

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF) Case No. 83245
TODD M. LEVENTHAL,)
BAR NO. 8543)
_____)

Electronically Filed
Aug 18 2021 05:38 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**ERRATA TO RESPONDENT'S MOTION FOR EXTENSION OF TIME
TO FILE OPENING BRIEF, OR IN THE ALTERNATIVE, STAY IN
BRIEFING PENDING OUTCOME OF MOTION FOR NEW TRIAL
(First Request)**

Respondent, Todd M. Leventhal by and through his attorney, David A. Clark,
of the Law Firm Lipson Neilson P.C. hereby submits this Errata to their **MOTION
FOR EXTENSION OF TIME TO FILE OPENING BRIEF, OR IN THE
ALTERNATIVE, STAY IN BRIEFING PENDING OUTCOME OF MOTION
FOR NEW TRIAL** filed on August 18, 2021.

The Motion inadvertently omitted **Exhibit A**, *Declaration of Counsel*, which
is attached hereto.

Dated this 18th day of August, 2021.

LIPSON NEILSON P.C.

/s/ David A. Clark

DAVID A. CLARK
9900 Covington Cross Dr., # 120
Las Vegas, Nevada 89144
Attorney for Todd M. Leventhal

CERTIFICATE OF SERVICE

Pursuant to NRAP 25, I certify that I am an employee of LIPSON NEILSON P.C. and that on the 18th day of August, 2021, a true and correct copy of the foregoing **ERRATA TO MOTION FOR EXTENSION OF TIME TO FILE OPENEING BRIEF, OR ALTERNATIVELY, MOTION FOR STAY OF BRIEFING** was filed and served electronically with the Clerk of the Nevada Supreme Court in accordance with the master service list as follows:

Gerard Gosioco
Assistant Bar Counsel
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F. Thomas Edwards, Esq.
Hearing Panel Chair
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/s/ Debra Marquez

An employee of LIPSON NEILSON P.C.

EXHIBIT A

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF) Case No. 83245
TODD M. LEVENTHAL,)
BAR NO. 8543)
_____)

DECLARATION OF DAVID A. CLARK

David A. Clark, declares as follows:

1. I am an attorney licensed to practice in the State of Nevada. I am counsel of record for Respondent, Todd Leventhal, in the State Bar proceedings styled *State Bar of Nevada v. Todd Leventhal*, Case Nos.: OBC20-0670 and OBC20-0706.

2. I make this declaration upon personal knowledge, and if called as a witness, I could and would competently testify to the facts contained in this declaration. I make this Declaration in support of Mr. Leventhal's Motion for Extension of Time to File Opening Brief or, alternatively, Motion to Stay Briefing.

3. The Formal Hearing in this matter took place on May 25, 2021. The Panel Chair filed the Findings of Fact, Conclusions of Law and Recommendation on July 12, 2021.

4. Eight days later, on July 21, 2021, Respondent filed a Motion for New Trial pursuant to NRCP 59(a)(1)(D) (newly-discovered evidence) or, alternatively, to amend the judgment under NRCP 59(e) or to take additional testimony under NRCP 59(a)(2).

1 5. Respondent filed the Motion via email, consistent with the Scheduling
2 Order in this matter. Although the Hearing Panel Chair and attorney member did
3 receive the motion on July 21, 2021, apparently neither the lay Panel member nor
4 the State Bar received it. Nor did the emails to those recipients “bounce back” to
5 our office as undeliverable.
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8 6. After clearing up the confusion, the State Bar file stamped
9 Respondent’s Motion as filed July 21, 2021. The State Bar filed its Opposition on
10 August 17, 2021. Respondent’s Reply to the Opposition is due on September 2,
11 2021. The Chair has set the matter for hearing on September 9, 2021, at 1:00 pm.
12

13 7. The State Bar transmitted the Record on Appeal to the Supreme Court
14 on July 20, 2021, and this Court accepted the same for filing on July 21, 2021, the
15 same day that Respondent filed his Motion for New Trial.
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17 8. On August 12, 2021, I wrote to Bar Counsel and requested that the
18 parties stipulate to stay briefing before the Supreme Court until resolution of the
19 Motion for New Trial. On Monday, August, 16, 2021, the State Bar emailed back
20 and declined to do so.
21

22 9. On August 17, 2021, the State Bar filed its Opposition to Respondent’s
23 Motion for New Trial, arguing, *inter alia*, that because the ROA had already been
24 transmitted to the Supreme Court, SCR 105(3)(b) divests the Panel Chair of further
25 jurisdiction.
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27

28 10. Because this appeal is automatic under SCR 105, it is not entirely

1 certain whether or not a tolling motion under NRAP 4(a)(2) would divest this Court
2 of jurisdiction as it would in a civil action. For that reason, Respondent moves this
3 Court for either an extension of time to file his Opening Brief, or alternatively, for a
4 stay of the briefing schedule pending the written resolution of the Motion for New
5 Trial. The 31-day extension should be sufficient time for the Chair to rule on the
6 motion prior to the new briefing deadline.
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9 I declare under penalty of perjury that the foregoing is true and correct.

10 DATED this 18th day of August 2021, in Las Vegas, Nevada.
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12 /s/ David A. Clark

13 DAVID A. CLARK
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