more -- I apolo -- "If an
10 attorney has been continuously suspended for five years
11 or more," the time -- okay. Yes.

12 CHAIR OSWALT: So, no, we didn't specifically
13 discuss that, but if that's what the Rule said, and we
14 did determine that a five-year suspension was
15 appropriate, then that would -- then that would be
16 included in one of the terms for his reinstatement.
17 Does anyone from the Panel have a problem about that or
18 do you want to go back and discuss the --

19 MR. OSSOWSKI: I'm okay with it.

20 MR. NAQVI: Same.

21 CHAIR OSWALT: Okay. So I think we're good
22 with that as well.

23 MR. GOSIOCO: Okay. So I believe at that
24 point, then, the suspension should be -- it should be
25 five years and a day. I don't know if you guys want to

1 deliberate that as well?

2 CHAIR OSWALT: Well, no, it actually does say
3 if it was five years or more.

4 MR. GOSIOCO: Okay.

5 CHAIR OSWALT: And so I think five years is
6 fine.

7 MR. GOSIOCO: Okay. That sounds good to me.

8 CHAIR OSWALT: Okay. Does anyone else have
9 any questions?

10 MR. NAQVI: I don't have (inaudible).

11 CHAIR OSWALT: You know, I think that
12 concludes the hearing then at this point.

13 MR. GOSIOCO: Perfect. Well, thank you guys
14 so much for being here. I know this isn't what you guys
15 might want to do on a Monday morning at 9:00, but thank
16 you guys so much for your help and your participation.
17 I truly appreciate it.

18 CHAIR OSWALT: No problem. Thank you. Have a
19 good day, everyone.

20 MR. OSSOWSKI: Thank you.

21 MS. DEL RIO: And, Carla, we will need the
22 transcript.

23 (Reporter's Transcript of Proceedings was
24 recessed at 10:40 a.m.)

25

1 REPORTER'S CERTIFICATE

2 STATE OF NEVADA)
3) ss
4 COUNTY OF CLARK)

5 I, Carla N. Bywaters, a duly certified court
6 reporter licensed in and for the State of Nevada, do
7 hereby certify:

8 That I reported the taking of the foregoing
9 proceedings at the time and place aforesaid;

10 That I thereafter transcribed my shorthand notes
11 into typewriting and that the typewritten transcript of
12 said proceedings is a complete, true and accurate record
13 of testimony provided at said time to the best of my
14 ability.

15 I further certify that I am not a relative,
16 employee or independent contractor of counsel of any of
17 the parties involved in said action; nor a person
18 financially interested in the action; nor do I have any
19 other relationship with any of the parties or with
20 counsel of any of the parties involved in the action
21 that may reasonably cause my impartiality to be
22 questioned.

23 IN WITNESS WHEREOF, I have hereunto set my hand in
24 the County of Clark, State of Nevada, this 23rd day of
25 June 2020.

26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

HEARING

June 08, 2020

\$116,508 10:20	17:19,24	29:11	2000 30:6	25 13:4
\$129,999.92 15:5	(b) 16:17 27:16, 17	102.5(1)(i) 30:4	2012 10:13,16	25th 10:13
\$13,845.45 13:21	(c) 18:3	102.5(1)(j) 30:11	2013 7:2	26 37:9
\$14,000 27:22 28:7,12 29:19 32:7	<hr/> 1 <hr/>	11th 10:16	2015 14:13	26th 8:9 12:17 14:7
\$150- 26:22	1 8:15,17,20,22 9:1,2 10:1 32:23 37:2	12 15:2	2016 12:19	27 15:6
\$151,000 19:13 21:20	1.15 17:2 21:5,22, 25 31:15 38:13,19	120 33:17,23	2017 10:24 11:6 12:19 14:7,25	27th 7:15
\$151,599.83 11:7 13:12	1.2 15:23 19:2,6, 18 38:12,15	12th 8:12 11:6,11 28:3	2018 11:9,11,15,24 12:16,18,22 13:4,13,19 15:2,4,6,7 28:2,4	28 15:3
\$152,000 21:20 26:23 30:15	1.4 16:3,7 19:21 20:15 25:1 38:13,18	14th 7:5	2019 13:20 14:7 28:4	28th 30:6
\$2,500 33:18,19,22	1.8 16:21 20:16 21:3 38:13,19	15th 8:9	2020 6:2 7:4,5,8, 10,12,20,25 8:1,2,3,5,6,7, 10,12,13 10:7	29 12:16 13:19 15:4
\$400,000 12:23	102.5 27:13	16th 7:8 12:22	22 11:24 13:13	29th 8:9
\$69,945.73 12:18	102.5(1)(b) 27:17 38:25	17th 7:10 28:4	22nd 8:13	<hr/> 3 <hr/>
\$70,000 13:6 21:19 25:15 31:25	102.5(1)(c) 28:9	18.015 13:3	23rd 7:2	3 8:23 9:15 18:19 32:24
<hr/> (<hr/>	102.5(1)(d) 28:15	19 30:7,9	24 37:8	3.3 17:9 22:3,16 38:13,19
(1) 16:8	102.5(1)(e) 28:19	19th 8:2 13:20	24th 7:20 8:3,5,9	31 8:25 9:7
(2) 16:12	102.5(1)(g)	<hr/> 2 <hr/>		31st 7:12,14,18,25
(3) 16:14		2 8:15,17 9:1,2 10:10,11 32:24		33 8:21 9:3,8,10, 12
(a)		20 11:15 30:7		

HEARING

June 08, 2020

35 8:23 9:15	8	abide 16:2 19:7,18	administrativ e 23:17	agreed 15:19 36:25 38:14
36 9:18,22	8 6:2	absolutely 6:13,22 26:24	Admission 17:16 22:18 25:25	agreeing 14:16
3rd 8:6 10:24	8.1 17:16 20:22 22:17 23:7 38:13,19	accomplish 24:18	admit 8:15,20,23 9:18	agreement 14:11 28:24
4	8.4 17:22 23:9,18 24:4 38:13,19	accomplished 16:14 20:1	admitted 8:17 9:11,15, 21,22 10:1 18:10	akin 31:5
4 18:21 32:25 37:12	8th 11:6,9 28:2	accountant 24:24	advance 15:18 21:2 22:24 23:3 26:4 36:6,14, 25	allegation 22:2 23:8 31:15
4.12 31:10,16	9	accounting 12:4	adverse 17:14 22:8	allegations 9:25 10:10 15:20,22 18:9 27:12 28:11
4th 8:1 15:7	9 37:12	acknowledge 29:12 30:1 33:2	advise 14:20 35:9	alleged 18:8 24:12 38:13
5	9:09 6:3	act 16:15	advancing 20:25 29:21	alleging 15:23 16:6,20 17:1,8,15,22
5 17:8 33:2	9th 8:7	acts 18:2 23:19 24:21 26:9 32:9	advised 25:22	Allocation 15:24 19:3
6	A	actual 38:20	Affidavit 9:12,18	allowed 7:12 21:2
6 33:3	A-12-668136- C 10:17	addition 29:7 33:16 35:1 <small>First Legal Deposition-Calendar@firstlegal.com L.A. 855.348.4997</small>	aggravating 18:22 27:10, 12,14,18 28:8 30:3 32:19, 21,22 33:10, 13 38:23	amended 7:3 8:7 10:2,7 24:11
67 8:22	A.M. 6:3	additional 10:25 13:21 27:22 28:6 29:18 32:6	aggravation 38:25	amount 11:4 13:1 20:22,25 21:14 25:8,15 29:25 32:3
69,945.73 13:19	ABA 18:13,14 24:5,9,14 26:16,17 27:9 31:1,9,15 33:11	Additionally 8:19 23:23	agree 14:21 38:11, 24	Annotated 18:13
7	ABA's 31:3	Adequately 20:7		apologize 15:1
7 33:4		administratio n 18:7 23:17,24 26:13		
70 8:22				
7th 7:4 10:7				

HEARING

June 08, 2020

appeal 11:3 12:8 13:10 15:7,9, 14,16 26:20 27:2,6 30:21 32:14	assuming 33:18 34:11	20:11	bill 12:10,14 13:19	case 6:6,16,19,24 7:1 8:14 10:11,15,17, 19 11:3,5,22 15:3,19 18:16 19:12 20:12, 13,21 22:14, 25 24:1 26:4, 11,15,19,20, 25 27:1,23 29:8,14,20 30:17,25 31:9,21 33:9, 25 34:9,12, 14,19 35:4 36:11 37:1 38:9
appearance 11:5 15:2	attempt 17:25 23:11 28:1 36:1	awareness 24:16	billed 12:20	
appeared 13:13	attempted 13:21 29:18 32:5	B	billing 13:18	
appellate 19:15 20:11 22:14 24:24 27:6 29:15 30:21	attempting 27:21 28:6	back 34:12 38:8	Board 34:20	
applied 33:8	attempts 8:8	bad 28:19 32:25	breach 15:1,3,9,14 23:21 27:3	
Appointing 8:1,5	attend 29:9	Bar 6:7,12,15 7:2, 16 8:11,14, 20,22 17:16 21:1 22:17,23 23:5,22 24:11 25:25 26:2,12 29:21 33:14, 24,25 34:7,17 37:23 38:12, 14,24	breakout 38:1	
approaching 7:18	attendant 24:16	barred 30:6	Brian 6:7,16	
approximatel y 7:3,20 13:6 14:7 21:19 25:15 28:7 29:18 30:15 31:25 32:6	attorney 13:7 30:8	based 27:19 31:3,14 35:15,16	briefing 10:25	cases 6:24 31:6 35:2
Attorneys 11:1	attorney's 10:22 12:23, 25 13:2	baseline 18:24 31:4 32:16 33:11, 12	briefly 9:24 10:9 14:3 15:21 22:23 24:21	CEO 14:6
audible 10:5	authorize 11:23	basis 34:14	Bruce 10:13	Chair 6:5,11,18,22 8:1,16,24 9:5, 14,21 34:3,16 35:1,6 37:4,7, 12,20,24 38:5,8
Authority 15:24 19:3	award 10:23 13:7 19:14 28:7 36:21	begin 6:12,18	busy 35:19	
April 8:6,7,9	awarded 10:20 11:4 12:23 26:23	behalf 15:3	C	
argument 13:14,17	aware	believed 11:21 21:18	call 29:10	check 12:6
assist 18:1 23:12			called 7:5	circumstance 16:9
assistance 16:24 20:19			Candor 17:9 22:3 25:19	circumstance s 19:23 24:17 35:9
Assistant 6:15			care 38:4	claim 17:6 21:11

HEARING

June 08, 2020

Clark 10:15 11:7 13:14,22 32:1	36:16 38:14	consult 16:4,12 19:9, 24	costs 10:22,25 12:24 21:2 29:22 33:17, 20,23	courtesy 14:1
clear 30:1	complaints 9:3,6,7 34:16 38:22	consulting 20:14		courts 22:10
clear-cut 32:17	comply 28:21 29:4 33:1	contact 15:1 36:1,3	counsel 6:15 11:13 14:18 15:13, 15 20:11 27:6 29:15 30:21	criminal 31:5
client 11:19 15:18, 24 16:4,9,12, 14,16,18,24 18:21 19:4,9, 25 20:1,4,19 31:12,13,18 36:6,25	computer 19:4	contacted 11:17 36:1	counsel's 19:16	current 12:14 16:22 20:17
client's 16:2,10,13 19:8,18,24	concern 11:18	contemplated 16:25 20:20	Count 15:22 16:6,20 17:1,8,15,21 19:2,6,21 20:16 21:4,5 22:2,17 23:8 25:1,7,11,19, 22,23,25 26:8 31:14	CWN 14:8
clients 16:22 19:23 20:17	concerns 21:5 22:17	continued 15:9 <small>HEARING</small>	CWNEVADA 14:5	
close 21:20	condemnation 10:15,17,19 11:3	contract 15:1 23:21 27:3	D	
committed 24:21,25	conduct 17:25 18:4,6 23:14,16,24 24:17 26:13 27:19 29:13 30:2 32:9 33:3	contradicting 26:6	Dan 11:1	
communicate 15:10 20:7 25:2	conference 15:8 29:8,9	contrary 36:8	Dana 34:3 37:20	
Communicati on 19:21 20:15 25:1	conflict 16:21 20:16 25:7	conversation 35:12	counts 15:21 19:2 24:13 26:19 38:17	date 7:13 8:7 13:16 34:23
Communicati ons 16:7	conjunction 30:22	conversation s 36:2	County 10:15 11:7 13:14,22 32:1	dated 9:3 12:17
complaint 7:1,3 9:1 10:2,7,16 24:11 34:23	connection 16:24 17:18 20:19 22:19	copies 14:1 <small>First Legal Deposition-Calendar@firstlegal.com L.A. 855.348.4997</small>	coupled 33:13	day 7:10 12:24
	conscious 24:16,18	copy 12:10,17	court 10:18,24 11:8 12:22 13:9, 13,16,17,22, 23,25 15:4,7, 8 21:16 22:11,12,14 24:1,3 27:13 28:9 31:5 33:17	days 7:8 11:11 28:3
	consent 16:10 19:24	correct 6:9,10 37:10		deadline 7:11,12,19 28:24,25 34:24
		correspon ce 23:1 25:10 29:22		deadline's 7:17
				dealing 31:12,18,22

32:10 34:18 38:22	deposited 11:7 13:22	disclosure 29:6	duty 18:17 19:11, 22 20:6,21 21:7,13,25 22:9,15,22 23:6,18 24:4, 7	enforce 13:2
deceit 18:5 23:14,20 26:10	detailing 29:4	disclosures 8:4,11,21,25 9:4,13		engage 18:4,6 23:14, 16
deceitfully 23:20	determine 18:20,23 36:13	discovered 11:15		engaged 23:19,23 26:9
December 7:2 15:7 30:6	determining 18:15	discussed 35:18	E	engaging 26:12
decided 33:19	deviation 18:24	discussing 10:11	e-mail 7:8 12:3 36:5	entered 6:25 15:2,4
decision 12:23 16:2,9 17:13 19:8,19 22:7	diligence 9:19 16:16	dishonest 27:18,23 32:23 38:25	e-mailed 11:24 12:16 13:4	entire 32:3
decisions 16:19 19:23 20:4	direct 11:10	dishonesty 18:4 23:14,19 26:10	earlier 22:23 24:5 28:22 31:20	entitled 21:15
deemed 18:10	directive 19:17	dismissed 15:16	earned 21:22	entry 6:25 8:3,14
default 6:20,25 8:3, 14 18:9 34:13	directly 13:23	dispensary 14:5	easily 29:13	essentially 19:7 20:18
define 24:15	Director 14:9	dispute 17:7 21:8,12, 14,17,21,22, 23,24 25:13, 16 27:20 29:17 30:16 32:1,14	Edition 24:15	establishes 21:6
deliberate 37:25	disbursal 13:16 25:4		effect 36:6	events 29:4
deliberated 38:11	disbursement 11:10,12,14, 16,25 20:8,9 22:10 28:1 32:5	District 10:18 11:7 13:22 15:7	Eighth 10:18	everything's 31:6
demonstrate 29:23 30:23 32:10	disbursing 25:21	DKB 10:14,20 12:23 13:14	employed 14:8,10	evidence 8:18 9:16,22 26:5
demonstrated 21:1 29:13 31:23	disciplinary 17:16,18 18:15 22:18, 20 26:1 28:20 33:1,20 34:10	due 9:18 35:5,22	employee 7:16	evidenced 25:9
deposit 11:11 13:8 22:13	discipline 9:12 34:7	duties 24:13	employment 14:8	exception 38:15
			enable 17:12 22:6	exhibit 8:22 9:18,22 10:1 37:1,2,8, 9
			ended 21:19	exhibits

8:15,17,20, 23,25 9:15	32:20,22,23 33:6,8,10,13 38:24	27:23 30:24 31:21,23 32:11	filing 7:19 12:25 13:24 20:14 25:3 27:21 29:1,14 34:13 35:24	17,21 26:5,22 27:19 29:16 31:23 32:13 36:14,25
experience 30:5 33:4	facts 17:12,14 18:8 22:5,7 23:22 26:12 30:22 31:3 34:21	Farhan 34:5 35:7 37:21	final 8:11,21 9:4, 10 29:6	G
explain 16:17 20:2	fail 25:2	favor 15:4	financial 16:24 20:19	generally 31:11,17
explained 7:21 22:22	failed 20:6,7 35:12	February 7:20 8:4 14:25	find 27:12	Gerard 6:14
explaining 12:4	failing 28:20 33:1	federal 31:5	finding 38:20	give 15:10,11
express 19:14,15	failure 35:9	fee 13:7 33:18,19	fine 8:16 9:14	Good 6:14
expressed 11:18	faith 28:19 32:25	fees 10:22,25 12:24 21:2 29:22	forfeited 13:15	Gosioco 6:10,13,14,23 8:19 9:2,9,17, 23 34:8,19 35:3,15 36:10 37:6,10,14, 18,22 38:3
extension 7:9 35:11,13	false 17:19 22:21 23:5 26:2,7	felt 38:15	formal 6:6 8:5,7,12	granted 13:16 35:13
extent 16:17 20:3	Familian 10:13 11:1,3, 20,23,24 12:10,12,17, 20 13:4,18 20:6,8,10,14 21:15,17,18 22:12 24:1,8, 24 25:3,6,22 26:15 28:7 29:14,15 30:14 31:24 32:12,16 38:21	file 7:13,18,22,23 8:13 10:8 11:2 25:20,23 27:2 28:5 29:1 34:22,24 35:10 36:9	found 27:13	granting 10:23 11:12, 16
fact 17:20 22:12, 21,25 23:5 25:4,21 26:2, 5,7 31:23 35:12 36:20	factor 18:18 24:7,9 26:16,17 27:18 28:8,9, 10,15,18,19 29:11,12 30:3,4,11 31:1	filed 7:2,14,24,25 8:1,2,3,6,7, 12,13 10:7, 16,21,24 11:5,9,12,17 12:1,22,24 13:1 15:6 20:8,13 22:9 25:5 28:2,3, 11 29:6,7 32:4 34:9,22	founded 14:12	grievance 34:21
factors 18:15,23 19:1 24:6 27:11, 13,14 30:3	Familian's 11:13,22 12:7 19:12,13,15 24:2 25:12 26:20,25	fraud 18:5 23:14,19 26:10	froze 19:5	guideline 31:4
		funds 11:10,19,22 12:3,4,7,11, 13 13:8,12,21 15:18 17:5 19:12,16 21:7,10,23 22:13,24 23:3 24:23 25:12,	formal 6:6 8:5,7,12	Guidelines 24:14
			found 27:13	H
			forfeited 13:15	half 30:7,10
			fine 8:16 9:14	
			finding 38:20	
			financial 16:24 20:19	
			fail 25:2	
			failed 20:6,7 35:12	
			failing 28:20 33:1	
			failure 35:9	
			faith 28:19 32:25	
			false 17:19 22:21 23:5 26:2,7	
			Familian 10:13 11:1,3, 20,23,24 12:10,12,17, 20 13:4,18 20:6,8,10,14 21:15,17,18 22:12 24:1,8, 24 25:3,6,22 26:15 28:7 29:14,15 30:14 31:24 32:12,16 38:21	
			Familian's 11:13,22 12:7 19:12,13,15 24:2 25:12 26:20,25	
			Farhan 34:5 35:7 37:21	
			favor 15:4	
			February 7:20 8:4 14:25	
			federal 31:5	
			fee 13:7 33:18,19	
			fees 10:22,25 12:24 21:2 29:22	
			felt 38:15	
			file 7:13,18,22,23 8:13 10:8 11:2 25:20,23 27:2 28:5 29:1 34:22,24 35:10 36:9	
			filed 7:2,14,24,25 8:1,2,3,6,7, 12,13 10:7, 16,21,24 11:5,9,12,17 12:1,22,24 13:1 15:6 20:8,13 22:9 25:5 28:2,3, 11 29:6,7 32:4 34:9,22	
			filing 7:19 12:25 13:24 20:14 25:3 27:21 29:1,14 34:13 35:24	
			final 8:11,21 9:4, 10 29:6	
			financial 16:24 20:19	
			find 27:12	
			finding 38:20	
			fine 8:16 9:14	
			forfeited 13:15	
			formal 6:6 8:5,7,12	
			found 27:13	
			founded 14:12	
			fraud 18:5 23:14,19 26:10	
			froze 19:5	
			funds 11:10,19,22 12:3,4,7,11, 13 13:8,12,21 15:18 17:5 19:12,16 21:7,10,23 22:13,24 23:3 24:23 25:12,	

hand 12:6		initiating 10:17		knew 20:24 31:22 32:10
handbook 31:3	I	injuries 18:20 38:20	J	knowing 23:11 24:15 38:18
handled 34:20	lan 14:4 20:21	injury 26:18,24 27:2,7 31:13, 19 32:15	January 7:4,5,8,10,11, 14,15,25 10:7	knowingly 17:19 18:1 20:7 22:20 23:4,12 24:14,21,23, 25 25:2,5,8, 11,17,20,23 26:6,9
handles 34:11	imposing 18:13	instructed 12:12	jeopardize 11:22 12:7	knowledge 12:1 26:21 30:13,14
handling 6:16	improperly 31:12,18,22 32:11	intent 29:24 34:13	Joel 11:2	
happened 12:4	incident 15:17	intentional 38:16	jointly 14:16,20,21	L
happy 34:1	include 13:1	interest 10:22,24 11:8 13:9,15 16:21 20:17 21:11 25:7	judgment 10:21 13:9, 12,15 14:22, 23 15:4 20:23,25 21:16 25:9,12 27:4,22 30:19 36:7,15	
hard 33:23	included 37:2	interests 17:6	Judicial 10:18	LAS 6:2
head 14:4	including 35:17	inverse 10:14,16,19 11:3	July 10:13 15:6 28:4	lastly 9:17 13:20 17:21 18:5 23:8 26:8 27:9 30:11
hear 22:20	incurred 33:24 38:20	investigator's 30:14	June 6:2 11:6,9,11, 15,24 12:16, 17 13:19,20 15:3 28:2,3	law 30:5 33:4
hearing 6:6,20 8:1,6, 7,12 9:10 18:9 34:18 38:11	indicating 12:19 23:2	investigators 22:23 23:6 36:17	jury 10:20 11:4,8	lawsuit 14:15,19
held 15:9	indifference 30:12,23 33:5	invite 23:6	justice 18:7 23:17,25 26:14	lawyer 15:25 16:2,8, 17,23 17:4,7, 11,12,17,18, 24 18:4,6 19:4,7 20:18 21:9,12 22:5, 6,19 23:10, 13,15 31:11,
Henriod 11:2,15,17 13:14	induce 18:1 23:12	invoice 12:17 13:18	K	
hired 14:4	inform 7:17 16:9 17:11 19:23 20:1 22:5	involving 18:4 23:14,19 26:9	kind 28:12	
history 6:19 7:1 34:6	informed 16:10,14,19 17:13 20:4 22:7 28:23,25	issue 36:12		
	informing 22:11			
	initial 8:4 29:6,8			

17	16:18 17:13, 19 20:4 22:7, 20 26:2,6 35:17 38:19	mentioned 35:20	28:1,3 29:15 32:5	notes 35:16
lawyers 18:14		messages 37:5	motions 10:21 23:25 25:24 27:21 35:21	notice 7:19,22,25 8:6,12 11:5 12:24 15:6 28:25 34:13
left 7:6 14:12	makes 9:8	mine 9:6 27:15	motive 27:18,24 32:24	notified 11:22
level 31:4	making 23:4 30:12,24 33:5	misconduct 17:22,24 18:3,6 23:9, 10,13,15 24:4 26:8 28:10,13 32:24	move 8:15,23	notify 25:4
Lewis 11:2,5,13,20	mandated 15:8 33:22	misrepresent ation <small>HEARING</small> 18:5 23:15,20 26:10	multiple 28:16,17 32:25	notifying 11:19
liable 14:16,21	March 8:1,2,3,5 14:7 15:2	misrepresenti ng 23:22 26:11	N	November 10:24 11:6 12:19
lien 12:25 13:2	marijuana 14:5	mitigating 18:23 27:11, 13 32:20,22 33:6,8 38:23	Naqvi 34:5,15 35:7 36:4 37:16,21 38:6	NRS 13:3
listed 8:21 27:15 28:8 29:11 32:22 33:10, 14 34:21	material 17:12,19 22:5,12,21 23:5 26:2,7, 12	money 15:11 24:2 27:20,24 36:6	nature 24:16 29:13 30:2 33:3	Number 10:11,17 38:9
litigation 16:25 20:20	matter 14:4 16:15,17 17:18 20:2,3 22:20 23:21 27:3 35:18	month 32:8 <small>First Legal Deposition-Calendar@firstlegal.com L.A. 855.348.4997</small>	needed 35:10	Numbers 6:6
LLC 10:14	matters 17:16 22:18 24:20 26:1	months 9:20	Nevada 6:2,7,16 15:8 30:6	OBC19-0604 6:6 14:2 26:20 31:21 38:9
long 32:18	meanings 19:10	morning 6:14	non-compete 14:11,12,14, 15,19	OBC19-0640 6:17 10:12
looked 33:6	means 16:4,13 19:25	motion 11:9,12,14, 16,25 13:1, 16,24 20:8, 13,14 22:10 24:1 25:3,5, 20 26:14	north 35:2,5	OBC19-0798 6:7,17 14:3 20:20 27:1 36:12 38:9
M	meet 35:13		Northern 34:20	objection 13:5
made 13:14	mental 18:18 24:10, 12,15 38:18		note 35:17	objective
mail 7:6				
mailed 8:4				
make 7:19 8:8				

24:18	opinion	11,17,22	27:21 29:14	phase
objectives	12:6	20:12,15,21,	parties	18:11,12
16:3,13 19:8,	order	24 21:3,7,13,	13:24	phone
19,25	7:25 8:2,5	15,19,25	pattern	7:7 35:8 36:2
obstruction	10:23 11:10,	22:3,9,15,22	28:10,13	place
28:20 32:25	12,16 13:23,	23:2,6,18,23	32:24	29:3
obtain	25 20:9,13,15	24:4,7,10	pay	play
13:21 28:12	22:11 24:1	25:2,8,11,20,	12:11 15:12	31:16
29:18 30:20	25:3,21 26:14	23 26:3,6,9,	20:22 23:21	pocket
32:6	28:2,6 29:3,5,	23 27:11	25:8 26:11	12:11
occurred	15 32:5	28:1,5,14,23	27:4 29:25	point
26:18 28:18	orders	29:4,9,16,23	30:18,19	7:23 9:24
occurring	28:21 33:2	30:5 31:22	33:17 36:6,20	13:11 15:21
25:13	Oswalt	32:3,10	37:13	18:10 20:9
October	6:5,11,22	33:15,17	paying	Polsenberg
12:22 13:4,13	8:16,24 9:5,	34:6,8,9,11,	14:22 36:14	11:2 14:1
offenses	14,21 34:3,16	17 35:8 36:3,	payment	possession
28:16,18	35:1,6 37:4,7,	17,18,19	14:16	17:4 21:9
32:25	12,20,24	Padgett's	penalty	post
offer	38:5,8	11:18 24:12	18:11,12	10:21 12:20
23:3 25:8	outstanding	27:4 30:23	pending	potential
27:4 36:20	12:10	pages	16:25 20:20	31:13
offered	owed	8:22	Perfect	practice
20:22 22:24	13:6 19:22	Pan	9:23 10:6	30:5,7 33:4
35:24	21:18 24:7	38:10	19:5 37:16	practicing
offering	P	Panel	period	30:9 31:5
23:20 26:11	packet	6:18 8:6	33:15	prehearing
offhand	9:10 37:9	18:11 34:1	permit	29:8
34:23	Padgett	37:18 38:10,	16:18 20:3	prejudgment
office	6:7,8,17 7:5,	11	permitted	10:22,23
11:18 12:16	9,13,15,17,21	paragraph	15:18 36:24	prejudicial
one-time	8:8 9:19 10:8	10:10,11	personal	18:7 23:16,24
28:17	11:23 12:12	part	8:8	26:13
ongoing	13:1,5,6,11	16:1,8,23	personally	present
28:17	14:6,18,19,	17:3,10,17,23	7:5 9:19	6:8 7:16
open	22,23 15:9,	22:4,18 23:10	persons	prior
34:16	13,16 16:6,21	36:8	17:5 21:10	9:12 14:7
	17:2,8,15,22	parte		
	18:19 19:4,	17:10 22:10		
		23:25 24:1		
		25:20 26:14		

HEARING

June 08, 2020

34:6	13:23,25 28:6	realized 20:12	referring 35:4 36:9 37:4,15,17	representatio ns 36:8
Pro-tect 14:9,10,12, 13,17,25 15:5,12	provide 16:23 20:19	reason 21:13 23:4	refusal 29:12 30:1 33:2	representing 11:8 16:16
procedural 6:19 7:1	provided 13:18 14:1	reasonable 16:15	rejected 13:17	requested 10:25 12:3,13 22:13
proceed 34:13	pulled 10:3	reasoning 35:24	release 12:11	requesting 35:11
proceeding 17:11 28:20 33:1	purpose 24:18	reasons 21:3,24 22:15 24:3 25:16 27:7 29:25 30:25 35:14	relevant 16:1,8,23 17:3,10,17,23 22:4,18 23:10	required 13:2 16:3,11 19:24
proceedings 33:18,21	pursuant 33:16	receive 26:22 27:21 28:6	relied 30:19	resolved 17:7 21:12,24 32:2
proceeds 13:7 32:1	pursued 16:5 19:10	received 7:8 12:5,14 13:12 30:14 32:12	relying 27:3	respect 16:10
process 12:13	put 35:16	receiving 27:24	remain 22:13	respectfully 8:15 37:23
professional 17:24,25 18:3 23:13	putting 33:24	recess 38:7	remainder 38:17	responded 15:17
profits 30:15	Q	recollection 35:15,23	remaining 29:16 32:1	Respondent 10:14,16 11:9,25 12:5, 9,24 13:17, 20,25 15:2,6, 10 18:19 37:24
prohibited 20:24	question 32:18 35:25 36:4	recommendat ion 31:2	remember 34:23 35:19	Respondent's 12:16
promise 30:19	questioned 36:23	recommends 18:14	rendered 12:18	response 10:5,8 21:1 29:2 34:25 35:25
promptly 16:8	questions 34:1,4 37:19, 23	record 14:19 15:14 34:10 38:9	replied 12:5	restitution 30:12,24 33:5
promptness 16:16	R	reference 27:25	represent 10:14	rests
property 17:2,5,6 21:6, 10,11 22:1 31:12,18 32:11	ramifications 7:22	referenced 36:5	representatio n 15:24 16:3,19 17:4 19:3,9, 20 20:5 21:9 24:22	
proposed	reading 10:2			
	ready 37:25			

33:25 37:23 result 24:19 30:20 retained 10:14 11:1 retrieving 12:7 returned 13:25 rights 12:8 Ritch 22:25 Ritchie 14:4,10,12, 14,15,20,23, 25 15:3,5,10, 11,15 20:21, 22,25 22:24 23:2,3,21 24:8 25:9 26:11 27:2,8 29:20,23,24 30:18,19,20 36:13,15,20 38:21 Ritchie's 14:8 15:19 26:4 27:1 30:17 36:11 37:1 Roca 11:2,5,13,20 room 38:1 Round 14:12 RPC 15:23 16:7,21	17:2,9,22 19:2,6,18,21 20:16 21:5 23:9,11 25:1 31:15 RTS 14:17,23 Rule 16:1,3,7,22 17:3,10,16,23 19:6 20:15,18 21:3,6,22 22:3,4,16,17 27:13 28:9 33:17 38:12, 18 rules 16:11,22 17:25 20:17 28:21 33:2 <hr/> S <hr/> S.C.R. 29:11 30:4,11 33:23 Safekeeping 17:2 21:6 22:1 Sales 14:9 sanction 18:16,24 31:4 33:12 sanctions 18:13 satisfied 11:4 14:24 satisfies 26:15	saved 37:7 Scheduling 8:2 29:3,5 Scope 15:23 19:2 24:22 scored 31:6 screen 10:1,4 Screening 38:10 secure 15:15 27:5 security 14:5,9,13 seeking 33:14 selfish 27:18,23 32:24 send 12:9 separate 23 25:18 separately 9:6 September 10:15 serve 9:19 served 11:14 service 8:8	services 12:18 set 6:5 38:1 settled 14:15 settlement 14:24 15:8 19:14 36:20 severally 14:16,21 share 9:25 shortened 12:2 Shortening 11:10 showing 8:25 sic 17:17 20:6 signed 14:11 similarly 31:8 simply 15:17 Sonia 38:3 sort 36:7 south 35:2,4 speak 7:7,15 28:22 35:16 36:17	speaking 35:19 Specific 16:22 20:17 specifically 13:8 36:9,10 37:14 spoke 7:9 35:8 36:18,23 spread 28:13 staged 9:6 standard 31:10,16 standards 18:13 38:23 starting 10:10,11 state 6:7,12,15 7:2, 16,24 8:11, 14,20,22 18:19 21:1 22:23 23:5,22 24:10,11,12, 15 26:2,4,12 29:21 33:14, 24,25 34:7, 10,17 36:24 37:23 38:18 stated 10:6 11:21 13:5,8 24:5 26:1 28:22 30:13 31:16, 20 32:12 35:23 36:21
--	--	--	---	---

HEARING

June 08, 2020

statement 17:19 22:21 23:5 26:2,7 37:15	supposed 7:7 26:1 29:21 Supreme 15:8 27:13 28:9 33:16	told 22:23 29:16, 20 30:18 31:24	uphold 20:6 upwards 18:24	32:17
states 16:1,7,23 17:3,10,17,23 18:3 19:7 20:18 21:8,23 22:4,19 23:9 28:19 30:12 31:10	suspension 31:10,17 32:17,18 33:11,13,15, 19,23	tomorrow 34:11,14	<hr/> V <hr/>	warrants 18:24
stating 12:14 30:18	sustained 38:20	total 9:7,12	VEGAS 6:2	weeks 7:3,4
status 12:3 16:15 20:2	<hr/> T <hr/>	touch 29:16	verdict 11:8	whatsoever 29:5
stipulat 27:10	Table 14:13	touched 13:10	verified 29:1 34:25	wishes 19:15,16 24:2,23
stipulate 7:11,12	taking 38:4	trial <small>HEARING</small> 10:19,21 12:20	<small>June 08, 2020</small> versus 6:7	withdraw 25:17 31:24
stipulated 18:22 28:24	talking 25:5	tribunal 17:9,11,13 22:4,5,6 25:19	violate 17:24,25 20:15 21:3,25 22:15 23:11	withdrawal 11:24
stop 12:12	text 37:4	true 36:19	violated 16:7,21 17:2, 9,16,22 18:18 19:11 20:21 21:13 22:9,22 23:18 24:4,13	withdrawing 11:21 12:13 21:20 27:19, 20
subject 35:18	thing 18:17 28:17 33:9 35:18	turn 6:11	violating 14:14 22:3	withdrawn 11:19 25:14
submitted 23:25	time 6:5 11:10 12:2 29:3 34:4	<hr/> <small>First Legal Deposition-Calendar@firstlegal.com L.A. 855.348.4997</small> <hr/> U	violation 15:23 19:17 24:25 38:15, 16	withdrew 15:13 19:12, 13 24:23 25:12 26:24 32:3
submitting 13:23 26:14	timeline 28:11	ultimately 13:17 14:14 15:13 26:19	violations 38:12	wondering 34:6
substantial 30:4 33:3	timely 35:10	understand 6:20	voice 7:6	work 12:21
sued 14:13,25	today 6:9,21 9:11 33:9 34:24 35:5 38:22	understandin g 6:8	<hr/> W <hr/>	wrongful 29:12 30:2 33:3
summary 15:4		understood 7:24	warranted	<hr/> Y <hr/>
				year 12:15 28:5 29:17 32:4,7

years

30:7,8,10

33:15

HEARING

June 08, 2020

First Legal Deposition-Calendar@firstlegal.com
L.A. 855.348.4997

STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD

BRIAN PADGETT, ESQ.
Nevada Bar No. 7474

FORMAL HEARING
Grievance File Nos.: OBC19-0604 & OBC19-0798
Monday, June 8, 2020, at 9 a.m.

INDEX OF DOCUMENTS

DOCUMENT	PAGE NOS.
Complaint and Affidavit of Mailing Filed December 23, 2019	SBN 001-013
First Amended Complaint and Affidavit of Mailing Filed January 7, 2020.....	SBN 014-026
Notice of Intent to Proceed on a Default Basis Filed January 31, 2020.....	SBN 027-040
Order Appointing Hearing Panel Chair Filed March 4, 2020	SBN 041-042
Scheduling Order Filed March 19, 2020.....	SBN 043-046
Entry of Default Filed March 24, 2020.....	SBN 047-050
State Bar's Initial Disclosure of Witnesses and Documents Filed March 24, 2020.....	SBN 051-057
Order Appointing Formal Hearing Panel Filed April 3, 2020.....	SBN 058-060
Notice of Amended Formal Hearing Date Filed April 9, 2020.....	SBN 061-063
State Bar's Final Disclosure of Witnesses and Documents Filed May 12, 2020.....	SBN 064-070
Notice of Formal Hearing Filed May 22, 2020	SBN 071-072

PANEL

Dana Oswalt, Esq. Chair
Farhan Naqvi, Esq.
Peter Ossowski, LayMember

Gerard Gosioco, Esq.
Assistant Bar Counsel

Brian Padgett, Esq.
Respondent

Sonia Del Rio
Hearing Paralegal



FILED

DEC 23 2019

STATE BAR OF NEVADA
BY: *S. M. M.*
OFFICE OF BAR COUNSEL

Case Nos.: OBC19-0604; OBC19-0798

STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
BRIAN PADGETT, ESQ.,)
Nevada Bar No. 7474)
Respondent.)

COMPLAINT

TO: Brian Padgett, Esq.
611 S. 6th Street
Las Vegas, NV 89101

PLEASE TAKE NOTICE that pursuant to Supreme Court Rule ("SCR") 105(2) a
VERIFIED RESPONSE OR ANSWER to this Complaint **must be filed** with the Office of Bar
Counsel, State Bar of Nevada, 3100 W. Charleston, Blvd, Suite 100, Las Vegas, Nevada, 89102,
within twenty (20) days of service of this Complaint. The procedure regarding service is
addressed in Supreme Court Rule 109.

GENERAL ALLEGATIONS

1. Complainant, State Bar of Nevada ("State Bar") alleges that Respondent, Brian
Padgett, Esq. ("Respondent"), Nevada Bar No. 7474, who is currently an active member of the
State Bar of Nevada having been licensed to practice law in the State of Nevada since December
28, 2000, and at all times pertinent to this Complaint having a principal place of business for the

1 practice of law located in Clark County, Nevada, has engaged in acts of misconduct in violation
2 of the Nevada Rules of Professional Conduct ("RPC"), warranting the imposition of professional
3 discipline as set out herein.

4 **OBC 19-0604/Bruce Familian**

5 2. On or about July 25, 2012, Bruce Familian ("Familian") retained Respondent to
6 represent DKB, LLC ("DKB") in an inverse condemnation case against Clark County.

7 3. On September 11, 2012, Respondent filed a Complaint in Inverse Condemnation,
8 initiating case No. A-12-668136-C in the Eighth Judicial Circuit Court (the "Inverse Condemnation
9 Case").

10 4. The Inverse Condemnation Case went to trial and DKB was awarded \$116,508 by
11 the jury.

12 5. Following trial, several post-judgment motions were filed regarding attorney's fees,
13 costs, and prejudgment interest on the award. An Order granting the prejudgment interest was filed
14 on November 3, 2017, but the Court requested additional briefing regarding fees and costs.

15 6. Familian retained attorneys Dan Polsenberg ("Polsenberg") and Joel Henriod
16 ("Henriod") of Lewis & Roca ("L&R") to file an appeal of the Inverse Condemnation Case (the
17 "Appeal") as he was not satisfied with the amount awarded by the jury.

18 7. L&R filed a Notice of Appearance in the Inverse Condemnation Case on June 12,
19 2017.

20 8. On or about November 8, 2017, Clark County deposited \$151,599.83 with the
21 District Court, representing the jury verdict plus interest.

22 9. On June 8, 2018, Respondent filed a Motion on Order Shortening Time to Direct
23 Disbursement of Funds on Deposit (the "Motion for Disbursement").

1 10. On June 12, 2018, an Order granting the Motion for Disbursement was filed.

2 11. L&R were not served with the Motion for Disbursement.

3 12. On or about June 20, 2018, Henroid discovered that the Motion for Disbursement

4 and the Order granting same had been filed.

5 13. Henroid contacted Respondent's office and expressed concern that they had

6 withdrawn the funds without notifying Familian or L&R, stated that he believed withdrawing the

7 funds might jeopardize Familian's case, and notified Respondent that Familian did not authorize

8 the withdrawal.

9 14. On June 22, 2018, Familian emailed Respondent asking why the Motion for

10 Disbursement was filed without Familian's knowledge and why it had been done on shortened

11 time. The email requested the status of the funds and an accounting explaining what happened to

12 any funds received by Respondent.

13 15. Respondent replied that he did not yet have the check in hand, but that in his opinion

14 retrieving the funds would not jeopardize Familian's rights on appeal. Respondent stated that he

15 would send Familian a copy of the outstanding bill which Familian could pay out of pocket or

16 from the released funds.

17 16. Familian instructed Respondent to stop the process of withdrawing the funds and

18 requested the current bill, stating that he had not received one in over a year.

19 17. On June 29, 2018, Respondent's office emailed Familian a copy of an invoice dated

20 June 26, 2018 for \$69,945.73 for services from November 2016 through may 2017, indicating that

21 Familian had yet to be billed for post-trial work.

22 18. On October 16, 2018, the Court filed its Decision and Order awarding DKB over

23 \$400,000 in attorney's fees and costs.

19. The same day, Respondent filed a Notice of Filing of Attorney's Lien. The Attorney's Lien Notice did not include an amount.

20. Respondent never filed a Motion to Enforce the Attorney's Lien, as required by NRS 18.015.

21. On October 25, 2018, Familian emailed Respondent and stated that he had no objection if Respondent took the approximately \$70,000 he was owed from the attorney fee award proceeds, but specifically stated that the funds on deposit with the court for the judgment and interest should not be touched during the appeal.

22. However, Familian had already received \$151,599.83 of the judgment funds from the Court on October 22, 2018.

23. As feared by Henriod, Clark County made the argument that DKB had forfeited its right to interest on the judgment from the date that the Court granted the Motion for Disbursal, though the Court ultimately rejected that argument.

24. Respondent never provided with Familian a billing invoice after the June 29, 2018 bill for \$69,945.73.

25. On July 19, 2019, Respondent attempted to obtain an additional \$13,845.45 from funds that Clark County had deposited with the District Court by submitting a proposed order directly to the court without copying any other parties or filing a motion. The court returned the proposed order to Respondent and courtesy copies to Polsenberg.

OBC19-0798/Ian Ritchie

26. Ian Ritchie ("Ritchie") was hired as the head of security for CWNevada ("CWN"), a marijuana dispensary of which Respondent is the CEO, from approximately 2017 to March 26, 2019.

27. Prior to his employment at CWN, Ritchie was employed as the director of sales for Pro-Tect Security ("ProTect").

28. While employed with ProTect, Ritchie signed a non-compete agreement.

29. Despite the non-compete agreement, Ritchie left ProTect and founded Round Table Security ("RTS").

30. In or about May, 2015, ProTect sued, *inter alia*, Ritchie for violating the non-compete agreement. (the "non-compete lawsuit")

31. Ultimately, the non-compete lawsuit was settled with Ritchie agreeing to be jointly and severally liable for payments to ProTect along with RTS.

32. Though Respondent was not counsel of record in the non-compete lawsuit, Respondent advised Ritchie that he should agree to be joint and severally liable on the judgment, and that Respondent would pay the judgment.

33. Neither Respondent, Ritchie, or RTS satisfied the settlement.

34. In February of 2017, ProTect sued, *inter alia*, Ritchie for breach of contract. (the "Breach Case")

35. On March 12, 2018, Respondent entered his appearance on behalf of Ritchie in the Breach Case.

36. On June 29, 2018, the Court entered summary judgment in favor of ProTect and against Ritchie for \$129,999.92.

37. On July 27, 2018, Respondent filed a Notice of Appeal in the District Court. (the "Breach Appeal")

38. On December 4, 2018, a Nevada Supreme Court mandated settlement conference was held in the Breach Appeal.

1 39. Respondent continued to communicate to Ritchie that Respondent would give
2 Ritchie money to pay off ProTect.

3 40. Ultimately, Respondent withdrew as counsel of record from the Breach Appeal.

4 41. Ritchie was unable to secure new counsel, and the Breach Appeal was dismissed.

5 42. In his response to the State Bar, Respondent stated, "I am not permitted to
6 advance funds to a client, nor would I have agreed to do so in Mr. Ritchie's Case..."

7 **Count One**

8 **RPC 1.2 (Scope of Representation and Allocation of Authority Between Client and Lawyer)**

9 43. RPC 1.2 States, in relevant part:

10 ... a lawyer shall abide by a client's decision concerning the objectives of representation
11 and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be
12 pursued...

13 44. By withdrawing funds from the court, against the express wishes of Familian and
14 his appeal counsel, Respondent exceeded his authority.

15 45. Respondent knew or should have known of his duty not to exceed his authority.

16 46. As a result of Respondent's misconduct, Familian suffered actual or potential
17 injury.

18 47. In light of the foregoing, including without limitation paragraphs 1 through 46,
19 Respondent has violated RPC 1.2.

20 **Count Two**

21 **RPC 1.4 (Communication)**

22 48. RPC 1.4 States, in relevant part:

23 (a) A lawyer shall:

1 (1) Promptly inform the client of any decision or circumstance with respect to which the
2 client's informed consent is required by these Rules;

3 (2) Reasonably consult with the client about the means by which the client's objectives
4 are to be accomplished;

5 (3) Keep the client reasonably informed about the status of the matter...
6 act with reasonable diligence and promptness in representing a client.

7 (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the
8 client to make informed decisions regarding the representation.

9 49. Respondent failed to adequately communicate with Familian when he submitted
10 motions and orders for disbursement to the court without informing Familian.

11 50. Respondent knew or should have known of his duty to communicate.

12 51. As a result of Respondent's misconduct, Familian suffered actual or potential harm.

13 **Count Three**

14 **RPC 1.8 (Conflict of Interest; Current Clients; Specific Rules)**

15 52. RPC 1.8 states, in relevant part:

16 (e) a lawyer shall not provide financial assistance to a client in connection with pending or
17 contemplated litigation...

18 53. Respondent offered to pay the actual amount of the judgment against Ritchie.

19 54. Respondent knew or should have known that he was prohibited from advancing the
20 amount of the judgment to Ritchie.

21 55. As a result of Respondent's misconduct, Ritchie suffered actual or potential harm.

22 56. In light of the forgoing, including without limitation paragraphs 1 through 55,
23 Respondent has violated RPC 1.8.

Count Four

RPC 1.15 (Safekeeping Property)

57. RPC 1.15 states, in relevant part:

(e) When in the course of representation a lawyer is in possession of funds or other property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved.

58. A dispute existed between Familian and Respondent concerning the funds removed from the judgment amount, held by the court.

59. Despite this dispute, Respondent failed to safekeep the funds.

60. Respondent knew or should have known of his responsibility to safekeep these funds.

61. As a result of Respondent's misconduct, Familian suffered actual or potential harm.

62. In light of the foregoing, including without limitation paragraphs 1 through 61, Respondent has violated RPC 1.15.

Count Five

RPC 3.3 (Candor Toward the Tribunal)

63. RPC 3.3 states, in relevant part:

(d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not those facts are adverse.

64. Respondent made an ex-parte motion to the court regarding the distribution of funds, as well as submitting proposed orders ex-parte, without informing the court of the material fact that Familian had requested that the funds remain on deposit with the court.

65. Respondent knew or should have known of his duty of candor to the court.

66. As a result of Respondent's misconduct, Familian suffered actual or potential harm.

67. In light of the foregoing, including without limitation paragraphs 1 through 66,
Respondent has violated RPC 3.3

Count Six

8.1 (Bar Admission and Disciplinary Matters)

68. RPC 8.1 states, in relevant part:

...a lawyer in connection ... with a disciplinary matter, shall not:

(a) Knowingly make a false statement of material fact.

69. In his response to State Bar investigators regarding the Ritchie matter, Respondent stated that he had not offered to advance funds to Ritchie.

70. This was a false statement of material fact.

71. Respondent knew or should have known that he was making a false statement of material fact to the State Bar.

72. As a result of Respondent's misconduct, the legal profession suffered actual or potential injury.

73. In light of the forgoing, including without limitation paragraphs 1 through 72, Respondent has violated RPC 8.1.

///

///

Count Seven

RPC 8.4 (Misconduct)

74. RPC 8.4 states, in relevant part:

It is professional misconduct for a lawyer to:

- (a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- ...
- (c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) Engage in conduct that is prejudicial to the administration of justice;...

75. Respondent violated, or attempted to violate the rules of professional conduct as described above.

76. Respondent engaged in acts involving dishonestly, fraud, deceit or misrepresentation both by deceitfully offering to pay Ritchie in the breach of contract matter and by misrepresenting material facts to the State Bar.

77. Respondent engaged in conduct that is prejudicial to the administration of justice by submitting ex-parte motions and proposed orders to the court in the Familian matter against his client's wishes and without proper notice, as well as without providing all relevant facts to the court.

78. Respondent knew or should have known of his responsibility not to commit professional misconduct.

79. As a result of Respondent's misconduct, the legal profession, Familian, and Ritchie suffered actual or potential harm.

1 80. In light of the foregoing, including without limitation paragraphs 1 through 79,
2 Familian has violated RPC 8.4.

3 WHEREFORE, Complainant prays as follows:

- 4 1. That a hearing be held pursuant to Nevada Supreme Court Rule 105;
5 2. That Respondent be assessed the costs of the disciplinary proceeding pursuant to
6 SCR 120(1); and,
7 3. That pursuant to SCR 102, such disciplinary action be taken by the Southern
8 Nevada Disciplinary Board against Respondent as may be deemed appropriate under the
9 circumstances.

10
11 DATED this 23 day of December, 2019.

12 **STATE BAR OF NEVADA**
13 Daniel M. Hooge, Bar Counsel

14 By: 

15 Matthew R. Carlyon, Assistant Bar Counsel
16 Nevada Bar No. 12712
17 3100 W. Charleston Blvd, Ste. 100
18 Las Vegas, Nevada 89102



FILED

DEC 23 2019

STATE BAR OF NEVADA
BY: SMR
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
BRIAN PADGETT, ESQ.,)
Nevada Bar No. 7474)
Respondent.)

AFFIDAVIT OF MAILING

STATE OF NEVADA)
)§
COUNTY OF CLARK)

Kristi Faust, under penalty of perjury, being first and duly sworn, deposes and says as follows:

1. That Affiant is employed with the State Bar of Nevada and, in such capacity, Affiant is Custodian of Records for the Discipline Department of the State Bar of Nevada.
2. That Affiant states that the enclosed documents are true and correct copies of the **COMPLAINT, FIRST DESIGNATION OF HEARING PANEL MEMBERS, and STATE BAR OF NEVADA'S PEREMPTORY CHALLENGES** in the matter of the *State Bar of Nevada vs. Brian Padgett, Esq.*, Case No. OBC19-0604; OBC19-0798.

//

1 //

2 3. That pursuant to Supreme Court Rule 109, the Complaint, First Designation of
3 Hearing Panel Members, and State Bar of Nevada's Peremptory Challenges were
4 served on the following by placing copies in an envelope which was then sealed and
5 postage fully prepaid for regular and certified mail, and deposited in the United States
6 mail at Las Vegas, Nevada to:

7 Brian Padgett, Esq.
8 611 S. 6th Street
9 Las Vegas, NV 89101

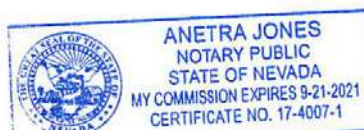
9 **CERTIFIED MAIL RECEIPT 7019 2280 0001 8733 2241**

10 Dated this 23 day of December, 2019.

11 
12 Kristi Faust, an employee
13 of the State Bar of Nevada

14 SUBSCRIBED AND SWORN to before
15 me on this 23rd day of December, 2019.

16 
17 NOTARY PUBLIC



18

19

20

21

22

23

24

25

Case Nos.: OBC19-0604; OBC19-0798



FILED

JAN 07 2020

STATE BAR OF NEVADA
BY: *Smm.*
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN PADGETT, ESQ.,
Nevada Bar No. 7474

Respondent.

FIRST AMENDED COMPLAINT

TO: Brian Padgett, Esq.
611 S. 6th Street
Las Vegas, NV 89101

PLEASE TAKE NOTICE that pursuant to Supreme Court Rule ("SCR") 105(2) a **VERIFIED RESPONSE OR ANSWER** to this Complaint **must be filed** with the Office of Bar Counsel, State Bar of Nevada, 3100 W. Charleston, Blvd, Suite 100, Las Vegas, Nevada, 89102, **within twenty (20) days of service of this Complaint.** The procedure regarding service is addressed in Supreme Court Rule 109.

GENERAL ALLEGATIONS

1. Complainant, State Bar of Nevada ("State Bar") alleges that Respondent, Brian Padgett, Esq. ("Respondent"), Nevada Bar No. 7474, who is currently an active member of the State Bar of Nevada having been licensed to practice law in the State of Nevada since December 28, 2000, and at all times pertinent to this Complaint having a principal place of business for the

1 practice of law located in Clark County, Nevada, has engaged in acts of misconduct in violation
2 of the Nevada Rules of Professional Conduct ("RPC"), warranting the imposition of professional
3 discipline as set out herein.

4 **OBC 19-0604/Bruce Familian**

5 2. On or about July 25, 2012, Bruce Familian ("Familian") retained Respondent to
6 represent DKB, LLC ("DKB") in an inverse condemnation case against Clark County.

7 3. On September 11, 2012, Respondent filed a Complaint in Inverse Condemnation,
8 initiating case No. A-12-668136-C in the Eight Judicial Circuit Court (the "Inverse Condemnation
9 Case").

10 4. The Inverse Condemnation Case went to trial and DKB was awarded \$116,508 by
11 the jury.

12 5. Following trial, several post-judgment motions were filed regarding attorney's fees,
13 costs, and prejudgment interest on the award. An Order granting the prejudgment interest was filed
14 on November 3, 2017, but the Court requested additional briefing regarding fees and costs.

15 6. Familian retained attorneys Dan Polsenberg ("Polsenberg") and Joel Henriod
16 ("Henriod") of Lewis & Roca ("L&R") to file an appeal of the Inverse Condemnation Case (the
17 "Appeal") as he was not satisfied with the amount awarded by the jury.

18 7. L&R filed a Notice of Appearance in the Inverse Condemnation Case on June 12,
19 2017.

20 8. On or about November 8, 2017, Clark County deposited \$151,599.83 with the
21 District Court, representing the jury verdict plus interest.

22 9. On June 8, 2018, Respondent filed a Motion on Order Shortening Time to Direct
23 Disbursement of Funds on Deposit (the "Motion for Disbursement").

1 10. On June 12, 2018, an Order granting the Motion for Disbursement was filed.
2 11. L&R were not served with the Motion for Disbursement.
3 12. On or about June 20, 2018, Henroid discovered that the Motion for Disbursement
4 and the Order granting same had been filed.
5 13. Henroid contacted Respondent's office and expressed concern that they had
6 withdrawn the funds without notifying Familian or L&R, stated that he believed withdrawing the
7 funds might jeopardize Familian's case, and notified Respondent that Familian did not authorize
8 the withdrawal.
9 14. On June 22, 2018, Familian emailed Respondent asking why the Motion for
10 Disbursement was filed without Familian's knowledge and why it had been done on shortened
11 time. The email requested the status of the funds and an accounting explaining what happened to
12 any funds received by Respondent.
13 15. Respondent replied that he did not yet have the check in hand, but that in his opinion
14 retrieving the funds would not jeopardize Familian's rights on appeal. Respondent stated that he
15 would send Familian a copy of the outstanding bill which Familian could pay out of pocket or
16 from the released funds.
17 16. Familian instructed Respondent to stop the process of withdrawing the funds and
18 requested the current bill, stating that he had not received one in over a year.
19 17. On June 29, 2018, Respondent's office emailed Familian a copy of an invoice dated
20 June 26, 2018 for \$69,945.73 for services from November 2016 through may 2017, indicating that
21 Familian had yet to be billed for post-trial work.
22 18. On October 16, 2018, the Court filed its Decision and Order awarding DKB over
23 \$400,000 in attorney's fees and costs.
24
25

1 19. The same day, Respondent filed a Notice of Filing of Attorney's Lien. The
2 Attorney's Lien Notice did not include an amount.

3 20. Respondent never filed a Motion to Enforce the Attorney's Lien, as required by
4 NRS 18.015.

5 21. On October 25, 2018, Familian emailed Respondent and stated that he had no
6 objection if Respondent took the approximately \$70,000 he was owed from the attorney fee award
7 proceeds, but specifically stated that the funds on deposit with the court for the judgment and
8 interest should not be touched during the appeal.

9 22. However, Respondent had already received \$151,599.83 of the judgment funds
10 from the Court on October 22, 2018.

11 23. As feared by Henriod, Clark County made the argument that DKB had forfeited its
12 right to interest on the judgment from the date that the Court granted the Motion for Disbursal,
13 though the Court ultimately rejected that argument.

14 24. Respondent never provided with Familian a billing invoice after the June 29, 2018
15 bill for \$69,945.73.

16 25. On July 19, 2019, Respondent attempted to obtain an additional \$13,845.45 from
17 funds that Clark County had deposited with the District Court by submitting a proposed order
18 directly to the court without copying any other parties or filing a motion. The court returned the
19 proposed order to Respondent and courtesy copies to Polsenberg.

20 **OBC19-0798/Ian Ritchie**

21 26. Ian Ritchie ("Ritchie") was hired as the head of security for CWNevada
22 ("CWN"), a marijuana dispensary of which Respondent is the CEO, from approximately 2017 to
23 March 26, 2019.

27. Prior to his employment at CWN, Ritchie was employed as the director of sales for Pro-Tect Security ("ProTect").

28. While employed with ProTect, Ritchie signed a non-compete agreement.

29. Despite the non-compete agreement, Ritchie left ProTect and founded Round Table Security ("RTS").

30. In or about May, 2015, ProTect sued, *inter alia*, Ritchie for violating the non-compete agreement. (the “non-compete lawsuit”)

31. Ultimately, the non-compete lawsuit was settled with Ritchie agreeing to be jointly and severally liable for payments to ProTect along with RTS.

32. Though Respondent was not counsel of record in the non-compete lawsuit, Respondent advised Ritchie that he should agree to be joint and severally liable on the judgment, and that Respondent would pay the judgment.

33. Neither Respondent, Ritchie, or RTS satisfied the settlement.

34. In February of 2017, ProTect sued, *inter alia*, Ritchie for breach of contract. (the “Breach Case”)

35. On March 12, 2018, Respondent entered his appearance on behalf of Ritchie in the Breach Case.

36. On June 29, 2018, the Court entered summary judgment in favor of ProTect and against Ritchie for \$129,999.92.

37. On July 27, 2018, Respondent filed a Notice of Appeal in the District Court. (the “Breach Appeal”)

38. On December 4, 2018, a Nevada Supreme Court mandated settlement conference was held in the Breach Appeal.

39. Respondent continued to communicate to Ritchie that Respondent would give Ritchie money to pay off ProTect.

40. Ultimately, Respondent withdrew as counsel of record from the Breach Appeal.

41. Ritchie was unable to secure new counsel, and the Breach Appeal was dismissed.

42. In his response to the State Bar, Respondent stated, "I am not permitted to advance funds to a client, nor would I have agreed to do so in Mr. Ritchie's Case..."

Count One

RPC 1.2 (Scope of Representation and Allocation of Authority Between Client and Lawyer)

43. **RPC 1.2 States, in relevant part:**

... a lawyer shall abide by a client's decision concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued...

44. By withdrawing funds from the court, against the express wishes of Familian and his appeal counsel, Respondent exceeded his authority.

45. Respondent knew or should have known of his duty not to exceed his authority.

46. As a result of Respondent's misconduct, Familian suffered actual or potential injury.

47. In light of the foregoing, including without limitation paragraphs 1 through 46, Respondent has violated RPC 1.2.

Count Two

RPC 1.4 (Communication)

48. RPC 1.4 States, in relevant part:

(a) A lawyer shall:

1 (1) Promptly inform the client of any decision or circumstance with respect to which the
2 client's informed consent is required by these Rules;

3 (2) Reasonably consult with the client about the means by which the client's objectives
4 are to be accomplished;

5 (3) Keep the client reasonably informed about the status of the matter...

6 act with reasonable diligence and promptness in representing a client.

7 (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the
8 client to make informed decisions regarding the representation.

9 49. Respondent failed to adequately communicate with Familian when he submitted
10 motions and orders for disbursement to the court without informing Familian.

11 50. Respondent knew or should have known of his duty to communicate.

12 51. As a result of Respondent's misconduct, Familian suffered actual or potential harm.

13 **Count Three**

14 **RPC 1.8 (Conflict of Interest; Current Clients; Specific Rules)**

15 52. RPC 1.8 states, in relevant part:

16 (e) a lawyer shall not provide financial assistance to a client in connection with pending or
17 contemplated litigation...

18 53. Respondent offered to pay the actual amount of the judgment against Ritchie.

19 54. Respondent knew or should have known that he was prohibited from advancing the
20 amount of the judgment to Ritchie.

21 55. As a result of Respondent's misconduct, Ritchie suffered actual or potential harm.

22 56. In light of the forgoing, including without limitation paragraphs 1 through 55,
23 Respondent has violated RPC 1.8.

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Count Four

RPC 1.15 (Safekeeping Property)

57. RPC 1.15 states, in relevant part:
- (e) When in the course of representation a lawyer in in possession of funds or other property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved.
58. A dispute existed between Familian and Respondent concerning the funds removed from the judgment amount, held by the court.
59. Despite this dispute, Respondent failed to safekeep the funds.
60. Respondent knew or should have known of his responsibility to safekeep these funds.
61. As a result of Respondent’s misconduct, Familian suffered actual or potential harm.
62. In light of the foregoing, including without limitation paragraphs 1 through 61, Respondent has violated RPC 1.15.

Count Five

RPC 3.3 (Candor Toward the Tribunal)

63. RPC 3.3 states, in relevant part:
- (d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not those facts are adverse.

64. Respondent made an ex-parte motion to the court regarding the distribution of funds, as well as submitting proposed orders ex-parte, without informing the court of the material fact that Familian had requested that the funds remain on deposit with the court.

65. Respondent knew or should have known of his duty of candor to the court.

66. As a result of Respondent's misconduct, Familian suffered actual or potential harm.

67. In light of the foregoing, including without limitation paragraphs 1 through 66,
Respondent has violated RPC 3.3

Count Six

8.1 (Bar Admission and Disciplinary Matters)

68. RPC 8.1 states, in relevant part:

...a lawyer in connection ... with a disciplinary matter, shall not:

(a) Knowingly make a false statement of material fact.

69. In his response to State Bar investigators regarding the Ritchie matter, Respondent stated that he had not offered to advance funds to Ritchie.

70. This was a false statement of material fact.

71. Respondent knew or should have known that he was making a false statement of material fact to the State Bar.

72. As a result of Respondent's misconduct, the legal profession suffered actual or potential injury.

73. In light of the forgoing, including without limitation paragraphs 1 through 72, Respondent has violated RPC 8.1.

///

///

Count Seven

RPC 8.4 (Misconduct)

74. RPC 8.4 states, in relevant part:

It is professional misconduct for a lawyer to:

- (a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- ...
- (c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) Engage in conduct that is prejudicial to the administration of justice;...

75. Respondent violated, or attempted to violate the rules of professional conduct as described above.

76. Respondent engaged in acts involving dishonestly, fraud, deceit or misrepresentation both by deceitfully offering to pay Ritchie in the breach of contract matter and by misrepresenting material facts to the State Bar.

77. Respondent engaged in conduct that is prejudicial to the administration of justice by submitting ex-parte motions and proposed orders to the court in the Familian matter against his client's wishes and without proper notice, as well as without providing all relevant facts to the court.

78. Respondent knew or should have known of his responsibility not to commit professional misconduct.

79. As a result of Respondent's misconduct, the legal profession, Familian, and Ritchie suffered actual or potential harm.

1 80. In light of the foregoing, including without limitation paragraphs 1 through 79,
2 Respondent has violated RPC 8.4.

3 WHEREFORE, Complainant prays as follows:

- 4 1. That a hearing be held pursuant to Nevada Supreme Court Rule 105;
5 2. That Respondent be assessed the costs of the disciplinary proceeding pursuant to
6 SCR 120(1); and,
7 3. That pursuant to SCR 102, such disciplinary action be taken by the Southern
8 Nevada Disciplinary Board against Respondent as may be deemed appropriate under the
9 circumstances.

10
11 DATED this 7 day of January, 2020.

12 **STATE BAR OF NEVADA**
13 Daniel M. Hooge, Bar Counsel

14 By: 

15 Matthew R. Carlyon, Assistant Bar Counsel
16 Nevada Bar No. 12712
17 3100 W. Charleston Blvd, Ste. 100
18 Las Vegas, Nevada 89102

1 Case Nos.: OBC19-0604; OBC19-0798



FILED

JAN 07 2020

STATE BAR OF NEVADA

BY: Sam
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
)
BRIAN PADGETT, ESQ.,)
Nevada Bar No. 7474)
)
Respondent.)

AFFIDAVIT OF MAILING

STATE OF NEVADA)
)§
COUNTY OF CLARK)

Kristi Faust, under penalty of perjury, being first and duly sworn, deposes and says as follows:

1. That Affiant is employed with the State Bar of Nevada and, in such capacity, Affiant is Custodian of Records for the Discipline Department of the State Bar of Nevada.
2. That Affiant states that the enclosed documents are true and correct copies of the AMENDED **COMPLAINT** in the matter of the *State Bar of Nevada vs. Brian Padgett, Esq.*, Case No. OBC19-0604; OBC19-0798.

//

//

1 3. That pursuant to Supreme Court Rule 109, the Amended Complaint were served on
2 the following by placing copies in an envelope which was then sealed and postage
3 fully prepaid for regular and certified mail, and deposited in the United States mail at
4 Las Vegas, Nevada to:

5 Brian Padgett, Esq.
6 611 S. 6th Street
Las Vegas, NV 89101

7 **CERTIFIED MAIL RECEIPT 7018 3090 0000 3915 2420**

8 Dated this 7th day of January, 2020.

9 
10 Kristi Faust, an employee
11 of the State Bar of Nevada

12 SUBSCRIBED AND SWORN to before
13 me on this 9th day of January, 2020.

14 
15 NOTARY PUBLIC
16
17
18
19
20
21
22
23
24
25



FILED

JAN 31 2020

STATE BAR OF NEVADA
BY: *[Signature]*
OFFICE OF BAR COUNSEL

Case Nos.: OBC19-0604; OBC19-0798

STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN PADGETT, ESQ.,
Nevada Bar No. 7474

Respondent.

**NOTICE OF INTENT TO
PROCEED ON A DEFAULT BASIS**

TO: Brian Padgett, Esq.
611 S. 6th Street
Las Vegas, NV 89101

PLEASE TAKE NOTICE THAT unless the State Bar receives a responsive pleading in the above-captioned matter by **February 24, 2020**, it will proceed on a default basis and ***the charges against you shall be deemed admitted.*** Supreme Court Rule 105 (2) states in relevant part:

A copy of the complaint shall be served on the attorney and it shall direct that a verified response or answer be served on bar counsel within 20 days of service . . . In the event the attorney fails to plead, **the charges shall be deemed admitted**; provided, however, that an attorney who fails to respond within the time provided may thereafter obtain permission of the appropriate disciplinary board chair to do so, if failure to file is attributable to mistake, inadvertence, surprise, or excusable neglect. (Emphasis added.)

//

//

1 Another copy of the Complaint previously served upon you accompanies this
2 Notice.

3 Dated this 31 day of January, 2020.

4 **STATE BAR OF NEVADA**
5 Daniel M. Hooge, Bar Counsel

6
7 By: 

Gerard Gosioco, Assistant Bar Counsel
3100 W. Charleston Blvd, Ste. 100
Las Vegas, Nevada 89102

1
2
3 **CERTIFICATE OF SERVICE BY MAIL**

4 The undersigned hereby certifies a true and correct copy of the foregoing **NOTICE OF**
5 **INTENT TO PROCEED ON A DEFAULT BASIS** was deposited in the United States Mail at Las
6 Vegas, Nevada, postage fully pre-paid thereon for first-class regular mail and certified mail, return
7 receipt requested, addressed to:

8 Brian Padgett, Esq.
9 611 S. 6th Street
10 Las Vegas, NV 89101
11 *Respondent*

12 **CERTIFIED MAIL RECEIPT NO.: 7019 1640 0000 7877 8814**

13 DATED this 31 day of January, 2020.

14
15
16
17
18
19
20
21
22
23
24
25


Kristi Faust, an employee of
the State Bar of Nevada.



FILED

DEC 23 2019

STATE BAR OF NEVADA
BY: SMM.
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN PADGETT, ESQ.,
Nevada Bar No. 7474

Respondent.

COMPLAINT

TO: Brian Padgett, Esq.
611 S. 6th Street
Las Vegas, NV 89101

PLEASE TAKE NOTICE that pursuant to Supreme Court Rule ("SCR") 105(2) a VERIFIED RESPONSE OR ANSWER to this Complaint must be filed with the Office of Bar Counsel, State Bar of Nevada, 3100 W. Charleston, Blvd, Suite 100, Las Vegas, Nevada, 89102, within twenty (20) days of service of this Complaint. The procedure regarding service is addressed in Supreme Court Rule 109.

GENERAL ALLEGATIONS

1. Complainant, State Bar of Nevada ("State Bar") alleges that Respondent, Brian Padgett, Esq. ("Respondent"), Nevada Bar No. 7474, who is currently an active member of the State Bar of Nevada having been licensed to practice law in the State of Nevada since December 28, 2000, and at all times pertinent to this Complaint having a principal place of business for the

1 practice of law located in Clark County, Nevada, has engaged in acts of misconduct in violation
2 of the Nevada Rules of Professional Conduct ("RPC"), warranting the imposition of professional
3 discipline as set out herein.

4 **OBC 19-0604/Bruce Familian**

5 2. On or about July 25, 2012, Bruce Familian ("Familian") retained Respondent to
6 represent DKB, LLC ("DKB") in an inverse condemnation case against Clark County.

7 3. On September 11, 2012, Respondent filed a Complaint in Inverse Condemnation,
8 initiating case No. A-12-668136-C in the Eight Judicial Circuit Court (the "Inverse Condemnation
9 Case").

10 4. The Inverse Condemnation Case went to trial and DKB was awarded \$116,508 by
11 the jury.

12 5. Following trial, several post-judgment motions were filed regarding attorney's fees,
13 costs, and prejudgment interest on the award. An Order granting the prejudgment interest was filed
14 on November 3, 2017, but the Court requested additional briefing regarding fees and costs.

15 6. Familian retained attorneys Dan Polsenberg ("Polsenberg") and Joel Henriod
16 ("Henriod") of Lewis & Roca ("L&R") to file an appeal of the Inverse Condemnation Case (the
17 "Appeal") as he was not satisfied with the amount awarded by the jury.

18 7. L&R filed a Notice of Appearance in the Inverse Condemnation Case on June 12,
19 2017.

20 8. On or about November 8, 2017, Clark County deposited \$151,599.83 with the
21 District Court, representing the jury verdict plus interest.

22 9. On June 8, 2018, Respondent filed a Motion on Order Shortening Time to Direct
23 Disbursement of Funds on Deposit (the "Motion for Disbursement").

- 1 10. On June 12, 2018, an Order granting the Motion for Disbursement was filed.
- 2 11. L&R were not served with the Motion for Disbursement.
- 3 12. On or about June 20, 2018, Henroid discovered that the Motion for Disbursement
4 and the Order granting same had been filed.
- 5 13. Henroid contacted Respondent's office and expressed concern that they had
6 withdrawn the funds without notifying Familian or L&R, stated that he believed withdrawing the
7 funds might jeopardize Familian's case, and notified Respondent that Familian did not authorize
8 the withdrawal.
- 9 14. On June 22, 2018, Familian emailed Respondent asking why the Motion for
10 Disbursement was filed without Familian's knowledge and why it had been done on shortened
11 time. The email requested the status of the funds and an accounting explaining what happened to
12 any funds received by Respondent.
- 13 15. Respondent replied that he did not yet have the check in hand, but that in his opinion
14 retrieving the funds would not jeopardize Familian's rights on appeal. Respondent stated that he
15 would send Familian a copy of the outstanding bill which Familian could pay out of pocket or
16 from the released funds.
- 17 16. Familian instructed Respondent to stop the process of withdrawing the funds and
18 requested the current bill, stating that he had not received one in over a year.
- 19 17. On June 29, 2018, Respondent's office emailed Familian a copy of an invoice dated
20 June 26, 2018 for \$69,945.73 for services from November 2016 through may 2017, indicating that
21 Familian had yet to be billed for post-trial work.
- 22 18. On October 16, 2018, the Court filed its Decision and Order awarding DKB over
23 \$400,000 in attorney's fees and costs.

19. The same day, Respondent filed a Notice of Filing of Attorney's Lien. The Attorney's Lien Notice did not include an amount.

20. Respondent never filed a Motion to Enforce the Attorney's Lien, as required by NRS 18.015.

21. On October 25, 2018, Familian emailed Respondent and stated that he had no objection if Respondent took the approximately \$70,000 he was owed from the attorney fee award proceeds, but specifically stated that the funds on deposit with the court for the judgment and interest should not be touched during the appeal.

22. However, Familian had already received \$151,599.83 of the judgment funds from the Court on October 22, 2018.

23. As feared by Henriod, Clark County made the argument that DKB had forfeited its right to interest on the judgment from the date that the Court granted the Motion for Disbursal, though the Court ultimately rejected that argument.

24. Respondent never provided with Familian a billing invoice after the June 29, 2018 bill for \$69,945.73.

25. On July 19, 2019, Respondent attempted to obtain an additional \$13,845.45 from funds that Clark County had deposited with the District Court by submitting a proposed order directly to the court without copying any other parties or filing a motion. The court returned the proposed order to Respondent and courtesy copies to Polsenberg.

OBC19-0798/Ian Ritchie

26. Ian Ritchie ("Ritchie") was hired as the head of security for CWNevada ("CWN"), a marijuana dispensary of which Respondent is the CEO, from approximately 2017 to March 26, 2019.

1 27. Prior to his employment at CWN, Ritchie was employed as the director of sales
2 for Pro-Tect Security ("ProTect").

3 28. While employed with ProTect, Ritchie signed a non-compete agreement.

4 29. Despite the non-compete agreement, Ritchie left ProTect and founded Round
5 Table Security ("RTS").

6 30. In or about May, 2015, ProTect sued, *inter alia*, Ritchie for violating the non-
7 compete agreement. (the "non-compete lawsuit")

8 31. Ultimately, the non-compete lawsuit was settled with Ritchie agreeing to be
9 jointly and severally liable for payments to ProTect along with RTS.

10 32. Though Respondent was not counsel of record in the non-compete lawsuit,
11 Respondent advised Ritchie that he should agree to be joint and severally liable on the judgment,
12 and that Respondent would pay the judgment.

13 33. Neither Respondent, Ritchie, or RTS satisfied the settlement.

14 34. In February of 2017, ProTect sued, *inter alia*, Ritchie for breach of contract. (the
15 "Breach Case")

16 35. On March 12, 2018, Respondent entered his appearance on behalf of Ritchie in
17 the Breach Case.

18 36. On June 29, 2018, the Court entered summary judgment in favor of ProTect and
19 against Ritchie for \$129,999.92.

20 37. On July 27, 2018, Respondent filed a Notice of Appeal in the District Court. (the
21 "Breach Appeal")

22 38. On December 4, 2018, a Nevada Supreme Court mandated settlement conference
23 was held in the Breach Appeal.

39. Respondent continued to communicate to Ritchie that Respondent would give Ritchie money to pay off ProTect.

40. Ultimately, Respondent withdrew as counsel of record from the Breach Appeal.

41. Ritchie was unable to secure new counsel, and the Breach Appeal was dismissed.

42. In his response to the State Bar, Respondent stated, "I am not permitted to advance funds to a client, nor would I have agreed to do so in Mr. Ritchie's Case..."

Count One

RPC 1.2 (Scope of Representation and Allocation of Authority Between Client and Lawyer)

43. RPC 1.2 States, in relevant part:

... a lawyer shall abide by a client's decision concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued...

44. By withdrawing funds from the court, against the express wishes of Familian and his appeal counsel, Respondent exceeded his authority.

45. Respondent knew or should have known of his duty not to exceed his authority.

46. As a result of Respondent's misconduct, Familian suffered actual or potential injury.

47. In light of the foregoing, including without limitation paragraphs 1 through 46, Respondent has violated RPC 1.2.

Count Two

RPC 1.4 (Communication)

48. RPC 1.4 States, in relevant part:

(a) A lawyer shall:

1 (1) Promptly inform the client of any decision or circumstance with respect to which the
2 client's informed consent is required by these Rules;

3 (2) Reasonably consult with the client about the means by which the client's objectives
4 are to be accomplished;

5 (3) Keep the client reasonably informed about the status of the matter...
6 act with reasonable diligence and promptness in representing a client.

7 (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the
8 client to make informed decisions regarding the representation.

9 49. Respondent failed to adequately communicate with Familian when he submitted
10 motions and orders for disbursement to the court without informing Familian.

11 50. Respondent knew or should have known of his duty to communicate.

12 51. As a result of Respondent's misconduct, Familian suffered actual or potential harm.

13 **Count Three**

14 **RPC 1.8 (Conflict of Interest; Current Clients; Specific Rules)**

15 52. RPC 1.8 states, in relevant part:

16 (e) a lawyer shall not provide financial assistance to a client in connection with pending or
17 contemplated litigation...

18 53. Respondent offered to pay the actual amount of the judgment against Ritchie.

19 54. Respondent knew or should have known that he was prohibited from advancing the
20 amount of the judgment to Ritchie.

21 55. As a result of Respondent's misconduct, Ritchie suffered actual or potential harm.

22 56. In light of the forgoing, including without limitation paragraphs 1 through 55,
23 Respondent has violated RPC 1.8.

Count Four

RPC 1.15 (Safekeeping Property)

57. RPC 1.15 states, in relevant part:

(e) When in the course of representation a lawyer is in possession of funds or other property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved.

58. A dispute existed between Familian and Respondent concerning the funds removed from the judgment amount, held by the court.

59. Despite this dispute, Respondent failed to safekeep the funds.

60. Respondent knew or should have known of his responsibility to safekeep these funds.

61. As a result of Respondent's misconduct, Familian suffered actual or potential harm.

62. In light of the foregoing, including without limitation paragraphs 1 through 61, Respondent has violated RPC 1.15.

Count Five

RPC 3.3 (Candor Toward the Tribunal)

63. RPC 3.3 states, in relevant part:

(d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not those facts are adverse.

64. Respondent made an ex-parte motion to the court regarding the distribution of funds, as well as submitting proposed orders ex-parte, without informing the court of the material fact that Familian had requested that the funds remain on deposit with the court.

65. Respondent knew or should have known of his duty of candor to the court.

66. As a result of Respondent's misconduct, Familian suffered actual or potential harm.

67. In light of the foregoing, including without limitation paragraphs 1 through 66,
Respondent has violated RPC 3.3

Count Six

8.1 (Bar Admission and Disciplinary Matters)

68. RPC 8.1 states, in relevant part:

...a lawyer in connection ... with a disciplinary matter, shall not:

(a) Knowingly make a false statement of material fact.

69. In his response to State Bar investigators regarding the Ritchie matter, Respondent stated that he had not offered to advance funds to Ritchie.

70. This was a false statement of material fact.

71. Respondent knew or should have known that he was making a false statement of material fact to the State Bar.

72. As a result of Respondent's misconduct, the legal profession suffered actual or potential injury.

73. In light of the forgoing, including without limitation paragraphs 1 through 72, Respondent has violated RPC 8.1.

11

Count Seven

RPC 8.4 (Misconduct)

74. RPC 8.4 states, in relevant part:

It is professional misconduct for a lawyer to:

(a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

...

(c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) Engage in conduct that is prejudicial to the administration of justice;...

75. Respondent violated, or attempted to violate the rules of professional conduct as described above.

76. Respondent engaged in acts involving dishonestly, fraud, deceit or misrepresentation both by deceitfully offering to pay Ritchie in the breach of contract matter and by misrepresenting material facts to the State Bar.

77. Respondent engaged in conduct that is prejudicial to the administration of justice by submitting ex-parte motions and proposed orders to the court in the Familian matter against his client's wishes and without proper notice, as well as without providing all relevant facts to the court.

78. Respondent knew or should have known of his responsibility not to commit professional misconduct.

79. As a result of Respondent's misconduct, the legal profession, Familian, and Ritchie suffered actual or potential harm.

1 80. In light of the foregoing, including without limitation paragraphs 1 through 79,
2 Familian has violated RPC 8.4.

3 WHEREFORE, Complainant prays as follows:

- 4 1. That a hearing be held pursuant to Nevada Supreme Court Rule 105;
5 2. That Respondent be assessed the costs of the disciplinary proceeding pursuant to
6 SCR 120(1); and,
7 3. That pursuant to SCR 102, such disciplinary action be taken by the Southern
8 Nevada Disciplinary Board against Respondent as may be deemed appropriate under the
9 circumstances.

10
11 DATED this 23 day of December, 2019.

12 STATE BAR OF NEVADA
13 Daniel M. Hooge, Bar Counsel

14 By: 

15 Matthew R. Carlyon, Assistant Bar Counsel
16 Nevada Bar No. 12712
17 3100 W. Charleston Blvd, Ste. 100
18 Las Vegas, Nevada 89102



FILED

MAR 04 2020

STATE BAR OF NEVADA
BY: B. Felix
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN PADGETT, ESQ.

NV BAR No. 7474

Respondent.

**ORDER APPOINTING
HEARING PANEL CHAIR**

IT IS HEREBY ORDERED that the following member of the Southern Nevada
Disciplinary Board has been designated as the Hearing Panel Chair.

1. Dana Oswalt, Esq., Chair

DATED this 2nd day of March, 2020.

STATE BAR OF NEVADA

By: Kenneth E. Hogan

Kenneth E. Hogan, Esq.
Nevada Bar No. 10083
Chair, Southern Nevada Disciplinary Board

CERTIFICATE OF SERVICE

The undersigned hereby certifies a true and correct copy of the foregoing **ORDER APPOINTING HEARING PANEL CHAIR** was deposited in the United States Mail at Las Vegas, Nevada, postage fully pre-paid thereon for first-class regular mail addressed to:

Brian Padgett, Esq.
611 S. 6th Street
Las Vegas, NV 89101

and via email to:

1. Dana Oswalt, Esq. (Panel Chair): dana@bensonbingham.com
2. Brian Padgett, Esq. (Respondent): brian@briancpadgett.com
3. Gerard Gosioco, Esq. (Bar Counsel): gerardg@nvbar.org

DATED this 4 day of March, 2020.

By: Kristi Faust
Kristi Faust, an employee of
the State Bar of Nevada.



FILED

MAR 19 2020

STATE BAR OF NEVADA
BY: B. Felix
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,
Complainant,

vs.

BRIAN C. PADGETT, ESQ.,
Nevada Bar No. 7474

Respondent.

SCHEDULING ORDER

Pursuant to Rule 17 of the Disciplinary Rules of Procedure ("DRP"), on Wednesday, March 18, 2020, at 2:00 p.m., Dana P. Oswalt, Esq., the Formal Hearing Panel Chair, met telephonically with Gerard Gosioco, Esq., Assistant Bar Counsel, on behalf of the State Bar of Nevada, to conduct the Initial Case Conference in this matter. Respondent failed to appear.

During the Case Conference the parties discussed disclosures, discovery issues, the potential for resolution of this matter prior to the hearing, a status conference, and the hearing date.

1. The Formal Hearing for this matter is hereby set for **three (3) days starting at 9:00 a.m. on June 6, 7, and 8, 2020** and shall take place at the State Bar Office located at 3100 W. Charleston Blvd., Suite 100, Las Vegas, Nevada 89102.

2. On or before **March 23, 2020, at 5:00 p.m.**, the State Bar of Nevada's initial disclosures shall be served on all parties. The documents provided by the State Bar shall be bates stamped with numerical designations. See DRP 17 (a).

1 3. On or before April 2, 2020, at 5:00 p.m., Respondent's initial disclosures shall be
2 served on all parties. The documents provided by the Respondent shall be bates stamped with
3 alphabetical exhibit designations. *See* DRP 17 (a).

4 4. On or before April 13, 2020, at 5:00 p.m., the parties shall file and serve any
5 Motions.

6 5. On or before April 23, 2020, at 5:00 p.m., all oppositions to the Motions, if any,
7 shall be filed and served on the parties.

8 6. On or before April 28, 2020, at 5:00 p.m., all replies to any opposition, if any, shall
9 be filed and served on the parties.

10 7. On or before May 12, 2020, at 5:00 p.m., the parties shall serve a Final
11 Designation of witnesses expected to testify and exhibits expected to be presented at the Formal
12 Hearing in this matter, pursuant to SCR 105(2)(d), DRP 17(a) and DRP 21.

13 8. All documents disclosed shall be bates stamped, the State Bar will use numerical
14 exhibit designations and Respondent will use alphabetical exhibit designations, pursuant to DRP
15 17.

16 9. On May 26, 2020, at 2:00 p.m., the parties shall meet telephonically with Dana P.
17 Oswalt, Esq. for the Pre-hearing Conference. Any pending issues, including pending Motions, will
18 be addressed at the Pre-hearing Conference. The parties shall use the State Bar conference bridge
19 (877) 594-8353 and the passcode is 16816576#.

20 Pursuant to DRP 23, at the Pre-hearing conference (i) the parties shall discuss all matters
21 needing attention prior to the hearing date, (ii) the Chair may rule on any motions or disputes
22 including motions to exclude evidence, witnesses, or other pretrial evidentiary matter, and (iii) the
23 parties shall discuss and determine stipulated exhibits proffered by either the State Bar or
24 Respondent as well as a stipulated statement of facts, if any.

25

10. The parties stipulate to waive SCR 105(2)(d) to allow for the formal appointment of the remaining hearing panel members on a date that is greater than 45 days prior to the scheduled hearing.

Based on the parties' verbal agreement to the foregoing during the telephonic Initial Conference and good cause appearing, IT IS SO ORDERED.

Dated this 19th day of March, 2020.

SOUTHERN NEVADA DISCIPLINARY BOARD

By:

Dana P. Oswalt, Esq.
Hearing Panel Chair


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies a true and correct copy of the foregoing **Scheduling Order** was sent via electronic mail to:

- 1. Dana P. Oswalt, Esq. (Hearing Panel Chair): dana@bensonbingham.com
- 2. Brian Padgett, Esq. (Respondent): brian@briancpadgett.com
- 3. Gerard Gosioco, Esq. (Assistant Bar Counsel): gerardg@nvbar.org

DATED this 19 day of March, 2020.



Sonia Del Rio, an employee of
the State Bar of Nevada.



FILED

MAR 24 2020

STATE BAR OF NEVADA
BY: D. Felix
OFFICE OF BAR COUNSEL

Case No.: OBC19-0604; OBC19-0798

STATE BAR OF NEVADA

SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN C. PADGETT, ESQ.,
Nevada Bar No. 7474,

Respondent.

ENTRY OF DEFAULT

TO: Brian C. Padgett, Esq.
611 S. 6th St.
Las Vegas, NV 89101

PROCEDURAL HISTORY

The State Bar of Nevada filed and served its Complaint and First Designation of Hearing Panel Members, in accordance with Supreme Court Rule 109, upon BRIAN C. PADGETT, Esq. (hereinafter "Respondent"), on or about December 23, 2019. A First Amended Complaint was filed on or about January 7, 2020. The First Amended Complaint was delivered to the Respondent's SCR 79 address on or about January 7, 2020.

A Notice of Intent to Proceed on a Default Basis (hereinafter "Notice") was filed and served via certified mail on or about January 31, 2020. The State Bar received a return receipt postcard showing the Notice was delivered on or about January 14, 2020. The Notice was also served via (1) Certified Return Receipt U.S. Mail at the SCR 79 address.

Although Respondent was supposed to provide a response to the State Bar's First Amended Complaint by February 24, 2020. Respondent did not provide his "response" to the State Bar until

1 February 26, 2020. Rather than admit, deny, or respond to any of the State Bar's allegations,
2 Respondent goes on a tangent about how he is the owner of a cannabis firm, and that there is a
3 conspiracy to takeover his cannabis firm, as well as damage his "standing in the practice of law."
4 Respondent fails to provide one substantive response to the State Bar's allegations.

5 On or about March 18, 2020, an Initial Case Conference ("ICC") was held. Respondent was
6 not present during the ICC.

7 **ORDER**

8 **IT APPEARING** that the Respondent, BRIAN C. PADGETT, Esq., is in default for failure
9 to plead or otherwise defend as required by law, **DEFAULT** is hereby entered against Respondent.

10 The allegations set forth in the First Amended Complaint filed on or about January 7, 2020,
11 are deemed admitted.

12 The Formal Hearing regarding the appropriate sanction to issue in this matter shall be
13 conducted on the 8th of June 2020, starting at 9:00 a.m., at the State Bar of Nevada's office located
14 at 3100 W. Charleston Blvd., Ste. 100, Las Vegas, NV 89102.

15 **IT IS SO ORDERED.**

16 Dated this 24 of March, 2020.

17 Dana P. Oswalt
Dana P. Oswalt (Mar 24, 2020)

18 Dana Oswalt, Esq., Hearing Panel Chair
Southern Nevada Disciplinary Board

19 Submitted by:
20 STATE BAR OF NEVADA
DANIEL M. HOOGE, BAR COUNSEL

21
22 /s/ Gerard Gosioco
By: /s/ Gerard Gosioco (Mar 24, 2020)
23 Gerard Gosioco, Esq.
Assistant Bar Counsel
24 3100 W. Charleston Blvd., Ste. 100
Las Vegas, NV 89102
25








Entry of Default

Final Audit Report

2020-03-24

Created:	2020-03-24
By:	Sonia Del Rio (soniad@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAxHSKR1yHyN7cb7L8f6pGaTdTfH9YKDH

"Entry of Default" History

-  Document created by Sonia Del Rio (soniad@nvbar.org)
2020-03-24 - 7:11:11 PM GMT- IP address: 24.253.47.29
-  Document emailed to /s/ Gerard Gosloco (gerardg@nvbar.org) for signature
2020-03-24 - 7:11:31 PM GMT
-  Email viewed by /s/ Gerard Gosloco (gerardg@nvbar.org)
2020-03-24 - 7:12:09 PM GMT- IP address: 70.173.56.155
-  Document e-signed by /s/ Gerard Gosioco (gerardg@nvbar.org)
Signature Date: 2020-03-24 - 7:12:36 PM GMT - Time Source: server- IP address: 70.173.56.155
-  Document emailed to Dana P. Oswalt (dana@bensonbingham.com) for signature
2020-03-24 - 7:12:38 PM GMT
-  Email viewed by Dana P. Oswalt (dana@bensonbingham.com)
2020-03-24 - 7:14:30 PM GMT- IP address: 184.184.230.226
-  Document e-signed by Dana P. Oswalt (dana@bensonbingham.com)
Signature Date: 2020-03-24 - 7:15:52 PM GMT - Time Source: server- IP address: 184.184.230.226
-  Signed document emailed to Sonia Del Rio (soniad@nvbar.org), /s/ Gerard Gosioco (gerardg@nvbar.org) and Dana P. Oswalt (dana@bensonbingham.com)
2020-03-24 - 7:15:52 PM GMT



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF SERVICE


The undersigned hereby certifies a true and correct copy of the foregoing **ENTRY OF**
DEFAULT was deposited via U.S. Mail to:

Brian C. Padgett, Esq.
611 S. 6th St.
Las Vegas, NV 89101

And via email to:

1. Dana Oswalt, Esq. (Panel Chair): dana@bensonbingham.com
2. Brian C. Padgett, Esq. (Respondent): brian@briancpadgett.com
3. Gerard Gosioco, Esq. (Assistant Bar Counsel): gerardg@nvbar.org

DATED this 24 day of March, 2020.

By: 
Sonia Del Rio,
an employee of the State Bar of Nevada.



FILED

MAR 24 2020

STATE BAR OF NEVADA

BY: D. Felix
OFFICE OF BAR COUNSEL

Case No: OBC19-0604; OBC19-0798

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

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN C. PADGETT, ESQ.,
Nevada Bar No. 7474

Respondent.

**STATE BAR'S INITIAL DISCLOSURE
OF WITNESSES AND DOCUMENTS**

PLEASE TAKE NOTICE that the following is a list of witnesses and a summary of evidence which may be offered against Respondent at the time of the Formal Hearing, in the above-entitled complaint.

A. Documentary Evidence

Any and all documentation contained in the State Bar of Nevada's files including but not limited to, correspondence, emails, memorandums, text messages, notes, payments, invoices, bank records, receipts, billing entries and pleadings regarding grievance file numbers OBC19-0604 and OBC19-0798.

Any and all documentation contained in records of the State Bar of Nevada regarding Respondent's licensure, compliance with reporting requirements, and disciplinary history.

The State Bar reserves the right to supplement this list as necessary.

Exhibit#	Document	Bates Stamped
1.	Formal Hearing Packet	will be produced prior to hearing
2.	Affidavit of Prior Discipline	will be produced at the time of hearing
3.	Engagement Letter Dated July 26, 2012	SBN Exhibit 3 001-006
4.	Lewis & Roca's Notice of Appearance Filed June 12, 2017	SBN Exhibit 4 001-002
5.	Declaration of Joel Henroid	SBN Exhibit 5 001-011
6.	Motion on Order Shortening Time to Direct Disbursement of Funds on Deposit Filed June 8, 2018	SBN Exhibit 6 001-019
7.	Order Granting Immediate Disbursement of Proceeds Filed June 18, 2018	SBN Exhibit 7 001-002
8.	Email from Lewis & Roca to Respondent Dated June 20, 2018	SBN Exhibit 8 001
9.	Email between Respondent and Familian Dated June 22, 2018	SBN Exhibit 9 001-002
10.	Email to Familian attaching June 26, 2018 invoice Dated June 29, 2018	SBN Exhibit 10 001-017
11.	Decision and Order, Case No. A-12-668136-C Filed October 16, 2018	SBN Exhibit 11 001-021
12.	Notice of Attorney's Lien Filed October 16, 2018	SBN Exhibit 12 001-003
13.	Email from Familian to Respondent Filed October 25, 2018	SBN Exhibit 13 001
14.	Check for Judgement Proceeds Dated October 22, 2018	SBN Exhibit 14 001
15.	Declaration of Abraham Smith	SBN Exhibit 15 001-003
16.	Respondent's Accounting of DKB Funds	SBN Exhibit 16 001
17.	NRS18.015	SBN Exhibit 17 001
18.	Leventhal v. Black & Lobello	SBN Exhibit 18 001-005
19.	Respondent's invoices to DKB/Familian	SBN Exhibit 19 001-086
20.	Motion for Attorney's Fees Filed February 2, 2017	SBN Exhibit 20 001-103
21.	Respondent's July 19, 2019, attempt to collect additional funds	SBN Exhibit 21 001-004
22.	Motion to Enforce Attorney's Lien filed in Case No. A-16-731822-C on February 26, 2019	SBN Exhibit 22 001-126

23.	Notice of Appearance in Case No. A-17-751033-C Filed March 12, 2018	SBN Exhibit 23 001-002
24.	Notice of Entry of Order Filed July 5, 2018	SBN Exhibit 24 001-007
25.	Docket- Nevada Supreme Case No. 76584	SBN Exhibit 25 001-004
26.	Text Messages between Respondent and Ritchie	SBN Exhibit 26 001-009
27.	Minutes from February 19, 2019 Hearing	SBN Exhibit 27 001
28.	Notice of Withdrawal Filed March 19, 2019	SBN Exhibit 28 001-002
29.	Motion to Withdraw Filed March 25, 2019	SBN Exhibit 29 001-005
30.	Motion to Withdraw Filed April 1, 2019	SBN Exhibit 30 001-005
31.	Order Granting Motion to Withdraw Filed April 18, 2019	SBN Exhibit 31 001-002
32.	Affidavit Claiming Exemption from Execution Dated March 20, 2019	SBN Exhibit 32 001-010
33.	Diana Ritchie's Letter of Resignation Dated November 27, 2018	SBN Exhibit 33 001-002

The State Bar incorporates by reference all documents identified by Respondent in these matters.

B. Witnesses and Brief Statement of Facts

1. Respondent, Brian C. Padgett, Esq., will be called and would be expected to testify regarding his conduct and communications surrounding the events related to, and any and all documents pertinent to, each of the charged violations of the Rules of Professional Conduct, including but not limited to facts pertaining to the breach of his professional responsibilities as an attorney, his mental state pursuant to ABA Standards, the harm resulting from his conduct, and any aggravating and mitigating factors pursuant to Supreme Court Rule 102.5. Respondent is expected to provide testimony regarding the facts and circumstances regarding OBC19-0604 and OBC19-0798.

1 2. Louise Watson, an investigator with the State Bar of Nevada Office of Bar Counsel,
2 is expected to provide testimony regarding her investigation of OBC19-0604 and OBC19-0798,
3 including but not limited to, information and documents provided by Respondent and Grievant(s),
4 communications with Respondent and Grievant(s), and Respondent's disciplinary history.

5 3. Bruce Familian is expected to offer testimony regarding the facts and circumstances
6 regarding Case No. OBC19-0604, including but not limited to, the facts and circumstances
7 surrounding the allegations contained in said grievance.

8 4. Joel Henriod, Esq., is expected to offer testimony regarding the facts and
9 circumstances regarding Case No. OBC19-0604, including but not limited to, the facts and
10 circumstances surrounding the allegations contained in said grievance.

11 5. Daniel Polsenberg, Esq., is expected to offer testimony regarding the facts and
12 circumstances regarding Case No. OBC19-0604, including but not limited to, the facts and
13 circumstances surrounding the allegations contained in said grievance.

14 6. Abraham Smith, Esq., is expected to offer testimony regarding the facts and
15 circumstances regarding Case No. OBC19-0604, including but not limited to, the facts and
16 circumstances surrounding the allegations contained in said grievance.

17 7. Ian Ritchie is expected to offer testimony regarding the facts and circumstances
18 regarding Case No. OBC19-0798, including but not limited to, the facts and circumstances
19 surrounding the allegations contained in said grievance.

20 ///

21 ///

22 ///

23 ///

24 ///

25

1 8. Diana Ritchie is expected to offer testimony regarding the facts and circumstances
2 Regarding Case No. OBC19-0798, including but not limited to, the facts and circumstances
3 surrounding the allegations contained in said grievance.

4 Dated this 24 day of March, 2020.

5
6 **STATE BAR OF NEVADA**
7 **DANIEL M. HOOGE, BAR COUNSEL**

8 */s/ Gerard Gosioco*
9 */s/ Gerard Gosioco (Mar 24, 2020)*
10 **Gerard Gosioco, Assistant Bar Counsel**
11 Nevada Bar No. 14371
12 3100 West Charleston Boulevard, Suite 100
13 Las Vegas, Nevada 89102
14 (702) 382-2200
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF SERVICE

The undersigned hereby certifies a true and correct copy of the foregoing **STATE BAR'S INITIAL DISCLOSURE OF WITNESSES DOCUMENTS** was deposited via U.S. Mail to:

Brian C. Padgett, Esq.
611 S. 6th St.
Las Vegas, NV 89101

And via email to:

1. Dana Oswalt, Esq. (Panel Chair): dana@bensonbingham.com
2. Brian C. Padgett, Esq. (Respondent): brian@briancpadgett.com
3. Gerard Gosioco, Esq. (Assistant Bar Counsel): gerardg@nvbar.org

DATED this 24 day of March, 2020.

By: *Sonia Del Rio*
Sonia Del Rio,
an employee of the State Bar of Nevada.


SBN Initial Disclosures


Final Audit Report


2020-03-24


Created:	2020-03-24
By:	Sonia Del Rio (soniad@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAQK2M4lxa3o2LMo0URg3xbJ-tuLpm1J


"SBN Initial Disclosures" History


-  Document created by Sonia Del Rio (soniad@nvbar.org)
2020-03-24 - 5:28:27 PM GMT- IP address: 24.253.47.29


-  Document emailed to /s/ Gerard Gosioco (gerardg@nvbar.org) for signature
2020-03-24 - 5:29:19 PM GMT


-  Email viewed by /s/ Gerard Gosioco (gerardg@nvbar.org)
2020-03-24 - 5:30:09 PM GMT- IP address: 70.173.56.155

-  Document e-signed by /s/ Gerard Gosioco (gerardg@nvbar.org)
Signature Date: 2020-03-24 - 5:30:53 PM GMT - Time Source: server- IP address: 70.173.56.155

-  Document emailed to Sonia Del Rio (soniad@nvbar.org) for signature
2020-03-24 - 5:30:54 PM GMT

-  Email viewed by Sonia Del Rio (soniad@nvbar.org)
2020-03-24 - 5:31:39 PM GMT- IP address: 24.253.47.29

-  Document e-signed by Sonia Del Rio (soniad@nvbar.org)
Signature Date: 2020-03-24 - 5:31:58 PM GMT - Time Source: server- IP address: 24.253.47.29

-  Signed document emailed to /s/ Gerard Gosioco (gerardg@nvbar.org) and Sonia Del Rio (soniad@nvbar.org)
2020-03-24 - 5:31:58 PM GMT





FILED

APR 03 2020

STATE BAR OF NEVADA
BY: *[Signature]*
OFFICE OF BAR COUNSEL

Case Nos: OBC19-0798; OBC19-0604

STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN PADGETT, ESQ.
NV BAR No. 7474
Respondent.

**ORDER APPOINTING
FORMAL HEARING PANEL**

IT IS HEREBY ORDERED that the following members of the Southern Nevada Disciplinary Board have been designated as members of the formal hearing panel in the above-entitled action. The hearing will be convened on the 1st day of June, 2020 starting at 9:00 a.m. at the State Bar of Nevada, located at 3100 W. Charleston Blvd. Ste. 100, Las Vegas, NV 89102.

1. Dana Oswalt, Esq., Chair;
2. Farhan Naqvi, Esq.
3. Peter Ossowski, Laymember

DATED this 1 day of April, 2020.

STATE BAR OF NEVADA

Kenneth E Hogan

By: Kenneth E Hogan (Apr 1, 2020)

Kenneth E. Hogan, Esq.
Nevada Bar No. 10083
Chair, Southern Nevada Disciplinary Board

Hearing Panel Ord_Padgett

Final Audit Report

2020-04-01

Created:	2020-04-01
By:	Cathi Britz (cathib@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAA3IncUod_gbQHlBn7MjppKyLIYiAd6rBs

"Hearing Panel Ord_Padgett" History

 Document created by Cathi Britz (cathib@nvbar.org)

2020-04-01 - 4:35:25 PM GMT- IP address: 71.38.7.111

 Document emailed to Kenneth E Hogan (ken@h2legal.com) for signature

2020-04-01 - 4:38:17 PM GMT

 Email viewed by Kenneth E Hogan (ken@h2legal.com)

2020-04-01 - 5:06:27 PM GMT- IP address: 184.53.16.166

 Document e-signed by Kenneth E Hogan (ken@h2legal.com)

Signature Date: 2020-04-01 - 5:06:57 PM GMT - Time Source: server- IP address: 184.53.16.166

 Signed document emailed to Cathi Britz (cathib@nvbar.org) and Kenneth E Hogan (ken@h2legal.com)

2020-04-01 - 5:06:57 PM GMT



CERTIFICATE OF SERVICE

The undersigned hereby certifies a true and correct copy of the foregoing **ORDER APPOINTING HEARING PANEL** was served *via email to*:

1. Dana Oswalt, Esq. (Panel Chair): dana@bensonbingham.com
2. Farhan Naqvi, Esq. (Panel Member): Naqvi@naqvilaw.com
3. Peter Ossowski (Laymember): p_e_ossowski@yahoo.com
4. Brian Padgett, Esq. (Respondent): brian@briancpadgett.com
5. Gerard Gosioco, Esq. (Bar Counsel): gerardg@nvbar.org

DATED this 21st day of April, 2020.

By: Kristi Faust
Kristi Faust, an employee of
the State Bar of Nevada.

Case No.: OBC19-0604; OBC19-0798



FILED

APR 09 2020

STATE BAR OF NEVADA

BY: *[Signature]*
OFFICE OF BAR COUNSEL

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

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN C. PADGETT, ESQ.,
Nevada Bar No. 7474,

Respondent.

**NOTICE OF AMENDED
FORMAL HEARING DATE**

TO: Brian C. Padgett, Esq.
611 S. 6th St.
Las Vegas, NV 89101

PLEASE TAKE NOTICE that the formal hearing in the above-entitled action previously scheduled for June 1, 2020, has been re-scheduled for **one day on Monday, June 8, 2020, at the hour of 9:00 a.m.**, The hearing will be conducted at the State Bar of Nevada located at 3100 W. Charleston Blvd., Suite 100, Las Vegas, NV 89102, (702) 382-2200.

Please be further advised that you are entitled to be represented by counsel, to cross-examine witnesses, and to present evidence.

DATED this 9 day of April, 2020.

STATE BAR OF NEVADA
Daniel M. Hooge, Bar Counsel

By: */s/ Gerard Gosioco*
/s/ Gerard Gosioco (Apr 9, 2020)

Gerard Gosioco, Assistant Bar Counsel
3100 W. Charleston Blvd., Suite 100
Las Vegas, NV 89104
(702) 382-2200

1 **CERTIFICATE OF SERVICE**

2 The undersigned hereby certifies a true and correct copy of the foregoing NOTICE OF
3 **AMENDED FORMAL HEARING DATE** was personally served to:

4 Brian C. Padgett, Esq.
5 611 S. 6th St.
6 Las Vegas, NV 89101

6 *and via email to:*

- 7 1. Dana Oswalt, Esq. (Panel Chair): dana@bensonbingham.com
8 2. Farhan Naqvi, Esq. (Panel Member): Naqvi@naqvilaw.com
9 3. Peter Ossowski (Laymember): p_e_ossowski@yahoo.com
4. Brian Padgett, Esq. (Respondent): brian@briancpadgett.com
5. Gerard Gosioco, Esq. (Bar Counsel): gerardg@nvbar.org

10 DATED this 9 day of April, 2020.

11 By: Kristi Faust
12 Kristi Faust, an employee of
13 the State Bar of Nevada.
14
15
16
17
18
19
20
21
22
23
24
25


2020.04.08 Padget--Notice of Formal Hearing


Final Audit Report


2020-04-09


Created:	2020-04-09
By:	Kristi Faust (kristif@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAHHow7uDvKk0DNZBSQcrC-6SzlyXeQqzF


"2020.04.08 Padget--Notice of Formal Hearing" History


-  Document created by Kristi Faust (kristif@nvbar.org)
2020-04-09 - 4:28:11 PM GMT- IP address: 68.224.139.231


-  Document emailed to /s/ Gerard Gosioco (gerardg@nvbar.org) for signature
2020-04-09 - 4:30:01 PM GMT


-  Email viewed by /s/ Gerard Gosioco (gerardg@nvbar.org)
2020-04-09 - 4:30:47 PM GMT- IP address: 70.173.56.155

-  Document e-signed by /s/ Gerard Gosioco (gerardg@nvbar.org)
Signature Date: 2020-04-09 - 4:32:05 PM GMT - Time Source: server- IP address: 70.173.56.155

-  Document emailed to Kristi Faust (kristif@nvbar.org) for signature
2020-04-09 - 4:32:07 PM GMT

-  Email viewed by Kristi Faust (kristif@nvbar.org)
2020-04-09 - 4:48:03 PM GMT- IP address: 68.224.139.231

-  Document e-signed by Kristi Faust (kristif@nvbar.org)
Signature Date: 2020-04-09 - 4:48:14 PM GMT - Time Source: server- IP address: 68.224.139.231

-  Signed document emailed to /s/ Gerard Gosioco (gerardg@nvbar.org) and Kristi Faust (kristif@nvbar.org)
2020-04-09 - 4:48:14 PM GMT



FILED

MAY 12 2020

STATE BAR OF NEVADA
BY: *B. Felix*
OFFICE OF BAR COUNSEL

Case No: OBC19-0604; OBC19-0798

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

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN C. PADGETT, ESQ.,
Nevada Bar No. 7474

Respondent.

**STATE BAR'S FINAL DISCLOSURE
OF WITNESSES AND DOCUMENTS**

PLEASE TAKE NOTICE that the following is a list of witnesses and a summary of evidence which may be offered against Respondent at the time of the Formal Hearing, in the above-entitled complaint.

A. Documentary Evidence

Any and all documentation contained in the State Bar of Nevada's files including but not limited to, correspondence, emails, memorandums, text messages, notes, payments, invoices, bank records, receipts, billing entries and pleadings regarding grievance file numbers OBC19-0604 and OBC19-0798.

Any and all documentation contained in records of the State Bar of Nevada regarding Respondent's licensure, compliance with reporting requirements, and disciplinary history.

The State Bar reserves the right to supplement this list as necessary.

Exhibit#	Document	Bates Stamped
1.	Formal Hearing Packet	will be produced prior to hearing
2.	Affidavit of Prior Discipline	will be produced at the time of hearing
3.	Engagement Letter Dated July 26, 2012	SBN Exhibit 3 001-006
4.	Lewis & Roca's Notice of Appearance File June 12, 2017	SBN Exhibit 4 001-002
5.	Declaration of Joel Henroid	SBN Exhibit 5 001-011
6.	Motion on Order Shortening Time to Direct Disbursement of Funds on Deposit Filed June 8, 2018	SBN Exhibit 6 001-019
7.	Order Granting Immediate Disbursement of Proceeds Filed June 18, 2018	SBN Exhibit 7 001-002
8.	Email from Lewis & Roca to Respondent Dated June 20, 2018	SBN Exhibit 8 001
9.	Email between Respondent and Familian Dated June 22, 2018	SBN Exhibit 9 001-002
10.	Email to Familian attaching June 26, 2018 invoice Dated June 29, 2018	SBN Exhibit 10 001-017
11.	Decision and Order, Case No. A-12-668136-C Filed October 16, 2018	SBN Exhibit 11 001-021
12.	Notice of Attorney's Lien Filed October 16, 2018	SBN Exhibit 12 001-003
13.	Email from Familian to Respondent Filed October 25, 2018	SBN Exhibit 13 001
14.	Check for Judgement Proceeds Dated October 22, 2018	SBN Exhibit 14 001
15.	Declaration of Abraham Smith	SBN Exhibit 15 001-003
16.	Respondent's Accounting of DKB Funds	SBN Exhibit 16 001
17.	NRS18.015	SBN Exhibit 17 001
18.	Leventhal v. Black & Lobello	SBN Exhibit 18 001-005
19.	Respondent's invoices to DKB/Familian	SBN Exhibit 19 001-086
20.	Motion for Attorney's Fees Filed February 2, 2017	SBN Exhibit 20 001-103
21.	Respondent's July 19, 2019, attempt to collect additional funds	SBN Exhibit 21 001-004
22.	Motion to Enforce Attorney's Lien filed in Case No. A-16-731822-C on February 26, 2019	SBN Exhibit 22 001-126

23.	Notice of Appearance in Case No. A-17-751033-C Filed March 12, 2018	SBN Exhibit 23 001-002
24.	Notice of Entry of Order Filed July 5, 2018	SBN Exhibit 24 001-007
25.	Docket- Nevada Supreme Case No. 76584	SBN Exhibit 25 001-004
26.	Text Messages between Respondent and Ritchie	SBN Exhibit 26 001-009
27.	Minutes from February 19, 2019 Hearing	SBN Exhibit 27 001
28.	Notice of Withdrawal Filed March 19, 2019	SBN Exhibit 28 001-002
29.	Motion to Withdraw Filed March 25, 2019	SBN Exhibit 29 001-005
30.	Motion to Withdraw Filed April 1, 2019	SBN Exhibit 30 001-005
31.	Order Granting Motion to Withdraw Filed April 18, 2019	SBN Exhibit 31 001-002
32.	Affidavit Claiming Exemption from Execution Dated March 20, 2019	SBN Exhibit 32 001-010
33.	Diana Ritchie's Letter of Resignation Dated November 27, 2018	SBN Exhibit 33 001-002

The State Bar incorporates by reference all documents identified by Respondent in these matters.

B. Witnesses and Brief Statement of Facts

1. Respondent, Brian C. Padgett, Esq., will be called and would be expected to testify regarding his conduct and communications surrounding the events related to, and any and all documents pertinent to, each of the charged violations of the Rules of Professional Conduct, including but not limited to facts pertaining to the breach of his professional responsibilities as an attorney, his mental state pursuant to ABA Standards, the harm resulting from his conduct, and any aggravating and mitigating factors pursuant to Supreme Court Rule 102.5. Respondent is expected to provide testimony regarding the facts and circumstances regarding OBC19-0604 and OBC19-0798.

1 2. Louise Watson, an investigator with the State Bar of Nevada Office of Bar Counsel,
2 is expected to provide testimony regarding her investigation of OBC19-0604 and OBC19-0798,
3 including but not limited to, information and documents provided by Respondent and Grievant(s),
4 communications with Respondent and Grievant(s), and Respondent's disciplinary history.

5 3. Bruce Familian is expected to offer testimony regarding the facts and circumstances
6 regarding Case No. OBC19-0604, including but not limited to, the facts and circumstances
7 surrounding the allegations contained in said grievance.

8 4. Joel Henriod, Esq., is expected to offer testimony regarding the facts and
9 circumstances regarding Case No. OBC19-0604, including but not limited to, the facts and
10 circumstances surrounding the allegations contained in said grievance.

11 5. Daniel Polsenberg, Esq., is expected to offer testimony regarding the facts and
12 circumstances regarding Case No. OBC19-0604, including but not limited to, the facts and
13 circumstances surrounding the allegations contained in said grievance.

14 6. Abraham Smith, Esq., is expected to offer testimony regarding the facts and
15 circumstances regarding Case No. OBC19-0604, including but not limited to, the facts and
16 circumstances surrounding the allegations contained in said grievance.

17 7. Ian Ritchie is expected to offer testimony regarding the facts and circumstances
18 regarding Case No. OBC19-0798, including but not limited to, the facts and circumstances
19 surrounding the allegations contained in said grievance.

20 ///

21 ///

22 ///

23 ///

24 ///

25

1 8. Diana Ritchie is expected to offer testimony regarding the facts and circumstances
2 Regarding Case No. OBC19-0798, including but not limited to, the facts and circumstances
3 surrounding the allegations contained in said grievance.

4 Dated this 12 day of May, 2020.

5
6 **STATE BAR OF NEVADA**
7 **DANIEL M. HOOGE, BAR COUNSEL**

8 /s/ Gerard Gosioco
9 /s/ Gerard Gosioco (May 12, 2020)

10 **Gerard Gosioco, Assistant Bar Counsel**
11 Nevada Bar No. 14371
12 3100 West Charleston Boulevard, Suite 100
13 Las Vegas, Nevada 89102
14 (702) 382-2200
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF SERVICE

The undersigned hereby certifies a true and correct copy of the foregoing **STATE BAR'S**
FINAL DISCLOSURE OF WITNESSES DOCUMENTS was deposited via U.S. Mail to:

Brian C. Padgett, Esq.
611 S. 6th St.
Las Vegas, NV 89101

And via email to:

1. Dana Oswalt, Esq. (Panel Chair): dana@bensonbingham.com
2. Brian C. Padgett, Esq. (Respondent): brian@briancpadgett.com
3. Gerard Gosioco, Esq. (Assistant Bar Counsel): gerardg@nvbar.org

DATED this 12 day of May, 2020.

By: Sonia Del Rio
Sonia Del Rio,
an employee of the State Bar of Nevada.









Padgett, Brian Final Disclosure (OBC19-0604; OBC19-0798)

Final Audit Report

2020-05-12

Created:	2020-05-12
By:	Sonia Del Rio (soniad@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAA_vkSmDylMeY7GXoGNm8C_gW3NvvlRrwd

"Padgett, Brian Final Disclosure (OBC19-0604; OBC19-0798)" History

-  Document created by Sonia Del Rio (soniad@nvbar.org)
2020-05-12 - 7:24:35 PM GMT- IP address: 24.253.55.206
-  Document emailed to /s/ Gerard Gosioco (gerardg@nvbar.org) for signature
2020-05-12 - 7:25:14 PM GMT
-  Email viewed by /s/ Gerard Gosioco (gerardg@nvbar.org)
2020-05-12 - 10:45:49 PM GMT- IP address: 70.173.56.155
-  Document e-signed by /s/ Gerard Gosioco (gerardg@nvbar.org)
Signature Date: 2020-05-12 - 10:46:13 PM GMT - Time Source: server- IP address: 70.173.56.155
-  Document emailed to Sonia Del Rio (soniad@nvbar.org) for signature
2020-05-12 - 10:46:14 PM GMT
-  Email viewed by Sonia Del Rio (soniad@nvbar.org)
2020-05-12 - 10:48:54 PM GMT- IP address: 24.253.55.206
-  Document e-signed by Sonia Del Rio (soniad@nvbar.org)
Signature Date: 2020-05-12 - 10:49:54 PM GMT - Time Source: server- IP address: 24.253.55.206
-  Signed document emailed to Sonia Del Rio (soniad@nvbar.org) and /s/ Gerard Gosioco (gerardg@nvbar.org)
2020-05-12 - 10:49:54 PM GMT



Adobe Sign

Case No.: OBC19-0604; OBC19-0798



FILED

MAY 22 2020

STATE BAR OF NEVADA

BY: B. Felix
OFFICE OF BAR COUNSEL

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

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN C. PADGETT, ESQ.,

Nevada Bar No. 7474,

Respondent.

**NOTICE OF
FORMAL HEARING**

PLEASE TAKE NOTICE that the formal hearing in the above-entitled action scheduled for **one day on Monday, June 8, 2020, at the hour of 9:00 a.m.**, The hearing will be conducted virtually via ZOOM through the State Bar of Nevada. The State Bar of Nevada will email an access link on June 5, 2020.

Please be further advised that you are entitled to be represented by counsel, to cross-examine witnesses, and to present evidence.

DATED this 21 day of May, 2020.

STATE BAR OF NEVADA
Daniel M. Hooge, Bar Counsel

By: /s/ Gerard Gosioco
/s/ Gerard Gosioco (May 21, 2020 15:08 PDT)

Gerard Gosioco, Assistant Bar Counsel
3100 W. Charleston Blvd., Suite 100
Las Vegas, NV 89104
(702) 382-2200

1 **CERTIFICATE OF SERVICE**

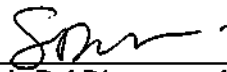
2 The undersigned hereby certifies a true and correct copy of the foregoing NOTICE OF
3 FORMAL HEARING was deposited in the United States Mail at Las Vegas, Nevada, postage
4 fully pre-paid thereon for first-class regular mail to:

5 Brian C. Padgett, Esq.
6 611 S. 6th St.
Las Vegas, NV 89101

7 *and via email to:*

- 8 1. Dana Oswalt, Esq. (Panel Chair): dana@bensonbingham.com
9 2. Farhan Naqvi, Esq. (Panel Member): Naqvi@naqvilaw.com
3. Peter Ossowski (Laymember): p_e_ossowski@yahoo.com
10 4. Brian Padgett, Esq. (Respondent): brian@briancpadgett.com
5. Gerard Gosioco, Esq. (Assistant Bar Counsel): gerardg@nvbar.org

11 DATED this 22 day of May, 2020.

12 By: 
13 Sonia Del Rio, an employee of
14 the State Bar of Nevada.



FILED

JUN 08 2020

STATE BAR OF NEVADA
BY: B. Felix
OFFICE OF BAR COUNSEL

DECLARATION OF SONIA DEL RIO

CUSTODIAN OF RECORDS

SONIA DEL RIO, under penalty of perjury, being first duly sworn, declares and says
as follows:

1. That Declarant is employed as a Hearing Paralegal for the Office of Bar Counsel of the State Bar of Nevada and in such capacity is the custodian of records for the State Bar of Nevada;
2. That Declarant has reviewed the State Bar of Nevada membership records regarding Respondent Brian C. Padgett, Nevada Bar number 7474, and has verified that he was first licensed to practice law in the State of Nevada on December 28, 2000.
3. That Declarant has reviewed the State Bar of Nevada membership records and confirmed Respondent is active.
4. That Declarant has reviewed the State Bar of Nevada discipline records regarding Respondent and has verified that he has no prior discipline:

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 8 day of June, 2020.

Sonia Del Rio
Hearing Paralegal
Office of Bar Counsel

Law Offices of
BRIAN C. PADGETT
Nevada's Eminent Domain and Property Rights Attorneys™

July 26, 2012

VIA E-MAIL: bruce@familian.org

DKB, LLC and DKB II, LLC
Attn: Bruce I. Familian, Manager
4534 West Hacienda, Suite A
Las Vegas, Nevada 89118

**Re: APN 162-32-416-002 and APN 162-32-416-003 ("Property") - Retention
of the Law Offices of Brian C. Padgett for Inverse Condemnation Suit
Regarding Clark County Drainage Project Impact**

Dear Mr. Familian:

This engagement letter is sent to confirm our discussions and engagement relative to retention of this firm by DKB, LLC and DKB II, LLC ("**Client**") with respect to the Property as it relates to the Clark County drainage project impacting the Property (the "**Scope of Representation**"). Bills will be rendered in accordance with this firm's statement of Policies Relating to Professional Fees and Services ("**Policies**") that is incorporated with this engagement letter (collectively, the "**Engagement Letter**").

With respect to any individuals that may work on this matter, the current billing rates are as follows: (1) Attorneys - \$395 per hour; and (2) Paralegals - \$140.00 per hour. A \$5,000.00 retainer is required prior to commencement of work.

Please execute this Engagement Letter below and return a signed copy to our office along with the initial retainer check, to acknowledge that the property owners have engaged this firm within the Scope of Representation and accepts the terms contained in this Engagement Letter, including the Policies.

611 South Sixth Street, Las Vegas, Nevada 89101
Tel. (702) 304-0123 Fax (702) 368-0123

DKB, LLC and DKB II, LLC
Attn: Bruce I. Familian, Manager
July 26, 2012
Page | 2

Thank you for contacting our firm, and we look forward to working with you.

Very truly yours,

Brian C. Padgett

READ, APPROVED, AND ACCEPTED BY:

I have read this Engagement Letter, represent that I have authority to bind Client to such Engagement Letter, and hereby accept all terms of this Engagement Letter, including the Policies.

By: [Signature]
DKB, LLC

Print Name: Bruce Familian

Its: Manager

Date: 7/25/12

By: [Signature]
DKB II, LLC

Print Name: Bruce Familian

Its: Manager

Date: 7/25/12

611 South Sixth Street, Las Vegas, Nevada 89101
Tel. (702) 304-0123 Fax (702) 368-0123

Law Offices of Brian C. Padgett
Policies Relating to Professional Fees and Services

This statement of Policies Relating to Professional Fees and Services ("Policies") describes how the Law Offices of Brian C. Padgett bills for legal services rendered and expenses incurred in connection with client matters. We believe that we can better serve our clients if they are informed about our billing policies at the beginning of our representation.

In order to help us determine the value of services that we render on behalf of our clients, our attorneys and paralegals maintain written records of the actual time they spend working for each client in 1/6 hour increments. Billed time includes all time spent on the case and encompasses activities including, but not limited to, conferences, telephone calls, pretrial discovery of data, trial preparation, drafting of documents, correspondence and pleadings, negotiations, legal research, court time, and travel time. Those professionals rendering services are assigned an hourly rate based upon the type of work that they perform and their level of experience and skill. We periodically review our rates and make adjustments as necessary. Although our hourly rates are the most common component of our fees, they are not the only factor that we take into account in determining the value of our services. For example, consideration will be given to the type of services that we have been asked to perform, any special level of skill or expertise required, the size and scope of the matter, any special time constraints imposed, expedited matters, and the results of our efforts.

In addition to our fees for services, our clients are responsible for all out-of-pocket costs that we incur on their behalf. For example, charges for court reporting services, expenses associated with travel, long-distance telephone calls, photocopies, computerized research services, courier services, fax and other forms of communication, and any other out-of-pocket expenses will be billed to the client. While we may sometimes advance our funds to cover out-of-pocket expenses incurred on behalf of a client, we reserve the right to pass any such expenses on to our clients for payment directly to the person who provided the services. We will make every effort to include the out-of-pocket disbursements that we make on our clients' behalf in their next monthly statement. However, some disbursements, such as telephone charges, are not immediately available to us and, as a result, may not appear on a statement until sometime after the charges were actually incurred.

Our statements for services rendered and costs incurred are sent to our clients on a monthly basis. All statements are due and payable upon receipt. Any statements not paid in full within thirty (30) calendar days of the statement date will be assessed a late charge on the unpaid balance at the rate of one and one-half percent (1½%) for each month late and late charges are due on the first day of each subsequent thirty (30) calendar day period. Whether or not the client calls with an inquiry, any dispute as to the accuracy or validity of any billed charges, or requests for adjustment of any costs, expenses, or fees for legal services billed to the client, must be made in writing to the firm within ten (10) calendar days of the date of the statement containing that cost, expense, or fee for legal services. If the client does not do so within ten (10) calendar days of a billing statement, the statement will be conclusively presumed to be correct. In other words, if the client does not contact

611 South Sixth Street, Las Vegas, Nevada 89101
Tel. (702) 304-0123 Fax (702) 368-0123

DKB, LLC and DKB II, LLC
Attn: Bruce I. Familian, Manager
July 26, 2012
Page | 4

us in writing within ten (10) calendar days of a billing statement, the client will have irrevocably agreed that the statement is accurate and correct. We reserve the right to withdraw from representation in the matter if timely payment is not received. The client will pay any fees and costs that are incurred by us to collect any fees, costs, or expenses from the client, including reasonable attorney fees.

We also have the right at our discretion to withdraw from a client's case if the client misrepresents or fails to disclose material facts to us, fails to follow our advice, fails to cooperate in the preparation of the case, or in the event we determine it is not in our mutual interests to continue the representation. A client may discharge us at any time for any reason. The client will be responsible for any fees and costs incurred prior to our withdrawal or discharge, and time and costs expended to turn over the files and other information to the client or to substitute counsel.

We expect a client to be truthful in all communications to us and to keep us informed of developments as they occur during the pendency of the case. In addition, we expect to be accurately informed of a client's address, telephone number, and other contact information at all times throughout our representation of the client.

The firm normally requires a \$5,000.00 refundable retainer fee before commencing work. At our discretion, this retainer will be credited against the time expended by us and against the costs incurred on the client's behalf. Alternatively, we may require, again at our discretion, a client to pay on a monthly basis for time expended by us on the client's representation and costs incurred on the client's behalf without using the retainer funds for that purpose, permitting us to maintain the retainer fee as security for payment of future fees and costs. In addition to any monthly replenishment of the initial retainer fee deposit, we may from time to time require additional deposits of retainer funds in anticipation of an evidentiary hearing, lengthy deposition, trial, or other large cost expenses, and fees for legal services likely to be incurred through the next billing cycle. A client's failure to deposit an additional requested retainer deposit by the specified date will be cause for us to withdraw from the representation. If the retainer is exhausted, we may require the client, at our discretion, to pay an additional retainer or provide other security to ensure payment of fees and costs. Any retainer deposit not used for costs, expenses, and fees for legal services will be refunded to the client at the conclusion of the representation. However, in the event we quote a "flat-fee" for services to be rendered to the client, no portion of that payment will be refunded, even if the accrued costs and fees are less than the amount of the quoted fee.

We are sometimes asked to estimate the legal fees and other costs that will be incurred in connection with a particular matter. While we are happy to do so when possible, it should be understood that any such estimate necessarily incorporates a number of assumptions, is our best estimate, and is not guaranteed to accurately reflect actual future fees and costs. There are almost always uncertainties involved in the handling of any legal matter, particularly when other parties are involved whose actions may significantly impact the work required to protect our client's interest. Accordingly, no such estimate is to be interpreted as a guarantee or maximum unless expressly so stated. The actual fees and costs may be more or less than any estimate, and the client will be

611 South Sixth Street, Las Vegas, Nevada 89101
Tel. (702) 304-0123 Fax (702) 368-0123

charged on the basis described above without regard to that estimate. The fees and costs incurred in connection with our representation of a client are not contingent upon the successful completion of any project.

We will, in our discretion, use associate counsel, legal assistants, or paralegals for work on a particular matter as we might deem appropriate. Such person shall be billed at their regular billing rate. We endeavor to apportion work to such persons so as to minimize costs and maximize effectiveness for our client. Under certain circumstances, more than one member of our staff may work on a matter for the client simultaneously, in which case both members of our staff should be expected to bill for the time spent. An example would include a trial or contested evidentiary hearing during which, in our discretion, the full participation of more than one person is necessary to properly attend the client's case. Another typical example is when an attorney may need another attorney or a paralegal present to assist at a hearing or trial.

If a court awards attorney fees and/or costs to our client (or to us on our client's behalf), and such sums are actually collected, they shall first be applied against any outstanding charges on the client's bill. The client, however, remains responsible for payment of our services. A court order awarding attorney fees from the opposing party does not relieve our client of the primary responsibility for paying our invoice for fees and advanced costs, or make any work done to collect the attorney fees and/or costs awarded any different from any other work performed by us. All attorney fees awarded and actually collected that are not needed to pay the client's invoice from us (or to replenish the retainer fee deposit) shall be paid to the client. Likewise, a court could order our client to pay attorney fees or costs to the opposing party under certain circumstances, which obligation will be the exclusive responsibility of our client.

It may become necessary in the preparation of the client's case for us to hire expert witnesses, consultants, or investigators. The firm shall have sole discretion to retain such persons. Any such hirings are considered case costs and payment for these costs shall be the sole responsibility of the client. Any expert costs shall be billed to client and shall be paid by client in the same time frame and manner as those of billed legal services as set forth above.

The client grants us a lien on any and all claims or causes of action that are related to the subject of our representation. This attorney lien will be for any sums due and owing to us at the conclusion of our services. The lien will attach to any recovery the client may obtain, whether by arbitration award, judgment, settlement, or otherwise. Any amounts received by us on the client's behalf may be used to pay the client's account.

We will retain possession of the client's file and all information therein until full payment of all costs, expenses, and fees for legal services, subject to turnover or destruction of the file as set forth below. After payment of all sums due and upon the client's request, we will deliver the client's file (other than our personal notes, briefs, and work product that we elect to retain) to the client, along with any of the client funds or property in our possession. If we are not instructed otherwise, the client's file will be kept in our office for a limited time after completion of the case and then sent

DKB, LLC and DKB II, LLC
Attn: Bruce I. Familian, Manager
July 26, 2012
Page | 6

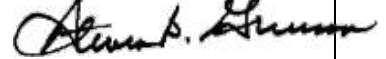
to off-site storage, where it will be held for a period not to exceed seven years. Files are destroyed seven years after the closure of the case file without any further notice.

The client may discharge us at any time, although court rules might still require us to file a motion to withdraw and/or substitution of counsel. We may withdraw from our representation of any client at any time at our discretion. In either such circumstances, the client shall sign any documents necessary to permit us to withdraw. If the client shall desire to retain other counsel, then we shall be paid the amount then due and owing for work performed for the client.

Nothing in our statements to the client will be construed as a promise or guarantee about the outcome of the client's matter. We make no such promises or guarantees. Our comments about the outcome of the client's matter, if any, are expressions of opinion only. It is impossible to predict how long a case will take, how much it will cost, or what the resulting outcome may be. Similarly, we do not make any guarantees to the client about the expense of the client's case. It is quite typical that the costs, expenses, and fees for legal services incurred in the client's case will substantially exceed the initial retainer fee deposit.

We encourage our clients to contact the firm if they have any questions about our billings, policies, or procedures.

611 South Sixth Street, Las Vegas, Nevada 89101
Tel. (702) 304-0123 Fax (702) 368-0123



1 **NOTA**

2 DANIEL F. POLSENBERG (SBN 2376)
3 JOEL D. HENRIOD (SBN 8492)
4 ABRAHAM G. SMITH (SBN 13,250)
5 LEWIS ROCA ROTHGERBER CHRISTIE LLP
6 3993 Howard Hughes Parkway, Suite 600
7 Las Vegas, Nevada 89169-5996
8 (702) 949-8200

9 DPolsenberg@LRRC.com

10 JHenriod@LRRC.com

11 ASmith@LRRC.com

12 *Attorneys for Plaintiffs*
13 *DKB, LLC and DKB II, LLC*

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 DKB, LLC, a Nevada limited liability corporation; and DKB II, LLC, a Nevada
17 limited liability corporation, collectively, Case No. A-12-668136-C
18 Dept. No. XXVI

19 Plaintiffs,

20 *vs.*

21 COUNTY OF CLARK, a political
22 subdivision of the State of Nevada; DOE
23 GOVERNMENT AGENCIES I-X; DOE
24 CORPORATIONS I-X; and DOE
25 PARTNERSHIPS I-X,

26 Defendants.

27 **NOTICE OF APPEARANCE**

28 Please take notice that DANIEL F. POLSENBERG and JOEL D. HENRIOD of
the law firm of LEWIS ROCA ROTHGERBER CHRISTIE LLP appear as attorneys for
plaintiffs DKB, LLC and DKB II, LLC in the above-captioned case.

Dated this 12th day of June, 2017.

LEWIS ROCA ROTHGERBER CHRISTIE LLP

By /s/ Joel D. Henriod

DANIEL F. POLSENBERG (SBN 2376)
JOEL D. HENRIOD (SBN 8492)
ABRAHAM G. SMITH (SBN 13,250)
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
(702) 949-8200

Attorneys for Plaintiffs

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of June, 2017, I served the foregoing
“Notice of Appearance” on counsel by the Court’s electronic filing system and by
courtesy email to the persons and addresses listed below:

LESLIE A. NIELSEN
DISTRICT ATTORNEY – CIVIL DIVISION
500 South Grand Central Parkway
P.O. Box 552215
Las Vegas, Nevada 89155
Leslie.Nielsen@ClarkCountyDA.com

/s/ Jessie M. Helm
An Employee of Lewis Roca Rothgerber Christie LLP

1 **DECLARATION OF JOEL D. HENRIOD**

2 I, Joel D. Henriod, declare as follows:

3 1. I am an attorney at Lewis Roca Rothgerber Christie LLP and was
4 an attorney of record for plaintiffs DKB, LLC and DKB II, LLC in *DKB, LLC et*
5 *al. v. County of Clark et al.*, Case No. A668136 in the Eighth Judicial District
6 Court, retained as appellate counsel along with my partner Dan Polsenberg and
7 our associate Abraham Smith. Bruce Familian is the principal of both DKB,
8 LLC and DKB, II.

9 2. On or around June 20, 2018, I became aware that Brian Padgett's
10 office had procured an order from the district court authorizing the clerk of the
11 court to disburse funds deposited by defendant Clark County. I spoke with Mr.
12 Familian about the order and informed him that it came as a surprise to us.

13 3. On June 20, 2018, I wrote an email to Amy Sugden, who worked
14 with Brian Padgett on the *DKB* case, expressing concern about the order and
15 frustration that they had procured it without informing my office (their co-coun-
16 sel) or Mr. Familian (their client). (Ex. 1.)

17 4. I also warned that withdrawing the funds might jeopardize Mr. Fa-
18 milian's case by risking an argument of waiver under NRS 37.100(6) ("Applica-
19 tion by the defendant to the court for withdrawal of part or all of the money de-
20 posited and the payment of that money to the defendant does not prejudice the
21 right of the defendant to contest the amount of compensation to be finally
22 awarded. The receipt by the defendant of a part or all of the money deposited
23 must be conditioned upon the waiver of all defenses except those relating to the
24 amount of compensation.".) (*Id.*)

25 5. The email communicated that Mr. Familian did not authorize Mr.
26 Padgett's office to withdraw those funds and that he would have forbidden it
27 had they sought his approval. (*Id.*)

28

1 6. Ms. Sugden replied that they had sought the order “to get the mat-
2 ter back on the radar for Judge Sturman,” pointed out that Mr. Padgett’s firm
3 was still owed attorney’s fees and costs, and disagreed with our concerns about
4 a potential waiver. (Ex. 1.)

5 7. The next day, on June 21, 2019, I emailed in response a pointed
6 question as to whether the funds had already been transferred to Mr. Padgett’s
7 office. (Ex. 1.) I received no email in reply.

8 8. A few days later, I spoke with Ms. Sugden over the phone. I ex-
9 plained that, although Dan Polsenberg and I shared her interpretation of NRS
10 37.100, we were concerned nevertheless that Judge Sturman or the Nevada Su-
11 preme Court might disagree with that position. We advocated caution in the
12 face of that uncertainty. I told her that Mr. Familian agreed with our recom-
13 mendation and reiterated his demand that funds not be withdrawn.

14 9. Approximately four months later, Mr. Padgett’s office withdrew the
15 funds without warning or consulting us.

16 10. Incidentally, as we foresaw, defendant Clark County did argue in
17 the context of a dispute over prejudgment interest that plaintiffs’ “deposit [wa]s
18 the equivalent of a deposit made in eminent [domain] cases pursuant to NRS
19 37.100(6) or NRS 37.170,” even though its withdrawal “may come with ‘condi-
20 tions.’” (Ex. 2.) Indeed, Clark County alternatively argued that the Court’s
21 granting Mr. Padgett’s motion “requesting the immediate and direct disburse-
22 ment of the funds on deposit” forfeited DKB’s right to interest after that
23 date. (*Id.*) Although the Court entered our proposed judgment rather than the
24 county’s, that risk and controversy arose nonetheless and would have created
25 an issue for the county on appeal.

26 Dated this 27th day of August, 2019.

27 /s/ Joel D. Henriod

28 JOEL D. HENRIOD (SBN 8492)

EXHIBIT 1

EXHIBIT 1

Helm, Jessica

From: Henriod, Joel D. <JHenriod@lrrc.com>
Sent: Thursday, June 21, 2018 10:01 AM
To: 'Amy Sugden'; 'brian@brianpadgett.com'
Cc: 'Bruce Familian'; Polsenberg, Daniel F.; Smith, Abraham; neal@hyperionlegal.com
Subject: RE: DKB, LLC v. Clark County: Withdrawal of Deposit

Amy,

Have the funds already transferred?

Joel

Joel D. Henriod

Las Vegas Office Managing Partner
702.474.2681 office
702.743.0212 mobile
jhenriod@lrrc.com



Lewis Roca Rothgerber Christie LLP
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
lrrc.com

From: Amy Sugden [mailto:amy@brianpadgett.com]
Sent: Wednesday, June 20, 2018 6:04 PM
To: Henriod, Joel D.; 'brian@brianpadgett.com'
Cc: 'Bruce Familian'; Polsenberg, Daniel F.; Smith, Abraham
Subject: Re: DKB, LLC v. Clark County: Withdrawal of Deposit

Joel,

As you know we have been patiently awaiting the Court to issue its final rulings on the motions for attorney's fees and costs which are outstanding. We sent requests to the law clerk in Dept. 26 to try and gently inquire as to the status of those issues, but to no avail. Thus, we put forth the attached motion to get the matter back on the radar for Judge Sturman, which she recognized at the June 12 hearing.

Contrary to your assertion below, I did reach out to Bruce on November 14, 2017 about releasing the funds and was not "forbidden" from doing so.

Our collective goals are to bring this matter to a judgment that is appealable, so we can all move this forward. (Plus, our office and Kirby's still have outstanding attorney's fees owed and costs to be reimbursed). Typically, our preferred manner of obtaining a final judgment in eminent domain is to complete all the post-trial briefing (i.e., attorney's fees and costs) and put it into one pleading entitled "Final Judgment and Order of Condemnation" that becomes appealable.

However, it is also possible under NRS 37.160 to have the court enter a final order of condemnation describing the property condemned and the purpose thereof (without finalization of the post-trial briefing) after the award is deposited. I had emailed you about this back in January of this year (see attached email) on pursuing that route so you guys could go forward with your appeal, but never heard back on finalizing it.

Finally, we respectfully disagree as to your concerns over any purported waiver as outlined below. NRS 37.100 governs funds on deposit pursuant to an order for immediate occupancy that the government seeks in direct condemnation action. The County never deposited funds pursuant to NRS 37.100 because this was an inverse condemnation case in which they disputed a taking ever occurred.

I am happy to reach out to the County's attorney to confirm the same understanding as well.

Thank you,
Amy

From: "Henriod, Joel D." <JHenriod@lrrc.com>

Date: Wednesday, June 20, 2018 at 11:48 AM

To: Amy Sugden <amy@briancpadgett.com>, "brian@brianpadgett.com" <brian@brianpadgett.com>

Cc: "bruce@familian.org" <bruce@familian.org>, "Polsenberg, Daniel F." <DPolsenberg@lrrc.com>, "Smith, Abraham" <ASmith@lrrc.com>

Subject: DKB, LLC v. Clark County: Withdrawal of Deposit

PRIVILEGED and CONFIDENTIAL

Amy,

It just came to our attention that your office obtained an order from the court directing disbursement of the funds on deposit, without informing us or Mr. Familian.

Bruce does NOT authorize withdrawal of those funds, and would have forbidden it if you had asked for his approval. We believe withdrawing the funds risks waiver of positions on appeal under NRS 37.100(6) ("Application by the defendant to the court for withdrawal of part or all of the money deposited and the payment of that money to the defendant does not prejudice the right of the defendant to contest the amount of compensation to be finally awarded. The receipt by the defendant of a part or all of the money deposited must be conditioned upon the waiver of all defenses except those relating to the amount of compensation.")

Please do not withdraw those funds.

Joel

Joel D. Henriod

Las Vegas Office Managing Partner
702.474.2681 office
702.743.0212 mobile
jhenriod@lrrc.com



Lewis Roca Rothgerber Christie LLP
3993 Howard Hughes Parkway, Suite 600

Las Vegas, Nevada 89169
lrrc.com

This message and any attachments are intended only for the use of the individual or entity to which they are addressed. If the reader of this message or an attachment is not the intended recipient or the employee or agent responsible for delivering the message or attachment to the intended recipient you are hereby notified that any dissemination, distribution or copying of this message or any attachment is strictly prohibited. If you have received this communication in error, please notify us immediately by replying to the sender. The information transmitted in this message and any attachments may be privileged, is intended only for the personal and confidential use of the intended recipients, and is covered by the Electronic Communications Privacy Act, 18 U.S.C. §2510-2521.

EXHIBIT 2

EXHIBIT 2

HANLEY LAW FIRM

Agnes N. Hanley
agnes@hanleylf.com

December 28, 2018

Via Hand Delivery

Department 26
Attn: The Honorable Gloria J. Sturman
Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89155

Re: DKB, LLC, et al. v. County of Clark, Case Number A-12-668136-C

Dear Judge Sturman,

Attached please find Defendant County of Clark's proposed Judgment of Condemnation. The parties are submitting competing judgments for your consideration. The primary difference between the two judgments is due to Plaintiffs' misunderstanding of how interest is calculated in eminent domain cases.

1) Background and NRS Chapter 37

Eminent domain cases follow the procedure set forth in NRS Chapter 37. The Nevada Supreme Court has unequivocally stated that "[i]nverse condemnation proceedings are the constitutional equivalent to eminent domain actions and are **governed by the same rules and principles** that are applied to formal condemnation proceedings." *County of Clark v. Alper*, 100 Nev. 382, 391, 685 P.2d 943, 949 (1984) [emphasis added]. Moreover, the parties in this case stipulated that a taking occurred which converted the case from an inverse condemnation case to a direct condemnation proceeding where valuation of the property interest taken was the only issue for trial. See Stipulation and Order Regarding Easement Acquisition filed on November 8, 2016 and attached as Exhibit 1 to the Judgment.

NRS Chapter 37 draws a distinction between a judgment and a final judgment – a distinction unique to eminent domain cases and important in order to understand how interest is calculated pursuant to NRS 37.175. The process of entry of these two judgments are best explained by the Supreme Court in *Gold Ridge Partners v. Sierra Pac. Power Co.*, 128 Nev. 495, 499-500, 285 P.3d 1059, 1062 (2012):

Following the determination of damages, the court enters a "judgment determining the right to condemn [the] property and fixing the amount of compensation to be paid by the plaintiff." NRS 37.009(3). If the judgment is appealed to this court, the plaintiff may take or, if it has already done so, remain in possession of the property while the appeal is pending by paying into the district court the full amount of the judgment plus damages for the taking, as well as any damages that may be sustained if, for any

2300 West Sahara Avenue | Suite 800 | Las Vegas, Nevada 89102 | (702) 856-4336

HANLEY LAW FIRM

reason, the property is not ultimately taken. NRS 37.170(1). The defendant may then receive the deposited money by filing a satisfaction of the judgment or a receipt for the money and an abandonment of any defenses to the proceedings, other than defenses as to the amount of money to which the defendant is entitled. NRS 37.170(2).

A condemnation proceeding is ultimately resolved by a "[f]inal judgment," which is "a judgment which cannot be directly attacked by appeal, motion for new trial or motion to vacate the judgment." NRS 37.009(2). Within 30 days after entry of the final judgment, the plaintiff must deposit into court the sum of money assessed as just compensation in the condemnation proceeding. NRS 37.140; NRS 37.150.

2) Interest In Eminent Domain Cases Must Be Calculated Pursuant To NRS 37.175

NRS 37.175 states in relevant part:

NRS 37.175 Interest paid by plaintiff; posttrial hearing to determine award of interest.

1. Except as otherwise provided in this section, the plaintiff shall pay interest on the final judgment on the difference between the amount deposited pursuant to NRS 37.100 or 37.170 and the sum of the amount awarded for the taking and any damages awarded for the severance of the property, excluding costs and attorney's fees, from the date ordered by the district court pursuant to paragraph (a) of subsection 4 until the date the judgment is satisfied, at the rate provided in paragraph (b) of subsection 4.

2. The plaintiff is not required to pay interest on any amount deposited pursuant to the provisions of NRS 37.100 or 37.170.

4. The court shall determine, in a posttrial hearing, the award of interest and award as interest the amount of money which will put the person from whom the property is taken in as good a position monetarily as if the property had not been taken. The district court shall enter an order concerning:

- (a) The date on which the computation of interest will commence;
- (b) The rate of interest to be used to compute the award of interest, which must not be less than the prime rate of interest plus 2 percent; and
- (c) Whether the interest will be compounded annually.

NRS 37.175(1) unequivocally states that interest is paid on the *final* judgment, after the entire condemnation proceeding has been resolved to finality. In other words, NRS 37.175 *already includes* the calculation of traditional post-judgment interest as determined by the Court in the posttrial hearing in NRS 37.175(4). In eminent domain cases interest is calculated exclusively via

2300 West Sahara Avenue | Suite 800 | Las Vegas, Nevada 89102 | (702) 856-4336

HANLEY LAW FIRM

NRS 37.175, not pursuant to NRS 17.130 as Plaintiffs propose. The County's proposed Judgment is consistent with NRS 37.175 and sets forth how interest is calculated pursuant to NRS 37.175.

3) This Honorable Court's Order Sets Forth The Rate Of Interest In Accordance With NRS 37.175(4)

The County's proposed Judgment also calculates interest in accordance with this Court's Order Granting Plaintiff's Motion for Prejudgment Interest filed on November 3, 2017. The Order cites NRS 37.175(4) and states that:

Plaintiff is entitled to prejudgment interest on the jury verdict of \$116,508 from August 27, 2012, through December 31, 2015, at the rate of 5.25%, and from January 1, 2016 **through payment of the judgment at the rate of 5.5%**, such interest to be compounded semi-annually. Nev. Const. Art. I. Section 22(4); NRS 37.120(3); NRS 37.175(4). [Emphasis added].

This Order was prepared and submitted *by Plaintiffs*. In fact, at the time Plaintiffs submitted their proposed order, in July of 2017, the prime interest rate had already risen on two separate occasions and yet their order does not mention these increased rates. Over a year later Plaintiffs wish to revise this Order and speculate as to whether this Honorable Court's truly intended for the rate to remain at 5.5%. However, the Order entered by the Court does not state that the interest rate should continue to be adjusted at the rates Plaintiffs now claim.

4) The County's Deposit Stops The Running Of Interest

Lastly, on November 7, 2017, the County deposited the amount of the verdict plus interest from August 27, 2012 through August 31, 2017 (\$151,599.83) with the Clerk of Court and this deposit stops the running of interest on this sum. This deposit is the equivalent of a deposit made in eminent cases pursuant to NRS 37.100(6) or NRS 37.170. NRS 37.175(2) specifically states that the County is not required to pay interest on such a deposit. The fact that it may come with "conditions", as Plaintiffs state, does not change the clear language of NRS 37.175(2). The County's proposed Judgment takes into consideration this deposit when calculating interest pursuant to NRS 37.175 and stops the running of interest on this sum as of the date of the deposit, November 7, 2017.

Alternatively, the County submits that the running of interest on the sum deposited should stop as of June 12, 2018, which is the date this Honorable Court granted Plaintiffs' motion requesting the immediate and direct disbursement of the funds on deposit and ordered the Clerk of Court to immediately disburse the funds to Plaintiffs' counsel. As of June 12, 2018, there is nothing prohibiting Plaintiffs from obtaining the deposit. Plaintiffs now want it both ways: to be granted the immediate disbursement of the funds and then subsequently sit back and take the position that

2300 West Sahara Avenue | Suite 800 | Las Vegas, Nevada 89102 | (702) 856-4336

HANLEY LAW FIRM

interest should keep running on funds Plaintiffs requested to withdraw and have "immediate" access to.

The County respectfully asks that this Court enter its proposed Judgment of Condemnation attached hereto as it most accurately calculates interest pursuant to NRS 37.175 and is consistent with the orders entered in this matter.

Sincerely,



Agnes Hanley, Esq.
HANLEY LAW FIRM, PLLC

Cc: Abraham Smith *via e-service only*
Joel Henroid *via e-service only*
Amy Sugden *via e-service only*

2300 West Sahara Avenue | Suite 800 | Las Vegas, Nevada 89102 | (702) 856-4336

Steven D. Grierson

1 **OST**
2 **LAW OFFICES OF BRIAN C. PADGETT**

3 Brian C. Padgett, Bar No. 7474
4 Amy L. Braudis, Bar No. 9983
5 611 South Sixth Street
6 Las Vegas, Nevada 89101
7 Telephone: (702) 304-0123
8 Facsimile: (702) 368-0123

9 *Attorneys for DKB, LLC*
10 *& DKB II, LLC*

11 **EIGHTH JUDICIAL DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 *****

14 DKB, LLC, a Nevada Limited Liability
15 Corporation and DKB II, LLC, a Nevada Limited
16 Liability Corporation, collectively,

17 Plaintiffs,

18 vs.

19 COUNTY OF CLARK, a political subdivision of
20 the State of Nevada, DOE GOVERNMENT
21 AGENCIES I-X, DOE INDIVIDUALS I-X,
22 DOE CORPORATIONS I-X, and DOE
23 PARTNERSHIPS I-X,

24 Defendants.

Case No.: A-12-668136-

C Dept. No.: XXVI

**Arbitration Exempt:
Action Concerning Title
To Real Property**

25 **PLAINTIFF LANDOWNER'S MOTION ON ORDER SHORTENING TIME TO**
26 **DIRECT DISBURSEMENT OF FUNDS ON DEPOSIT**

27 Plaintiff, DKB, LLC AND DKB II LLC (hereinafter referred to "Landowner" or
28 "Plaintiff"), through its undersigned counsel, the LAW OFFICES OF BRIAN C. PADGETT,
hereby respectfully file this Motion on Order Shortening Time to Direct Disbursement of Funds
on Deposit ("**Motion**").

///

LAW OFFICES OF BRIAN C. PADGETT
611 SOUTH 6TH STREET
LAS VEGAS, NEVADA 89101
PHONE (702) 304-0123
FACSIMILE (702) 368-0123

1 This Motion is made and based upon all of the papers and pleadings on file herein, the
2 attached Declaration of Amy L. Sugden, Esq., together with such other and further evidence and
3 argument as may be presented and considered by this Court at any hearing of this Motion.
4

5 DATED this 29th day of May, 2018.

6 THE LAW OFFICES OF BRIAN C. PADGETT

7 /s/ Amy L. Sugden

8 Brian C. Padgett, Nevada Bar No. 7474

9 Amy L. Sugden, Nevada Bar No. 9983

10 611 South Sixth St.

11 Las Vegas, NV 89101

12 **NOTICE OF MOTION ON ORDER SHORTENING TIME**

13 Based on Plaintiff's Motion on Order Shortening Time to Direct Disbursement of Funds
14 on Deposit, the Memorandum of Points and Authorities below, the Declaration of Amy L. Sugden,
15 Esq., and good cause appearing:
16

17 IT IS HEREBY ORDERED that the hearing on Motion on Order Shortening Time to Direct
18 Disbursement of Funds on Deposit ("**Motion**"), shall take place before this Court on the 12th
19 day of June, 2018 at 9:00 a.m.

20 DATED June 1, 2018

21 [Signature]
22 DISTRICT COURT JUDGE
23
24
25
26
27
28

**DECLARATION OF AMY L. SUGDEN IN SUPPORT OF MOTION ON ORDER
SHORTENING TIME TO DIRECT DISBURSEMENT OF FUNDS ON DEPOSIT**

STATE OF NEVADA)
)ss.
COUNTY OF CLARK)

AMY L. SUGDEN declares:

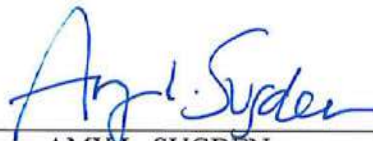
1. I am a resident of Clark County, Nevada. I am over the age of eighteen (18) years, and I am in all respects competent to testify to the matters set forth in this Declaration.
2. This Declaration is based upon my personal knowledge and/or upon information and belief, and, if called upon to testify, I would testify as set forth in this Declaration.
3. I am a licensed attorney in the State of Nevada and the counsel of record for Plaintiff, DKB, LLC and DKB II, LLC ("Landowner") in the above-referenced case.
4. On November 8, 2017 the County of Clark ("County") deposited funds in the amount of \$151,599.83 ("Eminent Domain Proceeds"). See Notice of Interim Deposit attached as Exhibit "A" hereto.
5. The County deposited the Eminent Domain Proceeds representing the jury verdict of \$116,508 entered on November 10, 2016 plus interest from August 27, 2012 through August 31, 2017 as calculated pursuant to the Order Regarding Plaintiff's Motion for Prejudgment Interest. See September 27, 2017 Correspondence from the County to Department 26, attached hereto as Exhibit "B".
6. The Landowner attempted to withdraw the funds on Eminent Domain Proceeds but the Clerk of Court will not release them without a specific order directing them to be released.
7. Accordingly, the Landowner requests that this Court issue an Order directing the immediate release of the Eminent Domain Proceeds pursuant to the attached Proposed Order. See Proposed Order Directing Immediate Release of Eminent Domain Proceeds, attached hereto

1 as Exhibit "C".

2 8. The Landowner submits that good cause exists to hear this matter on Order Shortening Time
3 as the Eminent Domain Proceeds cannot be released without an express directive from this
4 Court.

5
6 8. That I declare under penalty of perjury that the foregoing is true and correct.

7 Executed on this 29th day of May, 2018.

8
9
10 
11 AMY L. SUGDEN

12
13 **MEMORANDUM OF POINTS AND AUTHORITIES**

14
15 Landowner by and through its undersigned counsel, the Law Offices of Brian C. Padgett,
16 hereby brings this Motion on Order Shortening Time to Direct Disbursement of Funds on Deposit.
17 As stated above in the declaration of undersigned counsel, the Landowner obtained a jury verdict
18 on November 10, 2016 in the amount of \$116,508.00. See attachment to Exhibit "B". On or about
19 November 7, 2017, the County subsequently deposited the sum of \$151,599.83, representing the
20 verdict amount and prejudgment interest on the same ("Eminent Domain Proceeds"). See Exhibit
21 "A". The Landowner attempted to withdraw the Eminent Domain Proceeds but the Clerk of Court
22 would not release them without an express order from this Court directing payment. As such, the
23 Landowners respectfully request this Court to issue the attached proposed Order directing the
24 immediate disbursement of the Eminent Domain Proceeds accordingly. See Exhibit "C".

25
26 ///

27 ///

LAW OFFICES OF BRIAN C. PADGETT
611 SOUTH 6TH STREET
LAS VEGAS, NEVADA 89101
PHONE (702) 304-0123
FACSIMILE (702) 368-0123

CONCLUSION

As set forth above, the Landowner respectfully requests that the Court grant the instant Motion and direct the immediate disbursement of the Eminent Domain Proceeds made payable to the "Law Offices of Brian C. Padgett".

DATED this 29th day of May, 2018.

LAW OFFICES OF BRIAN C. PADGETT

/s/ Amy L. Sugden

BRIAN C. PADGETT

Nevada Bar No. 7474

AMY L. SUGDEN

Nevada Bar No. 9983

Attorneys for Plaintiff Landowner

CERTIFICATE OF SERVICE

I certify that I am an employee of the Law Offices of Brian C. Padgett, and that I served the foregoing document(s): **PLAINTIFF LANDOWNER'S MOTION ON ORDER SHORTENING TIME TO DIRECT DISBURSEMENT OF FUNDS ON DEPOSIT** on the parties set forth below by:

- ☒ [x] Placing an original or true copy thereof in a sealed envelope placed for collection and mailing the United States mail, at Las Vegas, Nevada, postage prepaid, following ordinary business practices.
- ☐ [] Personal delivery
- ☐ [] Facsimile and/or e-mail
- ☐ [] Federal Express or other overnight delivery
- ☒ [x] Odyssey E-File and Serve System

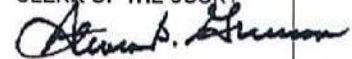
TO: Agnes N. Hanley
2300 West Sahara Avenue, Suite 800
Las Vegas, Nevada 89102
Agnes@HanleyLF.com
Attorneys for County of Clark

Executed this ____ day of June, 2018.

Law Offices of Brian C. Padgett

EXHIBIT “A”

EXHIBIT “A”



1 **NODE**
2 STEVEN D. WOLFSON
3 District Attorney
4 **CIVIL DIVISION**
5 State Bar No. 1565
6 By: **LESLIE A. NIELSEN**
7 Deputy District Attorney
8 State Bar No. 2764
9 500 South Grand Central Pkwy.
10 P. O. Box 552215
11 Las Vegas, Nevada 89155-2215
12 (702) 455-4761
13 Fax (702) 382-5178
14 E-Mail: Leslie.Nielsen@ClarkCountyDA.com
15 Attorneys for Defendant
16 **Clark County**

10 DISTRICT COURT
11 CLARK COUNTY, NEVADA

12 DKB, LLC, a Nevada Limited Liability
13 Corporation and DKB II, LLC, a Nevada
14 Limited Liability Corporation, collectively,

14 Plaintiffs,

15 vs.

16 COUNTY OF CLARK, a political subdivision of
17 the State of Nevada, DOE GOVERNMENT
18 AGENCIES I-X, DOE INDIVIDUALS I-X,
19 DOE CORPORATIONS I-X, and DOE
20 PARTNERSHIPS I-X,

19 Defendants.

Case No: A-12-668136
Dept. No.: XXVI

21 **NOTICE OF INTERIM DEPOSIT**

22 TO: THE ABOVE NAMED PLAINTIFFS, and

23 TO: THEIR ATTORNEYS OF RECORD:

24 YOU WILL PLEASE TAKE NOTICE that the sum of One Hundred Fifty-One Thousand Five
25 Hundred Ninety-Nine and 83/100 Dollars (\$151,599.83) was deposited with the Clerk of the Court

26 ///

27 ///

28 ///

1 on the 7th day of November, 2017. A copy of the Official Receipt is attached hereto as Exhibit 1.

2 DATED this 8th day of November, 2017.

3 STEVEN B. WOLFSON
4 DISTRICT ATTORNEY

5 By: Leslie A. Nielsen
6 LESLIE A. NIELSEN
7 District Attorney
8 Nevada Bar No. 2764
9 500 South Grand Central Pkwy. 5th Flr.
10 P. O. Box 552215
11 Las Vegas, Nevada 89155-2215
12 Attorneys for Defendant
13 Clark County

14 CERTIFICATE OF SERVICE

15 I hereby certify that I am an employee of the Office of the Clark County District Attorney and
16 that on this 8th day of November, 2017, I served a true and correct copy of the foregoing **NOTICE**
17 **OF INTERIM DEPOSIT** to the following parties by the method shown below:

ATTORNEYS OF RECORD	PARTIES REPRESENTED	SERVICE METHOD
Kirby C. Gruchow, Jr. Esq. Leach Johnson Song & Gruchow 8945W. Russell Road, Suite 330 Las Vegas, NV 89148	<i>Plaintiffs DKB, LLC & DKB II, LLC</i>	<input checked="" type="checkbox"/> Electronic Service <input type="checkbox"/> Fax Service <input type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service (ROC)
Brian C. Padgett, Esq. Amy L. Sugden, Esq. Jeremy B. Duke, Esq. Law Offices of Brian C. Padgett 611 South Sixth Street Las Vegas, NV 89101	<i>Plaintiffs DKB, LLC & DKB II, LLC</i>	<input checked="" type="checkbox"/> Electronic Service <input type="checkbox"/> Fax Service <input type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service (ROC)
Daniel Polsenberg Joel D. Henriod Lewis Roca Rothgerber Christie LLP 3993 Howard Hughes Pkwy., Suite 600 Las Vegas, NV 89169	<i>Plaintiffs DKB, LLC & DKB II, LLC</i>	<input checked="" type="checkbox"/> Electronic Service <input type="checkbox"/> Fax Service <input type="checkbox"/> Mail Service <input type="checkbox"/> Personal Service (ROC)

26 
27 An Employee of the Clark County District Attorney's
28 Office – Civil Division

EXHIBIT 1

OFFICIAL RECEIPT

District Court Clerk of the Court 200 Lewis Ave, 3rd Floor Las Vegas, NV 89101

Payor
Clark County Nevada

Receipt No.
2017-84377-CCCLK

Transaction Date
11/7/2017

Description	Amount Paid
On Behalf Of DKB II LLC	
A-12-668136-C	
DKB, LLC, Plaintiff(s) vs. County of Clark, Defendant(s)	
Eminent Domain Deposits	
Eminent Domain Deposits	151,599.83
SUBTOTAL	151,599.83
PAYMENT TOTAL	151,599.83
Check (Ref #1475447) Tendered	151,599.83
Total Tendered	151,599.83
Change	0.00
11/07/2017 10:42 AM	Cashier Station AIKO
	Audit 36000858

OFFICIAL RECEIPT

EXHIBIT “B”

EXHIBIT “B”



CLARK COUNTY
OFFICE OF THE DISTRICT ATTORNEY

Civil Division

STEVEN B. WOLFSON
District Attorney

500 S. Grand Central Pkwy, Suite 5075 • Las Vegas, NV 89155 • 702-455-4761 • Fax: 702-382-5178 • TDD: 702-385-7486

MARY-ANNE MILLER
County Counsel

CHRISTOPHER LALLI
Assistant District Attorney

ROBERT DASKAS
Assistant District Attorney

JEFFREY WITTHUN
Director

September 27, 2017

Via Email (dept26lc@clarkcountycourts.us)

The Hon. Gloria Sturman
Eighth Judicial District Court Department 26
200 Lewis Avenue
Las Vegas, Nevada 89155

RE: *DKB, LLC, et al. v. County of Clark*; Eighth Judicial District Case No. A-12-668136-C

Dear Judge Sturman:

Please accept this request for entry of a minute order directing that the Clerk of the Court accept the County's check in the amount of \$151,599.83 for deposit on account of this case. This amount represents the jury verdict of \$116,508 entered on November 10, 2016 (attached), plus interest from August 27, 2012, through August 31, 2017, calculated as established in the draft Order Regarding Plaintiff's Motion for Prejudgment Interest previously submitted to chambers for signature (attached).

In an effort to reduce the County's obligation for ongoing prejudgment interest and in response to Plaintiffs' counsel's request made to the County via email on August 24, 2017, the County has submitted a check for \$151,599.83 to the Clerk of the Court for deposit in this matter. The Clerk of the Court is unwilling to accept the check due to the absence of an order requiring the deposit. We are optimistic that entry of a minute order directing the Clerk of the Court to accept this check (submitted voluntarily at this point by the County) will resolve this impasse.

Thank you for your assistance in this matter.

Respectfully submitted,

STEVEN B. WOLFSON
DISTRICT ATTORNEY

BY: Leslie A. Nielsen
Leslie A. Nielsen
Deputy District Attorney
Leslie.Nielsen@ClarkCountyDA.com

Enclosures: Verdict, draft Order Regarding Plaintiff's Motion for Prejudgment Interest
cc: Amy L. Sugden, Esq. (amy@briancpadgett.com)

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

NOV 10 2016

ORIGINAL

BY Melissa Murphy
MELISSA MURPHY, DEPUTY

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

DKB, LLC, a Nevada Limited Liability Corporation
and DKB II, LLC, a Nevada Limited Liability
Corporation, collectively,

CASE NO: A-12-668136-C
DEPT NO: XXVI

Plaintiffs,

vs.

COUNTY OF CLARK, a political subdivision of
the State of Nevada,

Defendant.

VERDICT

We, the jury in the above-entitled action, assess just compensation in the following
amounts:

Property Acquired by Clark County:

Permanent Easement: 110,376

Temporary Construction: 6,132

Cost to Cure and/or Severance Damages:

0

DATED this 10th day of November, 2016.

Heidi Young
FOREWOMAN

A-12-668136-C
VER
Verdict
4598707



611 SOUTH 6TH STREET
LAS VEGAS, NEVADA 89101
PHONE (702) 304-0123
FACSIMILE (702) 368-0123

ORDR

LAW OFFICES OF BRIAN C. PADGETT

Brian C. Padgett, Bar No. 7474
Amy L. Sugden, Bar No. 9983
Jeremy B. Duke, Bar No. 13110
611 South Sixth Street
Las Vegas, Nevada 89101
Telephone: (702) 304-0123
Facsimile: (702) 368-0123

*Attorneys for DKB, LLC
& DKB II, LLC*

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DKB, LLC, a Nevada Limited Liability
Corporation and DKB II, LLC, a Nevada Limited
Liability Corporation, collectively,

Plaintiffs,

vs.

COUNTY OF CLARK, a political subdivision of
the State of Nevada, DOE GOVERNMENT
AGENCIES I-X, DOE INDIVIDUALS I-X,
DOE CORPORATIONS I-X, and DOE
PARTNERSHIPS I-X,

Defendants.

Case No.: A-11-668136-C

Dept. No.: XXVI

ORDER REGARDING PLAINTIFF'S MOTION FOR PREJUDGMENT INTEREST

On April 24, 2017, Plaintiffs, DKB, LLC and DKB II, LLC (collectively "Landowner")
filed a Motion for Prejudgment Interest. Defendant, COUNTY OF CLARK, ("County") filed an
Opposition on May 16, 2017 and Plaintiff filed a Reply on May 24, 2017.

///

///

611 SOUTH 6TH STREET
LAS VEGAS, NEVADA 89101
PHONE (702) 304-0123
FACSIMILE (702) 368-0123

1 The matter came before the Court for hearing on June 13, 2017, and after reviewing all the
2 motions and pleadings on file and considering the record along with oral argument, this Court
3 hereby finds and orders as follows:

- 4 1. Plaintiff is entitled to prejudgment interest on the jury verdict of \$116,508 from
5 August 27, 2012, through December 31, 2015, at the rate of 5.25%, and from January 1,
6 2016 through payment of the judgment at the rate of 5.5%, such interest to be
7 compounded semi-annually. Nev. Const. Art. I. Section 22(4); NRS 37.120(3); NRS
8 37.175(4).
9

10
11 IT IS SO ORDERED this _____ day of _____, 2017.
12

13
14 _____
15 GLORIA STURMAN
16 DISTRICT COURT JUDGE

17 **Prepared and Submitted By:**

18 LAW OFFICES OF BRIAN C. PADGETT
19

20 By: _____
21 AMY L. SUGDEN
22 Nevada Bar No. 9983
23
24
25
26
27
28

Approved:

OFFICE OF THE CLARK COUNTY
DISTRICT ATTORNEY

By: Leslie A. Nielsen 7-14-2017
LESLIE A. NIELSEN
Nevada Bar No. 2764

EXHIBIT “C”

EXHIBIT “C”

**ORD
LAW OFFICES OF BRIAN C. PADGETT**

Brian C. Padgett, Bar No. 7474
Amy L. Sugden, Bar No. 9983
Jeremy B. Duke, Bar No. 13110
611 South Sixth Street
Las Vegas, Nevada 89101
Telephone: (702) 304-0123
Facsimile: (702) 368-0123

*Attorneys for DKB, LLC
& DKB II, LLC*

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DKB, LLC, a Nevada Limited Liability)
Corporation and DKB II, LLC, a Nevada Limited)
Liability Corporation, collectively,)

Plaintiffs,)

vs.)

COUNTY OF CLARK, a political subdivision of)
the State of Nevada, DOE GOVERNMENT)
AGENCIES I-X, DOE INDIVIDUALS I-X,)
DOE CORPORATIONS I-X, and DOE)
PARTNERSHIPS I-X,)

Defendants.)

Case No.: A-12-668136-C

Dept. No.: XXVI

**ORDER GRANTING IMMEDIATE DISBURSEMENT OF EMINENT DOMAIN
PROCEEDS**

On November 8, 2017 the County of Clark ("County") deposited funds with the Clerk of Court in the amount of \$151,599.83 ("Eminent Domain Proceeds"). The County deposited the Eminent Domain Proceeds representing the jury verdict of \$116,508 in favor of DKB, LLC and DKB II, LLC (collectively the "Landowner" or "Plaintiff") entered on November 10, 2016 plus interest from August 27, 2012 through August 31, 2017 as calculated pursuant to the Order Regarding Plaintiff's Motion for Prejudgment Interest.

LAW OFFICES OF BRIAN C. PADGETT
611 SOUTH 6TH STREET
LAS VEGAS, NEVADA 89101
PHONE (702) 304-0123
FACSIMILE (702) 368-0123

1 Subsequently, the Landowner moved for immediate disbursement of the Eminent Domain
2 Proceeds and therefore, this Court finding good cause to grant the Landowner's request, hereby
3 finds and ORDERS as follows:
4

- 5 1. For the Clerk of Court to immediately disburse the funds the County placed on deposit on
6 or about November 7, 2017, pursuant to the "Notice of Interim Deposit" filed on November
7 8, 2017, with a check made payable to "Law Offices of Brian C. Padgett" in the amount of
8 \$151,599.83 plus any accrued interest.
9

10 DATED _____
11

12 _____
13 Gloria Sturman
14 Judge, District Court, Department 26
15

16 Respectfully Prepared by:

17 LAW OFFICES OF BRIAN C. PADGETT

18 /s/ Amy L. Sugden
19 BRIAN C. PADGETT
20 Nevada Bar No. 7474
21 AMY L. SUGDEN
22 Nevada Bar No. 9983
23
24
25
26
27
28

Steven D. Grierson

1 **ORD**

2 **LAW OFFICES OF BRIAN C. PADGETT**

3 Brian C. Padgett, Bar No. 7474

4 Amy L. Sugden, Bar No. 9983

5 Jeremy B. Duke, Bar No. 13110

6 611 South Sixth Street

7 Las Vegas, Nevada 89101

8 Telephone: (702) 304-0123

9 Facsimile: (702) 368-0123

10 *Attorneys for DKB, LLC*

11 *& DKB II, LLC*

12 EIGHTH JUDICIAL DISTRICT COURT

13 CLARK COUNTY, NEVADA

14 DKB, LLC, a Nevada Limited Liability)

15 Corporation and DKB II, LLC, a Nevada Limited)

16 Liability Corporation, collectively,)

17 Plaintiffs,)

18 vs.)

19 COUNTY OF CLARK, a political subdivision of)

20 the State of Nevada, DOE GOVERNMENT)

21 AGENCIES I-X, DOE INDIVIDUALS I-X,)

22 DOE CORPORATIONS I-X, and DOE)

23 PARTNERSHIPS I-X,)

24 Defendants.)

Case No.: A-12-668136-C

Dept. No.: XXVI

25 **ORDER GRANTING IMMEDIATE DISBURSEMENT OF EMINENT DOMAIN**

26 **PROCEEDS**

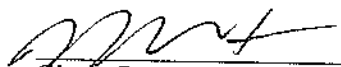
27 On November 8, 2017 the County of Clark ("County") deposited funds with the Clerk of
28 Court in the amount of \$151,599.83 ("Eminent Domain Proceeds"). The County deposited the
Eminent Domain Proceeds representing the jury verdict of \$116,508 in favor of DKB, LLC and
DKB II, LLC (collectively the "Landowner" or "Plaintiff") entered on November 10, 2016 plus
interest from August 27, 2012 through August 31, 2017 as calculated pursuant to the Order
Regarding Plaintiff's Motion for Prejudgment Interest.

LAW OFFICES OF BRIAN C. PADGETT
611 SOUTH 6TH STREET
LAS VEGAS, NEVADA 89101
PHONE (702) 304-0123
FACSIMILE (702) 368-0123

1 Subsequently, the Landowner moved for immediate disbursement of the Eminent Domain
2 Proceeds and therefore, this Court finding good cause to grant the Landowner's request, hereby
3 finds and ORDERS as follows:
4

- 5 1. For the Clerk of Court to immediately disburse the funds the County placed on deposit on
6 or about November 7, 2017, pursuant to the "Notice of Interim Deposit" filed on November
7 8, 2017, with a check made payable to "Law Offices of Brian C. Padgett" in the amount of
8 \$151,599.83 plus any accrued interest.
9

10 DATED June 12, 2018

11 
12 Gloria Sturman
13 Judge, District Court, Department 26
14

15 Respectfully Prepared by:
16

17 LAW OFFICES OF BRIAN C. PADGETT

18 /s/ Amy L. Sugden

19 BRIAN C. PADGETT

20 Nevada Bar No. 7474

21 AMY L. SUGDEN

22 Nevada Bar No. 9983
23
24
25
26
27
28

Bruce Familian

From: Henriod, Joel D. <JHenriod@lrrc.com>
Sent: Wednesday, June 20, 2018 11:49 AM
To: amy@briancpadgett.com; 'brian@brianpadgett.com'
Cc: Bruce Familian; Polsenberg, Daniel F.; Smith, Abraham
Subject: DKB, LLC v. Clark County: Withdrawal of Deposit

Importance: High

PRIVILEGED and CONFIDENTIAL

Amy,

It just came to our attention that your office obtained an order from the court directing disbursement of the funds on deposit, without informing us or Mr. Familian.

Bruce does NOT authorize withdrawal of those funds, and would have forbidden it if you had asked for his approval. We believe withdrawing the funds risks waiver of positions on appeal under NRS 37.100(6) ("Application by the defendant to the court for withdrawal of part or all of the money deposited and the payment of that money to the defendant does not prejudice the right of the defendant to contest the amount of compensation to be finally awarded. The receipt by the defendant of a part or all of the money deposited must be conditioned upon the waiver of all defenses except those relating to the amount of compensation.")

Please do not withdraw those funds.

Joel

Joel D. Henriod
Las Vegas Office Managing Partner
702.474.2681 office
702.743.0212 mobile
jhenriod@lrrc.com

Lewis Roca
ROTHGERBER CHRISTIE

Lewis Roca Rothgerber Christie LLP
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
lrrc.com

This message and any attachments are intended only for the use of the individual or entity to which they are addressed. If the reader of this message or an attachment is not the intended recipient or the employee or agent responsible for delivering the message or attachment to the intended recipient you are hereby notified that any dissemination, distribution or copying of this message or any attachment is strictly prohibited. If you have received this communication in error, please notify us immediately by replying to the sender. The information transmitted in this message and any attachments may be privileged, is intended only for the personal and confidential use of the intended recipients, and is covered by the Electronic Communications Privacy Act, 18 U.S.C. §2510-2521.



Notice: This electronic mail transmission, and any attachments hereto, may contain an attorney-client privilege that is privileged at law. It is not intended for transmission to, or receipt by, any unauthorized persons. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone at (702) 304-0123 and email the sender that you have received this communication in error. We will remit any telephone expenses incurred by you. Thank you.

From: Bruce Familian <bruce@familian.org>
Date: Friday, June 22, 2018 at 2:27 PM
To: Brian Padgett <brian@briancpadgett.com>
Cc: Amy Sugden <amy@briancpadgett.com>, "Henriod, Joel D." <JHenriod@lrrc.com>, "Polisenberg, Daniel F." <DPolisenberg@lrrc.com>, "neal@hyperionlegal.com" <neal@hyperionlegal.com>, Kirby Gruchow <kgruchow@leachjohnson.com>
Subject: RE: Clark County Case

Brian:

Thank you for your response.

I would greatly appreciate that since you don't have a check in hand to stop the process of withdrawing the funds. I do not want to jeopardize any of my potential claims or waivers by taking the cash, even if you believe something different.

Also, please forward me a current bill outlining the balance owed, I have not seen a bill from your office for more than a year.

If you have any questions, please let me know.

Sincerely,

Bruce Familian
Manager
DKB, LLC/DKB II, LLC

From: Brian Padgett <brian@briancpadgett.com>
Sent: Friday, June 22, 2018 8:06 AM
To: Bruce Familian <bruce@familian.org>
Cc: Amy Sugden <amy@briancpadgett.com>; Henriod, Joel D. <JHenriod@lrrc.com>; Polisenberg, Daniel F. <DPolisenberg@lrrc.com>; neal@hyperionlegal.com; kgruchow@leachjohnson.com
Subject: Re: Clark County Case

Bruce,

We have moved on the release now as the Court is finally at that point in post trial proceedings. We do not yet have the check in hand.

We have made this move for release of funds just as we do for every client. Pulling these funds will not jeopardize your rights on appeal. Anyone who tells you otherwise does not deal in eminent domain.

Finally, I'm going to send you another copy of our outstanding bill for services rendered. You can choose to pay it out of pocket or via this release of funds. Either way, we would like to have that resolved and then hand over all proceedings to the other attorneys you have hired who will do a fine job for you.

Best regards,

BCP

iPhone

On Jun 22, 2018, at 7:51 AM, Bruce Familian <bruce@familian.org> wrote:

Brian & Amy:

I remain very confused about your behavior as it relates to my case. There have been several emails back and forth when I directed both of you, very clearly, not to file any motions without my approval. I believe you owe me a complete explanation as to why you needed to file a motion and why you were compelled to file it on an OST. Throughout the history of this case I don't recall us filing any motions on an OST, so what was the emergency in this case. In addition, you have known that Dan Polsenberg and Joel Herniod are Co-Counsel in this matter regarding my appeal case. Why did you file the motion without consulting them or at a minimum send them a copy or notify them of your actions.

I would greatly appreciate an answer today regarding your actions and the status of the funds; did you withdraw them or not? If you have withdrawn the funds please furnish a complete accounting as it relates to where the moneys are being held and the balance.

If you have and questions, please let me know.

Sincerely,

Bruce Familian
Manager
DKB, LLC/DKB II, LLC

Bruce Familian

From: Amy Sugden <amy@briancpadgett.com>
Sent: Friday, June 29, 2018 10:59 AM
To: Bruce Familian; Brian Padgett
Cc: Henriod, Joel D.; Polsenberg, Daniel F.; neal@hyperionlegal.com; KGruchow@leachjohnson.com
Subject: Re: Clark County Case
Attachments: 2018_06_14_08_36_46[1].pdf; 11.16-5.17 Invoice .pdf; Verified Memo Costs.pdf

Good morning Bruce,

Please see the attached invoices:

- (1) Invoice for Kirby's trial work (check to be made payable to KCG Enterprises, Ltd.)
- (2) Invoice for Law Offices of Brian Padgett (trial work and post-trial work to May 2017. Please note we have not billed for any work completed on post-trial matters over the past year)
→ This invoice also includes the costs due and owing that Brian submitted payment for (which are highlighted on the attached Memorandum of Costs)

Finally, we instructed the finance department not to issue the check.

Thank you,
Amy

From: "bruce@familian.org" <bruce@familian.org>
Date: Friday, June 22, 2018 at 2:27 PM
To: Brian Padgett <brian@briancpadgett.com>
Cc: Amy Sugden <amy@briancpadgett.com>, "Henriod, Joel D." <JHenriod@lrrc.com>, "Polsenberg, Daniel F." <DPolsenberg@lrrc.com>, "neal@hyperionlegal.com" <neal@hyperionlegal.com>, "KGruchow@leachjohnson.com" <KGruchow@leachjohnson.com>
Subject: RE: Clark County Case

Brian:

Thank you for your response.

I would greatly appreciate that since you don't have a check in hand to stop the process of withdrawing the funds. I do not want to jeopardize any of my potential claims or waivers by taking the cash, even if you believe something different.

Also, please forward me a current bill outlining the balance owed, I have not seen a bill from your office for more than a year.

If you have any questions, please let me know.

Sincerely,

Bruce Familian
Manager
DKB, LLC/DKB II, LLC

From: Brian Padgett <brian@briancpadgett.com>
Sent: Friday, June 22, 2018 8:06 AM
To: Bruce Familian <bruce@familian.org>
Cc: Amy Sugden <amy@briancpadgett.com>; Henriod, Joel D. <JHenriod@lrrc.com>; Polsenberg, Daniel F. <DPolsenberg@lrrc.com>; neal@hyperionlegal.com; KGruchow@leachjohnson.com
Subject: Re: Clark County Case

Bruce,

We have moved on the release now as the Court is finally at that point in post trial proceedings. We do not yet have the check in hand.

We have made this move for release of funds just as we do for every client. Pulling these funds will not jeopardize your rights on appeal. Anyone who tells you otherwise does not deal in eminent domain.

Finally, I'm going to send you another copy of our outstanding bill for services rendered. You can choose to pay it out of pocket or via this release of funds. Either way, we would like to have that resolved and then hand over all proceedings to the other attorneys you have hired who will do a fine job for you.

Best regards,

BCP

iPhone

On Jun 22, 2018, at 7:51 AM, Bruce Familian <bruce@familian.org> wrote:

Brian & Amy:

I remain very confused about your behavior as it relates to my case. There have been several emails back and forth when I directed both of you, very clearly, not to file any motions without my approval. I believe you owe me a complete explanation as to why you needed to file a motion and why you were compelled to file it on an OST. Throughout the history of this case I don't recall us filing any motions on an OST, so what was the emergency in this case. In addition, you have known that Dan Polsenberg and Joel Herniod are Co-Counsel in this matter regarding my appeal case. Why did you file the motion without consulting them or at a minimum send them a copy or notify them of your actions.

I would greatly appreciate an answer today regarding your actions and the status of the funds; did you withdraw them or not? If you have withdrawn the funds please furnish a complete accounting as it relates to where the moneys are being held and the balance.

If you have and questions, please let me know.

Sincerely,

Bruce Familian
Manager
DKB, LLC/DKB II, LLC

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #126
DATE: 6/26/2018

TO:

Bruce Familian
5520 Stephanie Street
Las Vegas, NV 89122

FOR: NOVEMBER 2016 – MAY 2017 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
Brian Padgett	1.7	\$395.00		\$671.5
Amy Sugden	125	\$395.00		\$49,375.00
Jeremy Duke	3.2	\$395.00		\$908.00
TOTAL BILLABLE ATTORNEY FEES				\$50,955.00
Costs – Copies				\$44.00
Cost Reimbursement				\$18,902.73
TOTAL ATTORNEYS' FEES & COSTS				\$69,945.73
TOTAL DUE AND OWING				\$69,945.73

NOVEMBER 2016

11/1	ALS	5.5	Familian	Exchange email correspondence with Mr. Mansfield confirming joint exhibit list and preparation of binders for the same; review and revise draft direct and cross examination outlines for witnesses
11/2	ALS	6.2	Famlian	Receive and respond to email correspondence from Mr. Mansfield regarding finalization of joint exhibit list ; receipt and review of Clark County's brief in support of admissibility of expert witness; draft and send proposed stipulation regarding land value to Mr. Mansfield for consideration; coordinate finalization of exhibit notebooks [REDACTED] [REDACTED]
11/3	ALS	5.8	Familian	Attend staus check with Mr. Gruchow and Mr. Mansfield before the Court; receive email correspondence from Mr. Mansfield regarding revisions to exhibit list; prepare for and attend expert witness prep meeting with Ms. Wondra and Mr. Gruchow; send draft language to Mr. Mansfield regarding stipulation for Mr. Familian's ability to testify regarding structural issues [REDACTED] [REDACTED]
11/4	ALS	7.5	Familian	Receipt and analyze proposed language regarding drainage easement acquisition from Mr. Mansfield; exchange email correspondences with Mr. Mansfield regarding stipulation for Mr. Familian's ability to testify regarding

NOVEMBER 2016

				<p>structural issues [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED] receive and review email correspondence from Mr. Mansfield regarding finalization of stipulations of evidence for trial; review Clark County's expert reports and outline cross examination concepts</p>
11/5	ALS	6.9	Familian	<p>Receive and respond to email correspondence from Mr. Mansfield regarding proposed revisions to drainage easement acquisition stipulation; [REDACTED]</p> <p>[REDACTED] draft trial testimony outline for Mr. Penney; continue to review Clark County's expert reports in consideration of presenting the landowner's case-in-chief</p>
11/6	ALS	6.6	Familian	<p>Prepare for and attend meeting with Mr. Mansfield and Mr. Gruchow regarding finalization of three stipulations for trial; joint exhibits, jury instructions, etc.; prepare for and attend meeting with Mr. Godfrey and Mr. Gruchow regarding presentation of evidence; receive and respond to email correspondence from Mr. Godfrey regarding exhibits; receive and respond to email correspondence from Mr. Mansfield regarding filing of pre-trial memo; finalize outline for Mr. Penney's trial testimony and forward to Mr. Penney for review</p>

NOVEMBER 2016

11/7	ALS	13.4	Familian	Prepare for and attend trial; [REDACTED] submit stipulations for filing; continue preparing for presentation of Mr. Penney's testimony; provide exhibits to Mr. Godfrey for the same
11/8	ALS	11.8	Familian	Prepare for and attend trial; post- trial preparation for the next day
11/9	ALS	12.0	Familian	Prepare for and attend trial; [REDACTED] receipt and review of proposed animation from Mr. Mansfield ; confer with Mr. Mansfield and Mr. Gruchow about finalization of jury instructions
11/10	ALS	13.9	Familian	Prepare for and attend last day of trial; confer with jury post verdict and client regarding the same
		89.6		

DECEMBER 2016 – JANUARY 2017

12/19	ALS	2.5	Familian	Begin to draft motion for attorneys' fees
12/20	ALS	4.2	Familian	Review and revise motion for attorney's fees and costs; draft motion for costs; [REDACTED] [REDACTED]
12/21	ALS	3.3	Familian	Draft verified memorandum of costs
1/9	BCP	1.2	Familian	Review and revise motions for attorneys fees and costs; [REDACTED] [REDACTED] [REDACTED] [REDACTED]
1/16	ALS	1.8	Familian	Draft motion for prejudgment interest
1/20	BCP	.5	Familian	Review motion for prejudgment interest; advise client of status of post trial motions and process for the same
		13.5		

TIME SHEET

February - March 2017

Date	Time	By Whom	Task Performed
2/1/17	1.1	ALS	Email exchanges with client regarding amounts paid to date on attorneys fees and costs; confer with Mr. Padgett and Mr. Gruchow to confirm the same
2/2/17	.7	ALS	Receipt and review of email correspondence from client regarding proof of payments made to date; cross reference same with regard to finalizing motion for attorneys fees and costs
2/6/17	.1	ALS	Respond to email inquiry from the Court regarding recording fee for trial and payment thereof
2/7/17	3.9	ALS	Complete redactions and final preparation of time sheets for submission to the Court on filing of attorney's fees; submit same for filing
2/8/17	.1	ALS	Receive and respond to email communication from LVLV regarding payment for trial services rendered

TIME SHEET

February - March 2017

2/8/17	4.4	ALS	Continue to review and revise draft verified memorandum of costs and motion for reimbursement of costs; finalize exhibits for same and submit for filing
2/15/17	.8	ALS	Receive and respond to email correspondence from client regarding status of post judgment filings; confer with Mr. Gruchow regarding motion for prejudgment interest
2/21/17	.6	ALS	Receipt and review of County's motion to retax cost; coordinate payments for outstanding trial invoices to the district court and LVLV
2/24/17	.7	ALS	Coordinate with opposing counsel regarding pending post trial motion practice and stipulation to extend briefing on the same; confer with Mr. Gruchow regarding potential to resolve with the County
2/28/17	.3	ALS	Receive and respond to client regarding status of hearings and briefing on post-trial motions, including the County's motion to retax; telephone conference with LVLV regarding status of payment for trial services and respond to email correspondence for payment to Court for jury meal

TIME SHEET

February - March 2017

3/8/17	2.2	ALS	Begin to draft opposition to County's motion to retax
3/09/17	1.1	ALS	Continue to draft opposition to County's motion to retax
3/13/17	3.3	ALS	Finish opposition to County's motion to retax and submit for filing
3/16/17	.9	JBD	Review and revises draft motion for prejudgment interest
3/20/17	2.3	JBD	Draft reply to opposition to motion for attorney's fees

TIME SHEET

February - March 2017

3/21/17	4.3	ALS	Review and revise draft reply to opposition to motion for attorney's fees, submit same for filing
TOTAL	26.8		

LEACH JOHNSON SONG & GRUCHOW

8945 W. Russell Road, Suite 330
Las Vegas, NV 89148
Phone: (702) 538-9074
Facsimile: (702) 538-9113

Federal Tax I.D. 26-0150627
03/31/2017

INVOICE

Familian

Client/Matter No. 9044-000

Invoice No. 188577

RE: Clark County Lawsuit

Previous Balance	\$20,492.65
------------------	-------------

Balance Due	<u>\$20,492.65</u>
--------------------	---------------------------

Aged Due Amounts					
<u>0-30</u>	<u>31-60</u>	<u>61-90</u>	<u>91-120</u>	<u>121-180</u>	<u>181+</u>
0.00	197.50	553.00	0.00	19,742.15	0.00

Please Remit	<u>\$20,492.65</u>
--------------	---------------------------

**DECLARATION OF AMY L. SUGDEN IN SUPPORT OF
PLAINTIFF'S VERIFIED MEMORANDUM OF COSTS**

STATE OF NEVADA)
)ss.
COUNTY OF CLARK)

AMY L. SUGDEN declares:

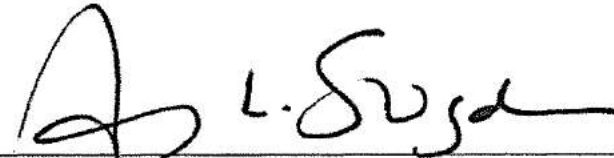
1. I am a resident of Clark County, Nevada. I am over the age of eighteen (18) years and I am in all respects competent to make this Declaration. This Declaration is based upon my personal knowledge and, if called upon to testify, I would testify as set forth in this Declaration.
2. I am an attorney employed at the Law Offices of Brian C. Padgett, legal counsel of record for the Plaintiffs DKB, LLC and DKB II, LLC ("Landowner" or "Plaintiff") in the action known as DKB, LLC and DKB II, LLC v. COUNTY OF CLARK, et al., Case Number A-12-668136-C.
3. This matter arises from an inverse condemnation action brought by the Landowner against the Defendant, COUNTY OF CLARK (hereinafter "Defendant" or "Clark County") for the partial taking of Landowner's property through construction of drainage facilities and other related improvements along Sunset Road, between Decatur Boulevard and Valley View Boulevard.
4. The jury trial in this case commenced on November 7, 2016 and concluded on November 10, 2016, when the jury found in favor of the Landowner for \$116,508.00 as compensation for the partial taking of the Landowner's property.
5. I submit this Declaration pursuant to Nevada law, including NRS 18.110(1). To the best of my knowledge and belief, the attached Memorandum of Costs represents a true and accurate account of all reasonable costs actually and necessarily incurred by the Landowner in this matter.
6. For the reasons set forth in the attached Motion for Reimbursement of Costs, I respectfully request the Court grant the Landowner an award of their costs as requested.

LAW OFFICES OF BRIAN C. PADGETT
611 SOUTH 6TH STREET
LAS VEGAS, NEVADA 89101
PHONE (702) 304-0123
FACSIMILE (702) 368-0123

1 7. This request is made in good faith, and not for any improper purpose or to delay these
2 proceedings.

3 I declare under penalty of perjury that the foregoing is true and correct.

4 Executed on this 9th day of February, 2017.

5
6
7 
8 AMY L. SUGDEN
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFIED MEMORANDUM OF COSTS

The Landowner actually and necessarily incurred costs and expenses associated with this case are as follows:

Reporters' Fees & Costs for Travel to Deposition:

Veritext	\$655.25	Deposition of Noel Laughlin, PE
Southwest Airlines	\$254.80	Flight to Reno for Deposition of Noel Laughlin, PE
Western Reporting Services	\$179.55	Video Deposition of Michael Lloyd Lanning
Veritext	\$696.25	Deposition of Syndi J. Dudley, PhD, PE
Western Reporting Services	\$147.80	Deposition of Glenn M. Anderson
Western Reporting Services	\$248.40	Deposition of William Penney
Veritext	\$547.20	Deposition of James L. Marlett
Veritext	\$309.25	Deposition of Craig Smart
Clark County Treasurer	\$440.00	Recorder Transcriber for Jury Trial
<i>Total of Court Reporting Fees:</i>	<i>\$3,478.50</i>	

The Landowner is entitled to reimbursement of these costs and expenses pursuant to Nevada's Constitution, NRS 37.120(3) and NRS 18.005(2) and (17).

Expert Witness Reports and Fees:

Anderson Valuation Group	\$15,500.00	Expert Witness & Report Fee
Lumos & Associates	\$14,219.60	Expert Witness & Report Fee
Jeanne Wondra	\$3,0000.00	Expert Witness & Report Fee
IEZE Engineering	\$8,268.75	Expert Witness & Report Fee
<i>Total of Expert Witness Reports and Fees:</i>	<i>\$40,988.35</i>	

The Landowner is entitled to reimbursement of these costs and expenses pursuant to Nevada's Constitution, NRS 37.120(3) and NRS 18.005(4), (5) and (17).

Witness & Consulting Fees:

Tommy Cavigilia	\$26.00	Witness Fee
Craig Smart	\$26.00	Witness Fee
Noel Laughlin, PE & HDR Engineering, Inc.	\$26.00	Witness Fee
LAS Consulting	\$1,600.00	Litigation Consultant Fee
Baughman & Turner, Inc.	\$3,218.00	Litigation Consultant Fee
<i>Total Witness Fees:</i>	<i>\$4,896.00</i>	

The Landowner is entitled to reimbursement of these costs and expenses pursuant to Nevada's Constitution, NRS 37.120(3) and NRS 18.005(4), (5) and (17).

General Litigation Costs:

Quivx ¹	\$3,364.68	Printing, Photocopying, & Legal Trial Support
LVLV ²	\$4,656.00	AV Trial Support
Printing & Photocopies	\$2,063.25	Printing and Photocopying Costs
Filing Fees	\$416.00	Court Filing & Clerk's Fees
First Legal & Legal Express	\$574.60	Courier & Runner Services
<i>Total General Litigation Costs:</i>	<i>\$11,074.53</i>	

The Landowner is entitled to reimbursement of these costs and expenses pursuant to

¹ The Landowner and the County worked together to create one set of joint trial notebooks for trial. Therefore, this invoice costs actually includes those fees for the County's set of trial notebooks as well as the set for the Court and the witnesses during trial.

² The Landowner and the County also agreed to utilize the same audio visual support for trial (in a mutual effort to minimize costs) so this invoice covers services rendered for both parties during trial.

1 Nevada's Constitution, NRS 37.120(3) and NRS 18.005(1), (12), (14) and (17).

2 **Jury Fees And Expenses:**

3 Jury Expenses \$212.51 Jury Meals

4 *Total Jury Fees And Expenses:* \$212.51

5
6 The Landowner is entitled to reimbursement of these costs and expenses pursuant to
7 Nevada's Constitution, NRS 37.120(3) and NRS 18.005(3) and (17).

8 **Total Costs:** \$60,649.89

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

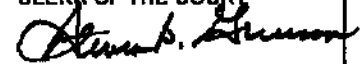
24

25

26

27

28



1 **ORDR**

2
3
4
5 **DISTRICT COURT**

6
7 **CLARK COUNTY, NEVADA**

8 DKB, LLC, a Nevada Limited Liability
9 Corporation and DKB II, LLC, a
10 Nevada Limited Liability Corporation,
Collectively,

11 **Plaintiff(s)**

CASE NO.: A-12-668136-C

12 **vs.**

DEPARTMENT XXVI

13 **COUNTY OF CLARK**, a political
14 **Subdivision of the State of Nevada,**
15 **DOE GOVERNMENT AGENCIES I-**
16 **X,**
17 **DOE INDIVIDUALS I-X, DOE**
CORPORATIONS I-X, and DOE
PARTNERSHIPS I-X,

18 **DEFENDANT(S)**

19
20
21 **DECISION AND ORDER**

22 Plaintiff DKB, LLC (identified herein as Landowner) filed this inverse
23 condemnation case alleging that Clark County (identified herein as the County)
24 connected a drainage pipe to the Plaintiff's underground drainage structure without a
25 valid drainage easement. The case went to trial in November 2016 and the jury
26 awarded the Landowner \$110,376 for a permanent easement, plus damages for
27
28

1 temporary construction of \$6,132, but found Landowner's cost to cure to be \$0.

2 Landowner filed post-trial motions seeking to amend the judgment with an
3 award of pretrial interest, attorney's fees and costs.¹ The motions were continued a
4 number of times at the request of the parties. The Motion for Pretrial Interest was
5 granted on June 13, 2017 and is not included in this decision. Supplemental briefing
6 was provided on the Motion to Retax Costs and Motion for Attorney's fees and this
7 Order will address the remaining issues.

10 MOTION TO RETAX COSTS

11 Expert Witness Fees

12 The County opposed Landowner's Memorandum of Costs; the motion was
13 denied in part and taken under consideration as to expert witness fees. The Court
14 found that Reporters' fees, costs of travel to depositions, and general litigation costs
15 were reasonable, necessary and actually incurred. See, *The Cadle Company, v. Woods*
16 *& Erickson, LLP*, ___Nev. ___, 345.3d 1049, (Ct. App. 2015), and NRS 18.110(1).
17 The Motion to Retax was taken under consideration as to expert witness fees.

18 NRS 18.005(5) provides that the successful party may recover reasonable
19 expert witness fees of not more than five experts in an amount of not more than
20

21
22
23 ¹ Plaintiff sought fees for three attorneys who worked on the file, Mr. Padgett and Ms. Sudgen who handled pre
24 litigation and discovery, and Ms. Sudgen and Mr. Gruchow who participated in the jury trial, at the rate of \$395 per hour
25 of attorney time and \$140 per hour of paralegal time. The totals requested are:
26 Law Offices of Brian Padgett (776 hours @ \$395/hour) - \$306,520.00
Leach Johnson Song & Gruchow (176.1 hours @ \$395/hour) - \$69,559.50
Paralegal (44.7 hours @ \$140/hour) - \$6,258.00
27 Total fees requested: \$382,337.50
28

1 \$1,500 per expert “unless the court allows a larger fee after determining that the
2 circumstances surrounding the expert’s testimony were of such necessity as to require
3 the larger fee.” An award of more than \$1,500 in expert witness fees is reviewed for
4 an abuse of discretion. See, *Frazier v Drake*, ___ Nev. ___, 357 P.3d 365, (2015).
5 In reaching its decision in *Frazier* the Court of Appeals quoted the Idaho Supreme
6 Court’s decision in *State, Dep’t of Transp. v. HJ Grathol*, upholding an award in
7 excess of the statutory expert limit in an eminent domain action because “the expert
8 aided the court in understanding the incomprehensible issues presented, the testimony
9 was helpful due to the exceptional nature of the case and the expert’s testimony was
10 necessary due to the complexity of the issues presented.” See, *Grathol* at 158 Idaho
11 38, 343 P.3d 480, 494-95 (2015).
12

13 The Court of Appeals identified a number of factors which a court should
14 consider in evaluating requests for expert witness fee awards, noting that the list is
15 nonexhaustive, and further that not all of the factors will be pertinent in every case:
16

17 (T)he importance of the expert's testimony to the party's case; the degree
18 to which the expert's opinion aided the trier of fact in deciding the case;
19 whether the expert's reports or testimony were repetitive of
20 other expert witnesses; the extent and nature of the work performed by
21 the expert; whether the expert had to conduct independent investigations
22 or testing; the amount of time the expert spent in court, preparing a
23 report, and preparing for trial; the expert's area of expertise;
24 the expert's education and training; the fee actually charged to the party
25 who retained the expert; the fees traditionally charged by the expert on
26 related matters; comparable experts' fees charged in similar cases; and, if
27 an expert is retained from outside the area where the trial is held,
28 the fees and costs that would have been incurred to hire a

1 comparable expert where the trial was held.
2 *Frazier*, 357 P.3d at 378. The Supreme Court of Nevada has held that an expert
3 need not testify at trial for the court to award fees. For example where the
4 reason the expert did not testify was of the opposing party's making,
5 specifically they chose on the eve of trial to not call their expert rendering it
6 unnecessary for the rebuttal expert to testify. See, *Logan v Abe*, 131 Nev. Adv.
7 Op. 31, 350 P.3d 1139, 1144 (2015).
8

9 Analysis of Expert Witness Billing

10
11 Clark County generally opposed the request for expert fees on the grounds that
12 the fees were unreasonable and unsupported.² Specifically, the County argued against
13 Thomas Guinn of Lumos & Associates as his conclusions were not relied on by DKB
14 and as to the Baughman & Turner "consultants" those witnesses did not testify. Clark
15 County conceded that two of the Landowner's expert bills were reasonable; these
16 were the appraiser Anderson Valuation and a land use planner Jeanne Wondra. The
17 Landowner argued that all of its experts were necessary to value the portion of the
18 property rights inversely taken; experts were also needed on the question of whether
19 additional flows were diverted to the Landowner's property; and whether there were
20 any additional damages to the property by virtue of the additional flows. The
21 Landowner notes that on the eve of trial the County stipulated that it did not have a
22

23
24
25
26
27 ² The Landowner supported its Memorandum of Costs with the invoices from each expert/consultant, the reports and
28 qualifications were not attached most of these documents are found elsewhere in the pleadings.

1 drainage easement and that an additional 65 cubic feet per second were added to the
2 flows through Landowner's drainage facility. Additionally, the parties stipulated to
3 certain structural engineering issues.
4

5 As noted above, the Supreme Court has held where experts do not testify at the
6 last moment due to some change in the trial attributable in part to the actions of the
7 opposing party. See, *Logan*, 350 P.3d 1139, 1144. As the expert fees cannot be
8 automatically denied, their fees will be evaluated in accordance with the factors
9 identified in *Frazier v Drake*, 357 P.3d at 378.
10

11 Anderson Valuation Group fees totaled \$15,500 for appraisal of the property
12 and rebuttal to the County's appraisal expert. Mr. Anderson did testify at trial, as real
13 estate appraisal experts are necessary to establish damages in an inverse
14 condemnation case. Although the Landowner was not successful on its severance
15 damage claim, it did recover damages for the permanent easement. Glenn Anderson
16 is a certified appraiser and meets all of the requirements of competency established in
17 *Hallmark v Eldridge*, 189 P.3d 646 (2008). Clark County conceded the reasonable
18 ness of Mr. Anderson's fees, no doubt as the County had the benefit of comparison
19 with the billing submitted by its own Appraiser, Tim Morse.
20
21
22
23

24 Although Mr. Anderson blocked billed his time, the Court can identify the
25 general entries outline appropriate tasks for real estate appraisals in the special context
26 of inverse condemnation litigation.
27
28

1 Similarly, Landowner expert Lumos & Associates billed \$14,219.60 for
2 engineering consulting but provided no detail in its invoices. From the record
3 available to the court it appears Lumos provided unique engineering services related
4 to water flows. This was certainly a necessary aspect of the Landowner's case, in fact
5 the parties reached a stipulation prior to trial to the fact that the water flows increased
6 by 65 cubic feet. Thus, the need for testimony at trial was eliminated. As mentioned,
7 where a party decides to abandon an aspect of its case or where the parties agree to
8 certain facts, eliminating the need for expert testimony, reasonable fees may
9 nevertheless be awarded, and here Lumos' opinion contributed to resolution of a very
10 complicated issue in the case. It appears that consultants Baughman & Turner
11 provided additional assistance with the site visit, hydrology and drainage studies,
12 which appear to overlap somewhat with the services of Lumos. As mentioned the site
13 visit is one of the factors to consider in determining whether the expert fee was
14 reasonable. Absent an itemization of the hours spent on each task the court has
15 limited information upon which to base an evaluation; therefor the court finds the
16 expert fees charged by Lumos appear reasonable, but absent information to
17 differentiate the services provided by Baughman & Turner, there appears to have been
18 some duplication of effort. Therefore, Lumos fees will be reduced by \$1,500 to
19 \$12,719.60, and Baughman & Turner's consultant fees will be reduced to the statutory
20 amount of \$1,500.

1 IEZE Engineering principal Jose Ruffer did not testify as he was hired to work
2 in-house for Clark County shortly before trial. Mr. Ruffer's fees total \$8,268.75;
3 however, there is no itemization that would permit the Court to evaluate the fees
4 billed in light of the factors. Two of the factors discussed previously favor an award
5 of Mr. Ruffer's fees. First, many of the engineering issues were mooted by the
6 stipulation. Second, the County contributed to the unavailability to testify of the
7 Landowner's expert, and therefor should bear some of the cost as it was necessary to
8 modify trial testimony of other witnesses so that Mr. Ruffer's opinions were not
9 mentioned. For these reasons the Court awards the entire amount sought for Mr.
10 Ruffer's fees.
11

14 As mentioned previously, Jeanne Wondra was identified as a testifying expert
15 on land use issues, although she was not called to testify. Her bill totaled \$3,000, and
16 again provided no itemization or description of services upon which the Court could
17 evaluate the reasonableness of her fees. Clark County, however, admits Ms.
18 Wondra's fees were reasonable and necessary; again the County has unique
19 knowledge of the nature and value of land use planning consultants. LAS Consultants
20 provided land use related consulting services researching and gathering records of the
21 County project that led to the Landowner's claim, their bill was \$1,600. As Ms.
22 Wondra did not itemize her billing, the Court cannot determine whether there was any
23 overlap with the services provided by LAS, which is one of the factors to consider.
24
25
26
27
28

1 Absent sufficient information to evaluate the services performed, the Court will allow
2 the statutory amount of \$1,500 for LAS's consulting fees.

3 The Motion to Retax Costs is granted in part, and denied in part. The Court
4 will allow fees for the four experts and two consultants in excess of the statutory
5 limits of "not more than five" experts at "not more than \$1,500" each because the
6 issues in this litigation involved complex engineering and hydrology issues, most of
7 which were resolved by stipulation prior to trial; additionally condemnation cases
8 require expert testimony on land use issues.

9 The following expert witness fees are awarded: the fees billed by Lumos will
10 be reduced to \$12,719.60; the consultants fees for Baughman and Turner and LAS
11 will be reduced to \$1,500 each. The Court denies the Motion to Retax as to Mr.
12 Ruffer (IEZE) and awards \$8,268.75. The County did not raise any opposition to the
13 fees of the appraiser Glenn Anderson (\$15,500) or the land use consultant Jeanne
14 Wondra (\$3000); those fees are awarded in their entirety.

15 **MOTION FOR AN AWARD OF ATTORNEYS FEES**
16 **Attorneys Fees are Awardable in Inverse Condemnation**

17 The Landowner seeks recovery of its attorney's fees pursuant to Nevada
18 Constitution Art. I, 22(4).³ The complaint on file in this action seeks an award of
19

20
21
22
23
24
25
26 ³ "In all eminent domain actions, just compensation shall be defined as that sum of money, necessary to place the
27 property owner back in the same position, monetarily, without any governmental offsets, as if the property had never
28 been taken. Just compensation shall include, but is not limited to, compounded interest *and all reasonable costs and*

1 attorney's fees but did not plead attorney's fees as a separate item of damages.

2 The Landowner asserted that its fees should be awarded because it was only
3 after four years of vigorously pursuing compensation for its property rights, on the eve
4 of trial the county admitted it had effectuated a taking without payment of just
5 compensation, leaving damages as the only issue for trial.⁴ The County argues that
6 the constitutional amendment does not authorize attorney's fees in this case or any
7 other case.
8
9

10 Additionally, Landowner argues that NRS 37.185 authorizes the recovery of the
11 landowner's attorney's fees. The County counters that NRS 37.185 does not
12 authorize an award of attorney's fees in an inverse condemnation case; it simply does
13 not forbid payment of attorney fees. Chapter 37 was amended in the 2007 legislative
14 session, to provide:
15
16

17 Except as otherwise provided in this section, in all actions in eminent
18 domain, neither the entity that is taking property nor the owner of the
19 property is liable for the attorney's fees of the other party. *This section*
20 *does not apply in an inverse condemnation action if the owner of the*
21 *property that is the subject of the action makes a request for attorney's*
22 *fees from the other party to the action.*

23 See, NRS 37.185 (emphasis added).⁵
24

25 *expenses actually incurred." (emphasis added)*

26 ⁴ The jury's verdict was for \$110,376 for the permanent easement and \$6,132 for temporary construction damages, the
27 jury did not award cost to cure or severance damages.

28 ⁵ The carve out allowing fees in inverse condemnation actions is significant as otherwise "inverse condemnation
proceedings are constitutionally equivalent to eminent domain actions." See, County of Clark v Alper, 100 Nev. 382, at
391, 685 P.2d 943, at 949.

1 There are no published decisions under the statute; however, the one unpublished
2 decision concerning a condemnation action strictly enforced the first clause of the
3 statute. The unpublished decision involved an offer of judgment from Nevada Power
4 that purported to be inclusive of attorney fees and costs. The Nevada Supreme Court
5 found the offer of judgment to be invalid under the statute as the condemning
6 authority may not extend an offer of judgment inclusive of attorney's fees. See
7 *Becker v Nevada Power Co.*, 128 Nev. 922, (2012). In footnote 4 of the decision the
8 Supreme Court noted that the constitution had since been amended to reflect the
9 public policy shielding landowners who seek to recover in an eminent domain action
10 "as of November 2008, '[a] property owner shall not be liable to the government for
11 attorney fees or costs in any eminent domain action.'" Nev. Const. art. 1, § 22(7).
12

13
14 No decisions have been published on the inverse condemnation exception in the
15 statute. This action was filed seeking to recover for inverse condemnation, and
16 specifically pled Landowner's damages included attorney's fees.
17

18
19 A similar provision allowing an award of attorney's fees was at one time
20 included in the constructional defect statute. See, NRS 40.655 added 2003.⁶ The
21 2015 amendments eliminated attorney's fees as an item of damages, but the case law
22

23
24
25 ⁶ NRS 40.055 formerly provided: "1. Except as otherwise provided in NRS 40.650, in a claim governed by NRS
26 40.600 to 40.695, inclusive, and sections 2 to 15, inclusive, of this act, the claimant may recover only the following
27 damages to the extent proximately caused by a constructional defect:

28 (a) Any reasonable attorney's fees...
2. The amount of any attorney's fees awarded pursuant to this section must be approved by the court."

1 that emerged during the period of time when fees were recoverable is instructive as to
2 the analysis of the public policy behind an award of attorney's fees to homeowners.

3 In *Schutte v Beazer Homes*, 121 Nev 837, 124 P.3d 530 (2005) the award of
4 fees was objected to on the grounds that the jury had not awarded fees as damages.
5 The Supreme Court found that since the statute provided that an award of attorney's
6 fees was subject to review by the Court it was not necessary for the jury to find that
7 attorney's fees should be recovered. The Court held that:
8

10 Thus, any time ...a jury determines that the claimant is entitled to recover
11 damages...a court can presume that the claimant is entitled to the
12 recovery of attorney fees, whether or not the jury verdict explicitly so
13 states.

13 ...all that remains is the equitable calculation of the fees...NRS
14 40.655(2) specifically provides that the amount of fees recovered under
15 that section "must be approved by the court." Consequently, we take the
16 plain language of this subsection to expressly require the court to
17 determine the reasonableness of the requested fees.

17 121 Nev. at 863.

18
19 In a subsequent decision the homebuilder had served an offer of judgment and
20 argued that the homeowners should not recover attorney fees as they had recovered
21 less than had been offered. See, *Albios v Horizon Communities*, 122 Nev. 409, 132
22 P.3d 1022 (2006). In *Albios* the Court noted that an award of fees under the
23 constructional defect statute was not mandatory, and it was reasonable to apply the
24 penalty provisions of the offer of judgment statute to reduce or eliminate attorney's
25 fees. The Court ultimately found that the offer of judgment was exclusive of fees and
26
27
28

11

1 costs, but that no mention was made of interest. Thus, after prejudgment interest was
2 added, the Albioses recovered more than the offer of judgment and were entitled to
3 their attorney's fees.

4
5 The district court is not limited in its approach for determining the
6 amount of attorney fees to award, but it must conduct its analysis in light
7 of the *Brunzell v. Golden Gate National Bank* factors, "namely, the
8 advocate's professional qualities, the nature of the litigation, the work
9 performed, and the result."

10 122 Nev. 409, at

11 The only issue in the instant matter is whether the constitutional provision
12 and/or eminent domain statutes permit an award of fees, and if so are the fees
13 requested reasonable. Absent case law to the contrary, the public policy behind the
14 eminent domain law appears similar to that of the prior constructional defect statutes.
15 Therefore, the language of Section 22 (4) of Article 1 of the Nevada Constitution
16 governing eminent domain proceedings logically includes attorney's fees in the
17 definition of "just compensation."⁷

18
19 Further, the Court disagrees with the County's analysis that the carve out in
20 NRS 37.185 "does not authorize an award of attorney's fee... it simply does not
21 forbid payment of attorney fees." Chapter 37 was amended to specifically except
22 inverse condemnation actions from the limitation on attorney fees in eminent domain
23 actions. In order to give meaning to the statutory distinction disallowing an award of
24

25
26
27 ⁷"Just compensation shall include, but is not limited to, compounded interest and all reasonable costs and expenses
28 actually incurred." Art. I, Sect. 22(4) Nevada Constitution.

1 attorney's fees in eminent domain actions, while expressly allowing an award in
2 inverse condemnation actions, the Court concludes that the public policy expressly
3 anticipates that landowner who must prove a taking by the governmental entity and
4 that it suffered damages from the taking, should recover its attorney's fees.
5

6 Based on the foregoing, this Court finds that the Landowner is entitled to an
7 award of attorney's fees, which the Court must analyze for reasonableness.
8

9 BRUNZELL ANALYSIS

10 In *Shuette*, the Supreme Court noted that the determination of "a reasonable
11 fee" is subject to the discretion of the court "tempered only by reason and fairness."
12 Further the Court held "the court is not limited to one specific approach" and may
13 start with any method including using a "lodestar" amount or a contingency fee.

14 "Whichever method is chosen as a starting point, however, the court must
15 continue its analysis by considering the requested amount in light of the
16 factors enumerated by this court in *Brunzell v. Golden Gate National*
17 *Bank*, namely the advocates professional qualities, the nature of the
litigation, the work performed, and the result.

18 121 Nev.837, 864-866 (footnotes omitted).⁸ Most recently in the context of a
19 contingency fee case the Nevada Court of Appeals held that the trial court is not
20 confined to basing an attorney fee award on billing records or hourly statements
21 billing records are not required for every attorney fee request. See, *Wynn Las Vegas*,

22
23
24
25 ⁸ In *Brunzell* the Supreme Court listed "four general headings (1) the qualities of the advocate: his ability, his training,
26 education, experience, professional standing and skill; (2) the character of the work to be done: its difficulty, its
27 intricacy, its importance, time and skill required, the responsibility imposed and the prominence and character of the
28 parties where they affect the importance of the litigation; (3) the work actually performed by the lawyer: the skill, time
and attention given to the work; (4) the result: whether the attorney was successful and what benefits were derived." 85
Nev. 345, at 349.

1 LLC, v. O'Connell, (WL 4405474 August 30, 2018).⁹ The Nevada Supreme Court has
2 held that whatever method is used to determine a baseline for attorney fees, the trial
3 court must then weigh the Brunzell factors in deciding what amount to award, "In this
4 manner...the result will prove reasonable as long as the court provides sufficient
5 reasoning and findings in support of its ultimate determination." *Shuette*, 21 Nev., at
6 864-865, 123 P.3d at 549.
7

8
9 Here counsel for the Landowner provided detailed invoices based on hourly
10 billing. While the County contends that the amount of attorney fees sought were
11 unreasonable, the qualities of the advocates were not challenged, rather the County
12 questioned why three attorneys each billing at the rate of \$395 per hour were
13 necessary to prepare and present this "uncomplicated" case. Further, the County
14 argued that the Landowner was minimally successful and the jury's verdict was
15 slightly more than the County had argued for damages, and \$1.5million less than
16 Landowner sought.¹⁰ The County challenged specific entries because the entry was
17 either related to severance damages, excessive, incomprehensible due to redactions,
18 duplicative or was for an administrative task.
19

20
21
22 First the court notes that it is common for a client to have co-counsel present at
23 trial to keep up with myriad tasks that arise. Further, the fact that Mr. Gruchow joined
24

25
26 ⁹ As an unpublished decision of the Court of Appeals this decision is not cited as authority, but as an example of the
application of the statement in *Shuette* that an award of fees may be based on a contingent fee agreement.

27 ¹⁰ The jury found in favor of the landowner, but awarded ZERO for cost to cure and/or severance damages.
28

1 the litigation team for trial and that Mr. Padgett's participation ended shows counsel
2 took care to avoid duplicating efforts. Finally, it was not unreasonable for trial
3 counsel to review the file in preparation for trial, just because he had not participated
4 in discovery. Any attorney preparing for trial would be expected to review the file,
5 regardless of whether she was present at a deposition, or had previously reviewed an
6 expert report, or was present at pretrial hearings.
7

8
9 The forgoing general objections having been rejected the court finds the hourly
10 rate of \$395 per hour is reasonable in Clark County for the specialized arena of
11 eminent domain litigation.¹¹ The court does not find this matter to have been
12 "uncomplicated" as suggested by the County. Each of the three attorneys who worked
13 on this matter for the Landowner specializes in eminent domain and inverse
14 condemnation matters, which incorporates issues relating to civil engineering and
15 construction as well as real estate valuation.
16

17
18 The billing records provided by counsel, while redacted for attorney client
19 privilege, are fairly detailed. In considering an award of attorney's fees where
20 counsel block billed time the Nevada Supreme Court has held that is not necessarily
21 inappropriate so long as each entry is sufficiently detailed that the nature of the tasks
22 billed can be determined. *In re Margaret Mary Adams 2006 Trust*, (WL 1423378,
23 March 26, 2015). Here, most of the redacted billing entries are sufficiently detailed
24
25

26
27 ¹¹ The Court has ruled on attorney fee petitions in other eminent domain cases and the hourly rate is consistent with that
28 charged by other law firms for attorneys with similar experience and expertise.

1 such that, when read in context with other entries, the court can determine what tasks
2 were performed.

3 The County flagged as “duplicative” visits to the work site by an associate to
4 document the progress of the project, the Court does not find visiting the challenged
5 work site on a regular basis to be inappropriate.

6
7 The billing statements were redacted for privileged information. Redactions
8 for attorney/client communications are entirely reasonable and will not be reduced,
9 however, some redactions for what appears to have been attorney work product are so
10 extensive as to render certain billing entries meaningless. It should be noted that
11 some redacted entries can be placed in context by reading surrounding time entries.
12 The Court also finds that some of the challenged entries are merited where the entry
13 appears duplicative of an entry on the same date, but because of redactions the Court
14 cannot determine whether different tasks were involved. Additionally it appears that
15 the County objects to paralegal time as duplicative, however, having practiced law for
16 27 years prior to assuming the bench the court believes there is nothing unreasonable
17 in counsel reviewing documents in order to give direction to a paralegal as to filing,
18 indexing, numbering or any other method of organization or production. Counsel
19 seeks a relatively modest amount for paralegal time and having reviewed the
20 respective entries finds the paralegal time to reasonable and recoverable. The Nevada
21 Supreme Court has held that paralegal and other non-attorney staff fees are
22
23
24
25
26
27
28

1 recoverable so long as billed at a lower rate. The reason for this holding is that the
2 use of legal assistants "reduces litigation costs." See, *LVMPD v Yeghiazarian*, 129
3 Nev. 760, 312 P.3d 503, (2013). The Brunzell factors also apply to the analysis of
4 paralegal and law clerk fees. Here, recovery for paralegal time is sought at the hourly
5 rate of \$140 per hour, which based on review of billing, submitted in other eminent
6 domain cases is below the range of rates charged for litigation paralegal time.¹² The
7 tasks undertaken by the paralegals in this case are type of work that an attorney would
8 otherwise have to do, at substantially less cost per hour, or are necessary support
9 services for the attorneys. *Id.*, 129 Nev. at 770.

13 Analysis of Billing Entries

14 With these principles in mind the Court reviewed the redacted billing entries
15 flagged by the County to determine whether the fees requested satisfy the
16 requirements of *Brunzell*.¹³ The four general categories for consideration are: (1) the
17 qualities of the advocate: his ability, his training, education, experience, professional
18 standing and skill; (2) the character of the work to be done: its difficulty, its intricacy,
19 its importance, time and skill required, the responsibility imposed and the prominence
20 and character of the parties where they affect the importance of the litigation; (3) the
21 work actually performed by the lawyer: the skill, time and attention given to the work;

25 ¹² The Court has observed hourly rates charged for litigation paralegals average \$150; although rates as high as \$175
26 have been approved, requests submitted for \$200 per hour have been denied.

27 ¹³ The County coded the flagged time entries: "SD" stands for severance damages, which were not awarded by the jury;
28 "NM" for not in motion; "E" for excessive; "R" for redacted/Incomprehensible; "D" for duplicative; "A" for admin
(which the court interprets as referring to tasks that should not be billed at an attorney rate.

1 (4) the result: whether the attorney was successful and what benefits were derived.

2 The final factor appears to be the major area of dispute, the County argues that
3 any time spent on severance damages should be denied as the Landowner was not
4 successful on his claim for severance damages, specifically, whether the property was
5 permanently damaged by the box culvert. As mentioned previously this case involved
6 complicated issues of hydrology and other civil engineering issues as well as
7 valuation of the property. The engineering issues overlap with the question of
8 severance damages such that it is difficult for the Court to isolate any particular billing
9 entry as solely related to severance damages. Many of the liability issues were
10 resolved prior to trial upon stipulation of the parties. See Stipulation and Order
11 regarding structural testimony (by Bruce Familian principal representative for the
12 Landowner) filed November 7, 2016 and Stipulation and Order regarding Easement
13 Acquisition filed November 8, 2016. These stipulations substantially narrowed the
14 issues for trial to damages for the easement, construction related damages and
15 severance damages. The Landowner recovered on the first two categories (albeit for
16 less than was sought) and did not recover for severance damages, for which
17 Landowner sought significant damages. Nevertheless the issues were so intertwined
18 that the efforts of Counsel can only be viewed as a whole, and the Landowner was
19 successful on two of its three claims.

20 The Court finds that the fees billed by Mr. Gruchow were reasonable and
21
22
23
24
25
26
27
28

1 properly incurred in preparation for and participating in the trial.

2 Having reviewed the monthly billing records starting in August 2012 through
3 the post-trial motions in January 2017, the Court finds that 46.1 hours of the time
4 billed by the Law Offices of Brian Padgett cannot be confirmed as having been
5 reasonable due to redactions. See, Exhibit B. The total amount of attorney fees
6 requested by Law Offices of Brian Padgett is reduced to \$288,310.50.¹⁴ Fees for
7 paralegal time will also be awarded, the entire amount requested was reasonable and
8 related to attorney support tasks which otherwise an attorney would have performed,
9 but billed a lower rate than for an attorney. The paralegal billed 44.7 hours at
10 \$140/hour for a total of \$6,258.00.
11
12
13

14 The Landowner's Motion for an Award of Attorney's fees is **GRANTED**, as all
15 of the counsel were particularly skilled in a unique area of the law, the rate charged
16 was reasonable in the local community, and the case presented unusual issues
17 involving hydrology and engineering, while the jury did not award severance
18 damages, the parties were able to reach stipulations that reduced the issues for trial.
19 Further, the issues were interrelated to the extent the Court finds that the billing
20 entries attributed by the County to the severance damage issue are not so obviously
21 unrelated to the overall case. Although the County argues that the results obtained at
22 trial were close to the amount offered for settlement prior to trial, the Landowner was
23
24
25
26

27 ¹⁴ The fee reductions of 46.1 hours at the hourly rate of \$395 total \$18,209.50.
28

1 successful in recovering damages so an award of attorney's fees is warranted.

2 The Landlord sought fees for three attorneys at \$395 per hour. The Law offices
3 of Brian Padgett billed for two attorneys, Mr. Padgett and Ms. Sudgen, who handled
4 the pre litigation and discovery phases; prior to Ms. Sudgen working on the file,
5 another attorney, identified by initials, only billed a relatively modest amount.
6 Additionally the firm billed for paralegal time at the rate of \$140 per hour. Two
7 attorneys participated in the trial: the Padgett lawfirm billed for Ms. Sudgen, while
8 Leach Johnson, et al billed for Mr. Kirby Gruchow, for trial preparation and
9 appearance at trial, Mr. Padgett did not bill for any trial time.
10
11
12

13 CONCLUSION

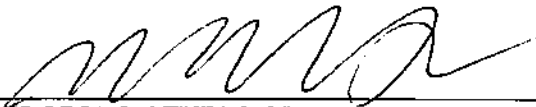
14 WHEREFOR, based on pleadings and papers on file herein, the arguments of
15 counsel and the law that applies in this case as set forth above, the Motion to Retax
16 Costs is **GRANTED IN PART**. Expert witness fees are awarded as follows: Lumos
17 \$12,719.60; Baughman and Turner \$1,500; LAS \$1,500; Mr. Ruffer (IEZE)
18 \$8,268.75; Glenn Anderson \$15,500; Jeanne Wondra \$3,000. The total amount
19 awarded for expert witness fees is \$42,488.35.
20
21

22 FURTHER, attorney fees are awarded as follows: the Law Offices of Brian
23 Padgett, requested 776 hours which will be reduced by 46.1 hours to 729.90 hours at
24 the hourly rate of \$395 which totals \$288,310.50 for attorney's fees plus 44.7 hours of
25 Paralegal time at \$140 per hour totaling \$6,258.00; attorney fees are also awarded to
26
27
28

1 Leach Johnson Song & Gruchow for 176.1 hours at \$395 per hour totaling
2 \$69,559.50. The total of attorney's fees awarded is \$364,128.

3 IT IS SO ORDERED


4
5 DATED: This 15th day of October, 2018

6
7
8 
9 GLORIA J. STURMAN
10 District Court Judge, Dept. XXVI

11
12 Counsel for the Landlord is directed to prepare a Notice of Entry of Decision and
13 Order.

14
15
16
17 **CERTIFICATE OF SERVICE**

18
19 I hereby certify that on the date signed, a copy of the Foregoing Order was
20 electronically served on all parties registered in P-14-082619.

21
22
23 
24 Linda Denman,
25 Judicial Executive Assistant



1 NOTC

2 **LAW OFFICES OF BRIAN C. PADGETT**

3 Brian C. Padgett, Bar No. 7474

4 Amy L. Sugden, Bar No. 9983

5 611 South Sixth Street

6 Las Vegas, Nevada 89101

7 Telephone: (702) 304-0123

8 Facsimile: (702) 368-0123

9 *Attorneys for DKB, LLC*

10 *& DKB II, LLC*

11 **EIGHTH JUDICIAL DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 DKB, LLC, a Nevada Limited Liability) Case No.: A-12-668136-C

14 Corporation and DKB II, LLC, a Nevada Limited)

15 Liability Corporation, collectively,)

Dept. No.: XXVI

16 Plaintiffs,)

17 vs.)

18 COUNTY OF CLARK, a political subdivision of)

19 the State of Nevada, DOE GOVERNMENT)

20 AGENCIES I-X, DOE INDIVIDUALS I-X,)

21 DOE CORPORATIONS I-X, and DOE)

22 PARTNERSHIPS I-X,)

23 Defendants.)

24 **NOTICE OF FILING OF ATTORNEY'S LIEN PURSUANT TO NRS 18.015**

25 TO: ALL PARTIES, and

26 TO: THEIR RESPECTIVE COUNSEL

27 1. Brian C. Padgett/LAW OFFICES OF BRIAN C. PADGETT, Attorney-at-law in good
28 standing with the State Bar of Nevada ("Attorney") submits this Notice of Lien upon any claim,
demand, settlement, or cause of action in the above captioned matter and hereby claims such Lien
pursuant to NRS 18.015.

2. The Lien has been perfected by service of Notice of Filing of Attorney's Lien Pursuant to NRS 18.015 upon Attorney's clients, DKB, LLC; DKB II, LLC ("Client"), plaintiff herein, and against Defendant County of Clark ("County") whom Client has a cause of action, through its counsel, Agnes N. Hanley.

3. This Lien, pursuant to NRS 18.015, attaches to any settlement, verdicts, judgments or decrees entered and to any money which is recovered on account of any suit filed, or any other action, according to the specific terms of the fee agreement between Attorney and Client and any agreements related thereto, from the time of service of this Notice.

4. This Lien is for attorney's fees and litigation costs due Attorney resulting from legal services provided and litigation costs advanced by said Attorney for Client in and for the above captioned action pursuant to the fee agreement dated July 26, 2012 and October 31, 2016, addendum thereto (collectively "Fee Agreement"). Pursuant to the Fee Agreement, the Client placed the issues involved in the above captioned matter in the Attorney's hands for suit and collection.

DATED this 16th day of October, 2018.

LAW OFFICES OF BRIAN C. PADGETT

By: /s/ Amy L. Sugden
Brian C. Padgett, Bar No. 7474
Amy L. Sugden, Bar No. 9983
611 South Sixth Street
Las Vegas, Nevada

Attorneys for Attorneys for Landowner

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Law Offices of Brian C. Padgett, and that on this date I served the foregoing **NOTICE OF FILING OF ATTORNEY'S LIEN PURSUANT TO NRS 18.015** on the parties set forth below by:

☐ Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States mail, at Las Vegas, Nevada, postage prepaid, following ordinary business practices.

☐ Personal delivery

☐ Facsimile

☒ Odyssey E-File and Serve System

TO:

Agnes N. Hanley
2300 West Sahara Avenue, Suite 800
Las Vegas, Nevada 89102
Agnes@HanleyLF.com
Attorneys for County of Clark

Kirby C. Gruchow, Jr. Esq.
Leach Johnson Song & Gruchow
8945 W. Russell Road, Suite 330
Las Vegas, NV 89148
Attorneys for DKB, LLC & DKB II, LLC

Daniel Polsenberg
Joel D. Henriod
Lewis Roca Rothgerber Christie LLP
3993 Howard Hughes Pkwy., Suite 600
Las Vegas, NV 89169
Attorneys for DKB, LLC & DKB II, LLC

Bruce Familian
4534 W Hacienda Ave # A,
Las Vegas, NV 89118
Principal, DKB, LLC & DKB II, LLC

Executed this 16th day of October, 2018

/s/ Ruth Ramos-Ayala
Law Offices of Brian C. Padgett

From: Bruce Familian [bruce@familian.org]
Sent: Thursday, October 25, 2018 12:16 PM
To: Brian Padgett; Amy Sugden; Kirby Gruchow
Cc: 'Joel Henriod'; Polsenberg, Daniel F.; Neal Tomlinson
Subject: Clark County Case

Brian:

I saw that the court awarded me approximately \$400,000 in attorney's fees and costs. While I am reserving all of my rights, I have no objection to you taking the amount of attorney's fees/costs you claim are owed (approximately

\$70,000) from the attorney fee award proceeds.

I authorize you to take the steps needed to obtain payment of the attorney fee award from Clark County.

Please keep me updated with any filings or communications with Clark County.

Please know that Joel still maintains that the funds on deposit with the court for the judgment/interest should not be touched during the appeal.

Sincerely,

Bruce Familian
Manager
DKB, LLC/DKB II, LLC

EIGHTH JUDICIAL DISTRICT COURT-EMMENT DOMAN
200 LEWIS AVENUE
LAS VEGAS, NEVADA 89155

10/22/2018
\$ 151,831.50

PAY TO THE
ORDER OF Law Office of Brian C. Padgett

One hundred fifty-one thousand eight hundred thirty-one and 50/100

NOT VALID AFTER 90 DAYS

DOLLARS

MEMO AB68136

Mr. [REDACTED] [REDACTED] [REDACTED] [REDACTED]

Jennifer M. Garcia

503322

\$151,831.50

Amount

\$151,831.50

EIGHTH JUDICIAL DISTRICT COURT-EMMENT DOMAN
10/22/2018 Pay To: Law Office of Brian C. Padgett

Case Number Case Style

A-12-668136-C DKB, LLC, Plaintiff(s), County of Clark

Bank of America

Customer
Receipt

All items are credited subject to verification, collection, and conditions of the Rules and Regulations of the Bank and as otherwise provided by law. Payments are accepted when credit is applied to outstanding balances and not upon issuance of this receipt. Transactions received after the Bank's posted cut-off time on Saturday, Sunday, and Bank Holidays, are dated and considered received as of the next business day. Please retain this receipt until you receive your account statement. Thank you for banking with Bank of America. Same date with date, number, deposit, withdrawal, transfer and more at (overseas) ATM payments.

Law Office
Attn: Amy L
611 South
Las Vegas,

Item 000970 10/22/2018 12152
Entity NW CO 0007086 TLR 00008
Account *****7178
R/TN 540880133
Deposit

\$151,831.50

Interact

39370CA77M110954531EX09

Member FDIC
05414200018 10-2012

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

15
16
17
18
19
20
21
22
23
24
25
26
27
28

19
20
21
22
23
24
25
26
27
28

21
22
23
24
25
26
27
28

24
25
26
27
28

25
26
27
28

26
27
28

26
27
28

EXHIBIT 1

EXHIBIT 1

Helm, Jessica

From: Smith, Abraham
Sent: Tuesday, April 30, 2019 9:52 AM
To: brian@briancpadgett.com; ruth@briancpadgett.com
Cc: Polsenberg, Daniel F.; Henriod, Joel D.; Helm, Jessica; Crawford, Adam
Subject: RE: DKB v. Clark County withdrawal of deposited funds

Mr. Padgett,

Bruce Familian needs to know the status of the \$151,831.50 that the county had deposited with the clerk and that your office withdrew. We have left multiple messages with your office without response. Please call our office as soon as possible.

Abraham G. Smith

Associate
702.474.2689 office
702.216.6244 fax
asmith@lrrc.com



Lewis Roca Rothgerber Christie LLP
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
lrrc.com

From: Smith, Abraham
Sent: Friday, April 26, 2019 9:19 AM
To: 'ruth@briancpadgett.com' <ruth@briancpadgett.com>
Cc: Polsenberg, Daniel F. <dpolsenberg@lrrc.com>; Henriod, Joel D. <jhenriod@lrrc.com>; Helm, Jessica <jhelm@lrrc.com>; Crawford, Adam <ACrawford@lrrc.com>
Subject: DKB v. Clark County withdrawal of deposited funds

Ruth,

This is to follow up on our conversation Wednesday and this morning. Please give Mr. Padgett this message regarding DKB v. Clark County, Case No. A-12-668136-C: Mr. Familian would like to know the status of the \$151,831.50 that the county had deposited with the clerk and that your office withdrew.

Thank you,

Abraham G. Smith

Associate
702.474.2689 office
702.216.6244 fax
asmith@lrrc.com



Lewis Roca Rothgerber Christie LLP
3993 Howard Hughes Parkway, Suite 600

DKB, LLC., and DKB II, LLC., ACCOUNTING OF A-12-668136-C

Attorney Fees		
Padgett	776 hours requested 729.9 hours ordered • reduced by 46.1 hours as Judge could not confirm due to redactions	\$288,310.50
Gruchow	176.1 hours requested / ordered	\$69,559.50
Paralegal	44.7 hours requested / ordered	\$6,258.00
Expert Fees		
Anderson Valuation Group	\$15,500.00 requested No opposition raised	\$15,500.00
Lumos & Associates	\$14,219.60 requested • reduced by \$1,500.00 in overlap of services to Baughman & Turner	\$12,719.60
Jeanne Wondra	\$3,000.00 requested No opposition raised	\$3,000.00
IEZE Engineering	\$8,268.75 requested All amount awarded	\$8,268.75
LAS Consulting	\$1,600.00 requested \$1,500.00 was awarded	\$1,500.00
Baughman & Turner	\$3,218.00 requested \$1,500.00 was awarded	\$1,500.00
Other Costs		
Reporter's Fees /Depo	\$3,478.50 requested No objection raised	\$3,478.50
Witness fees	\$26.00 x 3 No objection raised	\$78.00
General Litigation Costs	\$11,074.53 No objection raised	\$11,074.53
Jury Expenses	\$212.51 No objection raised	\$212.51
		=====
TOTAL AMOUNT AWARDED		\$421,459.89
CREDITS		
Client Payments to date	<\$231,628.35> See Itemized Payments	<\$231,628.35>
Received from Court	<\$151,599.83>	<\$151,599.83>
		=====
TOTAL AMOUNT DUE FROM CLIENT		\$38,231.71
LESS CREDITS FOR PAYMENTS DIRECTLY TO EXPERTS		<24,386.26>
		=====
		\$13,845.45
46.1 HOURS ATTORNEY FEES NOT AWARDED BY COURT AS REDACTED		\$18,209.50
26.8 HOURS ADDITIONAL ATTORNEY FEES NOT INCLUDED IN MOTION		\$10,586.00
		=====
		\$42,640.95

NRS 18.015 Lien for attorney's fees: Amount; perfection; enforcement.

1. An attorney at law shall have a lien:
 - (a) Upon any claim, demand or cause of action, including any claim for unliquidated damages, which has been placed in the attorney's hands by a client for suit or collection, or upon which a suit or other action has been instituted.
 - (b) In any civil action, upon any file or other property properly left in the possession of the attorney by a client.
 2. A lien pursuant to subsection 1 is for the amount of any fee which has been agreed upon by the attorney and client. In the absence of an agreement, the lien is for a reasonable fee for the services which the attorney has rendered for the client.
 3. An attorney perfects a lien described in subsection 1 by serving notice in writing, in person or by certified mail, return receipt requested, upon his or her client and, if applicable, upon the party against whom the client has a cause of action, claiming the lien and stating the amount of the lien.
 4. A lien pursuant to:
 - (a) Paragraph (a) of subsection 1 attaches to any verdict, judgment or decree entered and to any money or property which is recovered on account of the suit or other action; and
 - (b) Paragraph (b) of subsection 1 attaches to any file or other property properly left in the possession of the attorney by his or her client, including, without limitation, copies of the attorney's file if the original documents received from the client have been returned to the client, and authorizes the attorney to retain any such file or property until such time as an adjudication is made pursuant to subsection 6,
➡ from the time of service of the notices required by this section.
 5. A lien pursuant to paragraph (b) of subsection 1 must not be construed as inconsistent with the attorney's professional responsibilities to the client.
 6. On motion filed by an attorney having a lien under this section, the attorney's client or any party who has been served with notice of the lien, the court shall, after 5 days' notice to all interested parties, adjudicate the rights of the attorney, client or other parties and enforce the lien.
 7. Collection of attorney's fees by a lien under this section may be utilized with, after or independently of any other method of collection.
- (Added to NRS by [1977, 773](#); A [2013, 271](#))

305 P.3d 907 (2013)**Audie G. LEVENTHAL, Appellant,****v.****BLACK & LOBELLO, Respondent.****Audie G. Leventhal, Appellant,****v.****Black & LoBello, Respondent.**Nos. 58055, 59671.**Supreme Court of Nevada.**

July 11, 2013.

908 *908 Robinson & Wood and Keith D. Kaufman, Las Vegas, for Appellant.

Black & LoBello and Michele Touby LoBello, Las Vegas, for Respondent.

BEFORE PICKERING, C.J., HARDESTY and SAITTA, JJ.

OPINION

By the Court, PICKERING, C.J.:

This is an appeal from an order adjudicating a law firm's charging lien for fees against its former client under NRS 18.015. The firm did not serve the statutory notices required to perfect its lien until the case was over. Under NRS 18.015(3), a charging lien only attaches to a "verdict, judgment or decree entered and to ... money or property which is recovered on account of the suit or other action, *from the time of service of the notices required by this section.*" (Emphasis added.) Since the decree became final months before the lien was perfected—and no prospect of post-perfection recovery appeared—the lien should not have been adjudicated under NRS 18.015(4).

I.

After his wife, Jacqueline, sued appellant Audie Leventhal for divorce, he hired respondent Black & LoBello (LoBello) to represent him. Leventhal's answer to Jacqueline's complaint included a counterclaim seeking to enforce a prenuptial agreement that protected his separate property. In May 2010, a final decree of divorce was entered based on a stipulated marital settlement agreement. Under the stipulated decree, Leventhal retained most of his separate property and was awarded joint custody of his son.

Some months later, Jacqueline and Leventhal returned to court with a post-decree dispute over child custody. Still representing Leventhal, LoBello argued that the post-decree proceeding was so far removed from the original divorce proceeding that it was "really a new action initiated by Jacqueline's most recent Motion." In January 2011, Leventhal and Jacqueline managed to resolve their custodial differences by stipulation. From what appears in the record, the post-decree dispute centered on child custody; its stipulated resolution left Leventhal with joint custody and did not produce any new recovery of money or property.

Leventhal paid LoBello for the firm's work through entry of the final decree. He did not pay LoBello, though, for the fees charged to litigate the post-decree dispute. Eventually, LoBello filed a motion to withdraw as counsel, along with a notice of, and a motion to adjudicate and enforce, a charging lien for unpaid attorney fees. By then, the divorce decree had been final for months, the decree's property-distribution terms had been implemented, and even the post-decree child-custody dispute had been resolved by filed stipulation. As LoBello later acknowledged, with the case effectively over, "[o]bviously, [Leventhal] could not recover anything further."

909 *909 Even so, the district court granted LoBello's post-decree motion to adjudicate and enforce a charging lien. It entered personal judgment for LoBello and against Leventhal for \$89,852.69. Leventhal appeals, and we reverse.^[1]

II.

A.

Nevada attorneys have all the usual tools available to creditors to recover payment of their fees. For example, a law firm can sue its client and obtain a money judgment for fees due, thereby acquiring, if recorded, a judgment lien against the client's property. NRS 17.150(2). An attorney also has a passive or retaining lien against files or property held by the attorney for the client. See Argentina Consol. Mining Co. v. Jolley Urga Wirth Woodbury & Standish, 125 Nev. 527, 532, 216 P.3d 779, 782 (2009). Finally, in an appropriate case, an attorney may assert a charging lien against the client's claim or recovery under NRS 18.015. *Id.*; see NRS 18.015(5) ("Collection of attorney's fees by a [charging] lien under this section may be utilized with, after or independently of any other method of collection.").^[2]

A charging lien is "a unique method of protecting attorneys." Sowder v. Sowder, 127 N.M. 114, 977 P.2d 1034, 1037 (N.M.Ct. App.1999). Such a lien allows an attorney, on motion in the case in which the attorney rendered the services, to obtain and enforce a lien for fees due for services rendered in the case. See Argentina, 125 Nev. at 532, 216 P.3d at 782. A charging lien "is not dependent on possession, as in the case of the general or retaining lien. It is based on natural equity—the client should not be allowed to appropriate the whole of the judgment without paying for the services of the attorney who obtained it." 23 *Williston on Contracts* § 62:11 (4th ed. 2002).

The four requirements of NRS 18.015 must be met for a court to adjudicate and enforce a charging lien. See Schlang v. Key Airlines, Inc., 158 F.R.D. 666, 669 (D.Nev.1994) (indicating that, in Nevada, a charging lien is a creature of statute). First, there must be a "claim, demand or cause of action, ... which has been placed in the attorney's hands by a client for suit or collection, or upon which a suit or other action has been instituted." NRS 18.015(1); see Argentina, 125 Nev. at 534, 216 P.3d at 783 (stating that where the client "did not seek or obtain any affirmative recovery in the underlying action, ... there [is] no basis for a charging lien"). The lien is in the amount of the agreed-upon fee or, if none has been agreed upon, a reasonable amount for the services rendered "on account of the suit, claim, demand or action." NRS 18.015(1).^[3] Second, the attorney must perfect the lien by serving "notice in writing, in person or by certified mail, return receipt requested, upon his or her client and upon the party against whom the client has a cause of action, claiming the lien and stating the interest which the attorney has in any cause of action." NRS 18.015(2).^[4] Third, the statute sets a timing requirement: Once perfected, the "lien attaches to any verdict, judgment or decree entered and to any money or property which is recovered on account of the suit or other action, from the time of service of the notices required by this section." NRS 18.015(3). Fourth, the attorney must timely file and properly serve a motion to adjudicate the lien. NRS 18.015(4). It is the interpretation of the third requirement that is at *910 issue here. The proper construction of NRS 18.015 is a question of law that we review de novo. Argentina, 125 Nev. at 531, 216 P.3d at 782.

B.

LoBello argues that the favorable outcomes in the property and child custody settlements both present recovery to which the lien could attach and that, alternatively, a lien can attach even where no tangible value is procured. In LoBello's view, Argentina incorrectly precludes charging liens in cases that do not produce an affirmative recovery. LoBello further argues that Argentina unconstitutionally disfavors attorneys who seek to defend or retain rights rather than procure property. LoBello both misunderstands the nature of charging liens and ignores the attorney's ability to pursue client fees via other means available to creditors.

Fundamentally, NRS 18.015(3) requires a client to assert an affirmative claim to relief, from which some affirmative recovery can result. A charging lien cannot attach to the benefit gained for the client by securing a dismissal; it attaches to "the tangible fruits" of the attorney's services. Glickman v. Scherer, 566 So.2d 574, 575 (Fla. Dist.Ct.App.1990); see also Argentina, 125 Nev. at 534, 216 P.3d at 783-84; Sowder, 977 P.2d at 1037. This "fruit" is generally money, property, or other actual proceeds gained by means of the claims asserted for the client in the litigation.^[5] See Glickman, 566 So.2d at 575;

see *ABA/BNA Lawyers' Manual on Professional Conduct*, at 41:2114 (2002) (discussing the types of property needed for a charging lien to attach); see also *Mitchell v. Coleman*, 868 So.2d 639, 642 (Fla. Dist. Ct. App. 2004).

Argentena is controlling precedent. There, the parties settled a personal injury action, and all claims against Argentena were dismissed. 125 Nev. at 530, 216 P.3d at 781. Argentena's counsel moved to adjudicate its charging lien, but the only result obtained in that case was that the claims against Argentena were dismissed; Argentena did not assert any counterclaims or obtain an affirmative recovery. *Id.* Although Argentena unquestionably benefited from the dismissal, there was no recovery to which a charging lien could attach. *Id.* at 534, 216 P.3d at 784.

Attempting to distinguish *Argentena*, LoBello argues that Leventhal did obtain an affirmative recovery in the underlying case, namely the property retained in the divorce through the property settlement and the "financial benefits associated with ... child custody," including tax benefits and value in avoiding increased child support.

As to the child-custody benefits, LoBello fails to identify any tangible recovery derived from the resolution of this issue that is appropriately subject to a charging lien. A child-custody agreement wherein Leventhal retained his share of custody and the associated benefits does not demonstrate any affirmative claim to, or recovery of, money or property. Rather, LoBello preserved Leventhal's previously established joint custody rights against his ex-wife's attempt to revise them. This is similar to *Argentena*, where the attorney's efforts led to the dismissal of the case but did not involve an affirmative claim or recovery.

911 As to the assets distributed pursuant to the property settlement and divorce decree,^[6] a problem arises because the property settlement *911 took place eight months before LoBello filed and made even a colorable attempt at perfecting its lien, see *supra* note 4. NRS 18.015(3) imposes a time requirement on attorneys seeking to perfect, adjudicate and enforce a charging lien: "The lien attaches... from the time of service of the notices required by this section." Although we have never expressly interpreted this section, Nevada's federal district court did so in *Schlang v. Key Airlines, Inc.*, 158 F.R.D. 666 (D. Nev. 1994).

In *Schlang*, the parties settled a wrongful termination action and their appeals were dismissed. *Id.* at 667-68. Former counsel filed a charging lien but failed to serve the notice required to perfect the lien until the settlement was consummated. *Id.* at 669-70. The federal court, citing NRS 18.015(3),^[7] found that because the attorney did not perfect his lien before the settlement agreement was carried out, "there no longer existed any proceeds to which the lien could attach."^[8] *Id.* at 670. It therefore declined to adjudicate and enforce the lien.

We agree with *Schlang*, and hold that under NRS 18.015(3), the lien attaches to a judgment, verdict, or decree entered, or to money or property recovered, *after* the notice is served. This interpretation harmonizes NRS 18.015(3)'s attachment provisions with NRS 18.015(2)'s requirement that a lien be perfected by proper notice. See *Tonopah Lumber Co. v. Nev. Amusement Co.*, 30 Nev. 445, 455, 97 P. 636, 639 (1908) ("[A] lien can only legally exist when perfected in the manner prescribed by the statute creating it..." (internal quotation omitted)). Thus, if an attorney waits to perfect the lien until judgment has been entered and the proceeds of the judgment have been distributed, the right to the charging lien may be lost. See *Sowder*, 977 P.2d at 1038.

Basic notice and fairness requirements support this interpretation. Nevada attorneys must notify their clients in writing of any interest the attorney has that is adverse to a client. RPC 1.8(a); *In re Singer*, 109 Nev. 1117, 1118, 865 P.2d 315, 315 (1993). Other courts have found that charging liens constitute adverse interests and applied a similar written notice rule. See *Fletcher v. Davis*, 33 Cal.4th 61, 14 Cal. Rptr.3d 58, 90 P.3d 1216, 1221 (2004). NRS 18.015(3) promotes these policies by requiring an attorney to serve notice and perfect a charging lien in a timely manner.

Diligent perfection of the lien under NRS 18.015(3) ensures that the client, the client's opponent in the litigation, and others have notice of the attorney's lien and may conduct the litigation and deal with any recovery it produces accordingly. A timely motion to adjudicate and enforce the charging lien under NRS 18.015(4) also enables the court to evaluate the lien while it has jurisdiction over any affirmative recovery, while the attorney's performance is fresh in its mind, and before the judgment is satisfied and the proceeds are distributed. See *Weiland v. Weiland*, 814 So.2d 1252, 1253 (Fla. Dist. Ct. App. 2002) (holding that notice was untimely where the attorney waited to establish the lien until approximately two months after the case concluded); *Sowder*, 977 P.2d at 1038 (holding that a law firm waived its right to assert its charging lien when it waited several months after the property was distributed to assert its charging lien). See also *Anderson v. Farmers Coop. Elevator Ass'n, Inc.*, 874 F.Supp. 989, 992 (D. Neb. 1995) (quashing the attorney charging lien because notice of the lien was

untimely, made after the property had been transferred to the opposing party); Libner v. Maine Cnty. Comm'r's Ass'n, 845 A.2d 570, 573 (Me.2004) (holding that no lien may be imposed without direct and specific notice to the fund of an opposing party or its carriers that a lien is asserted before the proceeds are disbursed). It would be unreasonable and unfair to clients and to third parties to allow attorneys to claim a lien on any judgment at any time, no matter how much time has passed since the case concluded.

912 *912 Here, LoBello perfected its lien eight months after the stipulated divorce decree was entered and the property was distributed—well after the time a lien could have attached to any of the property governed by that settlement.^[9] Moreover, the custody settlement did not modify the property distribution in the divorce decree or otherwise bring that property back into dispute. Most importantly, LoBello admits that all outstanding issues were resolved before it filed or tried to perfect the lien, and it did not show that any recovery was still pending resolution or other legal action. Cf. Fein v. Schwartz, 404 S.W.2d 210, 227 (Mo.Ct.App.1966) (holding that where property remained to be transferred after the conclusion of a case, the lien was timely perfected before the transfer of property even though notice was served after the conclusion of the case). By the time LoBello filed and tried to perfect its lien, there was nothing to which the lien could have attached.^[10]

This court is not unsympathetic to LoBello's situation. But when an attorney seeks a charging lien—a unique lien enforced by unique methods—the attorney must comply with the particular requirements of the statute. Cf. Sowder, 977 P.2d at 1038. If LoBello wishes to pursue its claims through other means, it may do so. However, LoBello may not rely on perfecting and prosecuting a charging lien filed eight months after the final decree is entered, when the case was completely concluded.

Accordingly, we reverse.

We concur: HARDESTY and SAITTA, JJ.

[1] Leven hal also appeals the district court's denial of his later NRCP 60(b) motion to set aside the judgment. Since we conclude that the district court erred in adjudicating the lien, we do not reach the NRCP 60(b) issue.

[2] The 2013 Legislature amended NRS 18.015. 2013 Nev. Stat., ch. 79, § 1, at ____; S.B. 140, 77th Leg. (Nev. 2013). This appeal is governed by the pre-amendment version of NRS 18.015. See NRS 18.015 (2012).

[3] At the outset of the representation, Leventhal signed LoBello's contract stating that if Leventhal failed to pay LoBello's fees, LoBello would have a lien on all funds recovered through the case and all paperwork produced.

[4] Leven hal disputes the adequacy of LoBello's service of the notice of lien; also, it does not appear LoBello served Jacqueline, as the firm should have under NRS 18.015(2). We do not reach these issues because they are not necessary to our decision.

[5] *Argentina* acknowledged that a charging lien is historically an in rem proceeding, which requires money or property over which the court has jurisdiction in order to adjudicate a charging lien. To the extent that *Argentina* suggests that in rem jurisdiction gives rise to subject matter jurisdiction, we clarify that they are distinct and both are required in order for a district court to adjudicate a charging lien. Other courts without statutory authorization to adjudicate a charging lien in the client's litigation have nevertheless done so because the court has the inherent power to supervise and regulate attorneys appearing before it, the court is likely already familiar with the relevant facts relating to the attorney's performance and services in the case giving rise to the fee dispute, Restatement (Third) of the Law Governing Lawyers § 42 cmt. b (2000), and it would be a waste of judicial time and resources to require a separate proceeding to adjudicate the charging lien. See Gee v. Crabtree, 192 Colo. 550, 560 P.2d 835, 836 (1977).

[6] Although this court has held that a charging lien may not attach to assets that are exempt from creditors under NRS 21.090, see Bero-Wachs v. Law Office of Logar & Pulver, 123 Nev. 71, 75, 157 P.3d 704, 706 (2007), we have not addressed whether a division of property in a divorce case is an affirmative recovery to which a lien may attach. In light of our disposition of this case, this question is not fairly presented, and we decline to examine it on a hypothetical basis.

[7] The court quotes NRS 18.015(3) but incorrectly cites to NRS 18.015(2).

[8] The *Schlang* court cited *In re Nicholson*, 57 B.R. 672 (Bankr.D.Nev.1986) (discussing when an attorney lien attaches to property).

[9] Compare Kramer v. Kramer, 96 Nev. 759, 762, 616 P.2d 395, 397 (1980) (the court loses jurisdiction over property divided by a divorce decree where the parties wait for longer than six months to modify the decree), with Collins v. Murphy, 113 Nev. 1380, 1384-85, 951 P.2d 598, 600-01 (1997) (holding that it was unfairly prejudicial and an error to adjudicate a motion for attorney fees filed after the deadline for filing a notice of appeal had passed), superseded by rule amendment. In the *Matter of Amendments to the Nevada Rules of Civil Procedure*, ADKT No. 426 (Order Amending Nevada Rule of Civil Procedure 54, February 6, 2009).

[10] Even though LoBello's contract stated it would have a lien on any recovery if Leventhal failed to pay fees, at best this evidenced an intent to claim a charging lien if Leventhal defaulted on payment and LoBello gained recovery on Leventhal's behalf. See Sowder, 977 P.2d at 1038.

Save trees - read court opinions online on Google Scholar.

FAMILIAN INVOICES PAID and BALANCE OWED						
Date	Invoice #	Fees	Costs	Invoice Amount	Check Amount Check #	Running Total Paid by Client
	Retainer				5,000.00 Paid #010435	5,000.00
9-7-12	100	15,839.50		10,839.50 (retainer credit)	10,839.50 Paid #010452	15,839.50
10-1-12	101	5,918.50	283.60	6,202.10	6,202.10 Paid #010457	22,041.60
11-1-12	102	10,71.50	80.50	1,152.00	1,152.00 Paid #010011	23,193.60
12-1-12	103	2,454.00	4.00	2,458.00	2,458.00 Paid #010018	25,651.60
12-28-12	104	2,218.00	75.00	2,293.00	2,293.00 Paid #010025	27,944.60
1-31-13	105	4,977.00	1199.50	6,176.50	6,176.50 Paid #010040	34,121.10
2-28-13	106	2,740.50	1680.17	4,420.67	4,420.67 Paid #010047	38,541.77
3-29-13	107	4,394.00	252.75	4,646.75	4,646.75 Paid #010054	43,188.52
4-30-13	108	3,871.00	10.5	3,881.50	3,881.50 Paid #010063	47,070.02
5-31-13	109	5,056.00	22.5	5,078.50	5,078.50 Paid #010066	52,148.52
6-30-13	110	6,043.50	446.25	6,489.75	6,489.75 Paid #010077	58,638.27
7-31-13	111	5,569.50	663.92	6,233.42	6,233.42 Paid #010084	64,871.69
9-3-13	112	11,130.00	769.34	11,899.34	11,899.34 Paid #010098	76,771.03
10-4-13	113	4,555.00	212.48	4,767.48	4,767.48 Paid #010109	81,538.51
11-7-13	114	10,577.50	662.01	11,239.51	11,239.51 Paid #010111	92,778.02
12-2-13	115	2,537.50	728.15	3,265.65	3,265.65 Paid #010127	96,043.67
1-6-14	116	5,499.00	192.25	5,691.25	5691.25 Paid #010132	101,734.92
2-4-14	117	474.00	391.93	865.93	865.93	102,600.85

					Paid #010139	
3-4-14	118	2,810.5	194.75	3,005.25	3,005.25 Paid #010148	105,606.10
4-8-14	119	862.00	221.00	1,083.00	1,083.00 Paid #010155	106,689.10
5-5-14	120	8,520.50	1033.25	9,552.75	9552.75 Paid #010161	116,241.85
6-5-14	121	0	32.75	32.75	32.75 Paid #010168	116,274.60
7-7-14	122	4,394.50	348.50	4,743.00	4,743.00 Paid #010179	121,017.60
8-5-14	123	899.50	10.25	909.75	909.75 Paid #010188	121,927.35
9-4-14	124	4,068.50	43.75	4,112.25	4,112.25 Paid #010203	126,039.60
10-3-14	125	2,125.50	49.75	21,404.75	0 <21,404.75>	126,039.60
11-5-14	126	2,251.50		2,251.50	0 <23,656,25>	126,039.60
12-4-14	127	829.50	11.25	840.75	0 <24,497.00>	126,039.60
1-5-15	128	592.50	9.75	602.25	0 <25,099.25>	126,039.60
3-9-15 (Jan/Feb)	129	1,856.50	63.50	1,920.00	0 <27,019.25>	126,039.60
4-10-15 (Mar)	130	11,929.00	73.75	12,002.75	0 <39,022.00>	126,039.60
5-6-15 (Apr)	131	3,831.50	704.00	4,535.50	0 <43,557.50>	126,039.60
6-12-15 (May)	132	1,422.00	1.75	1,423.75	0 <44,981.25>	126,039.60
7-31-15 (Jun/Jul)	133	237.00	4.75	241.75	0 <45,223.00>	126,039.60
9-22-15 (Aug)	134	10,270.00	85.50	10,355.50	0 <55,578.50>	126,039.60
Email sent and paid	134 revised			Recap of balance owed	55,588.75 Paid	181,628.35
12-1-15 (Sep/Oct)	135	13,785.50	62.00	13,847.50	0 <13,847.50>	
3-18-16 (Nov/Feb) 2016	136	38,789.00	98.00	38,887.00	0 <52,734.45>	

*(Mar)		14.8 x 395 5,846.00			<58,580.50>	
*(Apr)		11.4 x 395 4,064.00			<62,644.50>	
*(May)		15.8 x 395 6,241.00			<68,885.50>	
*(Jun)		.5 x 395 197.50			<69,083.00>	
*(Jul)		3.1 x 395 1,224.50			<70,307.50>	
*(Aug)		4.2 x 395 1,659.00			<71,966.50>	
*(Sep)		6.2 x 395 2,449.00			<74,415.50>	
*(Oct)		65.3 x 395 25,793.50			<100,209.00>	
*(Nov)		89.6 x 395 35,392.00			<135,601.00>	
*(Dec/Jan) 2017		13.5 x 395 5,332.50			<140,933.50>	
					=====	
*These are billings submitted as due and owing at of the time of the Motion for Attorney Fees filed 2-7-17. Mr. Familian had stopped paying the monthly invoices.						

The above table displays work on Mr. Familian's case up until the 2-7-17 Motion for Attorney Fees where a total of 776 hours was submitted, regardless of how much Mr. Familian has paid to date, Mr. Familian is still responsible for work on his case AFTER February, 2017 which is not included in the above table.

The Court reduced the above 776 hours by 46.1, however, the client is still responsible to pay the Law Office of Brian C. Padgett for those hours spent on his case for a total of \$18,209.50.

DKB II, LLC
4534 W. Hacienda Ave.
Las Vegas, NV 89118
(702) 227-9267 office

W A R N I N G
DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
VERIFY FIRST "TRUE" WATERMARK. HOLD UP TO
LIGHT TO SEE SAFE AND VERIFY FIRST.
NEVADA STATE BANK
GENERAL ACCOUNT
LAS VEGAS, NV 94-77/1224

No. 010435

Pay *FIVE THOUSAND AND XX / 100

Pay to the
Order of

Law Offices of Brian C Padgett
611 South Sixth Street
Las Vegas, NV 89101

Date

7/26/2012

Check Amount

*****5,000.00*

⑈010435⑈ ⑆ [REDACTED] ⑆

Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
7/26/2012	072612		5,000.00	0.00	5,000.00

Check: 010435	7/26/2012	Law Offices of Brian C Padgett	Check Total	5,000.00
---------------	-----------	--------------------------------	-------------	----------

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #100
DATE: 9/7/2012

TO:
Bruce Familian

FOR: AUGUST 2012 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	AMOUNT
AUGUST 2012		\$395.00	
Brian Padgett (<i>see attached</i>)	19.8		\$7,821.00
Amy Braudis (<i>see attached</i>)	20.3		\$8,018.50
TOTAL	40.1		\$15,839.50
Less Retainer			(\$5,000.00)
TOTAL CHARGES FOR August			\$10,839.50
TOTAL DUE AND OWING			\$10,839.50

Make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
Total due in 30 days.

THANK YOU FOR YOUR BUSINESS!

DKB II, LLC
4534 W. Hacienda Ave.
Las Vegas, NV 89118
(702) 227-9267 office

DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
VERIFY FIRST "TRUE" WATERMARK. HOLD UP TO
LIGHT TO SEE SAFE AND VERIFY FIRST.
NEVADA STATE BANK
GENERAL ACCOUNT
LAS VEGAS, NV 94-77/1224

No. 010452

Pay *TEN THOUSAND EIGHT HUNDRED THIRTY-NINE AND 50 / 100

Date

Check Amount

9/25/2012

*****10,839.50*

Pay to the
Order of

Law Offices of Brian C Padgett
611 South Sixth Street
Las Vegas, NV 89101

[Signature]

⑈010452⑈

Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
9/25/2012	100		10,839.50	0.00	10,839.50

Familian

✓

Check # 010452	9/25/2012	Law Offices of Brian C Padgett	Check Total	10,839.50
----------------	-----------	--------------------------------	-------------	-----------

RECEIVED
SEP 27 2012
BY: USPS

9/27 Placed on BCP desk

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #101
DATE: 10/1/2012

TO:

Bruce Familian


FOR: SEPTEMBER 2012 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
SEPTEMBER 2012				
Brian Padgett (<i>see attached</i>)	1.8	\$395.00		\$711.00
Amy Braudis (<i>see attached</i>)	10.1	\$395.00		\$3,989.50
Paralegal	8.7	\$140.00		\$1,218.00
TOTAL BILLABLE HOURS	20.6			\$5,918.50
Filing Fees			\$283.60	\$283.60
TOTAL DUE AND OWING				\$6,202.10

Make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
Total due in 30 days.

THANK YOU FOR YOUR BUSINESS!

DKB II, LLC
4534 W. Hacienda Ave.
Las Vegas, NV 89118
(702) 227-9267 office

W A R N I N G
DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
VERIFY FIRST, "TRUE" WATERMARK. HOLD UP TO
LIGHT TO SEE SAFE AND VERIFY FIRST.
NEVADA STATE BANK
GENERAL ACCOUNT
LAS VEGAS, NV 94-77/1224

No. 010457

Pay *SIX THOUSAND TWO HUNDRED TWO AND 10 / 100

Date 10/8/2012 Check Amount *****6,202.10*

Pay to the Order of Law Offices of Brian C Padgett
611 South Sixth Street
Las Vegas, NV 89101

⑈010457⑈ ⑆ [REDACTED] ⑆

Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
10/8/2012	101		6,202.10	0.00	6,202.10

RECEIVED
OCT 10 2012

Check # 010457	10/8/2012	Law Offices of Brian C Padgett	Check Total	6,202.10
----------------	-----------	--------------------------------	-------------	----------

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #102
DATE: 11/1/2012

TO:

Bruce Familian
[REDACTED]

FOR: OCTOBER 2012 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
OCTOBER 2012				
Brian Padgett	0	\$395.00		
Amy Braudis	2.5	\$395.00		\$987.50
Paralegal	.6	\$140.00		\$84.00
TOTAL BILLABLE HOURS	3.1			\$1,071.50
Filing Fees & Process Service			\$80.50	\$80.50
TOTAL DUE AND OWING				\$1,152.00

Make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
Total due in 30 days.

THANK YOU FOR YOUR BUSINESS!

DKB II, LLC
4534 W. Hacienda Ave.
Las Vegas, NV 89118
(702) 227-9267 office

W A R N I N G

DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
VERIFY FIRST "TRUE" WATERMARK. HOLD UP TO
LIGHT TO SEE SAFE AND VERIFY FIRST.
BANK OF NEVADA
GENERAL ACCOUNT
LAS VEGAS, NV

No. 010011

Pay *ONE THOUSAND ONE HUNDRED FIFTY-TWO AND XX / 100 (

Date

Check Amount

11/12/2012

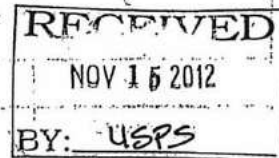
*****1,152.00*

Pay to the
Order of

Law Offices of Brian C. Padgett
611 South Sixth Street
Las Vegas, NV 89101

⑈010011⑈

Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
11/12/2012	102	October hours	1,152.00	0.00	1,152.00



Check 010011 11/12/2012 Law Offices of Brian C. Padgett Check Total 1,152.00

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #103
DATE: 12/1/2012

TO:

Bruce Familian
[REDACTED]

FOR: NOVEMBER 2012 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
NOVEMBER 2012				
Brian Padgett	0	\$395.00		
Amy Braudis	6.0	\$395.00		\$2,370.00
Paralegal	.6	\$140.00		\$84.00
TOTAL BILLABLE HOURS	6.6			
Copies		\$4.00		\$4.00
TOTAL DUE AND OWING				\$2,458.00

Make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
Total due in 30 days.

THANK YOU FOR YOUR BUSINESS!

DKB II, LLC
4534 W. Hacienda Ave.
Las Vegas, NV 89118
(702) 227-9267 office

WARNING
DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
VERIFY FIRST "TRUE" WATERMARK. HOLD UP TO
LIGHT TO SEE SAFE AND VERIFY FIRST.
BANK OF NEVADA
GENERAL ACCOUNT
LAS VEGAS, NV

No. 010018

Pay *TWO THOUSAND FOUR HUNDRED FIFTY-EIGHT AND XX / 100

Date

Check Amount

12/18/2012

*****2,458.00*

Pay to the
Order of

Law Offices of Brian C Padgett
611 South Sixth Street
Las Vegas, NV 89101

Acct Bruce Familian

⑈010018⑈ ⑆[REDACTED]⑆

Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
12/18/2012	103	Acct Bruce Familian	2,458.00	0.00	2,458.00

Check: 010018	12/18/2012	Law Offices of Brian C Padgett	Check Total:	2,458.00
---------------	------------	--------------------------------	--------------	----------

✓ Familian

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #104
DATE: 12/28/2012

TO:

Bruce Familian
[REDACTED]

FOR: DECEMBER 2012 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
DECEMBER 2012				
Brian Padgett	0	\$395.00		
Amy Braudis	4.8	\$395.00		\$1,896.00
Paralegal	2.3	\$140.00		\$322.00
TOTAL BILLABLE HOURS	7.1			\$2,218.00
Copies (.25 B&W x 288)		\$72.00		
(.50 Color x 6)		\$3.00		\$75.00
TOTAL DUE AND OWING				\$2,293.00

Make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
Total due in 30 days.

THANK YOU FOR YOUR BUSINESS!

DKB, II, LLC
4534 W. Hacienda Ave.
Las Vegas, NV 89118
(702) 227-9267 office

DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
VERIFY FIRST "TRUE" WATERMARK. HOLD UP TO
LIGHT TO SEE SAFE AND VERIFY FIRST.
BANK OF NEVADA
GENERAL ACCOUNT
LAS VEGAS, NV

No. 010025

Pay *TWO THOUSAND TWO HUNDRED NINETY-THREE AND XX / 100

Date

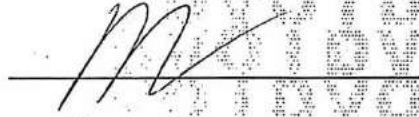
Check Amount

1/2/2013

*****2,293.00*

Pay to the
Order of

Law Offices of Brian C Padgett
611 South Sixth Street
Las Vegas, NV 89101



⑈010025⑈ ⑆ [REDACTED] ⑆

Date	Invoice Number	Comments	Amount	Discount Amount	Net Amount
1/2/2013	104		2,293.00	0.00	2,293.00

Check: 010025	1/2/2013	Law Offices of Brian C Padgett	Check Total:	2,293.00
---------------	----------	--------------------------------	--------------	----------

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #105
DATE: 1/31/2013

TO:Bruce Familian
**FOR: JANUARY 2013 BILLABLE HOURS**

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
JANUARY 2013				
Brian Padgett	0	\$395.00		
Amy Braudis	12.6	\$395.00		\$4,977.00
Paralegal	0	\$140.00		\$0.00
TOTAL BILLABLE HOURS/LEGAL FEES	12.6			\$4,977.00
Copies			\$194.00	\$194.00
Jeanne Wondra-Expert Retainer			\$1,000.00	\$1,000.00
Filing Fees			\$5.50	\$5.50
TOTAL DUE AND OWING				\$6,176.50

Make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
Total due in 30 days.

THANK YOU FOR YOUR BUSINESS!

DKB II, LLC
4534 W. Hacienda Ave.
Las Vegas, NV 89118
(702) 227-9267 office

W A R N I N G
DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
VERIFY FIRST "TRUE" WATERMARK. HOLD UP TO
LIGHT TO SEE SAFE AND VERIFY FIRST.
BANK OF NEVADA
GENERAL ACCOUNT
LAS VEGAS, NV

No. 010040

Pay *SIX THOUSAND ONE HUNDRED SEVENTY-SIX AND 50 / 100

Date

Check Amount

3/4/2013

*****6,176.50*

Pay to the
Order of

Law Offices of Brian C Padgett
611 South Sixth Street
Las Vegas, NV 89101

⑈010040⑈

Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
3/4/2013	105		6,176.50	0.00	6,176.50

Our New Address:
5520 Stephanie Street
Las Vegas, NV 89122

Check: 010040	3/4/2013	Law Offices of Brian C Padgett	Check Total:	6,176.50
---------------	----------	--------------------------------	--------------	----------

Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
3/4/2013	105		6,176.50	0.00	6,176.50

Familian

Our New Address:
5520 Stephanie Street
Las Vegas, NV 89122

Check: 010040	3/4/2013	Law Offices of Brian C Padgett	Check Total:	6,176.50
---------------	----------	--------------------------------	--------------	----------

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #106
DATE: 2/28/2013

TO:

Bruce Familian
[REDACTED]

FOR: FEBRUARY 2013 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
FEBRUARY 2013				
Brian Padgett	0	\$395.00		
Amy Braudis	6.3	\$395.00		\$2,488.50
Paralegal	1.8	\$140.00		\$252.00
TOTAL BILLABLE HOURS/LEGAL FEES	8.1			\$2,740.50
Copies			\$13.50	\$13.50
Anderson Valuation Group-Expert Retainer			\$1,666.67	\$1,666.67
TOTAL DUE AND OWING				\$4,420.67

Make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
Total due in 30 days.

THANK YOU FOR YOUR BUSINESS!

DKB II, LLC
5520 Stephanie Street
Las Vegas, NV 89122
(702) 227-9267 office

W A R N I N G

DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
VERIFY FIRST "TRUE" WATERMARK. HOLD UP TO
LIGHT TO SEE SAFE AND VERIFY FIRST.

BANK OF NEVADA
GENERAL ACCOUNT
LAS VEGAS, NV

No. 010047

Pay *FOUR THOUSAND FOUR HUNDRED TWENTY AND 67 / 100

Date

Check Amount

4/2/2013

*****4,420.67*

Pay to the
Order of

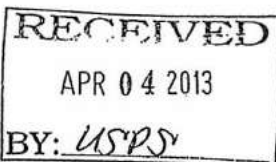
Law Offices of Brian C Padgett
611 South Sixth Street
Las Vegas, NV 89101



⑈010047⑈



Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
4/2/2013	106		4,420.67	0.00	4,420.67



Check: 010047	4/2/2013	Law Offices of Brian C Padgett	Check Total:	4,420.67
---------------	----------	--------------------------------	--------------	----------

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #107
DATE: 3/29/2013

TO:

Bruce Familian


FOR: MARCH 2013 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
MARCH 2013				
Brian Padgett	5.5	\$395.00		\$2,172.50
Amy Braudis	4.1	\$395.00		\$1,619.50
Paralegal	4.3	\$140.00		\$602.00
TOTAL BILLABLE HOURS/LEGAL FEES	13.9			\$4,394.00
Copies			\$252.75	\$252.75
TOTAL DUE AND OWING				\$4,646.75

Please note that there is an outstanding balance due of \$4,420.67 for February 2013 Invoice #106.

Make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
Total due in 30 days.

THANK YOU FOR YOUR BUSINESS!

DKB II, LLC
5520 Stephanie Street
Las Vegas, NV 89122
227-9267 office

W A R N I N G

DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
VERIFY FIRST "TRUE" WATERMARK. HOLD UP TO
LIGHT TO SEE SAFE AND VERIFY FIRST.

BANK OF NEVADA
GENERAL ACCOUNT
LAS VEGAS, NV

No. 010054

Pay *FOUR THOUSAND SIX HUNDRED FORTY-SIX AND 75 / 100

Date

Check Amount

5/1/2013

*****4,646.75*

Pay to the
Order of

Law Offices of Brian C Padgett
611 South Sixth Street
Las Vegas, NV 89101

[Signature]

⑈010054⑈

Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
5/1/2013	107		4,646.75	0.00	4,646.75

Check: 010054	5/1/2013	Law Offices of Brian C Padgett	Check Total:	4,646.75
---------------	----------	--------------------------------	--------------	----------

✓

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #108
DATE: 4/30/2013

TO:

Bruce Familian


FOR: APRIL 2013 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
MARCH 2013				
Brian Padgett	3.5	\$395.00		\$1,382.50
Amy Braudis	6.3	\$395.00		\$2,488.50
Paralegal		\$140.00		\$0.00
TOTAL BILLABLE HOURS/LEGAL FEES	9.8			\$3,871.00
Copies			\$	\$10.50
TOTAL DUE AND OWING				\$3,881.50

Please note that there is an outstanding balance due of \$4,646.75 for March 2013 Invoice #107.

Make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
Total due in 30 days.

THANK YOU FOR YOUR BUSINESS!

DKB II, LLC
5520 Stephanie Street
Las Vegas, NV 89122
(702) 227-9267 office

W A N I N G
DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
VERIFY FIRST "TRUE" WATERMARK. HOLD UP TO
LIGHT TO SEE SAFE AND VERIFY FIRST.
BANK OF NEVADA
GENERAL ACCOUNT
LAS VEGAS, NV

No. 010063

Pay *THREE THOUSAND EIGHT HUNDRED EIGHTY-ONE AND 50 / 100

Date

Check Amount

6/4/2013

*****3,881.50*

Pay to the
Order of

Law Offices of Brian C Padgett
611 South Sixth Street
Las Vegas, NV 89101

April Hours

⑈010063⑈

Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
6/4/2013	108	April Hours	3,881.50	0.00	3,881.50

Check: 010063	6/4/2013	Law Offices of Brian C Padgett	Check Total:	3,881.50
---------------	----------	--------------------------------	--------------	----------

DKB II, LLC
5520 Stephanie Street
Las Vegas, NV 89122
(702) 227-9267 office

W A N T I N G
DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
VERIFY FIRST "TRUE" WATERMARK. HOLD UP TO
LIGHT TO SEE SAFE AND VERIFY FIRST.
BANK OF NEVADA
GENERAL ACCOUNT
LAS VEGAS, NV

No. 010063

Pay *THREE THOUSAND EIGHT HUNDRED EIGHTY-ONE AND 50 / 100

Date

Check Amount

6/4/2013

*****3,881.50*

Pay to the
Order of

Law Offices of Brian C Padgett
611 South Sixth Street
Las Vegas, NV 89101

April Hours

⑈010063⑈ ⑆ [REDACTED] ⑆

Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
6/4/2013	108	April Hours	3,881.50	0.00	3,881.50

Check: 010063	6/4/2013	Law Offices of Brian C Padgett	Check Total:	3,881.50
---------------	----------	--------------------------------	--------------	----------

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #109
DATE: 5/31/2013

TO:

Bruce Familian


FOR: MAY 2013 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
MAY 2013				
Brian Padgett	2.1	\$395.00		\$829.50
Amy Sugden	10.7	\$395.00		\$4,226.50
Paralegal		\$140.00		\$0.00
TOTAL BILLABLE HOURS/LEGAL FEES	12.8			\$5,056.00
Copies			\$	\$22.50
TOTAL DUE AND OWING				\$5,078.50

Make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
Total due in 30 days.

THANK YOU FOR YOUR BUSINESS!

DKB II, LLC
5529 Stephanie Street
Las Vegas, NV 89122
(702) 227-9267 office

W A T E R M A R K
DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
VERIFY FIRST "TRUE" WATERMARK. HOLD UP TO
LIGHT TO SEE SAFE AND VERIFY FIRST.
BANK OF NEVADA
GENERAL ACCOUNT
LAS VEGAS, NV

No. 010066

Pay *FIVE THOUSAND SEVENTY-EIGHT AND 50 / 100

Date

Check Amount

6/10/2013

*****5,078.50*

Pay to the
Order of

Law Offices of Brian C Padgett
611 South Sixth Street
Las Vegas, NV 89101

May billable hours

⑈010066⑈ ⑆ [REDACTED] ⑆

Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
6/10/2013	109	May billable hours	5,078.50	0.00	5,078.50

RECEIVED
JUN 31 2013
BY: USPS

Check: 010066	Date: 6/10/2013	Pay to: Law Offices of Brian C Padgett	Check Total:	5,078.50
---------------	-----------------	--	--------------	----------

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #110
DATE: 6/30/2013

TO:

Bruce Familian


FOR: JUNE 2013 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
JUNE 2013				
Brian Padgett	1.7	\$395.00		\$671.50
Amy Sugden	13.6	\$395.00		\$5,372.00
Paralegal		\$140.00		\$0.00
TOTAL BILLABLE HOURS/LEGAL FEES	15.3			\$6,043.50
Copies			\$50.25	\$50.25
Expert Consultation Costs			\$46.00	\$396.00
TOTAL DUE AND OWING				\$6,489.75

Please make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
within 30 days.

THANK YOU FOR YOUR BUSINESS!

DKB II, LLC
 5520 Stephanie Street
 Las Vegas, NV 89122
 (702) 227-9267 office

W A R N I N G
 DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
 WATERMARK. HOLD UP TO
 LIGHT TO SEE SAFE AND VERIFY FIRST.
 BANK OF NEVADA
 GENERAL ACCOUNT
 LAS VEGAS, NV

No. 010077

Pay *SIX THOUSAND FOUR HUNDRED EIGHTY-NINE AND 75 / 100

Pay to the
 Order of Law Offices of Brian C Padgett
 611 South Sixth Street
 Las Vegas, NV 89101

June Billing

010077

Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
7/22/2013	110	June Billing	6,489.75	0.00	6,489.75

7/22/2013

Date

Check Amount

*****6,489.75*

RECEIVED
 JUL 25 2013
 BY: USPS

Check: 010077

7/22/2013

Law Offices of Brian C Padgett

Check Total:

6,489.75

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #111
DATE: 7/31/2013

TO:

Bruce Familian


FOR: JULY 2013 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
JULY 2013				
Brian Padgett	5.5	\$395.00		\$2,172.50
Amy Sugden	8.6	\$395.00		\$3,397.00
Paralegal		\$140.00		\$0.00
TOTAL BILLABLE HOURS/LEGAL FEES	14.1			\$5,569.50
Copies				\$27.75
Expert Consultation Costs				\$88.97
Deposition Charges				\$547.20
TOTAL DUE AND OWING				\$6,233.42

Please make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
within 30 days.

THANK YOU FOR YOUR BUSINESS!

DKB II, LLC
5520 Stephanie Street
Las Vegas, NV 89122
(702) 227-9267 office

DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
VERIFY FIRST "TRUE" WATERMARK. HOLD UP TO
LIGHT TO SEE SAFE AND VERIFY FIRST.

BANK OF NEVADA
GENERAL ACCOUNT
LAS VEGAS, NV

No. 010084

Pay *SIX THOUSAND TWO HUNDRED THIRTY-THREE AND 42 / 100

Date

8/12/2013

Check Amount

*****6,233.42*

Pay to the
Order of

Law Offices of Brian C Padgett
611 South Sixth Street
Las Vegas, NV 89101

July Billing

⑈010084⑈ ⑆ [REDACTED] ⑆

Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
8/12/2013	111	July Billing	6,233.42	0.00	6,233.42

Check: 010084	8/12/2013	Law Offices of Brian C Padgett	Check Total:	6,233.42
---------------	-----------	--------------------------------	--------------	----------

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #112
DATE: 9/3/2013

TO:
Bruce Familian

FOR: AUGUST 2013 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
AUGUST 2013				
Brian Padgett	13.0	\$395.00		\$5,135.00
Amy Sugden	15.0	\$395.00		\$5,925.00
Paralegal	.5	\$140.00		\$70.00
TOTAL BILLABLE HOURS/LEGAL FEES	28.5			\$11,130.00
Copies				\$335.25
Expert Consultation Costs				\$434.09
TOTAL DUE AND OWING				\$11,899.34

Please make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
within 30 days.

THANK YOU FOR YOUR BUSINESS!

DKB II, LLC
5520 Stephanie Street
Las Vegas, NV 89122
(702) 227-9267 office

DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
VERIFY FIRST "TRUE" WATERMARK. HOLD UP TO
LIGHT TO SEE SAFE AND VERIFY FIRST.
BANK OF NEVADA
GENERAL ACCOUNT
LAS VEGAS, NV

No. 010098

Pay *ELEVEN THOUSAND EIGHT HUNDRED NINETY-NINE AND 34 / 100

Date
10/1/2013

Check Amount
*****11,899.34*

Pay to the
Order of Law Offices of Brian C Padgett
611 South Sixth Street
Las Vegas, NV 89101



August hours

⑈010098⑈ ⑈ [REDACTED] ⑈

Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
10/1/2013	112	August hours	11,899.34	0.00	11,899.34

Check: 010098	10/1/2013	Law Offices of Brian C Padgett	Check Total:	11,899.34
---------------	-----------	--------------------------------	--------------	-----------

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #113
DATE: 10/4/2013

TO:

Bruce Familian


FOR: SEPTEMBER 2013 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
Brian Padgett	5.8	\$395.00		\$2,291.00
Amy Sugden	5.2	\$395.00		\$2,054.00
Paralegal	1.5	\$140.00		\$210.00
TOTAL BILLABLE HOURS/LEGAL FEES	12.5			\$4,555.00
Copies			\$92.00	\$92.00
Expert Consultation Costs			\$120.48	\$120.48
TOTAL DUE AND OWING				\$4,767.48

Please make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
within 30 days.

THANK YOU FOR YOUR BUSINESS!

5520 Stephanie Street
Las Vegas, NV 89122
(702) 227-9267 office

DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
VERIFY FIRST "TRUE" WATERMARK. HOLD UP TO
LIGHT TO SEE SAFE AND VERIFY FIRST.
BANK OF NEVADA
GENERAL ACCOUNT
LAS VEGAS, NV

No. 010109

Pay *FOUR THOUSAND SEVEN HUNDRED SIXTY-SEVEN AND 48 / 100

Date

11/18/2013

Check Amount

*****4,767.48*

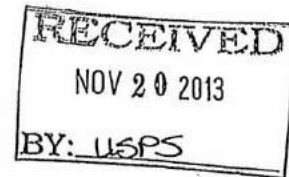
Pay to the
Order of

Law Offices of Brian C Padgett
611 South Sixth Street
Las Vegas, NV 89101

September Billing

⑈010109⑈

Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
11/18/2013	113	September Billing	4,767.48	0.00	4,767.48



Check: 010109 11/18/2013 Law Offices of Brian C Padgett Check Total: 4,767.48

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #114
DATE: 11/7/2013

TO:Bruce Familian
**FOR: OCTOBER 2013 BILLABLE HOURS**

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
Brian Padgett	10.4	\$395.00		\$4,108.00
Amy Sugden	14.5	\$395.00		\$5,727.50
Paralegal	5.3	\$140.00		\$742.00
TOTAL BILLABLE HOURS/LEGAL FEES	30.2			\$10,577.50
Copies				\$177.25
Expert Consultation Costs				\$223.26
Court Costs & Process Service Costs				\$261.50
TOTAL DUE AND OWING				\$11,239.51

Please make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
within 30 days.

THANK YOU FOR YOUR BUSINESS!

DKB II, LLC
5520 Stephanie Street
Las Vegas, NV 89122
(702) 227-9267 office

DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
VERIFY FIRST "TRUE" WATERMARK. HOLD UP TO
LIGHT TO SEE SAFE AND VERIFY FIRST.
BANK OF NEVADA
GENERAL ACCOUNT
LAS VEGAS, NV.

No. 010111

Pay *ELEVEN THOUSAND TWO HUNDRED THIRTY-NINE AND 51 / 100

Date

Check Amount

12/2/2013

*****11,239.51*

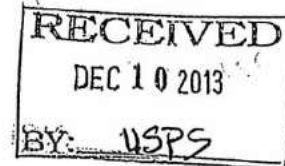
Pay to the
Order of

Law Offices of Brian C Padgett
611 South Sixth Street
Las Vegas, NV 89101

October Billing

⑈010111⑈

Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
12/2/2013	114	October Billing	11,239.51	0.00	11,239.51



Check: 010111 12/2/2013 Law Offices of Brian C Padgett Check Total: 11,239.51

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #115
DATE: 12/2/2013

TO:

Bruce Familian


FOR: NOVEMBER 2013 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
Brian Padgett	4.2	\$395.00		\$1,659.00
Amy Sugden	.7	\$395.00		\$276.50
Paralegal	4.3	\$140.00		\$602.00
TOTAL BILLABLE HOURS/LEGAL FEES	9.2			\$2,537.50
Copies				\$242.75
Expert Consultation Costs				\$38.00
Court Costs & Process Service Costs				\$192.60
Travel Costs				\$254.80
TOTAL DUE AND OWING				\$3,265.65

Please make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
within 30 days.

THANK YOU FOR YOUR BUSINESS!

DKB II, LLC
5526 Stephanie Street
Las Vegas, NV 89122
(702) 227-9267 office

DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
VERIFY FIRST "TRUE" WATERMARK. HOLD UP TO
LIGHT TO SEE SAFE AND VERIFY FIRST.

BANK OF NEVADA
GENERAL ACCOUNT
LAS VEGAS, NV

No. 010127

Pay *THREE THOUSAND TWO HUNDRED SIXTY-FIVE AND 65 / 100

Date

Check Amount

1/13/2014

*****3,265.65*

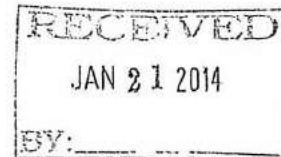
Pay to the
Order of

Law Offices of Brian C Padgett
611 South Sixth Street
Las Vegas, NV 89101

NOVEMBER 2013 HOURS

⑈010127⑈

Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
1/13/2014	115	NOVEMBER 2013 HOURS	3,265.65	0.00	3,265.65



Check: 010127	1/13/2014	Law Offices of Brian C Padgett	Check Total:	3,265.65
---------------	-----------	--------------------------------	--------------	----------

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #116
DATE: 1/6/2014

TO:

Bruce Familian


FOR: DECEMBER 2013 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
Brian Padgett	-0-	\$395.00		\$0.00
Amy Sugden	13.0	\$395.00		\$5,135.00
Paralegal	2.6	\$140.00		\$364.00
TOTAL BILLABLE HOURS/LEGAL FEES	15.6			\$5,499.00
Copies				\$45.25
Expert Consultation Costs				\$0.00
Court Costs & Process Service Costs				\$0.00
Travel Costs				\$147.00
TOTAL DUE AND OWING				\$5,691.25

Please make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
within 30 days.

THANK YOU FOR YOUR BUSINESS!

DKB II, LLC
5520 Stephanie Street
Las Vegas, NV 89122
(702) 227-9267 office

WARNING
DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
VERIFY FIRST "TRUE" WATERMARK. HOLD UP TO
LIGHT TO SEE SAFE AND VERIFY FIRST.
BANK OF NEVADA
GENERAL ACCOUNT
LAS VEGAS, NV

No. 010132

Pay *FIVE THOUSAND SIX HUNDRED NINETY-ONE AND 25 / 100

Date

Check Amount

2/3/2014

*****5,691.25*

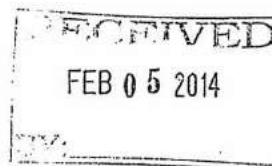
Pay to the
Order of

Law Offices of Brian C Padgett
611 South Sixth Street
Las Vegas, NV 89101

December billing

⑈010132⑈ ⑆ [REDACTED] ⑆

Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
2/3/2014	116	December billing	5,691.25	0.00	5,691.25



Check: 010132	2/3/2014	Law Offices of Brian C Padgett	Check Total:	5,691.25
---------------	----------	--------------------------------	--------------	----------

✓

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #117
DATE: 2/4/2014

TO:Bruce Familian
**FOR: JANUARY 2014 BILLABLE HOURS**

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
Brian Padgett	0	\$395.00		\$0.00
Amy Sugden	1.2	\$395.00		\$474.00
TOTAL BILLABLE HOURS/LEGAL FEES	1.2			\$474.00
Copies				\$55.00
Paralegal	.6	\$140.00		\$84.00
Expert Consultation Costs				\$249.43
Court Costs & Process Service Costs				\$3.50
TOTAL DUE AND OWING				\$865.93

Please make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
within 30 days.

THANK YOU FOR YOUR BUSINESS!

DKB II, LLC
5520 Stephanie Street
Las Vegas, NV 89122
(702) 227-9267 office

WARNING
DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
VERIFY FIRST "TRUE" WATERMARK. HOLD UP TO
LIGHT TO SEE SAFE AND VERIFY FIRST.
BANK OF NEVADA
GENERAL ACCOUNT
LAS VEGAS, NV

No. 010139

Pay *EIGHT HUNDRED SIXTY-FIVE AND 93 / 100

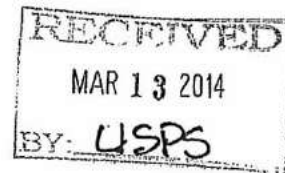
Pay to the Order of Law Offices of Brian C Padgett
611 South Sixth Street
Las Vegas, NV 89101

Date 3/10/2014 Check Amount *****865.93*

January billable hours

⑈010139⑈

Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
3/10/2014	117	January billable hours	865.93	0.00	865.93



Check: 010139	3/10/2014	Law Offices of Brian C Padgett	Check Total:	865.93
---------------	-----------	--------------------------------	--------------	--------

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #118
DATE: 3/4/2014

TO:

Bruce Familian


FOR: FEBRUARY 2014 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
Brian Padgett	0	\$395.00		\$0.00
Amy Sugden	6.3	\$395.00		\$2,488.50
TOTAL BILLABLE HOURS/LEGAL FEES	6.3			\$2,488.50
Copies				\$26.75
Paralegal	2.3	\$140.00		\$322.00
Expert Consultation Costs				\$159.00
Court Costs & Process Service Costs				\$9.00
TOTAL DUE AND OWING				\$3005.25

Please make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
within 30 days.

THANK YOU FOR YOUR BUSINESS!

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #119
DATE: 4/8/2014

TO:

Bruce Familian


FOR: MARCH 2014 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
Brian Padgett	0	\$395.00		\$0.00
Amy Sugden	.8	\$395.00		\$316.00
TOTAL BILLABLE HOURS/LEGAL FEES	.8			\$316.00
Copies				\$51.00
Paralegal	3.9	\$140.00		\$546.00
Expert Consultation Costs				\$159.00
Court Costs & Process Service Costs				\$11.00
TOTAL DUE AND OWING				\$1,083.00

Please make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
within 30 days.

THANK YOU FOR YOUR BUSINESS!

No. 010155

Check Amount

1,083.00

Law Offices of Brian C Padgett
611 South Sixth Street
Las Vegas, NV 89101

MARCH 2014

11557070

Amount	Discount Amount	Net Amount
1,083.00	0.00	1,083.00

Check 010155	5/5/2014	Law Offices of Brian C Padgett	Check Total:	1,083.00
--------------	----------	--------------------------------	--------------	----------

RECEIVED
MAY 07 2014
BY: USPS

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #120
DATE: 5/5/2014

TO:

Bruce Familian


FOR: APRIL 2014 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
Brian Padgett	4.8	\$395.00		\$1,896.00
Amy Sugden	16.7	\$395.00		\$6,596.50
TOTAL BILLABLE HOURS/LEGAL FEES				\$8,492.50
Copies				\$65.50
Paralegal	.2	\$140.00		\$28.00
Expert Consultation Costs				\$311.50
Deposition costs				\$655.25
TOTAL DUE AND OWING				\$9,552.75

Please make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
within 30 days.

THANK YOU FOR YOUR BUSINESS!

DKB, LLC
5520 Stephanie Street
Las Vegas, NV 89122
(702) 227-9267 office

W A R N I N G

DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
VERIFY FIRST "TRUE" WATERMARK. HOLD UP TO
LIGHT TO SEE SAFE AND VERIFY FIRST.

BANK OF NEVADA
GENERAL ACCOUNT
LAS VEGAS, NV

No. 010161

Pay *NINE THOUSAND FIVE HUNDRED FIFTY-TWO AND 75 / 100

Date

6/2/2014

Check Amount

*****9,552.75*

Pay to the
Order of

Law Offices of Brian C Padgett
611 South Sixth Street
Las Vegas, NV 89101

APRIL 2014 HOURS

⑈010161⑈

Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
6/2/2014	120	APRIL 2014 HOURS	9,552.75	0.00	9,552.75

Check: 010161	6/2/2014	Law Offices of Brian C Padgett	Check Total:	9,552.75
---------------	----------	--------------------------------	--------------	----------

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #121
DATE: 6/5/2014

TO:

Bruce Familian

FOR: MAY 2014 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
Brian Padgett		\$395.00		\$0.00
Amy Sugden		\$395.00		\$0.00
TOTAL BILLABLE HOURS/LEGAL FEES				\$0.00
Copies				\$32.75
Paralegal		\$140.00		\$0.00
Expert Consultation Costs				\$0.00
TOTAL DUE AND OWING				\$32.75

Please make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
within 30 days.

THANK YOU FOR YOUR BUSINESS!

DKB II, LLC
5520 Stephanie Street
Las Vegas, NV 89122
(702) 227-9267 office

W A R N I N G

DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
VERIFY FIRST "TRUE" WATERMARK. HOLD UP TO
LIGHT TO SEE SAFE AND VERIFY FIRST.

BANK OF NEVADA
GENERAL ACCOUNT
LAS VEGAS, NV

No. 010168

Pay *THIRTY-TWO AND 75 / 100

Date

7/1/2014

Check Amount

*****32.75*

Pay to the
Order of

Law Offices of Brian C Padgett
611 South Sixth Street
Las Vegas, NV 89101



MAY BILLABLE HOURS

⑈010168⑈



Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
7/1/2014	121	MAY BILLABLE HOURS	32.75	0.00	32.75

Check: 010168	7/1/2014	Law Offices of Brian C Padgett	Check Total:	32.75
---------------	----------	--------------------------------	--------------	-------

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #122
DATE: 7/7/2014

TO:

Bruce Familian


FOR: JUNE 2014 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
Brian Padgett	0	\$395.00		\$0.00
Amy Sugden	10.7	\$395.00		\$4,226.50
TOTAL BILLABLE HOURS/LEGAL FEES				\$4,226.50
Copies				\$118.50
Paralegal	1.2	\$140.00		\$168.00
Expert Consultation Costs				\$230.00
TOTAL DUE AND OWING				\$4,743.00

Please make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
within 30 days.

THANK YOU FOR YOUR BUSINESS!

DKB II, LLC
5520 Stephanie Street
Las Vegas, NV 89122
(702) 227-9267 office

W A R N I N G
DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
VERIFY FIRST "TRUE" WATERMARK. HOLD UP TO
LIGHT TO SEE SAFE AND VERIFY FIRST.
BANK OF NEVADA
GENERAL ACCOUNT
LAS VEGAS, NV

No. 010179

Pay *FOUR THOUSAND SEVEN HUNDRED FORTY-THREE AND XX / 100

Date

Check Amount

8/11/2014

*****4,743.00*

Pay to the
Order of

Law Offices of Brian C Padgett
611 South Sixth Street
Las Vegas, NV 89101

June hours

⑈010179⑈

Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
8/11/2014	122	June hours	4,743.00	0.00	4,743.00

Check: 010179	8/11/2014	Law Offices of Brian C Padgett	Check Total:	4,743.00
---------------	-----------	--------------------------------	--------------	----------

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #123
DATE: 8/5/2014

TO:

Bruce Familian


FOR: JULY 2014 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
Brian Padgett	.6			\$237.00
Amy Sugden	1.5			\$592.50
TOTAL BILLABLE HOURS/LEGAL FEES				
				\$829.50
Copies				\$10.25
Paralegal	.5		\$140.00	\$70.00
Expert Consultation Costs				
TOTAL DUE AND OWING				\$909.75

Please make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
within 30 days.

THANK YOU FOR YOUR BUSINESS!

DKB II, LLC
5528 Stephanie Street
Las Vegas, NV 89122
(702) 227-9267 office

W A R N I N G
DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
VERIFY FIRST "TRUE" WATERMARK. HOLD UP TO
LIGHT TO SEE SAFE AND VERIFY FIRST.
BANK OF NEVADA
GENERAL ACCOUNT
LAS VEGAS, NV

No. 010188

Pay *NINE HUNDRED NINE AND 75 / 100

Date 9/22/2014 Check Amount *****909.75*

Pay to the Order of Law Offices of Brian C Padgett
611 South Sixth Street
Las Vegas, NV 89101

July Billable hours

⑈010188⑈

Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
9/22/2014	123	July Billable hours	909.75	0.00	909.75

Check: 010188	9/22/2014	Law Offices of Brian C Padgett	Check Total:	909.75
---------------	-----------	--------------------------------	--------------	--------

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #124
DATE: 9/4/2014

TO:

Bruce Familian
[REDACTED]

FOR: AUGUST 2014 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
Brian Padgett	6.2			\$2,449.00
Amy Sugden	4.1			\$1,619.50
TOTAL BILLABLE HOURS/LEGAL FEES	10.3			\$4,068.50
Copies				\$43.75
Paralegal			\$140.00	\$0.00
Expert Consultation Costs				\$0.00
TOTAL DUE AND OWING				\$4,112.25

Please make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
within 30 days.

THANK YOU FOR YOUR BUSINESS!

DKB II, LLC
5520 Stephanie Street
Las Vegas, NV 89122
(702) 227-9267 office

W A H N I N G
DO NOT CASH THIS CHECK UNLESS YOU CAN SEE
VERIFY FIRST "TRUE" WATERMARK. HOLD UP TO
LIGHT TO SEE SAFE AND VERIFY FIRST.
BANK OF NEVADA
GENERAL ACCOUNT
LAS VEGAS, NV

No. 010203

Pay *FOUR THOUSAND ONE HUNDRED TWELVE AND 25 / 100

Date

Check Amount

11/17/2014

*****4,112.25*

Pay to the
Order of

Law Offices of Brian C Padgett
611 South Sixth Street
Las Vegas, NV 89101

AUGUST billing

⑈010203⑈

Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
11/17/2014	124	AUGUST billing	4,112.25	0.00	4,112.25

Check: 010203	11/17/2014	Law Offices of Brian C Padgett	Check Total:	4,112.25
---------------	------------	--------------------------------	--------------	----------

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #125
DATE: 10/3/2014

TO:

Bruce Familian


FOR: SEPTEMBER 2014 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
Brian Padgett	35.3			\$12,363.50
Amy Sugden	18.1			\$7,149.50
Jeremy Duke	3.6			\$1,422.00
TOTAL BILLABLE HOURS/LEGAL FEES	57			\$20,935.00
Copies				\$49.75
Paralegal	3.0		\$140.00	\$420.00
Expert Consultation Costs				
TOTAL DUE AND OWING				\$21,404.75

Please make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
within 30 days.

THANK YOU FOR YOUR BUSINESS!

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #126
DATE: 11/5/2014

TO:

Bruce Familian
[REDACTED]

FOR: OCTOBER 2014 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
Brian Padgett	1.1			
Amy Sugden	4.6			
Jeremy Duke				
TOTAL BILLABLE HOURS/LEGAL FEES	5.7			\$2,251.50
Copies				\$10.75
Paralegal			\$140.00	\$0.00
Expert Consultation Costs				
TOTAL DUE AND OWING				\$2,262.25

Please make all checks payable to LAW OFFICES OF BRIAN C. PADGETT
within 30 days.

THANK YOU FOR YOUR BUSINESS!

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #127
DATE: 12/4/2014

TO:
Bruce Familian

FOR: NOVEMEBER 2014 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
Brian Padgett	0			
Amy Sugden	2.1			
Jeremy Duke				
TOTAL BILLABLE HOURS/LEGAL FEES	2.1			\$829.50
Copies				\$11.25
Paralegal			\$140.00	\$0.00
TOTAL FEES & COSTS DUE FOR NOVEMBER 2014				\$840.75
TOTAL DUE AND OWING				\$840.75

Please make all checks payable to LAW OFFICES OF BRIAN C. PADGETT within 30 days.

All OUTSTANDING Invoices are DUE IMMEDIATELY Upon Receipt

THANK YOU FOR YOUR BUSINESS!

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #128
DATE: 1/5/2015

TO:

Bruce Familian


FOR: DECEMBER 2014 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
Brian Padgett	0			
Amy Sugden	1.5			\$592.50
Jeremy Duke				
TOTAL BILLABLE HOURS/LEGAL FEES	1.5			\$592.50
Copies				\$9.75
Paralegal		\$140.00		\$0.00
TOTAL FEES & COSTS DUE FOR NOVEMBER 2014				\$602.25
Lumos & Associates Inv. 88447 (Please pay directly to vendor)			\$291.60	
TOTAL DUE AND OWING				\$602.25

Please make all checks payable to LAW OFFICES OF BRIAN C. PADGETT within 30 days.

All OUTSTANDING Invoices are DUE IMMEDIATELY Upon Receipt

THANK YOU FOR YOUR BUSINESS!

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #129
DATE: 3/9/2015

TO:

Bruce Familian


FOR: JANUARY AND FEBRUARY 2015 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
Brian Padgett	0			
Amy Sugden	4.7	\$395.00		\$1,856.50
Jeremy Duke	0			
TOTAL BILLABLE ATTORNEY FEES	4.7			\$1,856.50
Copies - January			\$4.75	
Copies - February			\$58.75	
TOTAL COSTS				\$63.50
TOTAL BILLABLE ATTORNEY FEES & COSTS				\$1,920.00
TOTAL DUE AND OWING				\$1,920.00

Please make all checks payable to LAW OFFICES OF BRIAN C. PADGETT within 30 days.

ALL OUTSTANDING Invoices are DUE IMMEDIATELY Upon Receipt

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #130
DATE: 4/10/2015

TO:

Bruce Familian
[REDACTED]

FOR: MARCH 2015 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
Brian Padgett	19.3	\$395.00		\$7,623.50
Amy Sugden	10.9	\$395.00		\$4,305.50
Jeremy Duke	0			
TOTAL BILLABLE ATTORNEY FEES	30.2			\$11,929.00
Copies			\$73.75	
TOTAL COSTS				\$73.75
TOTAL BILLABLE ATTORNEY FEES & COSTS				\$12,002.75
TOTAL DUE AND OWING				\$12,002.75

Please make all checks payable to LAW OFFICES OF BRIAN C. PADGETT within 30 days.

All OUTSTANDING Invoices are DUE IMMEDIATELY Upon Receipt

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #131
DATE: 5/6/2015

TO:

Bruce Familian

FOR: APRIL 2015 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
Brian Padgett	6.0	\$395.00		\$2,370.00
Amy Sugden	3.7	\$395.00		\$1,461.50
Jeremy Duke	0			
TOTAL BILLABLE ATTORNEY FEES	9.7			\$3,831.50
Copies			\$7.75	
Deposition Costs			\$696.25	
TOTAL COSTS				\$704.00
TOTAL BILLABLE ATTORNEY FEES & COSTS				\$4,535.50
TOTAL DUE AND OWING				\$43,567.75

Please make all checks payable to LAW OFFICES OF BRIAN C. PADGETT within 30 days.

All OUTSTANDING Invoices are DUE IMMEDIATELY Upon Receipt

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #132
DATE: 6/12/2015

TO:Bruce Familian
**FOR: MAY 2015 BILLABLE HOURS**

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
Brian Padgett	1.8	\$395.00		\$711.00
Amy Sugden	1.8	\$395.00		\$711.00
Jeremy Duke	0	\$395.00		0.00
TOTAL BILLABLE ATTORNEY FEES				\$1,422.00
Copies			\$1.75	
TOTAL COSTS				\$1.75
TOTAL BILLABLE ATTORNEY FEES & COSTS				\$1,423.75
<i>Outstanding Invoices:</i>				
<i>September 2014 – Invoice #125</i>				<i>\$21,404.25</i>
<i>October 2014 – Invoice #126</i>				<i>\$2,262.25</i>
<i>November 2014 – Invoice #127</i>				<i>\$840.75</i>
<i>December 2014 – Invoice #128</i>				<i>\$602.25</i>
<i>January & February 2015 – Invoice #129</i>				<i>\$1,920.00</i>
<i>March 2015 – Invoice #130</i>				<i>\$12,002.75</i>
<i>April 2015 – Invoice #131</i>				<i>\$4,535.50</i>
<i>Lumos & Associates Inv. 88447 (Please pay directly to vendor)</i>			\$291.60	
TOTAL DUE AND OWING				\$44,991.50

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #133
DATE: 7/31/2015

TO:Bruce Familian
**FOR: JUNE / JULY 2015 BILLABLE HOURS**

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
Brian Padgett	0	\$395.00		\$0.00
Amy Sugden	.6	\$395.00		\$237.00
Jeremy Duke	0	\$395.00		\$0.00
TOTAL BILLABLE ATTORNEY FEES				\$237.00
Costs – Copies				\$4.75
TOTAL ATTORNEYS' FEES & COSTS				\$241.75
<i>Outstanding Invoices:</i>				
<i>September 2014 – Invoice #125</i>				\$21,404.25
<i>October 2014 – Invoice #126</i>				\$2,262.25
<i>November 2014 – Invoice #127</i>				\$840.75
<i>December 2014 – Invoice #128</i>				\$602.25
<i>January & February 2015 – Invoice #129</i>				\$1,920.00
<i>March 2015 – Invoice #130</i>				\$12,002.75
<i>April 2015 – Invoice #131</i>				\$4,535.50
<i>May 2015 – Invoice #132</i>				\$1,423.75
<i>Lumos & Associates Inv. 88447 (Please pay directly to vendor)</i>			\$291.60	
TOTAL DUE AND OWING				\$45,233.25

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
 Las Vegas, Nevada 89101
 Phone 702-304-0123
 Fax 702-368-0123

**INVOICE**

INVOICE #134
 DATE: 9/22/2015

TO:

Bruce Familian

FOR: AUGUST 2015 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
Brian Padgett	10.8	\$395.00		\$4,266.00
Amy Sugden	15.2	\$395.00		\$6,004.00
Jeremy Duke	0	\$395.00		\$0.00
TOTAL BILLABLE ATTORNEY FEES				\$10,270.00
Costs – Copies				\$85.50
TOTAL ATTORNEYS' FEES & COSTS				\$10,355.50
<i>Outstanding Invoices:</i>				
<i>September 2014 – Invoice #125</i>				<i>\$21,404.25</i>
<i>October 2014 – Invoice #126</i>				<i>\$2,262.25</i>
<i>November 2014 – Invoice #127</i>				<i>\$840.75</i>
<i>December 2014 – Invoice #128</i>				<i>\$602.25</i>
<i>January & February 2015 – Invoice #129</i>				<i>\$1,920.00</i>
<i>March 2015 – Invoice #130</i>				<i>\$12,002.75</i>
<i>April 2015 – Invoice #131</i>				<i>\$4,535.50</i>
<i>May 2015 – Invoice #132</i>				<i>\$1,423.75</i>
<i>June / July 2015 – Invoice #133</i>				<i>\$241.75</i>
<i>Lumos & Associates Inv. 88447 (Please pay directly to vendor)</i>			\$291.60	
TOTAL DUE AND OWING				\$55,588.75



**611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123**

INVOICE #135
DATE: 12/1/2015

Bruce Familian

□ □ □ □ □

Please make all checks payable to LAW OFFICES OF BRIAN C. PADGETT within 15 days.

LAW OFFICES OF BRIAN C. PADGETT

611 South Sixth Street
Las Vegas, Nevada 89101
Phone 702-304-0123
Fax 702-368-0123

INVOICE

INVOICE #136
DATE: 3/18/2016

TO:
Bruce Familian

FOR: NOVEMBER 2015 – FEBRUARY 2016 BILLABLE HOURS

DESCRIPTION	HOURS	RATE	COSTS	AMOUNT
Brian Padgett	22.9	\$395.00		\$9,045.50
Amy Sugden	75.3	\$395.00		\$29,743.50
Jeremy Duke	0	\$395.00		\$0.00
TOTAL BILLABLE ATTORNEY FEES	98.2			\$38,789.00
Costs – Copies				\$98.00
TOTAL ATTORNEYS' FEES & COSTS				\$38,887.00
TOTAL DUE AND OWING				\$38,887.00


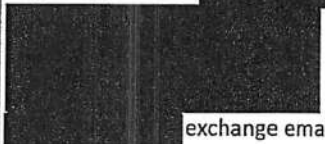

Please make all checks payable to LAW OFFICES OF BRIAN C. PADGETT within 15 days.

All OUTSTANDING Invoices are DUE IMMEDIATELY Upon Receipt

MARCH 2016

DATE	ATTY	BILLABLE TIME	CLIENT/CASE	TASK
3/4	ALS	.2	Familian	Telephone conference with Discovery Commissioner's office regarding status check hearing date; [REDACTED]
3/7	ALS	.1	Familian	Receipt and review of Notice to Appear for Discovery Conference; [REDACTED]
3/16	ALS	4.1	Familian	Draft brief for status check before the Discovery Commissioner [REDACTED]; and then finalize for submission
3/16	BCP	1.4	Familian	Review and revise brief for status check before the Discovery Commissioner [REDACTED]
3/18	ALS	2.4	Familian	Prepare for and attend status check before Judge Gonzalez and Mr. Familian [REDACTED]
3/24	ALS	2.1	Familian	Prepare for and attend meeting with Mr. Penney, Mr. Familian, and Mr. Padgett to discuss the remaining discovery deadlines/rebuttal witness strategy; send exchange email correspondence to Mr. Mansfield regarding draft DCRR
3/24	BCP	1.8	Familian	Prepare for and attend meeting with Mr. Penney, Mr. Familian, and Ms. Sugden to discuss the remaining

MARCH 2016

				discovery deadlines/rebuttal witness strategy
3/25	ALS	.2	Familian	Send email correspondence to Mr. Mansfield attaching underground photographs of subject site
3/30	ALS	1.7	Familian	Receipt and review of draft DCRR from Mr. Mansfield; telephone conference with Mr. Mansfield regarding the same   exchange email correspondence with Mr. Mansfield regarding proposed revisions to draft DCRR
3/30	BCP	.8	Familian	
		14.8		

APRIL 2016

DATE	ATTY	BILLABLE TIME	CLIENT/CASE	TASK
4/4	ALS	.2	Familian	Receipt and review of correspondence from Mr. Mansfield to Judge Gonzalez regarding proposed DCRR
4/5	ALS	.4	Familian	Exchange multiple email correspondences with Mr. Mansfield's office regarding conference call request from Discovery Commissioner
4/6	ALS	.8	Familian	Receipt and review of "corrected" DCRR and review of transcript of March 18, 2016 hearing before Judge Gonzalez
4/8	ALS	.2	Familian	Receive and respond to Mr. Mansfield regarding scheduling of telephone conference with Judge Gonzalez
4/13	ALS	2.6	Familian	Receipt and review of Clark County's 6 th Supplemental production of documents; attend conference call with Judge Gonzalez and Mr. Mansfield; [REDACTED] receipt and review of draft revised DCRR from Mr. Mansfield based on input from Judge Gonzalez
4/13	BCP	1.1	Familian	[REDACTED] [REDACTED] review of Clark County's 6 th Supplement
4/20	ALS	.8	Familian	Exchange multiple email [REDACTED]

APRIL 2016

				[REDACTED] exchange email correspondence from Mr. Mansfield's office regarding review of draft revised DCRR from Mr. Mansfield based on input from Judge Gonzalez
4/21	ALS	1.1	Familian	Attend initial expert meeting with Mr. Ruffer and Mr. Padgett
4/21	BCP	1.7	Familian	Prepare for and attend expert meeting with Mr. Ruffer and Ms. Sugden
4/27	ALS	1.3	Familian	Exchange multiple email correspondence with Mr. Mansfield's office regarding submission of competing DCRR for consideration; draft letter to Discovery Commissioner regarding the same [REDACTED]
4/29	ALS	1.2	Familian	Attend site visit with Mr. Ruffer; email Mr. Mansfield requesting brief extension of supplemental structural reports
		11.4		

MAY 2016

DATE	ATTY	BILLABLE TIME	CLIENT/CASE	TASK
5/1	ALS	.2	Familian	Receipt and review of correspondence from Mr. Mansfield to Judge Gonzalez regarding proposed DCRR
5/4	ALS	2.2	Familian	Attend meeting with Mr. Ruffer; exchange email correspondences with Mr. Mansfield regarding scheduling of site inspection by the County; telephone conference with Mr. Karanikolas regarding ASHTO specifications for truck loads
5/4	BCP	1.7	Familian	Attend meeting with Mr. Ruffer regarding his initial findings and analyze the same
5/5	ALS	.8	Familian	[REDACTED]
5/6	ALS	1.2	Familian	Telephone conference with Mr. Ruffer regarding initial analysis [REDACTED]
5/8	ALS	.1	Familian	Receive and respond to inquiry regarding "as built" for arch culvert
5/9	ALS	1.8	Familian	Comprehensive review of documents produced [REDACTED]
5/10	ALS	1.1	Familian	[REDACTED]
5/10	BCP	1.4	Familian	[REDACTED]
5/11	ALS	.1	Familian	Exchange email correspondence with Mr. Mansfield regarding production of supplemental report
5/13	ALS	1.2	Familian	[REDACTED]

5/13	BCP	.9	Familian	[REDACTED]
5/16	ALS	.5	Familian	[REDACTED]
5/17	ALS	1.8	Familian	Finalize and prepare Landowner's 5 th Supplemental Report
5/24	ALS	.3	Familian	Receipt and review of revisions to DCRR from Discovery Commissioners office [REDACTED]
5/26	ALS	.3	Familian	Exchange email correspondence with Mr. Mansfield's office regarding submission of competing DCRR's
5/31	ALS	.2	Familian	Coordinate simultaneous submission of DCRR's to the Discovery Commissioner by Mr. Mansfield's office and the Law Offices of Brian C. Padgett
		15.8		

JUNE 2016

DATE	ATTY	BILLABLE TIME	CLIENT/CASE	TASK
6/3	ALS	.1	Familian	Receipt and review of correspondence from Mr. Mansfield regarding site inspection
6/7	ALS	.1	Familian	Receive and respond to email correspondence from Mr. Mansfield regarding conducting an additional site visit
6/10	ALS	.2	Familian	Receipt and review of executed DCRR from Judge Gonzalez
6/20	ALS	.1	Familian	Receipt and review of 6 th Order Setting Civil Jury Trial
		0.5		