

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
Oct 13 2021 01:51 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**RESPONDENT'S MOTION FOR EXTENSION OF TIME
TO FILE OPENING BRIEF PENDING OUTCOME OF
MOTION FOR NEW TRIAL
(Second Request)**

Respondent, Todd M. Leventhal by and through his attorney, David A. Clark, of the Law Firm Lipson Neilson P.C., hereby moves this Court pursuant to NRAP 4, NRAP 26(b)(1)(A) and NRAP 31(b)(3) for a second extension of time to file the Opening Brief on the basis that the 30-day period for filing the Opening Brief begins to run upon entry of a written order disposing of the Motion for New Trial, which matter remains pending before the Hearing Panel Chair.

Good cause exists for this extension of the deadline for Respondent to file his opening brief by operation of law. Respondent timely filed a Motion for New Trial which is still pending a final written order. Therefore, pursuant to NRAP 4(4) and (6), "the time to file a notice of appeal runs for all parties from entry of an order disposing of the last such remaining motion[.]"

Second, according to the Clerk's Office, this Court's Order of September 17, 2021, granting the first briefing extension apparently was not sent to the parties until October 12, 2021. Because Respondent's first Motion was pled in the

1 alternative, for either an extension or a stay, Respondent was unaware of that an
2 Opening Brief was due September 20, 2021. Given the language of NRAP 4(4),
3 fairness dictates Respondent should be granted an extension and his opening brief
4 considered timely upon filing within the new deadline.
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6 **I. FACTS.**

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8 **A. Motion for New Trial.**

9 The Formal Hearing in this matter took place on May 25, 2021. The Panel
10 Chair filed the Findings of Fact, Conclusions of Law and Recommendation on July
11 12, 2021.¹ On July 21, 2021, eight days later, Respondent filed a timely Motion for
12 New Trial pursuant to NRCP 59(a)(1)(D) or, alternatively, to amend the judgment
13 under NRCP 59(e) or to take additional testimony under NRCP 59(a)(2). After some
14 confusion in the service of the pleadings (*See, Exhibit A, Declaration of Counsel*),
15 the State Bar filed its Opposition on August 17, 2021, and Respondent filed his
16 Reply on September 2, 2021.
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20 Following a hearing on September 9, 2021, the Hearing Panel Chair issued his
21 Decision granting in part the Motion for a New Trial. *See, Exhibit B, Decision and*
22 *Order Regarding Respondent's Motion for New Trial,* entered September 13, 2021.
23

24 This Decision directed that the full Hearing Panel reconvene to consider the
25 statement of the lone witness called by the State Bar who recanted his prior sworn
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27 ¹ Although SCR 105(2)(e) mandates "The hearing panel **shall** render a written
28 decision within 30 days of the conclusion of the hearing," times limits are
administrative, not jurisdictional. *See, SCR 119(2).*

1 testimony. **Exhibit A.** At the reconvened hearing on September 27, 2021, the Panel
2 purportedly voted to reaffirm the prior Findings, Conclusions, and Recommendation.
3
4 However, no written order has been entered because the State Bar is awaiting the
5 transcript before submitting the draft Order to the Panel Chair. *Id.*

6 **B. First Motion to Supreme Court for Extension of Deadline**
7 **to File Opening Brief.**

8 Concurrently, on August 12, 2021, Respondent's counsel requested that the
9 State Bar stipulate to a stay of the briefing in this matter until resolution of the
10 Motion for New Trial. **Exh. A.** On August 16, 2021, the State Bar responded and
11 declined to do so, ostensibly based upon its position that because the Record on
12 Appeal had been transmitted on July 20, 2021, this matter was no longer within the
13 jurisdiction of the Southern Nevada Disciplinary Board, but rather, the Supreme
14 Court (which position the Panel Chair rejected).

15 Thus, on August 17, 2021, Respondent filed his first Motion to Extend the
16 Time for filing an Opening Brief, or alternatively, because Respondent's motion for
17 new trial is an enumerated tolling motion under NRAP 4(a)(2), for a stay of further
18 briefing until the post-judgment motion is resolved. *See*, NRAP 4(a)(2); *Moran v.*
19 *Bonneville Square Assocs.*, 117 Nev. 525, 529, 25 P.3d 898, 900 (2001) (A timely-
20 filed tolling motion terminates the running of the time for filing a notice of appeal).
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23 Unbeknowst to Respondent's counsel, on September 17, 2021, this Court
24 entered an Order Granting an Extension until September 20, 2021, to file an
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Opening Brief. However, notice of that Order was not transmitted to either Respondent or the State Bar until October 12, 2021. *See, Exhibit C*, Notice of Order Granting Motion; **Exhibit D**, Declaration of Debra Marquez.

In conversations with Respondent's office, a member of the Supreme Court Clerk's office indicated that their system failed to show that the September 17, 2021, order was transmitted earlier than October 12, 2021. **Exh. D**. This person also suggested that Respondent include this statement in the instant Motion.

II. DISCUSSION.

A. NRAP 4 Tolls the Appeal Period.

Respondent filed his Motion for New Trial eight (8) days after entry of the Panel's Findings and Recommendation. Thus, the motion is timely filed under NRCPP 59 (b) ("A motion for a new trial must be filed no later than 28 days after service of written notice of entry of judgment.").

Second, NRAP 4 (Appeals in civil cases) states (*emphasis added*),

(4) Effect of Certain Motions on a Notice of Appeal. If a party timely files in the district court any of the following motions under the Nevada Rules of Civil Procedure, the time to file a notice of appeal runs for all parties from entry of an order disposing of the last such remaining motion, and the notice of appeal must be filed no later than 30 days from the date of service of written notice of entry of that order:

- (A) a motion for judgment under Rule 50(b);*
- (B) a motion under Rule 52 (b) to amend or make additional findings of fact;*
- (C) a motion under Rule 59 to alter or amend the judgment;*
- (D) a motion for a new trial under Rule 59.*

.

(6) Premature Notice of Appeal. A premature notice of appeal does

1 *not divest the district court of jurisdiction.* The court may dismiss as
2 premature a notice of appeal filed after the oral pronouncement of a
3 decision or order but before entry of the written judgment or order, or
4 before entry of the written disposition of the last-remaining timely
5 motion listed in Rule 4(a)(4). If, however, a written order or
6 judgment, or a written disposition of the last remaining timely motion
7 listed in Rule 4(a)(4), is entered before dismissal of the premature
8 appeal, the notice of appeal shall be considered filed on the date of
9 and after entry of the order, judgment or written disposition of the
10 last-remaining timely motion.

11 Respondent's Motion for New Trial under NRCP 59 is an expressly stated tolling
12 motion under NRAP 4.² As this Court observed,

13 The timely motions filed . . . pursuant to NRCP 52(b) and NRCP
14 59(a) and (e) tolled the running of the appeal period and rendered
15 ineffective all the notices of appeal which were filed before the formal
16 disposition of the timely post-judgment motions. *Thus, the district
17 court erred in concluding that it lacked jurisdiction to entertain the
18 timely tolling motions which were filed . . .* No appeal was pending
19 at the time the district court rendered its decision concerning the
20 motions because, pursuant to NRAP 4(a)(2), the notices of appeal
21 were of "no effect."

22 *Chapman Indus. v. United Ins.*, 110 Nev. 454, 457-58, 874 P.2d 739, 741 (1994)
23 (*emphasis* added); *See, also, Moran v. Bonneville Square Assocs.*, 117 Nev. 525,
24 528-29, 25 P.3d 898, 900 (2001) ("A timely-filed tolling motion terminates the
25 running of the time for filing a notice of appeal, and a notice of appeal filed after
26 the timely filing of a post-judgment tolling motion, but before the formal
27 disposition of the motion, is ineffective and *fails to vest jurisdiction in this court*")
28 (*emphasis* added).

² See SCR 119(3) *Applicability of other rules.* Except as otherwise provided in the Supreme Court Rules (SCR), the Nevada Rules of Civil Procedure (NRCP) and Nevada Rules of Appellate Procedure (NRAP) shall apply in disciplinary cases.

1 As this Court well knows, in disciplinary matters, appeal is automatic when
2 the recommended sanction includes a contested Public Reprimand, Suspension, or
3 Disbarment. SCR 105(3)(b); DRP 36(b). In contrast to a Notice of Appeal, “Review
4 under this paragraph shall be commenced by bar counsel forwarding the record of
5 the of the hearing panel proceedings to the court with 30 days of entry of the
6 decision.”
7

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9 Still, “To the extent not inconsistent with these rules, an appeal from a
10 decision of a hearing panel shall be treated as would an appeal from a civil
11 judgment of a district court and is governed by the Nevada Rules of Appellate
12 Procedure.” Respondent submits that NRAP 4(4) and (6) tolls any period to appeal
13 the Panel’s decision and, likewise, would toll any period for filing an Opening Brief
14 until the Motion for New Trial is resolved by written order. Therefore, Respondent
15 requests that here, because his Motion for New Trial is still pending (and indeed the
16 proceedings are still ongoing), that the Supreme Court extend the time period for
17 filing the Opening Brief until 30 days following service of the Chair’s written
18 decision on Respondent’s Motion.
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22 **B. Respondent Should Not Be Prejudiced by this Court’s**
23 **September 17, 2021, Order.**

24 Respondent respectfully requests that the Court grant Respondent the relief
25 sought herein despite the prior deadline in the September 17, 2021, Order. First,
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1 because of the toiling effect of the pending Motion for New Trial, Respondent
2 submits that this matter is not before the Court on a procedurally proper basis.
3

4 Second, neither Respondent nor the State Bar received notice of the
5 September 17, 2021, Order until October 12, 2021, 22 days after the Court's first
6 deadline of September 20, 2021, for filing the Opening Brief. It appears that there
7 may have been a problem with the Clerk's electronic notice system based upon the
8 statements made to Respondent's office by court personnel. This occurrence, rather
9 than a lack of diligence by Respondent, augurs for the requested relief. Respondent
10 notes that the Panel's recommendation is for a stayed period of suspension, rather
11 than actual suspension or disbarment. Thus, the delay in the Court's review of this
12 matter if this relief is granted would not increase or maintain any current threat to
13 the public or the legal system.
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17 **C. The Record of Proceedings Is Incomplete, Rendering an**
18 **Opening Brief Ineffective.**

19 While the typical practice after a filing deadline has passed is to file a
20 proposed Opening Brief along with a motion to extend the deadline (as the court
21 personnel suggested), such would be ineffective here because the record of the
22 proceedings below is incomplete.
23

24 Briefly, the basis for the Motion for New Trial is that the single adverse
25 witness called by the State Bar produced a statement the day after the Hearing in
26 which he recanted sworn testimony and asserted that the State Bar counseled him to
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28

1 withhold testimony. The post-hearing proceedings are still ongoing and the current
2 Record on Appeal is incomplete, lacking the post-hearing evidence, the briefing,
3 and the transcript of the reconvened Panel hearing on September 27, 2021.
4 Respondent is unable to submit a complete Opening Brief until the proceedings
5 below are concluded, and the Record on Appeal complete.
6

7
8 **III. CONCLUSION.**

9 For the foregoing reasons, Respondent requests that the Court extend the time
10 to file an Opening Brief for 30 days, commencing upon the written resolution of the
11 pending Motion for New Trial and the transmission of the supplemental Record on
12 Appeal.
13

14 Dated this 13th day of October 2021.
15

16 LIPSON NEILSON P.C.

17 /s/ David A. Clark

18 DAVID A. CLARK
19 9900 Covington Cross Dr., # 120
20 Las Vegas, Nevada 89144
21 *Attorney for Todd M. Leventhal*
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CERTIFICATE OF SERVICE

Pursuant to NRAP 25, I certify that I am an employee of LIPSON NEILSON P.C. and that on the 13th day of October 2021, a true and correct copy of the foregoing **RESPONDENT'S MOTION FOR EXTENSION OF TIME TO FILE OPENING BRIEF PENDING OUTCOME OF MOTION FOR NEW TRIAL (Second Request)** 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 Sonia Del Rio Hearing Paralegal 3100 W. Charleston Blvd., Suite 100 Las Vegas, Nevada 89102 gerardg@nvbar.org soniad@nvbar.org | F. Thomas Edwards, Esq. Hearing Panel Chair tedwards@nevadafirm.com |
|---|--|

/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 following Order on Motion for New Trial.

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. The State Bar transmitted the Record on Appeal to the Supreme Court
2 on July 20, 2021, and this Court accepted the same for filing on July 21, 2021, the
3 same day that Respondent filed his Motion for New Trial.
4

5 6. On August 12, 2021, I wrote to Bar Counsel and requested that the
6 parties stipulate to stay briefing before the Supreme Court until resolution of the
7 Motion for New Trial. On Monday, August, 16, 2021, the State Bar emailed back
8 and declined to do so.
9

10 7. On August 17, 2021, the State Bar filed its Opposition to Respondent's
11 Motion for New Trial, arguing, *inter alia*, that because the ROA had already been
12 transmitted to the Supreme Court, SCR 105(3)(b) divests the Panel Chair of further
13 jurisdiction.
14

15 8. Because this appeal is automatic under SCR 105, I was not entirely
16 certain whether or not a tolling motion under NRAP 4(a)(2) would divest this Court
17 of jurisdiction as it would in a civil action. For that reason, Respondent filed his first
18 Motion to Extend Time to file his Opening Brief, or alternatively, for a stay of the
19 briefing schedule pending the written resolution of the Motion for New Trial.
20 Respondent asked for a 31-day extension as that appeared at the time to allow for
21 sufficient time for the Chair to rule on the motion prior to the new briefing deadline.
22

23 9. Respondent filed his Reply in Support of Motion for New Trial on
24 September 2, 2021. The Chair alone conducted a hearing on September 9, 2021.
25

26 10. Four days later, on September 13, 2021, the Chair entered an Order
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Granting, in Part, Respondent's Motion for New Trial. Attached as **Exhibit B** is a true and correct copy of that Order, which provided,

1. The Chair has jurisdiction to hear this Motion under NRCP 59 and NRAP 4. See, also, *Chapman Indus. v. United Ins. Co. of Am.*, 110 Nev. 454, 457, 874 P.2d 739, 741 (1994) ("The timely motions filed by United pursuant to NRCP 52(b) and NRCP 59(a) and (e) tolled the running of the appeal period and rendered ineffective all the notices of appeal which were filed before the formal disposition of the timely post-judgment motions.").

2. Good cause exists to reconvene the Panel for the purposes of considering the new statement of Zane Mitrov and deciding whether to:

a. Affirm the prior Findings of Fact, Conclusions of Law, and Recommendations;

b. Alter or amend the judgment, pursuant to NRCP 59(e), with or without additional proceedings;

c. Open the judgment, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new judgment, pursuant to NRCP 59(a)(2), with or without additional proceedings, or;

d. Grant a new trial on all or some of the issues pursuant to NRCP 59(a).

. . . .

IT IS FURTHER ORDERED that:

1. The parties are directed to survey the Panel members for a new date in the range of September 20, 2021, through October 1, 2021, convenient to all.

2. The State shall serve on the Panel members only:

a. Statement of Zane Mitrov;

b. Filed Findings of Fact, Conclusions of Law, and Recommendations, and;

c. An accurate transcript of the prior proceedings.

Id.

1 11. On September 27, 2021, the full Panel convened to consider the three
2 items above. The Chair did not allow argument on the merits of Zan Mitrov's
3 statement.
4

5 12. The Panel's preliminary ruling was to affirm the prior Findings of Fact,
6 Conclusions of Law, and Recommended Sanction. However, as of this date, no
7 written order has been entered disposing of Respondent's Motion for New Trial.
8

9 13. On October 12, 2021, Respondent received via the Supreme Court's e-
10 service (efiling@nvcourts.nv.gov) Notice Granting Respondent's Motion to Extend
11 Briefing. A true and correct copy of this emailed Notice is attached as **Exhibit C**.
12

13 14. The Notice indicated that the Court's Order was issued on September
14 17, 2021, at 11:15 am. However, the October 12, 2021, Notice was the first notice
15 Respondent received regarding the Court's Order. This Order directed Respondent
16 to file an Opening Brief no later than September 20, 2021, 22 days in the past.
17

18 15. I immediately sent an email to Assistant Bar Counsel Gosioco,
19 inquiring about the status of the Order on Respondent's Motion for New Trial, and
20 if the State Bar had received any prior notice of the September 17, 2021, Order.
21

22 16. I followed up with a telephone call to Mr. Gosioco. He confirmed that
23 the State Bar had not received any notice of this Court's Order prior to October 12,
24 2021. He also confirmed that he was waiting for the transcript from the September
25 27, 2021, hearing before submitting a draft order. Thus, no order has yet been
26 entered disposing of Respondent's Motion for New Trial. Mr. Gosioco authorized
27
28

1 the undersigned to make the foregoing representations to this Court regarding our
2 conversation.

3
4 17. My office also contacted the Supreme Court Clerk's office. Attached
5 as **Exhibit D** is the Declaration of my Legal Assistant, Debra Marquez. She spoke
6 with Sandy, in the Clerk's office, who indicated that the Court's system fails to
7 show that the September 17, 2021, Notice of Order was ever served prior to
8 October 12, 2021.

9
10 18. Sandy also indicated that the Court entered an Order October 4, 2021,
11 and that we should promptly file a Motion for extension of time to file brief, along
12 with Respondent's Opening Brief.

13
14 19. I immediately checked this Court's docket which indicates that on
15 October 4, 2021, prior to service of Notice of the Court's Order, this matter was
16 submitted for decision without briefing. This Motion follows.

17
18 I declare under penalty of perjury that the foregoing is true and correct.

19
20 DATED this 13th day of October 2021, in Las Vegas, Nevada.

21
22 /s/ David A. Clark
23 DAVID A. CLARK

EXHIBIT B

Case Nos.: OBC20-0670 and OBC20-0706

STATE BAR OF NEVADA

SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

TODD LEVENTHAL, ESQ.,
Nevada Bar No. 8543

Respondent.

**DECISION AND ORDER REGARDING
RESPONDENT'S MOTION
FOR NEW TRIAL**

DECISION

On September 9, 2021, the Parties came before Thomas Edwards, Esq., the duly-appointed Formal Hearing Panel Chair in this matter, upon Respondent Todd Leventhal's Motion for New Trial pursuant to NRCP 59 filed July 21, 2021. Complainant State Bar of Nevada filed its Opposition to Respondent's Motion August 17, 2021. Respondent filed his Reply in Support of his Motion for New Trial on September 2, 2021.

Based upon the pleadings, exhibits thereto, and argument of counsel at hearing, the Respondent's Motion is **GRANTED, IN PART**, as follows:

1. The Chair has jurisdiction to hear this Motion under NRCP 59 and NRAP 4. See, also, *Chapman Indus. v. United Ins. Co. of Am.*, 110 Nev. 454, 457, 874 P.2d 739, 741 (1994) ("The timely motions filed by United pursuant to NRCP 52(b) and NRCP 59(a) and (e) tolled the running of the appeal period and rendered ineffective all the notices of appeal which were filed before the formal disposition of the timely post-judgment motions.").

2. Good cause exists to reconvene the Panel for the purposes of considering the new statement of Zane Mitrov and deciding whether to:

1 a. Affirm the prior Findings of Fact, Conclusions of Law, and
2 Recommendations;

3 b. Alter or amend the judgment, pursuant to NRCP 59(e), with or without
4 additional proceedings;

5 c. Open the judgment, take additional testimony, amend findings of fact and
6 conclusions of law or make new findings and conclusions, and direct the entry of a new judgment,
7 pursuant to NRCP 59(a)(2), with or without additional proceedings, or;

8 d. Grant a new trial on all or some of the issues pursuant to NRCP 59(a).

9
10 THEREFORE, good cause appearing,

11 IT IS HEREBY ORDERED that Respondent's Motion is GRANTED, IN PART, for the
12 purposes set forth above.

13 IT IS FURTHER ORDERED that:

14 1. The parties are directed to survey the Panel members for a new date in the range of
15 September 20, 2021, through October 1, 2021, convenient to all.

16 2. The State shall serve on the Panel members only:

17 a. Statement of Zan Mitrov;

18 b. Filed Findings of Fact, Conclusions of Law, and Recommendations, and;

19 c. An accurate transcript of the prior proceedings.

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3. Unless otherwise ordered by the Chair, the new hearing on the above options will be conducted via Zoom.

IT IS SO ORDERED.

DATED this 13th day of September, 2021.

SOUTHERN NEVADA DISCIPLINARY BOARD

By: 
F. Thomas Edwards, Esq.
Hearing Panel Chair

CERTIFICATE OF SERVICE

The undersigned hereby certifies a true and correct copy of the foregoing I served via email the foregoing **DECISION AND ORDER REGARDING RESPONDENT'S MOTION FOR NEW TRIAL** was served via email to the following:

1. Gerard Gosioco, Esq., Assistant Bar Counsel, State Bar of Nevada: gerardg@nvbar.org
2. David A. Clark, Esq. Counsel for Respondent: dclark@lipsonneilson.com
3. F. Thomas Edwards, Esq., Panel Chair: tedwards@nevadafirm.com;
ssell@nevadafirm.com
4. Mike Lee, Esq., Panel Member: mike@mblnv.com
5. Steve Moore, Lay Member: rotaryactv@cox.net

Dated this ____ Day of _____, 2021.

EXHIBIT C

From: efiling@nvcourts.nv.gov
Sent: Tuesday, October 12, 2021 8:32 AM
To: Debra Marquez
Subject: Notification of Electronic Filing in IN RE: DISCIPLINE OF TODD M. LEVENTHAL, No. 83245

Supreme Court of Nevada
NOTICE OF ELECTRONIC FILING

Notice is given of the following activity:

Date and Time of Notice: Oct 12 2021 08:31 a.m.

Case Title: IN RE: DISCIPLINE OF TODD M. LEVENTHAL

Docket Number: 83245

Case Category: Bar Matter

Document Category: Filed Order Granting Motion. Leventhal shall have until September 20, 2021, to file and serve his opening brief. (SC)

Submitted by: Issued by Court

Official File Stamp: Sep 17 2021 11:15 a.m.

Filing Status: **Accepted and Filed**

Docket Text: Filed Order Granting Motion. Leventhal shall have until September 20, 2021, to file and serve his opening brief. (SC)

The Clerk's Office has filed this document. It is now available on the Nevada Supreme Court's E-Filing website. Click [here](#) to log in to Eflex and view the document.

Electronic service of this document is complete at the time of transmission of this notice. The time to respond to the document, if required, is computed from the date and time of this notice. Refer to NEFR 9(f) for further details.

Clerk's Office has electronically mailed notice to:

John Gosioco

David Clark

No notice was electronically mailed to those listed below; counsel filing the document must serve a copy of the document on the following:

This notice was automatically generated by the electronic filing system. If you have any questions, contact the Nevada Supreme Court Clerk's Office at 775-684-1600 or 702-486-9300.

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
TODD M. LEVENTHAL, BAR NO. 8543.

No. 83245

FILED

SEP 17 2021

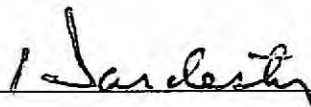
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER GRANTING MOTION

This is an automatic review pursuant to SCR 105(3)(b) from a State Bar disciplinary proceeding. Todd Leventhal has filed a motion for an extension of time to file an opening brief or alternatively, for a stay of these review proceedings pending the disposition of a motion for new trial that was scheduled to be resolved by the Hearing Panel Chair on September 9, 2021. The motion is unopposed.

The motion for an extension is granted. Leventhal shall have until September 20, 2021, to file and serve his opening brief. Failure to comply with this order may result in this matter being submitted for decision on the record. SCR 105(3)(b).

It is so ORDERED.

 C.J.

cc: Lipson Neilson P.C.
State Bar of Nevada/Las Vegas

EXHIBIT D

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 DEBRA MARQUEZ

I, Debra Marquez, declare as follows:

1. I am employed by the law firm of Lipson Neilson P.C., in the position of legal assistant to David A. Clark.

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.

3. On October 12, 2021 our office, Lipson Neilson P.C., received the e-filing notice of the Filed Order Granting our Motion for Extension of Time to file our Opening Brief. The Order states that we shall have until September 20, 2021, to file and serve our opening brief.

4. On October 12, 2021, I called the Nevada Supreme Court Clerk's office in Carson City, NV and spoke with Sandy. I stated that I wanted to confirm that the day was correct in the Order of September 20, 2021 for us to submit our opening brief because we just got the e-filing notice that our Motion was granted today, October 12, 2021.

6. I told her even though we were just made aware that our Motion was granted today. Sandy stated yes and that their system was down so that could have been a problem. She stated that she will look in the system to see if the notice was sent out on September 17, 2021. She looked and it does not show on their list that it went out to counsel on September 17, 2021. Sandy also mentioned that we can say that out that in our motion that she was not able to verify that it went out on September 17, 2021.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Debra Marquez
DEBRA MARQUEZ