

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

IN RE:

DISCIPLINE OF  
BRIAN C. PADGETT, ESQ.  
STATE BAR NO. 7474

Electronically Filed  
Aug 10 2021 12:22 p.m.  
Case No. Elizabeth A. Brown  
Clerk of Supreme Court

**Volume VI**

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

Gerard Gosioco, Esq.  
Assistant Bar Counsel  
Nevada Bar #14371  
3100 West Charleston Blvd., Ste. 100  
Las Vegas, NV 89102

Attorney for State Bar of Nevada

Brian C. Padgett, Esq.  
1672 Liege Drive  
Henderson, NV 89012

Respondent

**INDEX**  
**ALPHABETICAL LIST OF DOCUMENTS**

<u>Description</u>	<u>Page Nos.</u>	<u>VOL</u>
Amended Complaint (Filed October 27, 2020)	87-99	I
Amended Scheduling Order (Filed February 19, 2021)	350-354	II
Certificate of Service	2314	X
Complaint and First Designation of Formal Hearing Panel Members (Filed May 13, 2020)	1-12	I
Declaration of Service According to SCR 109(1) In Support of Entry of Default (Filed July 10, 2020)	23-37	I
Defendant's Rule 60(b) Motion to Set Aside Order Granting State's Motion to Compel (Filed April 28, 2021)	431-437	II
Entry of Default (Filed July 13, 2020)	38-43	I
Entry of Default (Filed January 5, 2021)	205-210	I
Findings of Fact, Conclusions of Law and Recommendation After Formal Hearing (Filed August 5, 2021)	1228-1237	VI
Motion for Leave to File Amended Complaint (Filed October 22, 2020)	63-81	I
Motion to Set Aside Orders and Dismiss Case (Filed June 16, 2021)	1204-1213	VI

1	Motion to Vacate Filings, Orders and Decisions –	100-137	I
2	Including the Amended Complaint; Motion to Dismiss		
3	Amended Complaint		
	(Filed November 17, 2020)		
4	Notice of Hearing	55	I
5	(Filed September 15, 2020)		
6	Notice of Intent to Enter Default	15-19	I
7	(Filed June 9, 2020)		
8	Notice of Intent to Enter Default	138-141	I
9	(Filed November 17, 2020)		
10	Notice of Telephonic Initial Case Conference	44-46	I
	(Filed July 15, 2020)		
11	Objection to Complainant’s Initial Disclosures of	363-366	II
12	Witnesses and Documents		
13	(Filed April 6, 2021)		
14	Order Appointing Formal Hearing Panel Chair	20-22	I
15	(Filed July 8, 2020)		
16	Order Appointing Formal Hearing Panel	47-49	I
	(Filed August 4, 2020)		
17	Order Denying Motion to Vacate Filings,	201-204	I
18	Orders and Decisions – Including the Amended		
19	Complaint; Motion to Dismiss Amended Complaint		
	(Filed December 14, 2020)		
20	Order Denying Respondent’s Motion to Remove	1189-1193	V
21	Associate Bar Counsel Gosioco from Case No.		
22	OBC19-1111		
	(Filed May 28, 2021)		
23	Order Denying Respondent’s Motion to Set Aside	1224-1227	VI
24	Orders and Dismiss Case		
25	(Filed August 5, 2021)		

1	Order Granting in Part and Denying in Part Respondent's	1194-1199	V
2	Objection to Complainant's Initial Disclosures of		
3	Witnesses and Documents		
4	(Filed May 28, 2021)		
5	Order Granting Motion for Leave to File	82-86	I
6	Amended Complaint		
6	(Filed October 27, 2020)		
7	Order Granting State Bar's Motion to Compel	367-373	II
8	(Filed April 15, 2021)		
9	Order Granting State Bar's Motion to Compel	1164-1172	V
10	(Filed May 24, 2021)		
11	Order Regarding Respondent's Motion for	347-349	II
12	Extension of Time to File Answer, Verified Response,		
13	And Informal Request to Stay Proceedings		
13	(Filed February 9, 2021)		
14	Reply to Procedural Issues Raised by Panel Chair	355-359	II
15	(Filed February 8, 2021)		
16	Respondent's Motion for Extension of Time	195-200	I
17	To File Answer and Verified Response		
17	(Filed December 11, 2020)		
18	Respondent's Motion to Remove Associate Bar	520-555	III
19	Counsel Gosioco from Case No. OBC19-1111		
20	(Filed April 30, 2021)		
21	Respondent's Reply to Motion to Vacate	189-194	I
22	Filing, Orders and Decisions – Including the Amended		
23	Complaint; Motion to Dismiss Amended Complaint		
24	(Filed December 10, 2020)		
25	Respondent's Verified Response to Amended Complaint	360-362	II
25	(Filed February 17, 2021)		
25	Scheduling Order	50-54	I
25	(Filed August 19, 2020)		

1	State Bar of Nevada’s Comprehensive Response to	211-234	I
2	Procedural Issues Raised by Panel Chair	235-346	II
3	(Filed January 28, 2021)		
4	State Bar of Nevada’s DRP 24 Trial Brief	819-961	IV
5	(Filed May 14, 2021)	962-1163	V
6	State Bar’s Final Disclosures	56-62	I
7	of Documents and Witnesses		
8	(Filed September 15, 2020)		
9	State Bar of Nevada’s Notice of Hearing	438-439	II
10	(Filed April 28, 2021)		
11	State Bar of Nevada’s Summary of Evidence;	440-446	II
12	Final Designation of Documents and Witnesses		
13	(Filed April 28, 2021)		
14	State Bar of Nevada’s Notice of Continuation of Hearing	1200-1203	V
15	(Filed June 4, 2021)		
16	State Bar of Nevada’s Memorandum of Costs	1214-1223	VI
17	(Filed July 20, 2021)		
18	State Bar of Nevada’s Opposition to Respondent’s	374-430	II
19	Objection to Complainant’s Initial Disclosures of		
20	Witnesses and Documents		
21	(April 19, 2021)		
22	State Bar of Nevada’s Opposition to Respondent’s	556-720	III
23	Motion to Remove Associate Bar Counsel Gosioco	721-818	IV
24	from Case No. OBC19-1111		
25	(Filed May 5, 2021)		
	State Bar of Nevada’s Opposition to Respondent’s	148-188	I
	Motion to Vacate Filings, Orders and Decisions –		
	Including the Amended Complaint; Motion to Dismiss		
	Amended Complaint and Supplement		
	(Filed December 2, 2020)		

1	State Bar of Nevada’s Opposition to Respondent’s	447-476	II
2	Rule 60(b) Motion to Set Aside Order Granting	477-519	III
3	State’s Motion to Compel		
4	(Filed April 29, 2021)		
5	State Bar of Nevada’s Peremptory Challenges	13-14	I
6	(Filed May 13, 2020)		
7	State Bar of Nevada’s Supplemental Final Disclosure	1173-1188	V
8	Of Documents and Witnesses		
9	(Filed May 24, 2021)		
10	Supplement to Motion to Vacate Filings, Orders and	142-147	I
11	Decisions – Including the Amended Complaint; Motion		
12	To Dismiss Amended Complaint		
13	(Filed November 18, 2020)		
14	Transcript – 10/15/20	1239-1254	VI
15	(Hearing Held November 13, 2019)		
16	Transcript – 5/28/21	1255-1401	VI
17	Transcript – 6/16/21	1402-1444	VI
18		1445-1507	VII
19	Hearing Exhibits	1508-1673	VII
20		1674-1903	VIII
21		1904-2136	IX
22		2137-2313	X



FILED

JUN 16 2021

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

LAW OFFICES OF BRIAN C. PADGETT  
BRIAN C. PADGETT, ESQ.  
Nevada Bar No. 7474  
1672 Liege Drive  
Henderson, Nevada 89012  
Telephone: (702)497-3204  
Facsimile: (702) 368-0123  
Email: brian.padgett@icloud.com

STATE BAR OF NEVADA  
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA

Complainant,

vs.

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

Respondent,

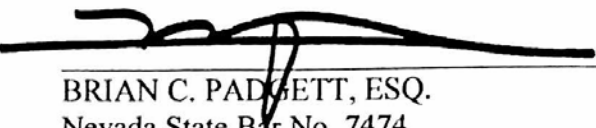
Case No. OBC19-1111

MOTION TO SET ASIDE ORDERS AND DISMISS CASE

RESPONDENT BRIAN C. PADGETT, ESQ. hereby submits this MOTION TO SET  
ASIDE ORDERS AND DECISIONS. This Motion is made pursuant to NRCP 60(b)(1) and  
(6) and NRCP 12(b)(3) and it is based upon

the following Memorandum of Points and Authorities.

Dated: June 15, 2021.

  
BRIAN C. PADGETT, ESQ.  
Nevada State Bar No. 7474  
1672 Liege Drive  
Henderson, Nevada 89012

**MEMORANDUM OF POINTS AND AUTHORITIES**

**LEGAL ARGUMENT**

Respondent moves to set aside Orders of the Panel Chair as set forth herein and also moves to have the instant case dismissed as set forth below:

**1. APPOINTMENT OF HEARING PANEL CHAIR WITHOUT GIVING  
RESPONDENT THE DESIGNATION OF HEARING PANEL MEMBERS LIST  
AND OPPORTUNITY TO USE PERMEPTORY CHALLENGES TO EXCLUDE**

Pursuant to DRP 13, Respondent was to be given a Complaint accompanied with a list of members of the appropriate Disciplinary Board. According to DRP 13(a) Respondent was also to be given five (5) peremptory challenges to be used to eliminate people listed on the Designation of Hearing Panel Members list. These challenges can be used for any reason or no reason at all.

At no time was Respondent given a Designation of Hearing Panel Members list and allowed to use five (5) peremptory challenges – with the Complaint or otherwise.

At the prehearing conference this matter was brought up to the Panel Chair who said Respondent could challenge any panel member for cause but must do so within 24 hours. A challenge for cause is not the same as with peremptory challenges which would have allowed Respondent to exclude the Panel Chair for any reason or no reason at all.



1 The failure to even offer the peremptory challenges from the outset is incurably prejudicial  
2 and a violation of Respondent's Equal Protection Rights. Respondent would have brought this  
3 sooner had he been familiar enough with the rules to know to look for an item (Designation of  
4 Hearing Panel Members list) he was never given.

5 For this reason Respondent asks that the Panel Chair be removed and the case be dismissed  
6 for a failure to extend essential Equal Protection rights to Respondent.

7 **2. NO LIVE HEARING SO RESPONDENT CANNOT CONFRONT HIS**  
8 **ACCUSERS AND EFFECTIVELY CROSS-EXAMINE**

9 On April 28, 2021, the Panel Chair ruled that the disciplinary hearing would take place via  
10 zoom conference and that Respondent would not be able to face his accusers and cross-examine  
11 them because of the Covid-19 pandemic. At the pre-hearing conference, on May 19, 2021, despite  
12 the notice from Governor Sisolak that schools had been reconvened and masks were only  
13 mandatory for casinos and for those not vaccinated, the Panel Chair again denied a renewed request  
14 from Respondent – despite having stated in his February 19, 2021 Amended Scheduling Order that  
15 the hearing would take place “either via Zoom or in person, pursuant to public health  
16 recommendations.”

17 The first day of the hearing was held on May 28, 2021 and no witnesses examination was  
18 completed. Thereafter, it was agreed that June 16, 2021 would be Day 2 of the hearing. As of June  
19 1, 2021, Governor Sisolak made masks mandatory only for those who had not been vaccinated.  
20 Furthermore, on June 11, 2021 Las Vegas Justice Court rescinded its mandate for Blue Jeans or  
21 telephonic appearance for all counsel, parties and witnesses.

22 As a result of the changed circumstances, the zoom conference should be voided and this  
23 disciplinary hearing should be in-person only - where Respondent maintains his principal place of  
24 business – Las Vegas, Nevada – pursuant to DRP 27. This is also an Equal Protection violation  
25 as similarly situated lawyers in disciplinary hearings have been allowed to face their accusers and  
26 examine and cross-examine witnesses directly – with no zoom barrier.

**3. THE FIRST DAY OF THE HEARING STARTED WITHOUT RESPONDENT WHO HAD ONLY TELEPHONIC ACCESS TO THE HEARING**

For the first hour of the hearing Respondent could not access the zoom conference and had been in touch with the Bar that first hour making them aware that he could not access zoom and working with them to try to gain access – even though Respondent had signed in for the zoom conference the day before.

While Respondent was trying to access the hearing, the Panel Chair convened the hearing shortly after 9:00am and the first hour was conducted without Respondent. Shortly after learning the hearing started without him, Respondent called in via telephone and was relegated to examining two witnesses before time expired for each via telephone. Respondent could not see the faces of the individuals, he could not handle exhibits as he wanted and he was at a significant disadvantage to Associate Bar Counsel Gosioco (hereinafter “ABC Gosioco”).

Because of the substantial prejudice that attached to Respondent on that first day it is respectfully requested that this hearing be stricken and a new, in-person hearing be scheduled so Respondent has the same rights to defend himself as similarly situated individuals. Additionally, while attempting to access zoom, Respondent learned that his laptop camera had burned out and he will once again be relegated to telephonic access if the hearing is allowed to continue via zoom.

**4. RESPONDENT WAS UNREASONABLY DENIED THE OPPORTUNITY TO CALL HIS OWN WITNESSES AND USE HIS OWN EXHIBITS**

Respondent provided initial disclosures to ABC Gosioco on March 9, 2021.

Thereafter, the Amended Scheduling Order stated that parties should file Motions on April 5, 2021, Oppositions by April 19, 2021 and Replies by April 26, 2021. Final Disclosures were scheduled for April 28, 2021.

ABC Gosioco filed a Motion to Compel regarding Respondent’s initial disclosures prior to April 5, 2021. Before Respondent could begin to prepare an Opposition, the Panel Chair found in favor of ABC Gosioco and stripped Respondent of his right to produce witnesses and documents

1 on April 15, 2021 – four full days before the April 19, 2021 date scheduled for Respondent to  
2 prepare an Opposition.

3 As a result of this punitive ruling, Respondent could not prepare Final Disclosures or a  
4 Trial Brief as he was left with only the use of documents disclosed by ABC Gosioco.

5 Respondent filed an NRCP 60 Motion to Set Aside the ruling which was not heard until  
6 May 19, 2021 at the Pre-Hearing Conference. At that time, the Panel Chair ruled that the Motion  
7 to Set Aside would be granted. However, rather than grant Respondent the **four days** he had left  
8 to prepare and file an Opposition under the Amended Scheduling Order, the Panel Chair ordered  
9 Respondent would only have 24 hours to oppose ABC Gosioco's Motion to Compel.

10 Within that 24 hours Respondent had clients who relied on him to prepare Justice Court  
11 appeals for District Court to keep them in their homes pursuant to the CDC Moratorium.  
12 Respondent took care of the clients with deadlines first and then, at 11:39am on Thursday May 20,  
13 2021 he asked for an extension of the filing deadline and was denied. As a result, Respondent was  
14 not able to timely file an Opposition and was significantly prejudiced as a result thereof.

15 **5. FAILURE TO REMOVE ASSOCIATE BAR COUNSEL GOSIOCO**

16 Respondent sought the removal of ABC Gosioco for fabricating service of process on  
17 Respondent via his home address at 1672 Liege Drive, Henderson, Nevada 89012 in April 2020.  
18 The Bar's June 10, 2020 Declaration of Service According to SCR 109(1) in Support of Entry of  
19 Default refuted this claim first made by ABC Gosioco in February 2021 as well as his own  
20 Amended Complaint did which was filed in September 2020.

21 Subsequent attestation by a senior security guard at Respondent's MacDonald Highlands  
22 home neighborhood refuted the recently produced (February 2021) statements of three process  
23 servers who claimed to have tried to serve Respondent at his home.

24 When the matter was addressed during the Pre-Hearing Conference on May 19, 2021 the  
25 Motion to Remove was denied by the Panel Chair who stated that the matter was moot because  
26 "You are here so it doesn't matter."  
27  
28

1 The real issue of the veracity of Mr. Gosioco and his abuse of process is extremely  
2 prejudicial to Respondent's Due Process rights and it has negatively colored this and the other two  
3 disciplinary cases involving Respondent requiring dismissal of this case.

4 **6. THE CASE IN ISSUE WAS PRIMARILY HANDLED BY INDEPENDENT**  
5 **CONTRACTOR, ACE LEGAL, LLC AND ITS MANAGER, ATTORNEY AMY**  
6 **SUGDEN WHO HAS NOT BEEN THE SUBJECT OF DISCIPLINE – IN**  
7 **VIOLATION OF RESPONDENT'S EQUAL PROTECTION RIGHTS**

8 Ms. Sugden was hired as an independent contractor for 9 years to work cases for  
9 Respondent's firm until her termination on March 15, 2019. She had been a practicing attorney  
10 for several years prior to working with Respondent. Respondent had every reason to trust Ms.  
11 Sugden based on nearly a decade of competent work for Respondent.

12 Ms. Sugden handled all three cases for Respondents' office on a day to day basis that  
13 Respondent has been cited for. However, she is not facing discipline and has been called as a  
14 witness FOR the State Bar in this disciplinary case.

15 Respondent has not been able to retrieve documents to defend himself due to Ms. Sugden  
16 compromising the Firm's server prior to her dismissal. The Firm's IT company as well as an  
17 independent investigator hired by the Firm both concluded Ms. Sugden responsible for this breach  
18 of the Firm's Server. Ms. Sugden intentionally deleted 9 years of company emails and case  
19 documents. Respondent made the Bar aware of this via correspondence on October 11, 2019,  
20 February 24, 2020 and October 14, 2020 and yet the Bar is seeking to severely discipline  
21 Respondent for her actions on one hand while referring clients to Ms. Sugden on the other hand.


22 *Exhibit A.*

23 These selective disciplinary actions violate Respondent's Equal Protection rights and as  
24 such this case should be dismissed.  
25  
26  
27  
28

**CONCLUSION**

Based upon the facts and argument set forth herein it is respectfully requested that the Respondent be given the relief requested so that he may be accorded full Due Process and Equal Protection under the laws and be heard on the merits.

Dated this 15<sup>th</sup> day of June, 2021.



BRIAN C. PADGETT, ESQ.  
Nevada Bar No. 7474  
1672 Liege Drive  
Henderson, Nevada 89012

**CERTIFICATE OF SERVICE**

I hereby certify that on this 16<sup>th</sup> day of June, 2021, I served the foregoing

**MOTION TO SET ASIDE ORDERS AND DISMISS CASE**

by emailing a true and correct copy thereof to the State Bar of Nevada and addressed to the attention of the Panel Chair, Associate Bar Counsel and Laura Peters.



Employee of the Law Offices of BRIAN C. PADGETT

# EXHIBIT A

**Subject:** INQUIRY

**Date:** Monday, April 6, 2020 at 3:38:07 PM Pacific Daylight Time

**From:** David Hoffman

**To:** Amy Sugden

Dear Attorney,

I was referred to you by the State's Bar Referral Services. Do advise if your firm handles Litigation Cases.

David



Case No. OBC19-1111



FILED

JUL 20 2021

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

STATE BAR OF NEVADA  
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN C. PADGETT, ESQ.,  
STATE BAR NO. 7474

Respondent.

STATE BAR OF NEVADA'S  
MEMORADUM OF COSTS

Description	Amount
Nationwide Invoice – personal delivery attempted on 9/25/20	\$ 60.00
Sunshine Litigation – transcript cost from 10/15/20 Formal Hearing	278.75
Sunshine Litigation – transcript cost from 5/28/21 Formal Hearing	1,269.50
Sunshine Litigation – transcript cost from 6/16/21 Formal Hearing	1,232.00
Certified Mailing Costs	115.45
SCR 120 Costs	2,500.00
<b>TOTAL</b>	<b><u>\$ 5,455.70</u></b>

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

5 Dated this 20<sup>th</sup> day of July 2021

6 STATE BAR OF NEVADA  
7 DAN M. HOOGE, BAR COUNSEL

8 

9 By: \_\_\_\_\_  
10 Gerard Gosioco, Assistant Bar Counsel  
11 Nevada Bar No. 14371  
12 3100 W. Charleston Blvd., Ste. 100  
13 Las Vegas, NV 89102  
14 (775) 329-4100  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1                                    **CERTIFICATE OF SERVICE BY MAIL**

2            The undersigned hereby certifies that a true and correct copy of the foregoing  
3   **State Bar of Nevada's Memorandum of Costs** was served by electronic mail to:  
4   Brian C. Padgett - brian.padgett@icloud.com, brian@briancpadgett.com

5            DATED this 20<sup>th</sup> day of July 2021

6                                    *Laura Peters*

7                                    \_\_\_\_\_  
8            Laura Peters, an employee of  
                 the State Bar of Nevada.









# Padgett.MOC\_071921

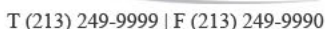
Final Audit Report

2021-07-20

Created:	2021-07-20
By:	Laura Peters (laurap@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAtoFYWIXrCl6ecLmQ4mI4yus2gjmXODW5

## "Padgett.MOC\_071921" History

-  Document created by Laura Peters (laurap@nvbar.org)  
2021-07-20 - 4:19:43 PM GMT- IP address: 71.94.199.108
-  Document emailed to Gerard Gosioco (gerardg@nvbar.org) for signature  
2021-07-20 - 4:21:02 PM GMT
-  Email viewed by Gerard Gosioco (gerardg@nvbar.org)  
2021-07-20 - 4:21:20 PM GMT- IP address: 54.183.235.223
-  Document e-signed by Gerard Gosioco (gerardg@nvbar.org)  
Signature Date: 2021-07-20 - 4:21:32 PM GMT - Time Source: server- IP address: 174.72.164.15
-  Document emailed to Laura Peters (laurap@nvbar.org) for signature  
2021-07-20 - 4:21:35 PM GMT
-  Email viewed by Laura Peters (laurap@nvbar.org)  
2021-07-20 - 4:22:05 PM GMT- IP address: 54.219.183.184
-  Document e-signed by Laura Peters (laurap@nvbar.org)  
Signature Date: 2021-07-20 - 4:22:22 PM GMT - Time Source: server- IP address: 71.94.199.108
-  Agreement completed.  
2021-07-20 - 4:22:22 PM GMT



Invoice No.	Customer No.
00000022160	21191
INVOICE DATE:	Total Due
10/15/2020	\$ 60.00

Nationwide Legal, LLC  
1609 James M Wood Blvd.  
Los Angeles, CA 90015  
TAX ID # 20-8284527

Customer No.	Invoice No.	Period Ending	Amount Due	Page
21191	00000022160	10/15/2020	\$ 60.00	1

**INVOICE PAYMENT DUE UPON RECEIPT** Padgett ROA - 1218





151 Country Estates Circle  
Reno, NV 89511  
Phone: 800-330-1112  
litigationservices.com

R. Kait Flocchini, Esq.  
State Bar of Nevada  
9456 Double R Blvd, Suite B  
Reno, NV 89521

# INVOICE

Invoice No.	Invoice Date	Job No.
1410049	10/19/2020	671803
Job Date	Case No.	
10/15/2020		
Case Name		
State Bar of Nevada vs. Padgett, Esq.		
Payment Terms		
Net 30		

Original & One Certified Copy - Deposition of:

Hearing

25.00 Pages @ 7.75 193.75

Attendance - Half Day

85.00 85.00

**TOTAL DUE >>> \$278.75**

Please note, disputes or refunds will not be honored or issued after 30 days

*Laura Peters*

Tax ID: 20-3835523

Phone: 775-329-4100 Fax: 775-329-0522

Please detach bottom portion and return with payment.

R. Kait Flocchini, Esq.  
State Bar of Nevada  
9456 Double R Blvd, Suite B  
Reno, NV 89521

Job No. : 671803 BU ID : RN-CR

Case No. :

Case Name : State Bar of Nevada vs. Padgett, Esq.

Invoice No. : 1410049 Invoice Date : 10/19/2020

**Total Due : \$278.75**

Remit To: **Sunshine Reporting and Litigation Services,  
LLC  
P.O. Box 98813  
Las Vegas, NV 89193-8813**

## PAYMENT WITH CREDIT CARD



Cardholder's Name: \_\_\_\_\_

Card Number: \_\_\_\_\_

Exp. Date: \_\_\_\_\_ Phone#: \_\_\_\_\_

Billing Address: \_\_\_\_\_

Zip: \_\_\_\_\_ Card Security Code: \_\_\_\_\_

Amount to Charge: \_\_\_\_\_

Cardholder's Signature: **Padgett ROA - 1220**

Email: \_\_\_\_\_

# INVOICE

1 of 1



151 Country Estates Circle  
Reno, NV 89511  
Phone: 800-330-1112  
litigationservices.com

Laura Peters  
State Bar of Nevada  
9456 Double R Blvd, Suite B  
Reno, NV 89521

Invoice No.	Invoice Date	Job No.
1474101	6/28/2021	759293
Job Date	Case No.	
5/28/2021	OBC19-1111	
Case Name		
State Bar of Nevada vs. Padgett, Esq.		
Payment Terms		
Net 30		

Transcript of Proceedings  
Transcript of Proceedings

1,269.50

**TOTAL DUE >>>**

**\$1,269.50**

Location of Job : Via Zoom  
Reno, NV

Case No. OBC19-1111

Please note, disputes or refunds will not be honored or issued after 30 days

**Tax ID:** 20-3835523

*Please detach bottom portion and return with payment.*

Laura Peters  
State Bar of Nevada  
9456 Double R Blvd, Suite B  
Reno, NV 89521

Invoice No. : 1474101  
Invoice Date : 6/28/2021  
**Total Due : \$1,269.50**

Remit To: **Sunshine Reporting and Litigation Services,  
LLC  
P.O. Box 98813  
Las Vegas, NV 89193-8813**

Job No. : 759293  
BU ID : RN-CR  
Case No. : OBC19-1111  
Case Name : State Bar of Nevada vs. Padgett, Esq.  
**Padgett ROA - 1221**



# INVOICE

1 of 1



151 Country Estates Circle  
Reno, NV 89511  
Phone: 800-330-1112  
litigationservices.com

Laura Peters  
State Bar of Nevada  
9456 Double R Blvd, Suite B  
Reno, NV 89521

Invoice No.	Invoice Date	Job No.
1476521	7/9/2021	770596
Job Date	Case No.	
6/16/2021	OBC19-1111	
Case Name		
State Bar of Nevada vs. Padgett, Esq.		
Payment Terms		
Net 30		

ORIGINAL AND 1 CERTIFIED COPY OF TRANSCRIPT OF:  
Transcript of Proceedings, Hearing Day 2

1,232.00  
**TOTAL DUE >>> \$1,232.00**

Location of Job : Via Zoom  
Reno, NV

Please note, disputes or refunds will not be honored or issued after 30 days

**Tax ID:** 20-3835523

*Please detach bottom portion and return with payment.*

Laura Peters  
State Bar of Nevada  
9456 Double R Blvd, Suite B  
Reno, NV 89521

Invoice No. : 1476521  
Invoice Date : 7/9/2021  
**Total Due : \$1,232.00**

Remit To: **Sunshine Reporting and Litigation Services,  
LLC  
P.O. Box 98813  
Las Vegas, NV 89193-8813**

Job No. : 770596  
BU ID : RN-CR  
Case No. : OBC19-1111  
Case Name : State Bar of Nevada vs. Padgett, Esq.  
**Padgett ROA - 1222**

## CERTIFIED MAILING CHARGES

COMPLAINT Mailed May 13, 2020	7015 3010 0001 2446 2288 – to 6 <sup>th</sup> Street Address \$7.80
Notice of Intent to Enter Default Mailed 6/9/20	7015 3010 0001 2446 2332 – to 6 <sup>th</sup> Street address \$8.00 7015 3010 0001 2446 2356 – to Gammila Drive address 8.00
Notice of ICC Mailed 7/15/20	7015 3010 0001 2446 2387 – to 6 <sup>th</sup> Street address \$6.80
Order Appointing Panel Chair Mailed 7/8/20	7015 3010 0001 2446 2400 – 6 <sup>th</sup> Street address \$6.90 7015 3010 2446 2394 – Gammila Drive address \$6.90
Notice of Hearing, Final Disclosures Mailed 9/15/20	7019 0140 0000 0205 4210 – 6 <sup>th</sup> Street address \$7.60
Amended Complaint Mailed 10/27/20	7019 2970 0001 3885 9632 – to 6 <sup>th</sup> Street address \$7.80 7019 2970 0001 3885 9618 – to Liege Drive address \$7.80
Notice of Intent to Enter Default Mailed 11/17/20	7019 2970 0001 3885 9625 – to Liege Drive address \$8.00
Entry of Default Mailed 1/5/21	7019 2970 0001 3885 9854 – to Liege Drive address \$7.80
Initial Disclosure of Documents & Witnesses Mailed 3/1/21	7019 2970 0001 3885 9977 – to Liege Drive address \$15.00
Notice of Hearing, Final Disclosures Mailed 4/28/21	7019 2970 0001 3885 5559 – to Liege Drive address 17.05
<b>TOTAL</b>	<b>\$ 115.45</b>



FILED

STATE BAR OF NEVADA  
NORTHERN NEVADA DISCIPLINARY BOARD

AUG 05 2021

STATE BAR OF NEVADA

BY   
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA,  
Complainant,

-VS-

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

Respondent.

CASE NO: OBC19-1111

**ORDER DENYING RESPONDENT'S MOTION TO SET ASIDE ORDERS  
AND DISMISS CASE**

On June 16, 2021, at approximately 8:28 a.m. Pacific Standard Time (PST), Respondent, Brian C. Padgett, Esq., (hereinafter "Respondent") filed a Motion to Set Aside Orders and Dismiss Case (hereinafter "Motion to Set Aside"). The formal hearing was set to commence at 9:00 a.m. PST on June 16, 2021. Accordingly, the State Bar orally opposed Respondent's Motion to Set Aside. Having reviewed Respondent's Motion to Set Aside, the parties' arguments at the formal hearing, and the applicable law, Hearing Panel Chair Richard D. Williamson, Esq. (hereinafter "Hearing Chair") hereby finds as follows:

**Procedural History**

The State Bar filed its original Complaint against Respondent on or about May 13, 2020. Pursuant to Supreme Court Rule ("SCR") 79, the State Bar served a copy of the Complaint on Respondent. On or about June 9, 2020, the State Bar filed a Notice of Intent to Proceed on a Default Basis. On July 10, 2020, the State Bar filed a Declaration of Service According to SCR 109(1) in Support of Entry of Default, which set forth the State Bar's efforts to serve Respondent. Accordingly, on or about July 13, 2020, the Hearing Chair signed, and the State Bar filed, an Entry of Default against Respondent.

1 Pursuant to Disciplinary Rule of Procedure (“DRP”) 17, an initial conference took place on July  
2 21, 2020. The Hearing Chair and Assistant Bar Counsel Gerard Gosioco (“ABC Gosioco”) participated  
3 in the call. Respondent failed to appear for the call. Similarly, Respondent was not present for the pre-  
4 hearing conference held on October 12, 2020.

5 This case was scheduled for a formal hearing to occur on October 15, 2020. That morning,  
6 Respondent emailed ABC Gosioco and informally requested a continuance of the Formal Hearing.  
7 Ultimately, the Hearing Chair granted Respondent’s request for a continuance. On October 27, 2020, the  
8 Hearing Chair granted the State Bar leave to file an amended complaint.

9 On December 10, 2020, Respondent filed a Motion for Extension of Time to File Answer and  
10 Verified Response (“Motion for Extension”). On February 9, 2021, the Hearing Chair granted in part  
11 and denied in part the Motion for Extension by giving Respondent an extension of an additional seven  
12 (7) calendar days following the date of that order.

13 Pursuant to DRP 17, the Hearing Chair met telephonically with ABC Gosioco and Respondent  
14 on February 22, 2021. During that scheduling conference, the parties and the Hearing Chair agreed that  
15 the parties “shall file any Motions on or before April 5, 2021.” *See* Amended Scheduling Order, 2.

16 On June 16, 2021, at approximately 8:28 a.m. PST – thirty-two (32) minutes prior to the start of  
17 the continued formal hearing – Respondent filed the instant Motion to Set Aside Orders and Dismiss  
18 Case.

### 19 Merits of the Motion

20 The Amended Scheduling Order provided that the parties “shall file any Motions on or before  
21 April 5, 2021.” *See* Amended Scheduling Order, 2. Respondent did not file the instant Motion to remove  
22 until April 30, 2021. Therefore, Respondent’s motion is untimely.

23 Assuming *arguendo* that Respondent’s motion was timely, Respondent fails to provide a good  
24 faith basis to remove ABC Gosioco from the instant disciplinary proceedings or continue the formal

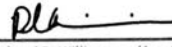
1 hearing set to commence on Friday, May 28, 2021. Moreover, Respondent's argument that he was not  
2 properly served and/or noticed of these proceedings have been resolved at this point as Respondent has  
3 appeared and participated.

4 **Conclusion**

5 Based upon the foregoing, the Hearing Chair finds no good cause to grant Respondent's motion.  
6 Therefore, the Hearing Chair hereby denies the Motion to Set Aside Orders and Dismiss Case.

7 IT IS SO ORDERED.

8 DATED this 5<sup>th</sup> day of <sup>August</sup>~~June~~, 2021.

9  
10   
Richard D. Williamson (Aug 5, 2021 10:01 PDT)  
11 Richard D. Williamson, Esq.  
Hearing Panel Chair  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25






# Padgett Brian C. Mtn to Set Aside and DISM Order (OBC19-1111) (003)

Final Audit Report

2021-08-05

Created:	2021-07-29
By:	Laura Peters (laurap@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAgCSbUclR1llc6lgEEyjhFZrzcw5ZgenN

## "Padgett Brian C. Mtn to Set Aside and DISM Order (OBC19-1111) (003)" History

-  Document created by Laura Peters (laurap@nvbar.org)  
2021-07-29 - 3:59:17 PM GMT- IP address: 71.94.199.108
-  Document emailed to Richard D. Williamson (rich@nvlawyers.com) for signature  
2021-07-29 - 3:59:35 PM GMT
-  Email viewed by Richard D. Williamson (rich@nvlawyers.com)  
2021-07-29 - 7:49:52 PM GMT- IP address: 174.247.117.225
-  Document e-signed by Richard D. Williamson (rich@nvlawyers.com)  
Signature Date: 2021-08-05 - 5:01:02 PM GMT - Time Source: server- IP address: 68.190.180.187
-  Agreement completed.  
2021-08-05 - 5:01:02 PM GMT



FILED

AUG 05 2021

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

Case No. OBC19-1111

STATE BAR OF NEVADA  
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA, )  
)  
Complainant, )  
)  
vs. )  
)  
BRIAN C. PADGETT, ESQ., )  
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, came before a designated Formal Hearing Panel of the Northern Nevada Disciplinary Board (hereinafter "Panel") through the online video conferencing platform Zoom at 9:00 a.m. on Friday, May 28, 2021, and Wednesday, June 16, 2021.

The Panel consisted of Chairman Richard D. Williamson, Esq., Nathan J. Aman, Esq., and Brooke Westlake, Laymember. Transcript of Proceedings, May 28, 2021 (hereinafter "May 28 Transcript"), 4. ABC Gosioco represented the State Bar. *Id.* Respondent appeared for portions of the hearing telephonically and represented himself pro se. *See generally* May 28 Transcript.

1 During the pre-hearing conference held on Thursday, May 20, 2021, the State Bar  
2 moved and admitted into evidence Exhibits 3 through 53. *See* Order Granting in Part and  
3 Denying in Part Respondent's Objection to Complainant's Initial Disclosures of Witnesses  
4 and Documents, *filed May 28, 2021*, 4. During the May 28 hearing, the State Bar moved  
5 and admitted into evidence Exhibits 1, 2a, 54, and 55. May 28 Transcript 5, 7-9. Also  
6 during the May 28 hearing, the State Bar called John DiFrancesco, Respondent, Louise  
7 Watson, and Michael Sullivan as witnesses. *See generally* May 28 Transcript 16-116. The  
8 parties were unable to examine all the State Bar's witnesses. Accordingly, the formal  
9 hearing was continued. May 28 Transcript 140-144.

10 The formal hearing was continued to June 16, 2021. On that day, the Panel  
11 consisted of Chairman Richard D. Williamson, Esq., Nathan J. Aman, Esq., and Brooke  
12 Westlake, Laymember. Transcript of Proceedings, June 16, 2021 (hereinafter "June 16  
13 Transcript"), 2. ABC Gosioco represented the State Bar. *Id.* Respondent appeared  
14 telephonically for the beginning of the hearing but failed to return for the remainder of  
15 the hearing. *See generally* June 16 Transcript 4-104. During the June 16 hearing, the  
16 State Bar called Sean Keseday, Amy Sugden, John DiFrancesco, and Mary Jorgensen as  
17 witnesses. *Id.* at 39-81.

18 Based upon the evidence presented, the Panel issues the following Findings of  
19 Fact, Conclusions of Law, and Recommendation:

20 **FINDINGS OF FACT**

21 1. On or about September 3, 2019, the State Bar received a grievance from  
22 John DiFrancesco, Robert Feron, and Jacalyn Feron (hereinafter "Grievants") alleging  
23 that Respondent engaged in misconduct. May 28 Transcript 19-20; Exhibit 34.  
24  
25



1           2.       On or about March 6, 2012, Grievants retained the Law Offices of Brian C.  
2 Padgett ("LOBCP") to represent them in a lawsuit related to the Truckee River Flood  
3 Management Project. *See* May 28 Transcript 16-18; Exhibit 3.

4           3.       Respondent signed the engagement letter for LOBCP on March 6, 2012. *See*  
5 Exhibit 3 at 2.

6           4.       Per the engagement letter, Grievants were to pay the LOBCP approximately  
7 \$2,500.00 each month, and if there were any fees beyond that amount, they would pay  
8 them at a subsequent date. *See* May 28 Transcript 20; *see also* Exhibit 3.

9           5.       John DiFrancesco (hereinafter "Mr. DiFrancesco") handled the payments to  
10 the LOBCP on behalf of the Grievants. May 28 Transcript 20.

11          6.       Although Mr. DiFrancesco provided LOBCP with approximately \$7,500.00  
12 for travel expenses and depositions, but Respondent and his law firm (the LOBCP) never  
13 took any depositions. *See* May 28 Transcript 22-25; *see also* Exhibit 5.

14          7.       Louise Watson (hereinafter "Ms. Watson"), an investigator with the State  
15 Bar, sent Respondent a Letter of Investigation and inquired about the \$7,500.00  
16 payment. May 28 Transcript 104-105.

17          8.       Respondent provided the State Bar with an itemized ledger through  
18 November 2016. May 28 Transcript 64, 67-72, 105.

19          9.       Respondent stated that Grievants had an unpaid balance with LOBCP, and  
20 that any funds received would have been applied to the outstanding balance. May 28  
21 Transcript 73-74, 106-107.

22          10.       Respondent stated that he would supplement his response with the  
23 Grievants' actual balance owed, but he failed to do so. May 28 Transcript 73-74, 105-106.

24          11.       Mr. DiFrancesco was never made aware of any outstanding balance to the  
25 LOBCP. May 28 Transcript 21.

1           12.    Grievants stopped receiving monthly invoices from the LOBCP in  
2 approximately 2016. June 16 Transcript 70.

3           13.    Mr. DiFrancesco believes he paid the LOBCP approximately \$161,000.00 in  
4 total fees. June 16 Transcript 72; *see also* Exhibits 5 & 37.

5           14.    On or about July 9, 2012, the LOBCP, acting on behalf of Grievants, filed a  
6 Complaint against Washoe County, the City of Reno, the City of Sparks, and the TRFMP  
7 alleging inverse condemnation and pre-condemnation damages claims. *See generally*  
8 June 16 Transcript 57.

9           15.    Attorney Amy L. Sugden (hereinafter “Ms. Sugden”) worked for the LOBCP  
10 for approximately eight (8) years. June 16 Transcript 46-47.

11           16.    Although Ms. Sugden was initially hired as an independent contractor, but  
12 as the years progressed, an employee-employer relationship formed between Ms. Sugden  
13 and Respondent. June 16 Transcript 47-48, 50-52.

14           17.    Ms. Sugden became Grievants’ primary legal contact throughout the seven  
15 years of their representation. May 28 Transcript 25.

16           18.    Mr. DiFrancesco believed that Ms. Sugden worked for Respondent. May 28  
17 Transcript 26.

18           19.    Ms. Sugden confirmed that she was being supervised by Respondent during  
19 her representation of the Grievants. June 16 Transcript 52.

20           20.    On many occasions during the pendency of the case, Grievants expressed to  
21 Ms. Sugden their desire to move the lawsuit, discovery, and depositions toward a trial  
22 date. May 28 Transcript 27.

23           21.    Ms. Sugden consistently ignored or stalled on completing these tasks. May  
24 28 Transcript 27.

1           22. Ms. Sugden and the Grievants also made Respondent aware that the  
2 Grievants were unhappy with the status of their case. *See, e.g.*, Exhibit 32.

3           23. Ms. Sugden and the Respondent were not responsive to the Grievants. June  
4 16 Transcript 63, 70.

5           24. Despite Grievants' requests, a trial date was ultimately never set. *See* June  
6 16 Transcript 56.

7           25. The Five-Year Rule, as set forth in Rule 41 of the Nevada Rules of Civil  
8 Procedure ("NRCP"), for Grievants' Complaint was set to expire on July 9, 2017.

9           26. Ms. Sugden states that she had a "gentleman's agreement with opposing  
10 counsel" to extend the Five-Year Rule. June 16 Transcript 57-58.

11           27. There is no documentation or stipulation extending or tolling the expiration  
12 of the Five-Year Rule. *See* June 16 Transcript 58.

13           28. Grievants were not aware of the Five-Year Rule, and its application to their  
14 civil case, until Ms. Sugden sent them an email on or about September 16, 2017 – after  
15 the Five-Year Rule had already expired. *See* June 16 Transcript 67-69.

16           29. On or about April 20, 2018, Grievants instructed Ms. Sugden to take  
17 depositions and to file a Motion in Limine. May 28 Transcript 28.

18           30. On or about June 29, 2018, Ms. Sugden, acting on behalf of Grievants, filed  
19 a Motion in Limine to Exclude Evidence After August 2012 ("Motion in Limine"). *See*  
20 June 16 Transcript 63-65.

21           31. Although an "Index of Exhibits" was included in the Motion in Limine, no  
22 exhibits were attached. *Id.*

23           32. On or about September 5, 2018, Ms. Sugden, acting on behalf of Grievants,  
24 filed a Supplement to the Motion in Limine attaching the missing twenty-six (26)  
25 exhibits. June 16 Transcript 65-66.

1           33.     In or around December 2018, Respondent took over Ms. Sugden's duties as  
2 Grievants' primary contact. *See* May 28 Transcript 26.

3           34.     On or about March 12, 2019, Grievants hired attorney Michael Sullivan  
4 (hereinafter "Mr. Sullivan") to substitute Respondent as attorney of record. *See* May 28  
5 Transcript 117.

6           35.     By the time Mr. Sullivan was retained, the Five-Year Rule had already  
7 expired. May 28 Transcript 112-115.

8           36.     On or about April 8, 2019, Mr. Sullivan, acting on behalf of Grievants, filed  
9 a Stipulation and Order for Dismissal with Prejudice after discussing their options with  
10 him. *See* May 28 Transcript 32, 111-115.

11          37.     On or about October 15, 2020, a Formal Hearing for the instant matter was  
12 set to commence at 9:00am Pacific Standard Time. *See generally* October 15 Transcript  
13 3-14.

14          38.     On or about October 15, 2020, at approximately 8:11am Pacific Standard  
15 Time, Respondent emailed ABC Gosioco requesting that the Formal Hearing be  
16 continued. October 15 Transcript 5.

17          39.     Ultimately, the Formal Hearing was continued. October 15 Transcript 11-14.

18          40.     In his email, Respondent included a letter where he alleged a lack of notice  
19 of process. *See generally* October 15 Transcript 6-8.

20          41.     Respondent stated that in or around February 2020, he made the decision  
21 to work full time from his home office, 1672 Liege Drive, Henderson NV 89102.<sup>1</sup> May 28  
22 Transcript 92-93.

---

24           <sup>1</sup> Nationwide Legal attempted to personally serve Respondent at the Liege address on or about  
25 (1) September 29, 2020, (2) October 1, 2020, and (3) October 3, 2020, but to no avail. *See* June 16  
Transcript 42.

42. Respondent submitted an affidavit from his secretary, Connie Little, stating that she mailed a notice of change of his address on or about February 28, 2020. May 28 Transcript 91-97.

43. The State Bar has no record of such a request. June 16 Transcript 79.

44. The State Bar's records show that Respondent did not provide the Liege address until January 5, 2021. June 16 Transcript 80.

45. If any findings of fact are properly conclusions of law, they shall be treated as if appropriately identified and designated.

### **CONCLUSIONS OF LAW**

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

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

2. Venue via Zoom is proper. *See generally* June 16 Transcript 4-37.

3. Respondent called in from a "702" number and did not dispute that he was physically located in Las Vegas during the formal hearing. June 16 Transcript 36.

4. 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).

5. The Panel unanimously found that the foregoing findings of fact prove by clear and convincing evidence that Respondent knowingly violated RPC 1.15 (Safekeeping Property), RPC 5.1 (Responsibilities of Partners, Managers, and Supervisory Lawyers), RPC 8.1 (Bar Admission and Disciplinary Matters), and RPC 8.4 (Misconduct). June 16 Transcript 98.

1           6.     As to Count One – RPC 1.15 (Safekeeping Property) – the Panel  
2 unanimously found that Respondent’s misconduct caused injury to his clients, the public,  
3 and the profession. June 16 Transcript 100-101.

4           7.     As to Count Two – RPC 5.1 (Responsibilities of Partners, Managers, and  
5 Supervisory Lawyers) – the Panel unanimously found that Respondent’s misconduct  
6 caused injury to his clients, the profession, and the legal system. June 16 Transcript 101.

7           8.     As to Counts Three through Six – RPC 8.1 (Bar Admission and Disciplinary  
8 Matters) and RPC 8.4 (Misconduct) – the Panel unanimously found that Respondent’s  
9 misconduct caused injury to the profession. June 16 Transcript 101-102.

10          9.     The appropriate level of discipline must be determined considering “all  
11 relevant factors and mitigating circumstances on a case-by-case basis.” *State Bar of*  
12 *Nevada v. Claiborne*, 104 Nev. 11, 219, 756 P.2d 464, 531 (1988). We evaluate The  
13 American Bar Association Standards for Imposing Lawyer Sanctions’ four factors to be  
14 considered in determining the appropriate disciplinary sanction: “the duty violated, the  
15 lawyer’s mental state, the potential or actual injury caused by the lawyer’s misconduct,  
16 and the existence of aggravating or mitigating factors.” *See In re Discipline of Lerner*,  
17 124 Nev. 1232, 1246, 197 P.3d 1067, 1078 (2008).

18          10.    Pursuant to Standard 6.12 of the ABA Standard for Imposing Lawyer  
19 Sanctions, the appropriate baseline sanction for Respondent’s violations of RPC 1.15  
20 (Safekeeping Property), RPC 5.1 (Responsibilities of Partners, Managers, and Supervisory  
21 Lawyers), RPC 8.1 (Bar Admission and Disciplinary Matters), and RPC 8.4 (Misconduct)  
22 is suspension. June 16 Transcript 102.

23          11.    Pursuant to SCR 102.5(1), the Panel unanimously found the following  
24 aggravating factors exist:

25               a.     Prior disciplinary offenses;

- b. Dishonest or selfish motive;
- c. A pattern of misconduct;
- d. Multiple offenses;
- e. Bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders;
- f. Refusal to acknowledge the wrongful nature of conduct;
- g. Substantial experience in the practice of law; and
- h. Indifference to making restitution.

June 16 Transcript 98.

12. The Panel unanimously found that there were no mitigating factors in Respondent's favor. June 16 Transcript 98.

13. If any conclusions of law are properly findings of fact, they shall be treated as if appropriately identified and designated.

#### **RECOMMENDATION**

Based upon the foregoing Findings of Fact and Conclusions of Law, the Panel hereby recommends that Respondent receive a five (5) year suspension from the practice of law to run consecutive to his five (5) year suspension in Docket No. 81918. June 16 Transcript 99. Respondent shall retake the Nevada bar exam as well as the MPRE prior to petitioning for reinstatement. *Id.*; June 16 Transcript 102. In addition, Respondent shall repay the fees his former clients, Mr. DiFrancesco and the Ferons, paid (approximately \$161,000.00) by June 16, 2026, with interest at the statutory rate. *Id.* at 99-100, 103.

Pursuant to SCR 120, Respondent shall pay a \$2,500 fee plus the actual costs of this proceeding, excluding Bar Counsel and staff salaries, no later than the 30th day after

1 the Supreme Court's Order in this matter or service of a Memorandum of Costs,  
2 whichever is later.

3 DATED this 5<sup>th</sup> day of August, 2021.

4  
5 

6 **Richard D. Williamson, Esq.,**  
7 Hearing Panel Chair  
8 Northern Nevada Disciplinary Panel  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



Page Intentionally Left Blank

1 STATE BAR OF NEVADA  
2 NORTHERN DISCIPLINARY BOARD  
3 -o0o-  
4  
5 STATE BAR OF NEVADA,  
6 Complainant, Case No. OBC19-1111  
7 vs.  
8 BRIAN C. PADGETT, BAR 7474,  
9 Respondent.  
10 \_\_\_\_\_/  
11 Pages 1 to 15, inclusive.  
12  
13  
14 HEARING  
15 \_\_\_\_\_  
16 Thursday, October 15, 2020  
17 Reno, Nevada  
18  
19  
20  
21 JOB NO.: 671803  
22 REPORTED via Zoom BY: CHRISTINA AMUNDSON  
23 CCR #641 (Nevada)  
24 CSR #11883 (California)

## 1 A P P E A R A N C E S

2 (Via Zoom)

3 RICH WILLIAMSON, ESQ.

4 NATHAN AMAN, ESQ.

5 GERARD GOSIOCO

6 STEVE BOUCHER

7 VICKI HETHERINGTON

8 LAURA PETERS

9 DAN HOOGE

10 -o0o-

11

12

13

14

15

16

17

18

19

20

21

22

23

24

1 BE IT REMEMBERED that Thursday, September 18,  
2 2020, commencing at 9:19 a.m. of said day, before  
3 me, CHRISTINA M. AMUNDSON, a Certified Shorthand  
4 Reporter, the following proceedings were had:

5 -----

6 MR. WILLIAMSON: This is Richard  
7 Williamson, Panel Chair for State Bar v. Padgett.  
8 His bar number is 7474.

9 MR. AMAN: This is Nathan Aman, another  
10 attorney representative of the panel.

11 MR. BOUCHER: Steve Boucher, layman.

12 MR. GOSIOCO: Gerard Gosioco, Assistant Bar  
13 Counsel.

14 MR. HOOGE: Dan Hooge, Bar Counsel. I'm  
15 just observing.

16 MR. WILLIAMSON: Okay. It looks like we  
17 have Laura as well. Yes.

18 MS. PETERS: Laura Peters for the State  
19 Bar.

20 MR. WILLIAMSON: Let's go on the record in  
21 the matter of State Bar v. Padgett. We -- bar  
22 counsel received a request from Mr. Padgett to move  
23 today's hearing and at this point I'd like to turn  
24 it over to you, Mr. Gosioco, to explain what efforts

1 the bar has made at least to provide service and  
2 through what means, what addresses, what email  
3 addresses so the panel has all the facts before it  
4 and we can decide where to go from here.

5 MR. GOSIOCO: Thank you, sir. So, as far  
6 as service is concerned, we did make several  
7 attempts to notice Mr. Padgett of these hearings, of  
8 these proceedings. Specifically, the complaint that  
9 was filed in this case was sent to Mr. Padgett's SCR  
10 79 address via first-class and certified mail, but  
11 those mailings were returned to the State Bar's  
12 office on or about June 21, 2020.

13 On or about June 9th, 2020, a notice of  
14 intent to proceed on a default basis was filed and  
15 sent to Mr. Padgett's SCR 79 address as well as an  
16 alternate address we had on file, which is 11274  
17 Gammila, which is G-a-m-m-i-l-a, Drive, Las Vegas,  
18 Nevada, 89149. Those were sent via first-class and  
19 certified mail as well.

20 As far as the mailing of the notice is  
21 concerned, that mailing was sent back to the State  
22 Bar's office on or about June 21, 2020, and as far  
23 as his alternate address, the mail that was sent to  
24 that address was also returned to the State Bar's

1 office marked "Return to Sender, Unable to Forward,"  
2 on or about July 6th, 2020.

3 Now, a default was entered into this case  
4 on or about July 13th, 2020, so after default was  
5 entered, we attempted to personally serve Mr.  
6 Padgett at 1672 Liege, L-i-e-g-e, Drive, Henderson,  
7 Nevada, 89012 on or about September 29th, 2020,  
8 October 1, 2020, and October 3rd, 2020.

9 In addition, our office contacted attorney  
10 Garrett Ogata, who was Mr. Padgett's attorney on one  
11 of his criminal cases, to see if Mr. Ogata would be  
12 willing to accept service on Mr. Padgett's behalf.  
13 Mr. Ogata seemed hesitant to do so, however, he did  
14 advise that he would contact Mr. Padgett. Mr. Ogata  
15 subsequently informed us that he did text Mr.  
16 Padgett with our contact information and told him to  
17 contact us.

18 As Mr. Williamson stated earlier, up until  
19 about 8:11 this morning, the day of the formal  
20 hearing, we did not hear back from Mr. Padgett until  
21 he sent that email to Laura Peters and myself  
22 requesting that this matter be continued, but those  
23 are the attempts that we made to personally serve  
24 Mr. Padgett.

1 MR. WILLIAMSON: Okay. Thank you for that  
2 summary. While you were finishing up, I was briefly  
3 going to look at SCR 109.

4 MR. BOUCHER: How did he eventually find  
5 out about today's meeting, then?

6 MR. GOSIOCO: It's unclear at this point.  
7 I would assume that, once Mr. Ogata did text Mr.  
8 Padgett with our information, that he might have  
9 found out about the hearing, but at this point it's  
10 unclear to me.

11 MR. WILLIAMSON: And I just want to make  
12 sure I understand what the service address is. So,  
13 I know personal service was attempted at the Liege  
14 Drive address, which is the address he mentions in  
15 his letter. You also mentioned the default was sent  
16 to Gammila Drive address and then both the complaint  
17 and default were sent to the SCR address. And so I  
18 assume this is the address before -- well, I guess  
19 let me back up.

20 Mr. Padgett states in his letter that he  
21 believes he changed his SCR address at some point to  
22 the Liege address that you tried to personally  
23 serve. Is that correct, or does the bar have a  
24 record of that attempt to change the SCR address?

1           MR. GOSIOCO: That is correct. As far as  
2 whether or not we have a record, unfortunately,  
3 because we learned about this at 8:11 this morning,  
4 I didn't have time to discuss with the other staff  
5 whether or not this record was actually made.

6           But if you give me one second, I'm going to  
7 his contact information file to see whether or not  
8 it was -- a request was actually made. I know that  
9 we are very diligent about updating this information  
10 once received, so if you would spare me one second,  
11 I can look.

12           MR. WILLIAMSON: Sure.

13           MR. GOSIOCO: No, sir. It looks like the  
14 only address we still have on file for Mr. Padgett  
15 is an SCR address, which is 611 South Sixth Street,  
16 Las Vegas, Nevada 89101 and the Gammila address.

17           So, if a request was made, I do know that  
18 our staff is very diligent about updating that as  
19 soon as possible.

20           MR. WILLIAMSON: Okay. Again, you may not  
21 know this. I realize this just got dumped on you  
22 this morning. But do you know how you came to be  
23 aware of this Liege Drive address?

24           MR. GOSIOCO: It looks like Laura stated



1 that she had found the Henderson address on the  
2 Eighth Judicial District Court website. A Sixth  
3 Street address was his old office and nothing has  
4 been received there.

5 MR. WILLIAMSON: Okay. Got it. So, I  
6 guess I want to make a record and make a few  
7 statements and then I think we, the entire panel,  
8 needs to decide how to proceed.

9 No. 1, I do think if he never formally  
10 changed his address, under SCR 109.1, you know, the  
11 proper service can be registered or certified mail  
12 at the current address shown in the State Bar's  
13 records or other last known address and so it seems  
14 to me that would be the 611 South Sixth Street.

15 So, I do think service of the complaint and  
16 service of the default appear to be proper and I  
17 certainly think the bar has done everything that  
18 could be expected of it to try to give Mr. Padgett  
19 both formal and actual notice. At the same time,  
20 obviously, this is a serious matter and I'm  
21 reluctant to, when someone has professed that they  
22 have not received service, I'm a little hesitant to  
23 just charge ahead with a hearing, if truly he did  
24 not know.

1           And I'd hate to -- while I certainly don't  
2 want to inconvenience the panel's time this morning  
3 and I want to be respectful of our volunteer's time,  
4 I also -- it would be more disruptive if this went  
5 up to the supreme court and then they said, Hey, you  
6 should have made sure every effort was made to  
7 continue this upon Mr. Padgett's request and then it  
8 came back and we had to do the whole thing over  
9 again.

10           So, I'm sort of frustrated but tentatively  
11 inclined to grant Mr. Padgett's semi-informal  
12 request to continue this hearing, but I'd like to  
13 hear from the other panel members before deciding.

14           MR. AMAN: This is Nathan Aman. Obviously,  
15 I think Steve and I are fairly new to all of this  
16 background with the attempted service and everything  
17 that's gone on with this.

18           But I tend to agree, especially in light of  
19 the fact that it's 2020 and everything that's gone  
20 on in the world, that we need to take extra caution  
21 to almost believe people's stories because we don't  
22 really know. This is not a normal world, it seems  
23 like, in terms of where people are practicing from  
24 and their offices. So, I agree with Richard on

1 giving him an opportunity to, in a month or whatever  
2 it is that works for everybody, to actually address  
3 some of these issues.

4 MR. BOUCHER: I'm fine with that too. I  
5 just wondered when we talked to his partner and left  
6 him the message, did we leave the detail that he was  
7 having a hearing on this day or did he get the  
8 information from somewhere else? Like, we finally  
9 found his emails that we were sending him or that he  
10 was served?

11 MR. GOSIOCO: Give us one second. I know  
12 Laura's computer has had some feedback whenever she  
13 is un-muted. She's the one who actually contacted  
14 Mr. Ogata, so I believe she's typing right now.

15 MR. BOUCHER: We've had Mr. Padgett in the  
16 past, correct?

17 MR. GOSIOCO: That is correct. As far as  
18 what was told when Ms. Peters spoke to Mr. Ogata,  
19 Mr. Padgett's criminal attorney, Mr. Ogata told her  
20 that he would give him the hearing information for  
21 today, so I assume that's how.

22 But as far as your second question is  
23 concerned, we did have another hearing for Mr.  
24 Padgett on or about June 8th. The panel there

1 unanimously recommended that Mr. Padgett be  
2 suspended for five years and be required to retake  
3 the bar exam for violations of RPC 1.2, 1.4, 1.8,  
4 1.15, 3.3, 8.1 and 8.4 and that matter is currently  
5 pending approval at the supreme court.

6           And in that case as well that was actually  
7 the last time up until this morning I personally  
8 spoke to Mr. Padgett. That was on or about  
9 February 26th of this year. That was the last  
10 contact I had with him and subsequently that matter  
11 also defaulted.

12           MR. BOUCHER: I'm all right extending it,  
13 if that's what the panel decides.

14           MR. WILLIAMSON: Okay. Well, then, I guess  
15 let's -- it sounds like everybody's in agreement  
16 that we're going to reluctantly extend this.

17           Do we want to select a date now or do that  
18 off-line when everybody has a chance to consult  
19 their calendars? Again. I want to be mindful of  
20 everyone's time. Why don't we -- let's do this, so  
21 we can give our court reporter a break.

22           We are going to extend this. I guess while  
23 we're still on the record, I would recommend that  
24 the State Bar send the entire hearing packet with

1 all the exhibits to the Liege Drive address that Mr.  
2 Padgett has stated should be the one to be used both  
3 by -- maybe one packet by registered or certified  
4 mail and one packet by regular mail, realizing you  
5 wouldn't have a confirmation that the regular mail  
6 comes back, but at least you're using the address  
7 he's recommended.

8           Hopefully, he just signs the little green  
9 card on the packet and then there's no question.  
10 But so that we don't have another statement where  
11 there's a suggestion of a different means of  
12 service, I know basically SCR 109.2 at this point  
13 you can do, essentially, Rule 5, an NRCP 5-type  
14 service and just do regular mail. And so I think if  
15 you do regular mail to the Liege address, it will be  
16 sufficient given that's the address he's now told us  
17 to use.

18           But, again, just to be overly cautious, why  
19 don't you also do the certified or registered to  
20 that same address. That way that's covered and  
21 whenever we reconvene, whoever's here I think we'll  
22 have an unassailable record of service at that point  
23 and, with that, I guess, let's go off the record and  
24 we can discuss.

1           MR. GOSIOCO: Actually, sir, prior to going  
2 off the record, sir, would you be able to -- I would  
3 like to establish a deadline for him to respond to  
4 our complaint at this point.

5           MR. WILLIAMSON: Sure.

6           MR. GOSIOCO: I don't know what you had in  
7 mind.

8           MR. WILLIAMSON: That's a good point. So,  
9 if you're gonna provide him with the whole packet  
10 including the complaint, we may -- rescheduling this  
11 may change depending on whether he files an answer.

12           And so why don't we just give him 20 days  
13 or -- 21 days from the date of mailing, not the date  
14 at which the green card's signed or anything else,  
15 but 21 days from the date of mailing. Again, I'd  
16 recommend you mail that both by regular mail and by  
17 certified or registered.

18           And then 21 days after that, if he still  
19 has not responded, I think then we can proceed in a  
20 default fashion. If he does respond, we may need a  
21 new scheduling order and everything else.

22           MR. GOSIOCO: Did you want to stick with 21  
23 days as opposed to 20, because I do know according  
24 to the Disciplinary Rules of Procedure under Rule 12

1 typically respondents are given 20 days to respond,  
2 or would you rather have 21?

3 MR. WILLIAMSON: Fair point. 20. I  
4 default to NRCP in my brain every time, so if the  
5 SCR is 20, let's stick with 20. Thank you.

6 MR. GOSIOCO: That's pursuant to Rule 12 of  
7 the Disciplinary Rules of Procedure.

8 MR. WILLIAMSON: Perfect, thank you.

9 Anything else while we're on the record, I  
10 think we can go off the record.

11 MR. AMAN: My only point while we're still  
12 on the record would be to additionally email it to  
13 him, since it appears that he sent this via email  
14 USPS, and just do a received request, or whatever  
15 it's called, just so we can cover every possible  
16 avenue.

17 MR. WILLIAMSON: I think that's a good  
18 suggestion. Okay.

19 MR. GOSIOCO: Thank you. We will do that.  
20 But as far as any other representations from the  
21 State Bar, we have nothing further.

22 MR. WILLIAMSON: All right. If there's  
23 nothing further from the panel, then let's go off  
24 the record. (End of proceedings at 9:36 a.m.)

1 STATE OF NEVADA )

2 ) ss.

3 COUNTY OF WASHOE )

4

5 I, CHRISTINA MARIE AMUNDSON, a Certified Court  
6 Reporter in and for the states of Nevada and  
7 California, do hereby certify:

8 That I was present via Zoom for the purpose of  
9 acting as Certified Court Reporter in the matter  
10 entitled herein;

11 That said transcript which appears hereinbefore  
12 was taken in verbatim stenotype notes by me and  
13 thereafter transcribed into typewriting as herein  
14 appears to the best of my knowledge, skill, and  
15 ability and is a true record thereof.

16

17 DATED: At Reno, Nevada, this 17th day of October  
18 2020.

19

20



21

Christina Marie Amundson, CCR #641

22

-oOo-

23

24



1 HEALTH INFORMATION PRIVACY & SECURITY: CAUTIONARY NOTICE

2 Litigation Services is committed to compliance with applicable federal

3 and state laws and regulations ("Privacy Laws") governing the

4 protection and security of patient health information. Notice is

5 hereby given to all parties that transcripts of depositions and legal

6 proceedings, and transcript exhibits, may contain patient health

7 information that is protected from unauthorized access, use and

8 disclosure by Privacy Laws. Litigation Services requires that access,

9 maintenance, use, and disclosure (including but not limited to

10 electronic database maintenance and access, storage, distribution/

11 dissemination and communication) of transcripts/exhibits containing

12 patient information be performed in compliance with Privacy Laws.

13 No transcript or exhibit containing protected patient health

14 information may be further disclosed except as permitted by Privacy

15 Laws. Litigation Services expects that all parties, parties'

16 attorneys, and their HIPAA Business Associates and Subcontractors will

17 make every reasonable effort to protect and secure patient health

18 information, and to comply with applicable Privacy Law mandates,

19 including but not limited to restrictions on access, storage, use, and

20 disclosure (sharing) of transcripts and transcript exhibits, and

21 applying "minimum necessary" standards where appropriate. It is

22 recommended that your office review its policies regarding sharing of

23 transcripts and exhibits - including access, storage, use, and

24 disclosure - for compliance with Privacy Laws.

25 © All Rights Reserved. Litigation Services (rev. 6/1/2019)

1 Case No. OBC19-1111

2

3

4

5

6

7

STATE BAR OF NEVADA

8

NORTHERN NEVADA DISCIPLINARY BOARD

9

-o0o-

10

STATE BAR OF NEVADA

11

Complainant

12

vs.

13

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

14

15

Respondent.

16

17

TRANSCRIPT OF PROCEEDINGS

18

HEARING

19

VIA ZOOM VIDEO CONFERENCE

20

MAY 28, 2021

21

RENO, NEVADA

22

23

24

REPORTED BY: CONSTANCE S. EISENBERG, CCR #142, RMR, CRR

25

JOB NO. 759293

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

A P P E A R A N C E S

NORTHERN NEVADA DISCIPLINARY BOARD PANEL MEMBERS:

RICHARD WILLIAMSON, ESQ., CHAIR  
NATHAN AMAN, ESQ.  
BROOKE WESTLAKE, LAYPERSON

FOR THE COMPLAINANT, NEVADA STATE BAR,

GERARD GOSIOCO, ESQ.  
STATE BAR OF NEVADA, ASSISTANT BAR COUNSEL  
3100 WEST CHARLESTON BOULEVARD, SUITE 100  
LAS VEGAS, NEVADA 89102  
702-382-2200

R. KAIT FLOCCHINI, ESQ.  
STATE BAR OF NEVADA, ASSISTANT BAR COUNSEL  
9456 DOUBLE R BLVD., SUITE B  
RENO, NEVADA 89521  
775-329-4100  
KAITF@NVBAR.ORG

THE RESPONDENT, BRIAN C. PADGETT:

IN PROPER PERSON, APPEARING TELEPHONICALLY

ALSO PRESENT:

LAURA PETERS, PARALEGAL  
OFFICE OF THE STATE BAR

1	I N D E X			
2	WITNESSES FOR THE COMPLAINANT:		PAGE	
3	JOHN DIFRANCESCO			
4	DIRECT EXAMINATION BY MR. GOSIOCO		16	
5	CROSS-EXAMINATION MR. PADGETT		34	
6	BRIAN PADGETT			
7	DIRECT EXAMINATION BY MR. GOSIOCO		54	
8	LOUISE WATSON			
9	DIRECT EXAMINATION BY MR. GOSIOCO		102	
10	MICHAEL SULLIVAN		109	
11	DIRECT EXAMINATION BY MR. GOSIOCO		116	
12	CROSS-EXAMINATION BY MR. PADGETT			
13	JOHN DiFRANCESCO			
14	EXAMINATION BY CHAIRMAN WILLIAMSON		144	
15				
16	*****			
17				
18	E X H I B I T S			
19	NUMBER	DESCRIPTION	ID	EVD
20	1	Hearing Packet	--	5
21	2-A	Update to Prior Affidavit of Discipline	9	9
22	54	Email correspondence, Chairman	9	9
23		Williamson/Brian Padgett		
24	55	Copy of return mailing	9	9
25	*****			

1 RENO, NEVADA, FRIDAY, MAY 28, 2021, 9:38 A.M.

2 -o0o-

3 CHAIRMAN WILLIAMSON: This is the date and 38 minutes  
4 past the time set for State Bar of Nevada versus Brian Padgett,  
5 Nevada Bar Number 7474. This is the case OBC19-1111.

6 My name is Richard Williamson. I'm the hearing panel  
7 chair and I guess I would like each of our other panel members to  
8 introduce themselves.

9 Why don't we start with Ms. Westlake.

10 MS. WESTLAKE: Hello, everybody. My name is Brooke  
11 Westlake and I'm serving today as a Layman Member for the panel.

12 CHAIRMAN WILLIAMSON: Mr. Aman.

13 MR. AMAN: Nathan Aman of the law firm of Vilorio,  
14 Oliphant, Oster & Aman.

15 CHAIRMAN WILLIAMSON: Thank you both for serving.

16 Mr. Gosioco, could you please -- well, I'll have all  
17 counsel state your appearances for the record.

18 MR. GOSIOCO: Absolutely. And good morning. My name is  
19 Gerard Gosioco, Assistant Bar Counsel for the State Bar of Nevada  
20 assigned to handle this matter, OBC19-1111, and thank you,  
21 everyone, for being here.

22 CHAIRMAN WILLIAMSON: And, Ms. Flocchini, will you be  
23 speaking at all?

24 MS. FLOCCHINI: Good morning. No. I can make an  
25 official appearance for the record, but Kate Flocchini, Assistant

1 Bar Counsel, State Bar of Nevada. I am here assisting today.

2 Thank you.

3 CHAIRMAN WILLIAMSON: Great. Okay. Well, again, as I  
4 mentioned, there are a few preliminary matters we want to get on  
5 the record.

6 First, hopefully the panel received both State Bar's  
7 trial brief, which includes all of its exhibits, as well as the  
8 hearing packet, which is Exhibit 1. The hearing packet is really  
9 just the, you know, sort of the procedural history of the case.

10 Hopefully everyone has received that.

11 As we go forward today, Mr. Gosioco, I realize, though I  
12 don't know if you plan on screen sharing, or if you just want the  
13 panel to rely on the package you submitted. If it's the latter,  
14 if you can let us know.

15 It was broken into several volumes, so if you can just,  
16 obviously, give the panel and Mr. Padgett time to sort through  
17 those. But to the greatest extent, if we could have stuff up on  
18 the screen, obviously, that would be helpful. But I'm happy to  
19 use the PDFs as well.

20 Other housekeeping matters, so Exhibit 1, we have not  
21 had any objection, will be admitted.

22 (Exhibit 1 admitted into evidence.)

23 CHAIRMAN WILLIAMSON: And the State Bar's initial  
24 disclosures were all admitted, and an order that was granted  
25 orally last week in the prehearing conference, and I signed a

1 written order, I think that included that point as well, last  
2 night.

3 So those exhibits are admitted, and in the record. So  
4 we don't have to waste a bunch of time laying foundation for those  
5 as we get started.

6 Again, I want to give Mr. Padgett a few more minutes.

7 But, Mr. Gosioco, had you planned on doing an opening  
8 statement?

9 MR. GOSIOCO: Yes, sir. I do plan on giving an opening  
10 statement.

11 CHAIRMAN WILLIAMSON: Okay. Great.

12 And I assume -- about how many witnesses do you  
13 anticipate today?

14 MR. GOSIOCO: I'm anticipating about four or five, maybe  
15 six witnesses total.

16 CHAIRMAN WILLIAMSON: Okay. All right. Sounds good.

17 And is there any, I guess, scheduling issues or  
18 scheduling limitations on, you know, does anyone -- did any of us  
19 need to leave and we need to get them on right away, or anything  
20 like that?

21 MR. GOSIOCO: Yes, sir. One of the grievants, Mr. John  
22 DiFrancesco, actually alerted me that he has a doctor's  
23 appointment at 11:00 so he needs to leave by 10:30.

24 CHAIRMAN WILLIAMSON: All right. Well, then with that  
25 in mind, again, it is 9:42. I would prefer that Mr. Padgett join

1 us so that he can participate actively in these proceedings, but  
2 it is now 9:43, my clock tells me. And, again, we can't wait  
3 indefinitely, so why don't we start with your opening statement,  
4 if you can keep it short, again, given the witness's time frame  
5 and, hopefully, Mr. Padgett will be here shortly.

6 MR. GOSIOCO: Yes, sir.

7 And just briefly, Mr. Chairman, as you've mentioned, you  
8 did sign a few orders last night. And based on those new orders,  
9 the State Bar would move to admit and publish to the rest of the  
10 panel an amended formal hearing packet which includes the two new  
11 orders that you had signed last night, as well as a supplement to  
12 our final disclosures.

13 And secondly, I would also move to admit -- we did file  
14 supplemental disclosures, so I would move to admit the exhibits  
15 contained therein, which would be 2-A, which is an Update to the  
16 Affidavit of Prior Discipline, and then 54 and 55 we would move to  
17 admit and publish those to the panel as well.

18 CHAIRMAN WILLIAMSON: Okay. Let me go through.  
19 Certainly, the two orders signed last night, no problem. Let's  
20 tack that on to the hearing packet. I don't think there's any  
21 issue there.

22 MS. PETERS: Excuse me. I just heard from Mr. Padgett.  
23 He says, "Having problems with Zoom. Don't worry, I'll make it."  
24 And, "Sorry for any inconvenience."

25 CHAIRMAN WILLIAMSON: All the more reason let's hold



1 off. Again, I want to give him every opportunity here.

2 So let's keep going with the -- and, Laura, thank you.  
3 If he calls in or emails, obviously, please alert us, so that we  
4 can make sure we're accommodating him.

5 And so, Mr. Gosioco, the two orders, absolutely.

6 The supplemental disclosures, can you direct me to those  
7 specifically? Let me just pull them up here.

8 MR. GOSIOCO: I'm not sure, Mr. Chairman, if Laura had  
9 sent them to you, but if not, would it be okay if Laura were to  
10 send you a draft of our supplemental disclosures?

11 CHAIRMAN WILLIAMSON: I think, if it is -- there were  
12 some supplemental disclosures served on Monday at 11:00. And is  
13 it just those? You said it was 2-A, 54 and 55?

14 MR. GOSIOCO: Yes, sir. And 54, I believe, are -- is  
15 the email thread about the orders. And then 55, I believe, is the  
16 return mail from the five disclosures we attempted to mail to  
17 Mr. Padgett. Or it might be vice versa, but those are the other  
18 two exhibits in addition to the Updated Affidavit of Prior  
19 Discipline.

20 CHAIRMAN WILLIAMSON: Okay. Yeah. And it was the --  
21 yeah, the mailing.

22 Yes, so I guess let the record reflect that I received  
23 those Monday at 11:00, both of Mr. Padgett's email addresses,  
24 where he was also copied on that email.

25 And more importantly, the -- first off, 2-A is a public

1 record. It's a file-stamped Supreme Court order. And 2 -- excuse  
2 me, 54 is an email correspondence from me to Mr. Padgett.  
3 Certainly I'm aware of it, Mr. Padgett is aware of it, so it's  
4 fair for the Board to be aware of it.

5 And then 55 is simply, it's Bates-stamped produced, and  
6 it's simply just a picture of a mailing to Mr. Padgett.

7 So I see nothing objectionable. I have not received any  
8 objections from Mr. Padgett since these were disclosed. They  
9 primarily are -- well, one is a public record. The other two have  
10 every indicia of being reliable and admissible, and so I will  
11 admit those into evidence.

12 (Exhibits 2-A, 54 and 55 marked for identification  
13 and admitted into evidence.)

14 MR. GOSIOCO: Thank you, Mr. Chairman.

15 Would you like me to proceed with my opening statement  
16 and call my first witness, in the interest of time?

17 CHAIRMAN WILLIAMSON: You know, I appreciate the first  
18 witness's schedule, certainly since it's the Grievant.

19 At the same time, when we receive information that  
20 Mr. Padgett is actively trying to join, you know, I think he needs  
21 to know what your opening statement is against him, if he's trying  
22 to join.

23 So let's hold off another minute, or, you know -- let's  
24 wait until 9:50. And if we have not heard from him by 9:50, then  
25 you can proceed.

1 MR. GOSIOCO: Okay. And, Mr. Chairman, while we're  
2 waiting for 9:50 or so, would you like me, since it's 9:48, would  
3 you like to maybe swear Ms. Peters in, to at least put on the  
4 record that -- her correspondence with Mr. Padgett thus far  
5 between 9 o'clock and currently 9:48?

6 CHAIRMAN WILLIAMSON: No, I don't. I appreciate that.  
7 If we -- certainly, if we're going forward and he's -- you know,  
8 hasn't had a chance to appear, then we will deal with that so we  
9 can make sure the record is clear that Mr. Padgett had every  
10 opportunity to participate.

11 But, again, hopefully Mr. Padgett just joins us in  
12 another minute or two and it's a moot point.

13 MR. GOSIOCO: Thank you, Mr. Chairman.

14 CHAIRMAN WILLIAMSON: Sure. Thank you.

15 MR. GOSIOCO: Just to clarify, Mr. Chairman, you did  
16 grant our -- the State Bar's motion to publish the amended formal  
17 hearing packet, as well as the supplemental disclosures to the  
18 rest of the panel?

19 CHAIRMAN WILLIAMSON: Yeah. And just to clarify, I just  
20 want to make sure I cover everything. The amended formal hearing  
21 packet is just the two orders from last night, correct?

22 MR. GOSIOCO: As well as the supplemental disclosures  
23 filed, yes, sir.

24 CHAIRMAN WILLIAMSON: Right. And then the supplemental  
25 disclosures are just 2-A, 54 and 55?

1 MR. GOSIOCO: Yes, sir, correct.

2 CHAIRMAN WILLIAMSON: Granted.

3 Okay. I've got 9:50.

4 Ms. Peters, have we received any other correspondence or  
5 indication from Mr. Padgett?

6 MS. PETERS: No, we haven't.

7 CHAIRMAN WILLIAMSON: Okay. Well, again, I think, you  
8 know, the colloquy here has been on the record. I'll just  
9 represent for the record, you know, this is, again, Richard  
10 Williamson, Hearing Panel Chair.

11 Mr. Padgett was copied on all of the meeting invites for  
12 the Zoom meeting. He was aware of the Zoom meeting. There has  
13 been both correspondence and, in fact, motions or informal  
14 requests regarding the format of the meeting.

15 And it sounds -- and he has been in communication with  
16 Laura Peters from the State Bar throughout the morning regarding  
17 the communication link for the Zoom meeting and the telephone  
18 numbers.

19 And so I think at this point, it being 9:51 and we have  
20 grievants that have politely waited, already been continued from a  
21 formal hearing in October, that we should get going. Except for I  
22 believe we have now lost a panel member. So let's hold on.

23 Laura, sorry to keep jumping on you. You're court  
24 clerk, paralegal, judge, jury, executioner, IT. Do you know what  
25 happened on Ms. Westlake?

1 MS. PETERS: I just emailed her and asked her to log  
2 back in. I don't know why she got disconnected.

3 CHAIRMAN WILLIAMSON: No worries. Got you.

4 MS. PETERS: Okay. Oh, here she is.

5 CHAIRMAN WILLIAMSON: Perfect.

6 Okay. It's 9:53. Let's go ahead and, Mr. Gosioco,  
7 please provide your opening statement.

8 MR. GOSIOCO: Thank you, Mr. Chairman. I'll try to make  
9 this brief.

10 Good morning, again. My name is Gerard Gosioco,  
11 Assistant Bar Counsel for the State Bar of Nevada assigned to Case  
12 Number OBC19-1111, State Bar of Nevada versus Brian C Padgett.

13 Members of the Panel, this case is simple. We must  
14 protect the public from people who are unfit to serve as  
15 attorneys.

16 In State Bar versus Claiborne, the Supreme Court held  
17 that the paramount objective of bar disciplinary proceedings is  
18 not additional punishment of an attorney, but rather to protect  
19 the public from persons unfit to serve as attorneys and to  
20 maintain public confidence in the Bar as a whole.

21 Simply put, the Respondent, Brian C. Padgett, is unfit  
22 to serve as an attorney. Throughout the course of this hearing  
23 the evidence will show that Mr. Padgett has consistently engaged  
24 in conduct that's prejudicial to the administrative -- to the  
25 administration of justice.

1           There have been numerous attempts to delay these  
2 proceedings. And according to Disciplinary Rule of Procedure 1,  
3 Sub B, that rule states that the purpose of these rules is to  
4 expedite disciplinary proceedings through procedures designed to  
5 streamline presentation of evidence, facilitate coordination of  
6 discovery and scheduling of hearing panels, while ensuring the  
7 just and proper administration of attorney regulation.

8           Through the admitted exhibits, the evidence shows that,  
9 in fact, there hasn't been a good faith basis to ensure the  
10 purpose of DRP 1, Sub B. The State Bar has not received any file  
11 disclosures from Mr. Padgett. He did provide initial disclosures.  
12 However, but the only witness that he identified was himself.

13           He did list other witnesses, but were very vague about  
14 that, listed them as Employee A, Employee B, certified fraud  
15 investigator as well.

16           Pertaining to documents, he briefly mentioned documents.  
17 However, he never at any point produced actual documents to the  
18 State Bar for this matter.

19           The evidence will also show that Mr. Padgett failed to  
20 supervise Attorney Amy Sugden, and that he actually lied about his  
21 role as her supervisor.

22           The evidence will also show that Mr. Padgett was asked  
23 to provide the State Bar with his complete file of the underlying  
24 case, and that he failed to provide a complete file, including a  
25 complete invoice.

1           The evidence will show that Mr. Padgett failed to not  
2   only supplement the incomplete invoice he provided the State Bar,  
3   but he also failed to keep accounting documents pertaining to the  
4   grievant's case after November 2016.

5           Now, Members of the Panel, the evidence will also show  
6   that Mr. Padgett engaged in conduct involving dishonesty, fraud,  
7   deceit and misrepresentation, by submitting false evidence through  
8   an affidavit of his secretary claiming to have informed the State  
9   Bar of his address change in or around February of 2020.

10          Now Supreme Court Rule 79 states, in pertinent part,  
11   that every member of the State Bar, including both active and  
12   inactive members, regardless of residency in Nevada, as well as  
13   attorneys certified to practice under SCR 49.1, shall provide to  
14   the State Bar, for purposes of Bar communications, a permanent  
15   mailing address, a permanent telephone number, and a current email  
16   address.

17          There have been, throughout these, this disciplinary  
18   process for the instant matter, there have been numerous  
19   allegations he was not notified, he was not given proper notice,  
20   and his due process rights were violated.

21          However, as I stated in my trial brief, any allegations  
22   of any due process violations have been remedied and cured since  
23   we did continue the formal hearing way back in October 15 of 2020  
24   and gave Mr. Padgett the chance to fully participate in the  
25   instant matter.

1           Additionally, the evidence will show that Mr. Padgett,  
2   in fact, did not update his SCR 79 information to include his  
3   current address, 1672 Liege Drive in Henderson, Nevada, until  
4   January 5th of this year, 2021.

5           So based on the foregoing, Members of the Panel, the  
6   State Bar would respectfully request that you find Mr. Padgett  
7   guilty of violating RPC 1.15, 5.1, 8.1, for two separate counts,  
8   as well as 8.4, for two separate counts as well.

9           Thank you.

10          CHAIRMAN WILLIAMSON: Thank you, Mr. Gosioco. The  
11   record will reflect that Mr. Padgett has still not arrived. It is  
12   9:58. Please go ahead and call your first witness.

13          MR. GOSIOCO: Thank you, Mr. Chairman. State Bar would  
14   like to call Mr. John DiFrancesco to the stand.

15          Ms. Peters, you had just admitted Mr. Feron into the  
16   room. I would like to speak to Mr. DiFrancesco first, especially  
17   since he has his appointment.

18          MS. PETERS: Yeah, I understand. I just had to close  
19   the whole room. Hang on.

20          MR. GOSIOCO: Thank you so much.

21          Good morning, Mr. DiFrancesco. How are you doing, sir?

22          CHAIRMAN WILLIAMSON: I hope we never go back to  
23   in-person. These Zoom things are just great.

24          MR. GOSIOCO: Mr. DiFrancesco, can you hear me?

25          MR. DiFRANCESCO: Yes, I can.



1 MR. GOSIOCO: Perfect. Thank you so much.

2 DIRECT EXAMINATION

3 BY MR. GOSIOCO:

4 Q Will you please state your name and spell it for the  
5 record?

6 A John DiFrancesco, and spelling is D-I-F-R-A-N-C-E-S-C-O.

7 Q Thank you Mr. DiFrancesco. And give me one moment while  
8 we put Mr. Feron back into the waiting room.

9 Okay. Mr. DiFrancesco, are you still with me?

10 A Yes, I am.

11 Q Perfect.

12 How are you doing this morning, Mr. DiFrancesco?

13 A I'm fine. Thank you.

14 Q And I will try to make this brief because I understand  
15 that you have a medical appointment at about 11 o'clock; is that  
16 correct?

17 A Yes.

18 Q And you have to leave before 10:30, so I'll try to make  
19 this as quick as possible.

20 Mr. DiFrancesco, do you know an individual by the name  
21 of Brian Padgett?

22 A Yes, I do.

23 Q And how do you know Mr. Padgett?

24 A He was representing us on a case for eminent domain.

25 Q And, Mr. DiFrancesco, do you recall when exactly you

1 hired Mr. Padgett?

2 A I don't remember the exact date.

3 Q And that's not a problem, Mr. DiFrancesco. Do you  
4 recall if you executed some type of retainer agreement or an  
5 engagement letter?

6 A I do recall that, yes.

7 Q And, Mr. DiFrancesco, if I show you a copy of the  
8 engagement letter, would that refresh your recollection?

9 A Yes, it would.

10 Q Perfect. Give me one moment. I'll share my screen.  
11 Now, Mr. DiFrancesco, can you see my screen?

12 A Yes, I can, but I've got a dialogue box right in the  
13 middle of my screen that's inviting Vicki Hetherington to invite  
14 the direct -- join the Room One.

15 Q No, let's go ahead and cancel that or decline that  
16 request.

17 A Okay.

18 Q Okay. Can you see my screen --

19 A Yes, I can.

20 Q -- Mr. DiFrancesco, showing you what's been previously  
21 marked and admitted as Exhibit 3, can you see this letter,  
22 Mr. DiFrancesco?

23 A Yes, I see that. Yeah.

24 Q And do you recognize what this document is,  
25 Mr. DiFrancesco?

1           A     Yes, it is. That's the engagement letter.

2           Q     Perfect. And I'm scrolling down, and does this appear  
3 to be your signature here, sir?

4           A     That's correct. Uh-huh.

5           Q     And looking at this signature, do you -- does this  
6 refresh your recollection as far as when you executed this  
7 document?

8           A     Yes. Yes.

9           Q     And when exactly was that, Mr. DiFrancesco?

10          A     That was in March, 2012.

11          Q     Perfect. Thank you, sir. I'll briefly stop sharing my  
12 screen.

13                   Now, Mr. DiFrancesco, let's see. You stated, you just  
14 testified that you hired Mr. Padgett for an eminent domain case;  
15 correct?

16          A     That's right.

17          Q     And so do you recall when that representation of -- his  
18 representation ended?

19          A     Oh, I guess it was when we hired Michael Sullivan to  
20 represent us, to finalize -- try and finalize the case that we had  
21 that was pending.

22                   And I don't recall the date, that date either.

23          Q     Not a problem. Do you recall approximately the year you  
24 hired Mr. Sullivan?

25          A     I believe that was 2020.

1           Q     Okay. And showing you -- and, Mr. DiFrancesco, did you  
2 in fact, submit a grievance pertaining to Mr. Padgett?

3           A     Yes. Yeah.

4           Q     I will -- thank you, sir.

5                     I'll show you my screen, share my screen again. And  
6 showing you what's been previously marked and admitted as  
7 Exhibit 34.

8                     Give me one moment while I locate that.

9                     Mr. DiFrancesco, can you see my screen?

10          A     Yes.

11          Q     And I'm briefly scrolling through but do you recognize  
12 what this document is?

13          A     Yes. Yes.

14          Q     And what is that document, Mr. DiFrancesco?

15          A     This is a complaint that we filed against the law firm  
16 of Brian Padgett.

17          Q     Okay. And was Brian Padgett the only attorney you  
18 complained about, Mr. DiFrancesco?

19          A     No, we were complaining about Amy Sugden.

20          Q     Okay. Thank you. And scrolling to the bottom, is this  
21 your signature, Mr. DiFrancesco?

22          A     That's my signature, correct.

23          Q     Thank you, sir.

24                     And you drafted this letter and sent it to the State  
25 Bar, correct?

1           A     Yes.

2           Q     Perfect. Thank you so much.

3                     And turning your attention, again, to what's been  
4 previously marked and admitted as Exhibit -- actually, before I  
5 show you that, Mr. DiFrancesco, do you recall what the arrangement  
6 was for fees between you and the Law Offices of Brian C. Padgett?

7           A     Well, we were going to pay them \$2500 a month, and then  
8 they were going to, if there were any fees beyond the \$2500 a  
9 month, they were going to accrue those fees and we were going to  
10 pay them at a subsequent date.

11          Q     Okay. And Mr. DiFrancesco, who handled the payments to  
12 the law office of Brian Padgett?

13          A     I prepared the checks and sent them to his office.

14          Q     Okay. And so is it -- are you testifying that  
15 throughout the representation -- it sounds like it might have been  
16 seven or eight years with Mr. Padgett; does that sound correct?

17          A     Correct. Uh-huh.

18          Q     And throughout that time period, you handled all the  
19 payments to Mr. Padgett's office?

20          A     Yes, I did.

21          Q     Okay. And you had testified that you had issued the  
22 checks and sent them to his office.

23          A     Correct.

24          Q     And where was that office located?

25          A     In Las Vegas, on 6th Street.

1 Q Okay. Thank you, sir.

2 At any point did you make payments to Mr. Padgett's law  
3 firm electronically?

4 A No.

5 Q So it's your testimony that every single payment you  
6 provided to Mr. Padgett's law firm was through a physical check  
7 that you mailed to his office on 6th Street here in Las Vegas?

8 A Yes, that's correct.

9 Q Thank you, sir.

10 Now, Mr. DiFrancesco, throughout Mr. Padgett's and  
11 Ms. Sugden's representation of you in your eminent domain case,  
12 were you ever told that you owed their law office money?

13 A Well, in the beginning, early stages, they would send me  
14 an invoice, a monthly invoice. And generally there was very  
15 little accrual of any payment that was due, that most of the  
16 payments was covered by the \$2500 a month, but -- so to answer  
17 your question, no, they never told us that we owed more money to  
18 them.

19 Q Okay. Mr. DiFrancesco, approximately how many times did  
20 you issue monthly checks to Mr. Padgett's law firm?

21 A I would say approximately 20 to 25, somewhere in that  
22 range.

23 Q Okay. And you had said -- you had testified that  
24 Mr. Padgett's law firm would send you invoices; correct?

25 A Correct.

1           Q     Did Mr. Padgett send you those invoices throughout their  
2     entire representation?

3           A     No. They stopped sending us invoices. There was a  
4     period of time towards the end where they were not sending us any  
5     invoices.

6           Q     Okay. Thank you.

7                     Now, briefly, Mr. DiFrancesco, in your grievance, do you  
8     recall making a statement about a payment to the law firm  
9     regarding travel expenses or depositions?

10          A     Yes. And I mentioned \$7500 that I had sent in. And  
11     then when you requested copies of those letters -- of those  
12     checks, I realized that it was actually \$10,000, not \$7500. So I  
13     believe there was three checks, two for \$2500 and one for \$5,000.

14                     Those were -- I sent those in voluntarily and they were  
15     specifically for initiating, trying to get Ms. Sugden to start  
16     depositions, so I wanted to make sure that she had plenty of funds  
17     available to cover her expenses, travel expenses up to Reno.

18          Q     Okay. And I'll get into the, I guess, the merits of  
19     your grievance in a little bit, but for the time being, I did want  
20     to go back to the checks that you had written for travel expenses  
21     and depositions.

22                     Give me a moment while I share my screen. And I'm  
23     showing you what's been previously marked and admitted as  
24     Exhibit 5.

25                     Now, Mr. DiFrancesco, do you recognize this document?

1           A     Yes.

2           Q     And what is this document of?

3           A     Those are copies of cancelled checks that we sent to  
4 Brian Padgett's office.

5           Q     Okay. I'm going to scroll up top. Let's see the first  
6 page and I will Zoom in, if I can. Give me one second.

7                     Right here it looks like -- this is check number 5096.  
8 And this appears to be a check for \$5,000 with a memo, deposition  
9 expenses.

10                    Did you write this check and issue it to the Law Offices  
11 of Brian Padgett?

12           A     Yes. Yes, I did.

13           Q     Thank you, sir. Scrolling down a little bit more. Here  
14 is another check, check number 3455. Do you recognize this,  
15 Mr. DiFrancesco?

16           A     Yes. Yes.

17           Q     And this appears to be a check written --

18                    CHAIRMAN WILLIAMSON: Mr. Gosioco, sorry to interrupt.

19                    I'm just curious. So, Mr. DiFrancesco, good morning, by  
20 the way. My name is Richard Williamson.

21                    Is that your handwriting both at the memo line and your  
22 signature over to the right? I just want to make sure -- you are  
23 saying those are both you?

24                    THE WITNESS: Yes. Yes.

25                    CHAIRMAN WILLIAMSON: Thank you.



1 MR. GOSIOCO: May I proceed, Mr. Chairman?

2 CHAIRMAN WILLIAMSON: Please, sorry.

3 MR. GOSIOCO: Thank you, sir.

4 BY MR. GOSIOCO:

5 Q Now, Mr. DiFrancesco, is this a check for \$2500 that you  
6 issued to the Law Office of Brian C. Padgett?

7 A Yes, it is.

8 Q Thank you, sir. Let me scroll down a little bit more.  
9 This one also says deposition expenses. However, we had already  
10 previously discussed check number 5096. That was the first one we  
11 talked about. This is another copy of 3455. We had just  
12 discussed that.

13 And this looks like --

14 A Now, just looking at the date, that date is April --  
15 let's see, April 15th. And the previous one was -- what was the  
16 previous one, the date on the previous one?

17 Q Check number 5096. 3455 was 4/13/18. And check number  
18 5096 was May 3rd, 2018.

19 A Yeah.

20 Q So the check that we're currently looking at was also,  
21 looks like also issued April 13th, 2018, same as check number  
22 3455.

23 Now I notice that there is a -- there isn't a memo  
24 written. Do you recall what this was for, off the top of your  
25 head?

1           A     Well, that was for the same purpose.

2                     And if you look at the check, the name on the check, Bob  
3 and I have different accounts. And I took one \$2500 -- probably  
4 because of the availability of funds, we used the  
5 DiFrancesco/Feron account, rental account.

6                     And then we also have an LLC that we're the sole  
7 partners in, and that's called Air Center, LLC. And that other  
8 check was written for \$2500. It appears like it was written at  
9 the same time, for \$2500.

10          Q     Okay. Now, thank you so much, Mr. DiFrancesco.

11                     I will stop sharing my screen. And, briefly, I want to  
12 get into the merits of the grievance.

13                     Now, you testified that you filed a grievance against  
14 both Brian Padgett and Amy Sugden; is that right?

15          A     That's correct.

16          Q     Now, why did you file a grievance against both of those  
17 attorneys?

18          A     Well, because Amy was the main attorney that we were  
19 dealing with for the last two or three years during this case.  
20 And we felt that she was flagrantly ignoring our requests to  
21 proceed with the -- with filing the case. And we had very little  
22 communication with Brian.

23                     If we tried to talk with Brian -- we had a couple of  
24 conference calls -- he seemed preoccupied with other issues, and  
25 he wouldn't stay on the line with us.

1           So both of them, you know, were, in our opinion,  
2 negligent in proceeding with this case.

3           Q     And, Mr. DiFrancesco, I believe what you're saying -- so  
4 did both Mr. Padgett and Ms. Sugden work on your eminent domain  
5 case?

6           A     Yes, they did.

7           Q     Okay. And was Amy Sugden working for Mr. Padgett?

8           A     That was the understanding, that she was working for  
9 Mr. Padgett.

10          Q     And Mr. DiFrancesco, based on, in your opinion, I guess,  
11 what was the professional relationship like between Mr. Padgett  
12 and Ms. Sugden?

13          A     I felt they were associates, you know.

14          Q     Okay. Did at any point during this, you know, seven or  
15 eight year representation, did you feel like one was the  
16 supervisor of another?

17          A     Yes. There was many times that Amy deferred to Brian,  
18 his judgment or his opinion, on matters, on legal matters.

19          Q     Okay. And so you had testified that Amy was the primary  
20 contact for you and Mr. Feron; is that right?

21          A     Correct.

22          Q     And at any point during that seven or eight years, did  
23 Mr. Padgett become the sole point of contact?

24          A     At the very end, he kind of took back over the case when  
25 communications broke down between us and Amy, Ms. Sugden.

1           Q     Okay. Now going back to your grievance that you had  
2     filed with the State Bar, Mr. DiFrancesco, what were your major  
3     complaints with the -- with Mr. Padgett and Ms. Sugden's  
4     representation?

5           A     Well, they became nonresponsive. They wouldn't -- they  
6     wouldn't answer our emails in a timely manner. They wouldn't  
7     answer -- they wouldn't return our phone calls.

8                     During several times we pressed her to move forward with  
9     the depositions, and she kept delaying. And she wouldn't respond  
10    to us, or she'd say that she was going to -- she sent us a list of  
11    the people that she was going to depose, and she never -- she  
12    never initiated those depositions.

13                    There was just a whole series of issues.

14          Q     And let me -- I apologize for cutting you off,  
15    Mr. DiFrancesco. You had just mentioned depositions.

16                    Were you requesting that depositions be taken?

17          A     Yeah. Oh, yeah, definitely. Yeah. We were pressing  
18    her for well over a year to proceed with depositions, with several  
19    of the parties, you know, that we were involved in.

20          Q     Okay. And ultimately, Mr. DiFrancesco, were those  
21    depositions ever taken or scheduled?

22          A     They were never taken.

23          Q     Okay. So it's fair to say that some of your requests  
24    were not complied with?

25          A     Many of our requests were not complied with.

1           Q     And I apologize for trying to speed through this thing,  
2 because I know you do have to leave in eight minutes, but were  
3 there any other requests that essentially fell on deaf ears, by  
4 Mr. Padgett or Ms. Sugden?

5           A     Well, yes, there were some matters -- we wanted to get  
6 some additional discovery documents from the defendants, and she  
7 was not pursuing those discovery documents. And the attorney  
8 representing the defendants was able to deflect and postpone.

9                     And, you know, it seemed like that she was -- she would  
10 get back to us and tell us, well, they have lost those documents  
11 or they don't have those documents on hand.

12                    And I couldn't understand how we have a lawsuit, how  
13 they could lose documents pertinent to the case, you know. So I  
14 was just -- I was beside myself. And she wouldn't pursue.

15                    And we kept saying why don't you file a motion and have  
16 the judge demand that they produce the discovery documents, you  
17 know?

18                    And a lot of this just fell on deaf ears, you know.

19                    MR. PADGETT: Hello. Brian Padgett here.

20                    CHAIRMAN WILLIAMSON: Okay. Mr. Padgett --

21                    MR. PADGETT: So I've not been able to launch Zoom and I  
22 understand you guys have gone on without me. So --

23                    CHAIRMAN WILLIAMSON: Yes.

24                    MR. PADGETT: What have I missed?

25                    CHAIRMAN WILLIAMSON: Well, Mr. DiFrancesco is

1     testifying, so we'll go ahead and let Mr. DiFrancesco continue --

2     we'll let Mr. Gosioco continue with Mr. DiFrancesco and then  
3     you'll have an opportunity to cross-examine him.

4             MR. PADGETT:   Okay.  Here is my only question and  
5     concern.  I can't see you.

6             CHAIRMAN WILLIAMSON:  I agree.  That is a concern.  As  
7     you know, this was scheduled for a Zoom hearing.

8             MR. PADGETT:  Yes, and I've tried, so --

9             CHAIRMAN WILLIAMSON:  Please don't interrupt,  
10    Mr. Padgett.

11            MR. PADGETT:  -- my apologies.

12            CHAIRMAN WILLIAMSON:  This was scheduled for a Zoom  
13    hearing at 9:00 a.m.  It is now 10:24 a.m.

14            You knew this was going to be a Zoom hearing.  You know,  
15    I'm sorry if your app is not working.  It's always a wise idea to  
16    try to test your equipment and log in a few minutes before a  
17    hearing rather than after the hearing.

18            MR. PADGETT:  So, Mr. Chair, first of all, I did log in  
19    and do everything I needed to do yesterday.  Okay?  So I've got  
20    that website up.

21            The problem is I cannot seem to launch Zoom.  So I let  
22    Ms. Peters know exactly where I was slightly after 9:00, on.  Then  
23    I called her direct.  She has been trying to walk me through it.

24            I haven't done Zoom before but I figured, well, okay  
25    it's like a lot of the different conference apps, we'll get that

1 done.

2           So it's not launching. I can't see anything. But, of  
3 course, I wanted to call in and let you know. I wanted to hear  
4 what is going on, but as of right this moment I can't see  
5 anything.

6           CHAIRMAN WILLIAMSON: Yes, it sounds like you called in  
7 on the phone, and so it's understandable that you can't --

8           MR. PADGETT: Well, no, no, no. I called in on the  
9 phone only because I can't get Zoom to come up with a picture, so  
10 I can't see you.

11           So rather than wait and try to figure out any longer how  
12 to get the picture up, I've gone ahead and called you on the phone  
13 so I can at least hear, but I wanted to make you aware that I  
14 can't see anything.

15           CHAIRMAN WILLIAMSON: Understood. Noted. Noted for the  
16 record.

17           So I'm going to go ahead and let Mr. Gosioco continue  
18 with Mr. DiFrancesco, and I'll put myself on mute so there's  
19 certainly no cross noise from me, and I encourage you to listen  
20 very carefully to Mr. DiFrancesco's testimony.

21           MR. PADGETT: Well, wait a minute. What do we do about  
22 my ability to see the witness and see any exhibits?

23           CHAIRMAN WILLIAMSON: Mr. Padgett, I'm sorry. I can't  
24 help you. I'm not IT support.

25           What I am is a hearing chair. This was scheduled for a

1 Zoom hearing in October. This panel, we have one different  
2 member, but this -- Mr. Aman and I were on the hearing in October,  
3 on Zoom, and at that time you contacted Mr. Gosioco and asked for  
4 a continuance. This --

5 MR. PADGETT: That's right.

6 CHAIRMAN WILLIAMSON: Please don't interrupt. I'm just  
7 responding to your points.

8 This matter proceeded for months and months and months.  
9 You knew it was going to be a Zoom hearing. And, in fact, you  
10 asked, and I understand your position, you asked that you would  
11 like to have had it be an in-person hearing, and I didn't, given  
12 the health conditions at the time I denied that request.

13 So I do know you would have preferred an in-person  
14 hearing, but you also know this was going to be a Zoom hearing.  
15 It was scheduled for 9:00 a.m. this morning.

16 And so, I'm sorry, I would like you -- I was hoping to  
17 see your bright shining face at 9:00 a.m. But I can't --

18 MR. PADGETT: Well, my bright shining face was trying to  
19 log in, sir.

20 CHAIRMAN WILLIAMSON: Okay. And I appreciate that. So  
21 why don't we let Mr. DiFrancesco finish because he's in the middle  
22 of his testimony and has a medical appointment. And then let's --

23 MR. PADGETT: Okay.

24 CHAIRMAN WILLIAMSON: Then we can take a break and you  
25 can -- you can try, and we can work on the -- whatever your



1 technical difficulties are.

2 MR. PADGETT: Yeah, let's get Mr. DiFrancesco. By the  
3 way, I'm not trying to delay anything. I want to go forward. It  
4 would be great to be able to see, but let's move forward. Thank  
5 you.

6 CHAIRMAN WILLIAMSON: Sure.

7 MR. GOSIOCO: May I proceed, Mr. Chairman?

8 CHAIRMAN WILLIAMSON: Please.

9 MR. GOSIOCO: And just in the interest of time, I'm  
10 seeing that it's now 10:28 a.m. and Mr. DiFrancesco does have a  
11 medical appointment at 11 o'clock, so I would just ask  
12 Mr. DiFrancesco one last question.

13 BY MR. GOSIOCO:

14 Q Mr. DiFrancesco, ultimately, what happened to your case?

15 A Well, we were advised by a new attorney, Michael  
16 Sullivan, that we had no chance of proceeding with the case,  
17 because the five-year rule had expired, that this case had dragged  
18 on beyond the five years, and he felt that we were at potential  
19 risk of not only having the case dismissed but also having to pay  
20 legal fees for the defendants in this case.

21 So his recommendation, which we found very, very  
22 difficult to accept, his recommendation was that we cancel the  
23 lawsuit, withdraw the lawsuit. And we followed his advice on  
24 that.

25 MR. GOSIOCO: Thank you, Mr. DiFrancesco.

1 I will pass the witness.

2 CHAIRMAN WILLIAMSON: Mr. DiFrancesco -- hold on,  
3 Mr. Padgett, because I do want to make sure you have enough time  
4 to cross-examine Mr. DiFrancesco.

5 Mr. DiFrancesco, you have a medical appointment at  
6 11:00?

7 THE WITNESS: Yes, it's going to take me about  
8 20 minutes to get there. I wanted to give a few minutes, but, you  
9 know, that's -- I'm having a spinal injection, you know, an  
10 injection in my spine for a problem that I've had with pain in my  
11 legs for a period of time, so that's what's going to happen.

12 But I can answer a few more questions, I suppose, five  
13 or 10 more minutes.

14 CHAIRMAN WILLIAMSON: Will you be lucid after this  
15 spinal injection?

16 THE WITNESS: Yes. Yes.

17 CHAIRMAN WILLIAMSON: Do you have availability after  
18 your medical appointment to come back on this call?

19 THE WITNESS: Yes.

20 CHAIRMAN WILLIAMSON: Okay. So, Mr. Padgett, if you  
21 would like to get started, it sounds like Mr. DiFrancesco has  
22 10 minutes, but I also don't want to restrain you to 10 minutes.

23 So if you'd like, we can just take a break now, you can  
24 work on your technical difficulties, and Mr. DiFrancesco can log  
25 back in after his medical appointment.

1           What would you prefer, Mr. Padgett?

2           MR. PADGETT: Mr. Chair, why don't we do this? Can I  
3 ask him a few questions now? And then he can come back and I'll  
4 ask the remainder of my questions.

5           CHAIRMAN WILLIAMSON: Absolutely. Why don't you go  
6 ahead and cross Mr. DiFrancesco.

7

8                           CROSS-EXAMINATION

9 MR. PADGETT:

10       Q     **John, how are you?**

11       A     Well, I'm doing okay. Thank you.

12       Q     **Yeah. Well, I'm sorry to hear about your back.**

13           **How is business?**

14       A     My business?

15       Q     **How is business?**

16           MR. GOSIOCO: Objection. Relevance.

17           MR. PADGETT: No, no, no, that's, Mr. Chair, goes to the  
18 value of his business, it goes to occupancy, rent per square feet  
19 and some other items I'm going to get into with Mr. DiFrancesco.

20           CHAIRMAN WILLIAMSON: Overruled.

21           MR. PADGETT: Say again?

22           CHAIRMAN WILLIAMSON: Mr. Gosioco's objection is  
23 overruled. You can ask your question. Mr. DiFrancesco can answer  
24 the question.

25    ///

1 BY MR. PADGETT:

2 Q So how is business, John?

3 A I would say that we have a mixed -- if you're  
4 specifically talking about the Edison property, then I would say  
5 that we have a mixed situation, business-wise.

6 During the course of these years that we had this  
7 lawsuit, they -- and what initiated the lawsuit was that all the  
8 other properties around us were sold, and then all the properties,  
9 the industrial park, was demolished. So there's only pads where  
10 these buildings were.

11 And our buildings were the only buildings left in a  
12 neighborhood of about 12 sites in that vicinity, and that's why we  
13 initiated the lawsuit.

14 Subsequently, what's happened, what's been happening is  
15 that the property has been taken over with homeless camps.

16 And just in the last few days, I have had to write the  
17 City long letters, two-page letters explaining to them the  
18 seriousness of the problem. There's at least 50 tents and  
19 homeless camps set up on all these sites adjacent to our property.

20 There's probably 15 derelict motor homes and unlicensed  
21 trailers that are parked on the street.

22 Q John --

23 A One of the camps --

24 Q John --

25 A -- is behind our property on the river. And people

1 transit through our property constantly, going to a river camp,  
2 homeless river camp.

3           There's been one murder that took place behind our  
4 property, and one woman that suspiciously burned up in her tent.

5           So there was two women that were burned up in their  
6 tent. One has been ruled as a homicide and the other one was  
7 ruled as an accidental death.

8           They were picked up on our security cameras. It was not  
9 on our property, but they were directly behind our property on the  
10 river, and our security cameras picked those up.

11           So we have a constant flow of homeless people transiting  
12 through our property and --

13           **Q     So Mr. DiFrancesco --**

14           A     -- and the City -- and the City cannot handle the  
15 problem, let's put it that way.

16           **Q     Okay. So --**

17           A     And recently they opened up a homeless center that will  
18 house a lot of people, but these homeless people don't want to go  
19 into the homeless center because they can't drink and they can't  
20 do their drugs in this beautiful new facility --

21           **Q     Sure.**

22           A     -- that they have got.

23                   So how's business? I'll tell you what --

24           CHAIRMAN WILLIAMSON: Mr. DiFrancesco, I think you've  
25 answered Mr. Padgett's question. He'll go ahead and ask you a

1 second one maybe.

2 BY MR. PADGETT:

3 Q So, John, let me ask you, is that current as of today's  
4 situation, right? After COVID and in the middle of COVID?

5 A I'm sorry, Brian, you came across very mumbled. I  
6 couldn't hear you.

7 Q I'm sorry. Can you hear me now?

8 A I heard the last thing you said, yes.

9 Q Okay. So my question to you is: And that's as of  
10 today, correct?

11 A Correct.

12 Q And that's as of towards the tail end of COVID, correct?

13 A Yes.

14 Q Okay. So let's orient ourselves with a proper date.

15 Now, you filed a bar complaint against me, right?

16 A Yes.

17 Q Okay. And by the way, I wish it had never come to that,  
18 but, moving on.

19 I always loved you guys quite a bit, so, moving on.

20 So in 2019, you filed a bar complaint in the Summer of  
21 2019, right?

22 A Yes.

23 Q Okay. So at that time, you didn't have the homeless  
24 problem, did you?

25 A Oh, yes. Yes, we did.

1           Q     It was the same as it is today?

2           A     It's been a continual problem with the street and with  
3 the City, and with these vehicles that are parked on the street.  
4 People abandon their vehicles --

5           Q     But Mr. --

6           A     People abandon their vehicles constantly.

7           Q     So, Mr. DiFrancesco, you didn't have the problems to the  
8 extent you do today; isn't that correct?

9                     I'll assume that -- I went back and I pulled an aerial  
10 of your property as of 2019. So you might have had some people  
11 parking on the streets, but you -- really, those pads were fairly  
12 empty, weren't they, the surrounding pads that had been demo'd by  
13 Washoe County, right?

14          A     Well, the homeless camp was on the river, and the  
15 people --

16          Q     Yeah, but that's not --

17          A     The homeless people --

18          Q     -- that's not in the industrial park, correct?

19          A     It's behind, directly behind our property. And the  
20 homeless find it convenient to transit through our property to go  
21 to the homeless camp on the river.

22          Q     So when I looked at that aerial, it showed that the  
23 industrial park was fairly clean, except for your property. And  
24 that's a flex space property, right?

25          A     Yes, it is.

1 Q And how many square feet per unit, roughly?

2 A 1,000 square feet.

3 Q Per unit. How many units?

4 A Approximately 50.

5 Q Okay. So that homeless camp, how long has it been  
6 there?

7 A Several years. I don't -- I couldn't give you the exact  
8 dates, but --

9 Q It wasn't in '19, was it? Not in the Summer of '19?

10 A Yeah, I would say, yeah, definitely.

11 Q And so it's down on the riverbank, right?

12 A Yes. Yeah, behind our property.

13 Q Sure. But not in the park, correct?

14 A No. It's not in the park, no.

15 Q Okay. So back in '19, though, when I look at that  
16 aerial, it shows that the industrial park is pretty clean.

17 There's your property, and it's occupied. But as far as the other  
18 pads go, there's no squatting on those pads; would you agree with  
19 that?

20 A Well, I would agree that our property is very clean.  
21 And we have to keep the property in tiptop condition because it's  
22 inspected by our lender and by the insurance provider and --

23 Q And I remember you -- and I remember you put a lot of  
24 extra money into those properties, right?

25 A Tens of thousands, if not more. Yeah.



1 Q Yes, you were a good landlord. You make improvements on  
2 the property?

3 A No question about it.

4 Q And you preserve the value, right?

5 A No question about it.

6 Q Yes, I know. And I respect that.

7 But back in '19, though, because that's when we really  
8 have to look at this, Summer of '19, that homeless camp, I can't  
9 see any indication of that on the map.

10 So if it's down on the riverbank and it's not part of  
11 the industrial complex, is that sanctioned by Washoe County?

12 A No, it's not.

13 Q So it's just a makeshift of people that don't have  
14 anywhere to go that are kind of squatting on the riverbank?

15 A Yes, that's exactly right.

16 Q Okay. And you are sure that those squatters didn't come  
17 right around 2020?

18 A No, they have been there for years.

19 Q Okay. But did they increase in size?

20 A Oh, definitely.

21 Q Sure. And that's logical, right, because of COVID and  
22 then people getting kicked out of their places and so on and so  
23 forth. Would you agree?

24 A Yes.

25 Q Okay. So you had -- anybody that was living on the

1 riverbank, that would have occurred prior to 2019, right?

2 A Were people living on the riverbank prior to 2019?

3 Q You had the homeless problem prior to 2019, correct?

4 A I'd say, yeah, we've had a constant homeless problem  
5 dealing with -- with the fact that we're the only property in that  
6 area where they can transit through our property to get to this  
7 homeless camp.

8 Q Okay. So -- but that river kind of winds down through  
9 the -- what is that, the north side of the entire industrial park?

10 A Well, if you're calling those vacant pads where the  
11 buildings were, if you are calling that --

12 Q Correct.

13 A -- industrial park?

14 Q That's correct.

15 A It's hardly been an industrial park since 2012.

16 Q Sure.

17 A It's been an abandoned and demolished series of  
18 buildings since 2012. They took down all the buildings that were  
19 remaining on that site.

20 Q But going back and orienting you to --

21 THE WITNESS: So, Mr. Chairman --

22 BY MR. PADGETT:

23 Q -- the riverbank --

24 THE WITNESS: -- I'm going to have to leave in order to  
25 get to my appointment now.

1 CHAIRMAN WILLIAMSON: No problem. Okay. So let's go  
2 ahead and break there. Mr. DiFrancesco, please --

3 MR. PADGETT: Okay. So --

4 CHAIRMAN WILLIAMSON: Hold on, Mr. Padgett.

5 Mr. DiFrancesco, can you please join the hearing again  
6 immediately following your medical appointment?

7 THE WITNESS: As soon as I can get back here. There's  
8 quite a bit of transit time there.

9 CHAIRMAN WILLIAMSON: Sure. Understood. But, yeah, if  
10 you can, come back. Mr. Padgett does have the right to ask you a  
11 few more questions.

12 THE WITNESS: Okay.

13 CHAIRMAN WILLIAMSON: So do you mind doing that?

14 MR. PADGETT: Mr. Chair, I have a -- yes, I have some  
15 questions for Mr. DiFrancesco.

16 But, John, we'll see you back. Just so you know, where  
17 we're leaving off is, we're saying that the homeless are  
18 traversing over your property to get to the homeless shelter,  
19 which is on the riverbanks, correct?

20 THE WITNESS: I don't understand what you're talking  
21 about, homeless shelter. What are you referring to?

22 MR. PADGETT: Well, the --

23 CHAIRMAN WILLIAMSON: Hold on.

24 Mr. Padgett, I'll let you take -- pick up and keep going  
25 wherever you want to pick up and keep going, but we're going to

1 stop with the --

2 MR. PADGETT: Sounds good.

3 John, we'll see you in a bit. Thank you.

4 THE WITNESS: Okay. All right.

5 CHAIRMAN WILLIAMSON: Thank you. I'm going to ask  
6 everyone else to stay on the Zoom. We will go off the record for  
7 a moment.

8 (A discussion was held off the record.)

9 (A recess was taken from 10:46 a.m. to 11:04 a.m.)

10 CHAIRMAN WILLIAMSON: Let's go on the record.

11 We are now back on the record in the matter of State Bar  
12 of Nevada v. Padgett, OBC19-1111. It is 11:04 a.m.

13 So Mr. Padgett -- Mr. Padgett is still on the phone, and  
14 has asked how to handle exhibits.

15 I want to point out -- and this was an issue I noticed  
16 earlier -- there is a trial brief that included all of the State  
17 Bar's exhibits, but the numbering is, I guess, a little different  
18 than the final disclosure exhibit list.

19 And so, Mr. Gosioco, when you are examining Mr. Padgett,  
20 do you intend to use any exhibits?

21 MR. GOSIOCO: Yes, sir, I do.

22 CHAIRMAN WILLIAMSON: Okay. Can we make sure that --  
23 can we email to Mr. Padgett all of the exhibits with the -- you  
24 know, numbered exhibits so that he can at least pull them up and  
25 look at them?

1 MR. GOSIOCO: Yes, sir. We can go ahead and resend  
2 that.

3 Just for the record, we did email our final disclosures  
4 including all those exhibits to Mr. Padgett, both of his email  
5 addresses, on April 28th of this year.

6 MR. PADGETT: Okay. I'll look for that right now.

7 Mr. Chair, can I make a statement on the record?

8 CHAIRMAN WILLIAMSON: Please do. Go right ahead.

9 While Mr. Padgett is doing that, Mr. Gosioco or  
10 Ms. Peters, if you can resend the final disclosures so Mr. Padgett  
11 has all the exhibits, I would appreciate it.

12 Mr. Padgett, go ahead.

13 MR. PADGETT: So I do have a State Bar of Nevada's  
14 Summary of Evidence, Final Designation of Documents and Witnesses,  
15 April 28th. Is that it?

16 MR. GOSIOCO: Yes, sir.

17 MR. PADGETT: Okay. So I printed that. So I'm good, so  
18 I can follow along.

19 Okay. My only question for you on this list,  
20 Mr. Gosioco, was I have the documents that came with it. You  
21 mailed it to me. But it doesn't start out with Bates stamp number  
22 one, it starts out at 110 or something like that. And so it  
23 leaves off the complaint, leaves off, you know, the early stuff.

24 It does get to -- it starts off with, like, I think a  
25 default or default judgment. Was that on purpose?

1 MR. GOSIOCO: And, Mr. Padgett, the amended formal  
2 hearing packet that we referred to in our sidebar conference with  
3 Mr. Williamson is Exhibit 1.

4 MR. PADGETT: Yeah.

5 CHAIRMAN WILLIAMSON: I emailed that to you during our  
6 sidebar conference, Mr. Padgett. Have you received that?

7 MR. PADGETT: Okay. Mr. Williamson did you send that to  
8 my iCloud or briancpadgett.com?

9 CHAIRMAN WILLIAMSON: I sent it to both. It looks like  
10 it got rejected from the iPad because the message is larger than  
11 the size limit on messages, but I have not gotten any indication  
12 that the other address did not receive.

13 MR. PADGETT: Okay. So let me take a look here. So if I  
14 might go on the record real quick.

15 So, Ms. Court Reporter?

16 THE REPORTER: Yes.

17 MR. PADGETT: Okay. We're ready?

18 THE REPORTER: I've been on the record since  
19 Mr. Chairman --

20 MR. PADGETT: Okay. Great. I just can't see. I can't  
21 see you, so --

22 CHAIRMAN WILLIAMSON: Yeah. No, we're on the record.  
23 Are you, Mr. Padgett, are you prepared to move forward and do you  
24 have Exhibit 1?

25 MR. PADGETT: So I just got your email. And, let's see.

1 No. Okay. So maybe it's coming a little slow, but the last thing  
2 I got was at 10:48 from Ms. Peters, with your office phone number,  
3 so I imagine the next one to come through will be your email.

4 So I can go on the record quickly while we wait for  
5 that, that would be great.

6 CHAIRMAN WILLIAMSON: Yes. As I mentioned, the  
7 Exhibit 1 hearing packet is essentially the record thus far, the  
8 pleadings.

9 MR. PADGETT: Okay. Exhibit 1 hearing packet.

10 Okay. So just briefly, I wanted it known that I did go  
11 ahead and check in with Zoom yesterday on the State Bar site and I  
12 signed in.

13 And the only thing I couldn't do was test the Zoom with  
14 the camera because there was nobody on the other side. So I  
15 started a little before 9:00 this morning, clicked in everything I  
16 was supposed to do, I believe. This is my first time with Zoom.  
17 However, seems relatively simple. But I cannot launch a camera,  
18 and I had to actually call in on my phone in order to be able to  
19 hear what's going on.

20 You know, right after 9 o'clock when I wasn't having any  
21 success, I got in touch with Ms. Peters from the State Bar. And I  
22 notified Ms. Peters that I wasn't able to get anything up on the  
23 video screen, and I couldn't see or hear anything. So I asked her  
24 to be patient with me as we were trying to get in.

25 Then finally we got in touch on the phone and she tried

1 to walk me through it, but I wasn't having any success launching  
2 the video.

3 So at some point -- and I appreciate your position,  
4 Mr. Chair -- you started the hearing without me. That's -- I  
5 understand your point, your position.

6 So I decided at that point, rather than fiddle with Zoom  
7 any more, that I would get on the phone and I would listen  
8 telephonically to, you know, the events and try to catch up.

9 So I did that. I answered -- I asked Mr. DiFrancesco  
10 some questions, which will be continued, but I do have concerns  
11 over a couple of items.

12 Number one, I can't see anybody. I can't see facial  
13 expressions. I can't see, when Mr. DiFrancesco paused a few  
14 times, I can't see his face. That's a concern.

15 Also, I can't see any exhibits.

16 Now, Mr. Williamson said he did send me an email. I  
17 think I just got it, so let me open it up. But I'm concerned  
18 about the delay on the exhibits. I'm concerned about not seeing  
19 any faces. We're trying. We're still trying to get in on Zoom,  
20 so we'll keep doing that.

21 And maybe over lunch -- we're trying to get a tech guy  
22 to come down. So we will see how that goes, but that seems to be  
23 the main issue.

24 I feel that -- I'm game to continue to try and move  
25 forward, I'm game to do that, but at some point I'll be concerned



1 about a prejudice.

2           So far, I think it worked good enough with  
3 Mr. DiFrancesco, but I do think it's going to be difficult with  
4 exhibits, but I'm willing to give it a try and I don't want to  
5 delay anything.

6           CHAIRMAN WILLIAMSON: Thank you. I appreciate that.  
7 And I appreciate -- let's, I do want to sort of complete the  
8 record on that point.

9           Also, as you know, we recently just had a sidebar where  
10 I summarized for you Mr. DiFrancesco's testimony, and confirmed  
11 that he went through Exhibits 3, 5 and 34, as well as summarized  
12 his testimony.

13           One quick question, again, I'm a Luddite so I'm sure I  
14 won't be able to help much, but Mr. Padgett, can you describe for  
15 me the devices that you have around you, and what -- how you have  
16 tried to get into Zoom? Are you on a laptop? Are you on an iPad?  
17 Did you try to do it on your cell phone? How are you trying to  
18 access Zoom, from which media devices?

19           MR. PADGETT: Sure. I'm trying to get in on my laptop  
20 because that has a camera, right? And so you can see me and I  
21 should be able to see you with this. And this is what I used  
22 yesterday to sign up for the Zoom conference which is today.

23           Now I also used my iPhone to call in to you, so that I  
24 could be on this call and I could hear what was going on if the  
25 proceedings started without me, so I wanted to make sure I could

1 hear everything. The screen on this iPhone is too small.

2           So we're trying to make do -- I mean, if it's going to  
3 be Zoom and it's not going to be in-person like I asked for, then  
4 I've got to make the best that I can of the situation.

5           However, I've got to be able to see everything. And I  
6 just don't feel that the small screen on this iPhone -- if I could  
7 get in -- I did try. It went right to telephonic -- on a  
8 conference call, because I knew I could get on there, and this is  
9 the only phone that I have, so there you go.

10           And I don't want to try and get on the Zoom when  
11 conducting, you know, the disciplinary hearing, and I miss any  
12 substance of anybody's testimony.

13           CHAIRMAN WILLIAMSON: Okay. Would you -- and I'm fine  
14 proceeding and you being examined by phone, if both you and  
15 Mr. Gosioco are okay with that, but also, would you like to try to  
16 download the Zoom app and try from your phone, and maybe the  
17 camera on your phone will have more success than the camera on the  
18 laptop.

19           MR. PADGETT: Yeah. So we added the new Adobe Flash  
20 Player, we added the Zoom app, per Ms. Peters. It's just not  
21 launching, so I can try to phone.

22           But I would ask this, Mr. Chair.

23           Now, Mr. Gosioco, still has exhibits for me. And I  
24 would like, if at all possible, that I go after lunch, that I be  
25 examined after lunch or in the later afternoon, when it's likely

1 that I've got the Zoom player up. That gives me the best possible  
2 chance to defend myself, rather than appear telephonically and  
3 fumble through questions.

4 It's just there's -- it puts me at too much of a  
5 disadvantage.

6 I know Mr. Gosioco has, you know, got probably six or  
7 seven more witnesses. Mr. Gosioco?

8 MR. GOSIOCO: Mr. Gosioco. But I would like to respond  
9 to that. No matter what order I call witnesses, the same issues  
10 that Mr. Padgett is currently experiencing wouldn't change. So  
11 whether I call Mr. Padgett next, which I intend to do, or whether  
12 I call another witness instead of Mr. Padgett, he would still be  
13 experiencing the same exact issues he's experiencing currently.

14 He had stated that he did receive a copy of our final  
15 disclosures that he could refer to while he's on the phone, and I  
16 will do my best to guide him through it, but at this point I don't  
17 think there's any reason to delay these proceedings any further.

18 CHAIRMAN WILLIAMSON: Okay.

19 MR. PADGETT: Okay. Mr. Chair, if I may?

20 CHAIRMAN WILLIAMSON: Sure.

21 MR. PADGETT: If I may very quickly respond to that.

22 Mr. Gosioco, you and I both know, if you are examining  
23 me, that I need every opportunity I have to fully defend myself.

24 Now, you also know there is a significant difference  
25 between asking me questions and you asking another witness

1 questions.

2 I'm the person of the disciplinary hearing. There is a  
3 difference, you have to agree. And it's a significant one.

4 CHAIRMAN WILLIAMSON: Mr. Padgett, if I can -- and  
5 actually both counsel, if you can keep your comments directed to  
6 me, and the panel, and not do kind of this cross-nipping at each  
7 other.

8 Mr. Padgett --

9 MR. PADGETT: Yes, Mr. Chair.

10 CHAIRMAN WILLIAMSON: -- you know, Mr. Gosioco just made  
11 an argument that you're going to run into those issues.

12 MR. PADGETT: Okay. So I'd like to direct that  
13 directly, just very briefly. No, I don't think that's the case  
14 because, first of all, if he's going to examine me again, I'm the  
15 person that's in the disciplinary hearing. I'm the subject of the  
16 hearing.

17 Again, I would ask that I have full opportunity to  
18 defend myself, and I don't think I can do that just  
19 telephonically, number one.

20 Number two, it would be different, Mr. Chair, by  
21 allowing me to go after lunch, gives me the best opportunity to  
22 get the Zoom player up and running. And I can see Mr. Gosioco, I  
23 can see the exhibits. I can see him pointing to things in the  
24 exhibits that I can't see telephonically.

25 I can see the facial expressions. I can see quite a

1 bit.

2 CHAIRMAN WILLIAMSON: I understand the advantages of  
3 video, Mr. Padgett.

4 Here is my concern. I fail to see how the next  
5 45 minutes are going to be the magic 45 minutes that get your Zoom  
6 situation working, when presumably -- or I understand from your  
7 representations that you have been working on it all morning. So  
8 I don't think that's going to change.

9 If you would like to get on Zoom right now, from your  
10 phone right now, I'll give you three minutes to do that.  
11 Otherwise, let's get going by phone.

12 MR. PADGETT: Okay. Let me try for three minutes.

13 CHAIRMAN WILLIAMSON: Please call back in by 11:21 if  
14 you're not on Zoom.

15 MR. PADGETT: Okay. So let me just say for the record,  
16 I don't have the big iPhone, I have a regular sized iPhone. It's  
17 not -- it's a small screen, okay?

18 So let me try. But I'm concerned, and I will say that,  
19 you know, it would be simple to allow me to try and load the Zoom  
20 player through lunch.

21 CHAIRMAN WILLIAMSON: Noted.

22 MR. PADGETT: Mr. Gosioco has got me all afternoon.

23 CHAIRMAN WILLIAMSON: Okay. Go ahead and try to Zoom in  
24 now, please.

25 MR. PADGETT: Okay. Thank you.

1 CHAIRMAN WILLIAMSON: Let's go off the record until  
2 Mr. Padgett returns.

3 (A recess was taken.)

4 CHAIRMAN WILLIAMSON: Yes. Let's go back on the record.  
5 It is now 11:30. We broke to provide Mr. Padgett until 11:21 to  
6 join either by Zoom or phone.

7 He has not joined by any method. I've sent him two --  
8 two emails to follow up. One at 11:24. One at 11:28. I have not  
9 heard anything. It's now been almost 10 minutes past the time  
10 when he was supposed to rejoin us.

11 It now is 10 minutes past, so I'm going to ask  
12 Mr. Gosioco to call his next witness.

13 MR. GOSIOCO: Thank you, Mr. Chairman. And the State  
14 Bar would actually move to admit those two emails that you just  
15 referred to, your email at 11:24 and your email at 11:28,  
16 notifying Mr. Padgett to --

17 MR. PADGETT: Hello. Hello. Hello. Hello.

18 CHAIRMAN WILLIAMSON: Hello. Okay.

19 MR. PADGETT: I kept calling in and it kept giving me  
20 elevator music over and over. Thankfully this worked. Okay.

21 CHAIRMAN WILLIAMSON: Okay. Well, you are in now.  
22 Welcome back.

23 Given that, Mr. Gosioco, I assume your request to put  
24 those emails in is moot?

25 MR. GOSIOCO: Yes, sir.

1           CHAIRMAN WILLIAMSON: Okay. So whoever you would like  
2 it to be at this point, Mr. Gosioco, if you please call your next  
3 witness.

4           MR. GOSIOCO: Yes. The State Bar would like to call  
5 Mr. Padgett to the stand.

6           CHAIRMAN WILLIAMSON: Mr. Padgett, I'm going to ask  
7 you -- I can't see you, but I'm going to ask you to raise your  
8 right hand, wherever it is you are, so that Ms. Eisenberg can  
9 swear you in.

10          MR. PADGETT: Okay.

11

12                           BRIAN PADGETT

13           called as a witness, having been duly sworn,  
14           testified as follows:

15

16          CHAIRMAN WILLIAMSON: Go ahead, Mr. Gosioco.

17          MR. GOSIOCO: Thank you, Mr. Chairman.

18

19                           DIRECT EXAMINATION

20 BY MR. GOSIOCO:

21          Q     Good morning, Mr. Padgett. Will you please state your  
22 name and spell it for the record?

23          A     Brian Padgett. B-R-I-A-N. Padgett, P-A-D-G-E-T-T.

24          Q     Thank you, Mr. Padgett.

25                Now, Mr. Padgett, are you familiar with the underlying

1 grievance that brought us here today?

2 A I believe so.

3 Q Did you receive a copy of the grievance that was filed  
4 by Mr. John DiFrancesco and Bob Feron?

5 A Is that what I would have received in June or July  
6 of 2019?

7 Q And, Mr. Padgett, I understand that you have, you did  
8 confirm earlier that you do have a copy of our final disclosures;  
9 correct?

10 A So I have a document that is called State Bar of Nevada  
11 Summary of Evidence, Final Designation of Documents and Witnesses.

12 Q Correct. If you would turn your attention to  
13 Exhibit 34, and what I will do is I will share my screen, showing  
14 the panel members the same exact exhibit.

15 A Okay. I will find 34.

16 MR. GOSIOCO: While you're looking for it, Mr. Padgett,  
17 can the rest of the panel members see my screen?

18 CHAIRMAN WILLIAMSON: Yes.

19 MR. GOSIOCO: Perfect. Thank you so much.

20 CHAIRMAN WILLIAMSON: Mr. Padgett, I would guess that  
21 Exhibit 34 is going to be about 360 pages or so into the packet  
22 you said you printed out.

23 THE WITNESS: I'm here on document number 361 and it  
24 looks like the first page.

25 MR. GOSIOCO: Yes.



1 BY MR. GOSIOCO:

2 Q Now, Mr. Padgett, so are you viewing Bates stamp 361?

3 A Yes, I am.

4 Q Do you recognize this document?

5 A Well, I recognize it because it came in your package.  
6 That's all I can tell you at this time.

7 Q But did you, in fact, receive a copy of this letter?

8 A It would be the copy I'm looking at.

9 Q Let me rephrase. Did you receive a copy of this letter  
10 on or around September of 2019?

11 A I haven't seen it, no. Not that I recall.

12 Q Okay. One second.

13 Turning your attention to -- let's see. Well, will you  
14 take a look at the grievance and tell me what you believe this  
15 document to be, Mr. Padgett.

16 A Well, it looks like a complaint by the clients.

17 Q Okay. And, currently, it is your testimony that you  
18 never received this copy -- a copy of this letter from the State  
19 Bar in 2019?

20 A No, I'm not saying that I did or I didn't. What I said  
21 is I'm not familiar with it.

22 Q Okay. But to the best of your knowledge, Mr. Padgett,  
23 do you recall having received this letter from the State Bar at  
24 the end of -- towards the end of 2019?

25 A Towards the end of 2019, I might have.

1 Q Okay. And if you received -- and give me one second.

2 Let me turn your attention to Exhibit Number 35. That should be  
3 Bates-stamped 390. And I will share that on my screen as well.

4 A 390, okay. Hang on one moment.

5 Okay. I'm looking at 390.

6 Q Okay. And, Mr. Padgett, do you recognize this document?

7 A It's addressed to me.

8 Q And what does it appear to be, Mr. Padgett?

9 A Well, it says regarding grievance file OBC19-1111, John  
10 DiFrancesco, et al.

11 Q Okay. And you did just testify that you -- it was  
12 addressed to you, correct, Mr. Padgett?

13 A This letter, exhibit -- well, page 10, number 390.

14 Q Yes, sir. Exhibit 35, Bates-stamped 390.

15 A Yes.

16 Q You would agree that this letter was -- okay. Thank  
17 you, Mr. Padgett.

18 Did you receive this letter back in 2019?

19 A I might have. I know there was something that got us  
20 involved in this grievance, so I can tell you that.

21 Q Okay.

22 A That particular document, I can't tell you at this time.

23 Q Okay. That's not a problem.

24 Now, towards the bottom of the letter on Bates-stamped  
25 390, do you see the signature block by a Ms. Louise Watson?

1           A     Yes, I do.

2           Q     And just above that, there's a one-line paragraph, could  
3 you read that to yourself quietly and let me know when you are  
4 finished reading.

5           A     I finished.

6           Q     And could you just summarize what I asked you to read,  
7 Mr. Padgett?

8           A     It says "Please provide your response no later than  
9 September 25, 2019."

10          Q     Okay. And did you, in fact, provide a response to the  
11 State Bar?

12          A     I believe I did. And I believe what I told the State  
13 Bar was that we had our server breached and we believed that Amy  
14 Sugden was responsible, so --

15          Q     Okay. And just --

16          A     It also -- it also said that --

17          Q     Thank you, Mr. Padgett.

18                 Mr. Padgett, I apologize, that's not within the scope of  
19 my question.

20                 But you believe you responded to this letter, correct?

21          A     I might have.

22          Q     Okay. And turning your attention to Bates stamp 393,  
23 that's Exhibit 37. I'm going to share that on the screen as well.

24          A     Yes.

25          Q     Okay. So Mr. Padgett, you are currently looking at

1 Bates stamp 393, correct?

2 A Yes.

3 Q And at the top of that page, I guess, do you recognize  
4 what this document is?

5 A Well, it looks like a response to Ms. Watson dated  
6 October 14, 2019.

7 Q Okay. Perfect.

8 Why exactly -- and let me scroll all the way down to --  
9 looks like Bates stamp 405.

10 A Okay. Yes.

11 Q And does that appear to be -- at the bottom of Bates  
12 stamp 405, does that appear to be your electronic signature?

13 A Well, it says slash, or a backslash, S, backslash,  
14 Brian C. Padgett, but I would have signed this. This was prepared  
15 by the lawyer that was working in the office at the time.

16 Q So it's your testimony today that you did not prepare  
17 this letter whatsoever?

18 A Well, I believe I would have reviewed the letter.

19 Q Okay. But ultimately you approved the letter as to its  
20 form and content; correct, sir?

21 A Well, I believe I saw a draft of it.

22 Q But you did send this to the State Bar; is that correct,  
23 Mr. Padgett?

24 A Well, I believe she did.

25 Q But you did review this letter, correct?

1           A     As I said, I reviewed a draft.

2           Q     Okay. And before signing -- and before sending this  
3 letter to the State Bar you would have approved it, correct?

4           A     Well, yes, typically that's how we would do it. But I  
5 do recall seeing a draft and I gave my comments on the draft, and  
6 I don't believe I saw a final back because I gave comments on the  
7 draft.

8           Q     Okay.

9           A     But she -- here's the thing. If I would have reviewed  
10 it right before it went out the door -- so she was -- she was a  
11 new lawyer working for me at the time -- seasoned, though. If I  
12 would have looked at it right before it went out, then there  
13 wouldn't have been an electronic signature. It would have been my  
14 signature.

15          Q     Okay. Well, let me --

16          A     Just shortly -- shortly around that time, Mr. Gosioco,  
17 we sent you guys a second letter that said, look, the server has  
18 been breached and some of the documents that you want, we don't  
19 have at this time, we're trying to recover those documents.

20          Q     Thank you, Mr. Padgett.

21          A     I believe I went through that with Ms. Watson. Thank  
22 you.

23          Q     Thank you. And again, Mr. Padgett, my last name is  
24 pronounced Mr. Gosioco.

25                   But let me point -- direct your attention to specific

1 portions of your letter. And I'm going to first --

2 A Hello?

3 Q Let's first -- actually that same page, 4 -- Bates stamp  
4 405.

5 Do you see the portion of page 405 that's, I guess,  
6 Sections B and C?

7 A On page 405?

8 Q Correct. The one we were just looking at.

9 A Yes, I do.

10 Q Okay. So do you see the text that I'm referring to,  
11 Mr. Padgett, under Section B and C?

12 A Yes, I do.

13 Q Could you read quietly to yourself the paragraph under,  
14 immediately under Section B, please, and let me know when you're  
15 finished.

16 And for the panel members I will highlight that portion  
17 on my screen.

18 A Okay. I've read it.

19 Q Perfect. Thank you. Now, can you read quietly to  
20 yourself the paragraphs under Section C, please. And let me know  
21 when you're finished.

22 And for the panel members on Zoom I'm highlighting that  
23 portion on my screen as well.

24 A Okay.

25 Q Thank you, Mr. Padgett.

1           Now, could you summarize just briefly what you had  
2 written in that, in those sections to the State Bar.

3           A     Well, you know, I can't exactly say, because it's been  
4 quite a while. However, what I will tell you is -- so we had, at  
5 the time that the DiFrancesco case was handled on a day-to-day  
6 basis, that was handled by Amy Sugden, who I believe you'll be  
7 calling as a witness. Amy Sugden was an independent contractor.  
8 We'll get into that later, I'm sure.

9           However, she worked closely with -- with our legal  
10 secretary, Ruth, who handled all of the billing with Amy in this  
11 case.

12           So Amy was fired on March 15 of 2019. After that, it  
13 was up to us to piece together what we -- what we saw in the files  
14 that hadn't been breached. And I will tell you, Ms. Sugden wiped  
15 out nine years of emails, I want to say.

16           Q     Okay. And let me --

17           A     You'll get to her, but my point is, Mr. Gosioco, I think  
18 it would be difficult for us to -- for me to recreate the travel  
19 costs or the current balance owed by the DiFrancescos because,  
20 number one, Amy handled the case day to day. Number one.

21           Number two, so she would have sent out the billing. I  
22 would add in my hours, she would add in hers. Ruth would prepare  
23 it and send it out the door.

24           About two months after Amy was fired, Ruth was also let  
25 go.

1           Q     And, Mr. Padgett, I'm going to stop you there. Let me  
2 just ask you some specific questions and hopefully we can discuss  
3 those points instead.

4                     After you had read paragraphs under B and C, did that  
5 refresh your recollection as to whether or not you provided the  
6 State Bar any invoices or ledgers?

7           A     So this is what I recall, Mr. Gosioco. I spoke with Amy  
8 Sugden, who was trying to recreate all of -- I believe both B and  
9 C. And because Ms. Sugden also kept a laptop that she took  
10 between the office and her house, I believe that she had on her  
11 hard drive that information. And she said she was working on it.  
12 I said okay.

13                    We talked at length about exactly what, if anything,  
14 that Mr. DiFrancesco still owed the firm, if anything.

15                    We talked about the travel costs. We talked about  
16 depositions.

17                    And Ms. Sugden, who was day to day on the case, said she  
18 was preparing it and would be sending it to Ms. Watson, and I left  
19 it at that.

20           Q     Okay. Mr. Padgett, so after you read Section B on this  
21 letter on Bates stamp 405 --

22           A     Uh-huh.

23           Q     -- do you recall, in fact, sending the State Bar an  
24 itemized ledger?

25           A     Well, I did not send an itemized ledger to the bar. I



1 don't recall that I did.

2 Q Okay. But on behalf of your firm, it was sent -- an  
3 itemized ledger was sent to the State Bar that was attached to  
4 your response, correct?

5 A I have no knowledge of that.

6 Q Okay. And, again, Mr. Padgett are you still on Bates  
7 stamp 405?

8 A Yes, I am.

9 Q And if you read a particular line, would that help  
10 refresh your recollection?

11 A Well, I see Exhibit 11, see Exhibit 12.

12 Q Okay. And, Mr. Padgett, turn your attention to the  
13 second line under Section B. It starts with "attach" -- "I  
14 attach" -- go ahead and read that sentence to yourself and I'm  
15 highlighting that portion on my screen for the panel members to  
16 do.

17 And let me know when you are finished, Mr. Padgett.

18 A I'm finished.

19 Q Okay. Let me ask you one more time, Mr. Padgett. Did  
20 you attach an itemized ledger with this response to the State Bar?

21 A Well, it says here that it looks like that was the case.

22 Q Okay. And when was that ledger through? I guess, what  
23 was the last date the ledger included?

24 A I have no idea. I would have to go to the ledger. And  
25 Mr. Gosioco, I mean if we looked at the date on this document --

1 so it's October 14th, 2019 -- so it was a while ago. I haven't --  
2 I haven't looked at it in that long, and I think I looked at a  
3 draft. And I don't believe that I looked at -- I mean, I would  
4 have to have my recollection refreshed.

5 Q Okay. Absolutely.

6 A I'm just trying to be frank.

7 Q And again, we can review the same exact sentence I just  
8 asked you to read, so if you want to go ahead and read that one  
9 more time. It starts on the second line under Section B. And let  
10 me know when you are finished, Mr. Padgett.

11 A I'm done.

12 Q Okay. And go ahead and read the first paragraph under  
13 Section C. I will highlight that portion, that entire paragraph,  
14 it looks like it's four lines, I will highlight that portion for  
15 the panel. And let me know when you are finished.

16 A Okay.

17 Q And let me ask you this, Mr. Padgett. Based on your  
18 reading, did that refresh your recollection as to the date, the  
19 date range, your itemized ledger that you attached, went through?

20 A Well, it says that the law firm went to a new accounting  
21 program and I've tasked the accountant with reconstructing a  
22 ledger from 2016, forward.

23 But I don't believe that says whether we had a ledger  
24 prior to that, which we -- I believe we did. And that the  
25 accountant was then tasked with creating something after that

1 time.

2           However, I did speak with Ms. Sugden, who was on the  
3 case day to day, who said she was recreating it.

4           **Q     And when was this conversation with Ms. Sugden when she**  
5 **was recreating this ledger?**

6           A     Well, it would have been after the -- after the date of  
7 this letter.

8           **Q     Okay. So your testimony is that -- and correct me if I**  
9 **am wrong, but you had testified that you had fired Ms. Sugden in**  
10 **March of 2019; is that correct?**

11          A     That's correct.

12          **Q     And you had just testified that this letter was actually**  
13 **drafted in October of 2019; correct?**

14          A     This wasn't drafted by Ms. Sugden.

15          **Q     But you agree with me that this letter was dated in**  
16 **October of 2019; is that right, Mr. Padgett?**

17          A     Well, that's what it says on the first page, but it was  
18 not drafted by Ms. Sugden.

19          **Q     And it is your testimony right now that after you had**  
20 **sent this letter to the State Bar, October 2019, is when you asked**  
21 **Ms. Sugden to create a ledger; is that right?**

22          A     No. Actually I didn't ask Ms. Sugden to create a  
23 ledger. From my conversation with Ms. Sugden -- I mean, I think  
24 for the sake of answering the request of the Bar, any grievances  
25 between us were set aside, and she said she was recreating the

1 hours and billables, and I said okay.

2 And she said it's supposed to be due to the Bar, and I  
3 said okay. And I was curious as to what the final tally was.

4 But, at the same time, Ms. Sugden never got back to me  
5 again. So I assume that if she was requested to provide  
6 information to the Bar, then she would have done so, but I never  
7 got a copy. However, I did assume that Ms. Sugden did forward it  
8 because she had enough information in the phone call to make it  
9 seem as though, you know, she was on top of this ledger.

10 Q Okay. And let me ask you this. So you agree with me,  
11 Mr. Padgett, that the itemized ledger sent to the State Bar was  
12 all the way up through November 2016; correct?

13 A All the way up through November 2016, I can't say that  
14 for sure. I don't have the ledger in front of me.

15 Q Okay. Let me turn your attention briefly -- and I'm  
16 going to have to scroll a little bit to find the ledger that was  
17 included. And once I find that Bates stamp, I will let you know  
18 the same. Give me one moment.

19 A Okay.

20 Q Okay. I would like to first turn your attention to  
21 Bates stamp 556, Mr. Padgett.

22 A Okay. Let me get to that, please.

23 Q No problem. Let me know when you have located that  
24 page, Mr. Padgett.

25 A Okay. I'm there.

1           Q     Thank you. And what does this page Bates-stamped 556  
2 appear to be?

3           A     Looks like an invoice, it says.

4           Q     Okay. And what is the date range for this invoice,  
5 Mr. Padgett?

6           A     It says November 2015 through February 2016, billable  
7 hours.

8           Q     Okay. And let's scroll down to 557. Does that appear  
9 to be a continuation of the invoice, Mr. Padgett?

10          A     Well, it's in a different format but it looks to be an  
11 accounting of hours.

12          Q     But you would agree with me that pages 556 through 559  
13 is essentially one invoice; is that right?

14          A     This looks like support for the cover page invoice, 556,  
15 exhibit number, is what it looks like to me.

16          Q     Okay. Let's -- and after -- let's see. Let's go to  
17 Exhibit 12, which is immediately after 559, so it would start on  
18 561, Mr. Padgett. Let me know when you're there.

19          A     Okay. I'm there.

20          Q     And do you recognize what this document is?

21          A     Well, I can go by what it says. It says DiFrancesco  
22 Family Trust.

23          Q     Okay. And the page immediately preceding that, that  
24 states Exhibit 12, correct?

25          A     That's correct.

1 Q Okay. And let's go down to page 565, Mr. Padgett.

2 A Okay.

3 Q I know it's a little tough to read, but if you --  
4 towards the -- let's see. It looks like one, two, three --

5 A Yeah, I was going to say that I can't really read it,  
6 but go ahead.

7 Q But you have a hard copy, correct, because you had  
8 stated you printed these pages out?

9 A No, these came to me in the mail.

10 Q Physical mail?

11 A I -- I believe it did.

12 Q What are you referring to currently, Mr. Padgett? Are  
13 you looking at a hard copy?

14 A So I'm looking at a hard copy. And on the first page,  
15 it says State Bar of Nevada's Notice of Hearing, dated April 28,  
16 2021.

17 Q But on page 565 -- so you've been referring this entire  
18 time to hard copies of our documents; correct, Mr. Padgett?

19 A Where I can, yes.

20 Q It's a simple yes or no question, Mr. Padgett. So this  
21 entire time you have been viewing your documents, the documents I  
22 have been referring to, have you been looking at hard copies of  
23 those documents or electronic copies of those documents?

24 A Well, where I can view the electronic, I can just open  
25 it up and, yeah, I can magnify it.

1           Q     Okay. I'll move on. But you do have hard copies in  
2 front of you; correct, Mr. Padgett?

3           A     I didn't know if it's a complete set of documents. I  
4 mean, it's --

5           Q     But you have a hard copy; correct, Mr. Padgett?

6           A     I don't know of what.

7           Q     Page -- you were just looking at Bates stamp 565,  
8 correct?

9           A     Correct.

10          Q     Are you still looking at that currently?

11          A     It's in front of me, yes.

12          Q     And is that copy -- is that in electronic form or a hard  
13 copy?

14          A     Looks like a hard copy.

15          Q     Okay. So it appears to be a hard copy, is that what  
16 you're saying, what you are looking at?

17          A     Well, what I'm saying -- and I'm sorry to be unclear --  
18 yes, I'm looking at a hard copy, but I'm having a hard time  
19 reading the hard copy.

20          Q     Okay. Well, you also say that you have an electronic  
21 version available, correct?

22          A     Well, I don't think these are the same documents. So  
23 the last thing I was sent was -- I've got some documents from  
24 Ms. Peters I'm trying to go through so that I can match things up.

25          Q     Okay. Well, let's -- that's okay. Let's look at

1 page -- Bates stamp 565. Are you still with me there,  
2 Mr. Padgett?

3 A Yes, I am.

4 Q And to the best of your ability, at the bottom right  
5 corner, it looks like at the very rightmost column, it looks like  
6 four spaces up. I will Zoom it in for the panel. And if you  
7 could, just to the best of your ability, let me know what that  
8 last date says.

9 A And where am I looking again?

10 Q The bottom right-hand corner.

11 A The bottom right-hand corner. Okay.

12 Q Of Bates stamp 565, Mr. Padgett.

13 A Yes.

14 Q And what does that date state?

15 A Well, it's blank.

16 Q And there's -- it's going to be the rightmost column and  
17 four rows up. Do you see what I'm referring to, Mr. Padgett?

18 A There's a date there.

19 Q And can you read that date, Mr. Padgett?

20 A 27, 16, I'm not --

21 Q If I told you Mr. Padgett that it said 09/27/16, would  
22 you have any reason to doubt that statement?

23 A Well, if you want me to take your word for it, okay. We  
24 can discuss it on that hypothetical. I'm sure that's what it  
25 says. I can't read it, but -- and let me say for the record,



1 Mr. Gosioco, again, I'm on this disciplinary hearing via  
2 telephonic conference. I don't have the luxury of Zoom. I can't  
3 see the exhibits you are highlighting. I can't see your facial  
4 expressions. I can't see anything.

5 Q And I understand that, Mr. Padgett, but do you have a  
6 copy -- as you had testified earlier, you have a copy of the State  
7 Bar's final designation of witnesses, the final disclosures, in  
8 electronic form, as well, correct?

9 A Okay. So I believe they should have been sent to me.  
10 However, the last thing I have is an email from Mr. Williamson,  
11 the chair, asking me to join the hearing now so that we can  
12 resume.

13 Q And that wasn't my question, Mr. Padgett.

14 CHAIRMAN WILLIAMSON: Let me -- Mr. Gosioco, let me just  
15 jump in.

16 Mr. Padgett, on Bates stamp 565.

17 MR. PADGETT: Yes, sir. Yes.

18 CHAIRMAN WILLIAMSON: Do you have any reason to believe  
19 that that does not state 09/27/16?

20 MR. PADGETT: No, I don't have reason to believe that it  
21 doesn't say that.

22 CHAIRMAN WILLIAMSON: Okay. Thank you.

23 MR. GOSIOCO: Thank you, Mr. Chairman.

24 BY MR. GOSIOCO:

25 Q And just, Mr. Padgett, scrolling to the top -- and this

1 is, this document we were just looking at is Exhibit 12, correct?

2 If you look at Bates stamp 560?

3 A You want me to look at Bates stamp number 560?

4 Q Correct. Just to verify that the document we were just  
5 looking at, the ledger, is, in fact, Exhibit 12?

6 A That's correct.

7 Q Okay. And I'm going to scroll all the way back to your  
8 actual letter to the State Bar, which is on Bates stamp 405.

9 A Okay. You want me to look at 405 now?

10 Q Yes, sir.

11 A Okay.

12 Okay. So go ahead.

13 Q Do you see the section, Section C, on 405?

14 A I do.

15 Q And you already had a chance to review the contents of  
16 Section C, correct, Mr. Padgett?

17 A A few minutes ago, yes.

18 Q Yes. And is it true that you stated in that section  
19 that you'll be supplementing that ledger, Exhibit 12, to the State  
20 Bar from 2016, forward?

21 A Okay. So it says that it will be supplemented along  
22 with the total fees and costs still owed by the DiFrancescos.  
23 After that, I have given you testimony, sir, that I had spoken  
24 with Amy Sugden, who handled the case on a day to day basis.

25 Q Okay. And, Mr. Padgett, that's not my question. My

1 question is simply, did you state that you would supplement  
2 Exhibit 12 to the State Bar?

3 A That's what it says here.

4 Q And did you, in fact, supplement this ledger, Exhibit 12  
5 that we just reviewed, to the State Bar?

6 A Well, I believe we were relying on Ms. Sugden to do so.

7 Q Okay. So you were relying on Ms. Sugden after this  
8 letter was drafted in October of 2019. Is that right?

9 A I think I testified that I had spoken with Ms. Sugden  
10 after the date of this letter, which I believe to be the case. I  
11 don't think it was before. But once I had spoken with her and it  
12 looked like she was putting hours together, I believed that, based  
13 on my conversation with her, she would be supplementing that to  
14 the Bar.

15 Now, being that she was working under her Ace Legal,  
16 LLC, company when she was working as an independent contractor for  
17 the law office, and was handling the day-to-day matters for the  
18 DiFrancesco case, I have no reason to believe that she wasn't the  
19 best person to put that together.

20 And as I said, we put aside, you know, any grievances  
21 between us, because I think this matter needed immediate  
22 attention, I think she agreed.

23 And I think that, at that point in time, I had no reason  
24 to believe she would not supplement, and, therefore, the questions  
25 that were asked by Ms. Watson would be satisfied.

1           Q     Okay. So if I'm understanding this correctly, you were  
2     relying on Ms. Sugden to supplement this ledger for your  
3     grievance; is that correct?

4           A     Well, my understanding, Mr. Gosioco, was at the time she  
5     worked for the firm as an independent contractor, and she handled  
6     the day-to-day matters for the DiFrancesco case. She would have  
7     been the best person to do that.

8                     When I talked to her, it looked like that some of the  
9     same questions that the State Bar had of me were also put to  
10    Ms. Sugden.

11                    When I spoke to her on the phone, it being that she  
12    prepared the hours along with Ruth, our legal secretary, it seemed  
13    to make sense she would be the one to put those together. And  
14    based on my conversation with her, that's what she was doing. So,  
15    therefore, yes.

16           Q     Okay. Let me actually ask you to turn your attention  
17    to, really, Ms. Sugden. So you had testified that Ms. Sugden  
18    worked for the Law Office of Brian C. Padgett; correct?

19           A     I wrote her compensation to Ace Legal, LLC.

20           Q     Okay. So -- but did she ever work for the Law Offices  
21    of Brian C. Padgett?

22           A     Well, Ace Legal did. And let me explain. Ace Legal  
23    stands for Amy, Chris and Emma, Chris being her husband and Emma  
24    being her first child.

25                    She married Chris Sugden shortly after she was doing

1 part-time work for the office, because she wanted to get married  
2 and didn't want to be tied down to a lot of work.

3 Q Okay.

4 A And she kept that kind of free spirit mentality to an  
5 extent as she started clocking in more hours with the firm.

6 And as soon as she got married and she had Emma, she  
7 created Ace Legal. And I think Amy came to us in 2011, I want to  
8 say, possibly. And she'd been with us for just about nine years.

9 Q Okay. And so you're saying "she's been with us." So by  
10 "us," you mean the Law Office of Brian C. Padgett; is that right?

11 A Well, being with us meaning, like, she was in the fold.  
12 She's working as an independent contractor. She always made that  
13 clear. That's why I wrote every check to Ace Legal. However --

14 Q Okay.

15 A -- when I say, you know, "us," look, I tried cases with  
16 her. She was working side by side with me for nine years. Prior  
17 to that she had -- she had probably about five years of  
18 experience, prior -- five or six years prior to the nine that she  
19 worked for me.

20 She was familiar with how I handled a case, and we  
21 always, you know, we had case updates, so it was -- yes, the  
22 day-to-day matters on a case, the billing went with -- you know,  
23 was left to her and Ruth. She would ask me what hours I had.

24 Q Mr. Padgett, so you did just testify that. So  
25 Ms. Sugden did, in fact, work for you. You just testified to

1 that, correct?

2 A Let me be clear. Ms. Sugden worked for Ace Legal, LLC.

3 Q Okay. Well, let me ask you this, Mr. Padgett.

4 A Ace Legal. Hold on, please.

5 Ace Legal was what -- was the company that the Law  
6 Offices of Brian C. Padgett hired. And we signed all payroll  
7 checks to Ace Legal. Never Amy Sugden.

8 Q Okay. So you hired -- so your law offices hired Ace  
9 Legal, correct?

10 A As an independent contractor, yes.

11 Q But you just testified that your office hired Ace Legal,  
12 correct?

13 A Let me be very clear. We compensated Ace Legal for the  
14 hours spent on the cases that we agreed that they would take.

15 Q Okay.

16 A That she would take.

17 Q And I understand that.

18 Aside from Ms. Sugden, was anybody else part of Ace  
19 Legal?

20 A You know, it says -- the Ace is Amy, Chris and Emma.  
21 Obviously, Emma was too young to work. I don't know what her  
22 husband Chris did for her.

23 Q Okay. But as far as --

24 A Go ahead.

25 Q But as far as your firm's compensation to Ace Legal,

1 those were solely for the work that Amy Sugden provided, correct?

2 A Well, I said I couldn't say that because I don't know  
3 exactly what her husband did, if anything.

4 Q Did you ever -- and I apologize for cutting you off,  
5 Mr. Padgett -- but did you ever issue a check to Ace Legal with  
6 the intention of it going to Chris?

7 A We just wrote the check to Ace Legal.

8 Q Okay. And so Ace Legal -- let me ask you this,  
9 Mr. Padgett.

10 Were you, at any point during those nine years, you  
11 stated possibly 2011, on, were you Ms. Sugden's supervisor?

12 A So if you'll allow me to explain, please. The reason  
13 that I hired Ace Legal, who I suppose Ms. Sugden worked for, that  
14 was at her request.

15 Now, that said, when you say was I her supervisor, so  
16 Ms. Sugden, as far as I know, worked in Missouri before -- after  
17 she got done in law school, she worked in Missouri.

18 Q Mr. Padgett, I apologize for cutting you off, but the  
19 question I'm asking for, just is asking for --

20 A Was I her supervisor?

21 Q Yes. Were you her supervisor?

22 A No, it's not that simple, and so please let me explain,  
23 and if that's not satisfactory to you then I'll try to do it  
24 differently.

25 But let me just explain to you that -- so Ms. Sugden

1 then worked for another firm when she came to Nevada. And then  
2 she, prior to working for -- prior to Ace Legal, working for my  
3 firm in an independent contractor capacity, she worked for Leach,  
4 Johnson, Song and Gruchow. So that's Kirby Gruchow. I've known  
5 Kirby Gruchow for 20 years now. And Kirby worked for condemning  
6 authorities. And that's how I met Ms. Sugden. It's very rare  
7 that you have anybody who is knowledgeable in the field of eminent  
8 domain.

9           Because I have a high regard for Mr. Gruchow and his  
10 knowledge of eminent domain law and his ability to and his wont to  
11 teach people, I saw the work in opposing Mr. Gruchow in an NV  
12 Energy case. I was representing the landowner. I got to see  
13 Ms. Sugden work, firsthand, in actually two NV Energy cases back  
14 to back. And I thought she was very competent and I thought Kirby  
15 did a very good job working with her.

16           **Q     Okay. But Mr. Padgett --**

17           A     She came to me, after six years or so, she came to me  
18 very well-seasoned as far as eminent domain goes.

19           And, again, that's a niche area for sure. Not too many  
20 people know it. But if you know it, then you don't -- then I  
21 would say Ms. Sugden, after six or seven years of practice, was  
22 certainly knowledgeable about the primary statute for eminent  
23 domain, the case law that, you know, the case law that controlled  
24 in certain situations, the way that condemning authorities work,  
25 their methodical process for coming up with offers to landowners



1 versus their ultimate settlement numbers, which I thought was  
2 extremely important.

3 I got the other side of the coin with Ms. Sugden's  
4 company, Ace Legal. She could look at it from a condemning  
5 authority perspective, whereas I've only represented homeowners.

6 Q And that's why you hired Ace Legal; correct,  
7 Mr. Padgett?

8 A I hired Ace Legal because they -- because Amy Sugden was  
9 very knowledgeable in the field of eminent domain --

10 Q Perfect.

11 A -- working for Kirby Gruchow.

12 Q And I'll ask you again, Mr. Padgett. While Ms. Sugden  
13 or Ace Legal was working for your firm, the Law Office of Brian  
14 Padgett, while you were writing the checks to Ace Legal, did you  
15 act as Ms. Sugden's supervisor?

16 A Okay. So, like I said, Ms. Sugden came in very  
17 well-seasoned; however --

18 Q And, Mr. Padgett, if you could just limit your response  
19 to a yes or no question. Yes or no answer.

20 Were you Ms. Sugden's supervisor when you were issuing  
21 checks to Ace Legal?

22 A It's not so simple, Mr. Gosioco.

23 Mr. Chair, can I elaborate, please?

24 CHAIRMAN WILLIAMSON: No, you'll have an opportunity to  
25 do your own examination. You can do your own, you know, obviously

1 sort of narrative direct.

2 Just, I mean, if the answer is no, the answer is no. If  
3 the answer is yes, the answer is yes.

4 Can you please respond to Mr. Gosioco's question of  
5 whether or not you were Ms. Sugden's supervisor while she or Ace  
6 Legal, LLC, were doing work for the Law Offices of Brian Padgett.

7 THE WITNESS: Well, I can't say I was her supervisor.  
8 She was an independent contractor, per se.

9 However, for a limited period of time, I did make sure  
10 that she was familiar with the way I practiced law and the way  
11 that we represented landowners.

12 BY MR. GOSIOCO:

13 Q Okay. Now Mr. Padgett, at any point during your law  
14 office's association with Amy Sugden or Ace Legal, did you, I  
15 guess, review any of Ms. Sugden's work?

16 A Did I -- will you restate the question, please?

17 Q While there was an ongoing business relationship between  
18 the Law Offices of Brian Padgett and Amy Sugden and/or Ace Legal,  
19 did you review any of Ms. Sugden's work?

20 A I'm sure I did at one point.

21 Q And during those same time periods, did you at any point  
22 order her to, you know, file a pleading or draft something a  
23 certain way?

24 A So I can't -- I can't say any particular time that that  
25 happened, because the firm holds -- in eminent domain there's not

1 a lot of new breaking law, so we have a lot of boilerplates on  
2 summary judgment, motions in limine, motions to dismiss, certain  
3 eminent domain case law that we rely on.

4 And Ms. Sugden was certainly seasoned enough to know  
5 about summary judgments, motions to dismiss, motions in limine,  
6 also motions for date of valuation, and motions for a date of a  
7 taking. She's drafted all of those using our boilerplate.

8 You know, if she asked me, would you take a look at  
9 this, of course I would.

10 But, again, you know, I really respect Kirby Gruchow. I  
11 had seen Ms. Sugden's work.

12 It was initially important to me that she knew how we  
13 prepared a case for landowners, and walked through timelines when  
14 certain things would be filed, you know, working on the theory of  
15 the case. And then she would get -- she would get her assignment,  
16 as far as her independent contractor assignment.

17 **Q Okay. And did you assign cases to her, Mr. Padgett?**

18 A I assigned Ms. Sugden day-to-day work on certain cases,  
19 yes.

20 **Q Did you assign Ms. Sugden to the DiFrancesco matter?**

21 A Ms. Sugden and Ace Legal handled the day-to-day work on  
22 that case. However, I did go up to Reno for a summary judgment  
23 hearing and certainly handled some matters on the case. I met  
24 with the clients up in Reno.

25 And so I would say, to answer your question, yes,

1 Ms. Sugden was asked to handle the day-to-day matters on the case,  
2 but, yes, I conferred with the clients, we took phone calls with  
3 the client, went and met with the clients, handled motions up in  
4 Reno. But day to day, Ms. Sugden.

5 **Q Okay. But the DiFrancesco matter was a client of the**  
6 **Law Office of Brian Padgett, correct?**

7 A Well, when Amy, full timing, would take a case, I  
8 believe we'd make it clear that Ace Legal was working with the Law  
9 Offices of Brian C. Padgett. However, at the end of the day,  
10 yeah, I mean, I believe that they -- that that was made apparent.

11 **Q And you had just testified that Ms. Sugden handled the**  
12 **day-to-day matters for the DiFrancesco matter, correct?**

13 A That's correct.

14 **Q At any point did you take over her role as primary**  
15 **contact for John DiFrancesco or Bob Feron?**

16 A No, but I would say that if there was a point in time  
17 when they weren't communicating with each other the way that I  
18 thought they should have, so I interjected myself in some calls  
19 and some emails, and I spoke with the clients, and I think we got  
20 back on the same page.

21 I think Ms. Sugden was somewhat frustrated by the  
22 clients. And if they are listening, I'd point to that, towards  
23 the end of our time together, a certain email that Ms. Sugden sent  
24 out that I then called them on and said let's talk about this,  
25 because I think Ms. Sugden was frustrated by --

1           Q     Mr. Padgett, you just mentioned an email. What email  
2 are you talking about, exactly?

3           A     Oh, I just -- I think that there was -- clear that, you  
4 know, I think that she wanted the clients to understand that there  
5 was an offer on the table and the clients weren't receptive to it.

6                     At the time that we came in and took the case, Washoe  
7 County had put an offer on the table for the clients and then  
8 revoked it.

9                     And so it was our job to get them to come back to the  
10 table or go to trial. And I think there was some pushing and  
11 pulling between Ms. Sugden and the clients, as far as how much  
12 money Washoe County had, how -- what their appetite was to  
13 continue to negotiate.

14                    She knew the lawyer for Washoe County very well, so --  
15 and better than I did. So I believed that, based on her  
16 relationship with this gentleman, that, you know, that he would be  
17 pretty straightforward with her. And so she had a good line on,  
18 you know, what Washoe County could do and what they couldn't do.

19           Q     Okay. And, Mr. Padgett, I guess in your opinion, did  
20 there seem to be a breakdown between the relationship, the  
21 relationship between Ms. Sugden and John DiFrancesco or Bob Feron?

22           A     Well, I think there was some frustration on both sides.  
23 And so I came in, I talked to both sides, and I made sure that,  
24 you know, everybody was back on the same page.

25           Q     Okay.

1           A     Now, I trusted Ms. Sugden to handle the case as she has  
2 done others. She has had some very good results for the office,  
3 or Ace Legal did, I should say. And, like I said, we have been in  
4 trials together and I knew her work ethic and -- at that time, and  
5 I also knew that she put in a good amount of time, you know,  
6 outside of the office too.

7                     And I don't believe that she shortchanged the clients at  
8 that time. I believed that, you know, any push and pull between  
9 her and the clients was based on her caring about the clients and  
10 having a good understanding where Washoe was coming from, that  
11 maybe the clients didn't have.

12                    So my job was to try and get the clients to understand  
13 where she was coming from, and then get direction from the  
14 clients.

15                    But I think, overall, I think that the clients felt  
16 that -- you know, I can't say. I can't say.

17                    But I will say this. There were a couple of times when,  
18 you know, I felt there was some push and pull, but Ms. Sugden felt  
19 that it was imperative that they understand the position of Washoe  
20 County and what she could get on the table and what she couldn't,  
21 and what that would mean for their case going forward, depending  
22 on what they chose to do.

23                    And, you know, I think that because of that, you know,  
24 that, you know, I needed to come in at some point and convey it  
25 maybe in a different format, you know.

1           Q     Okay. Mr. Padgett, did you -- I want to turn your  
2 attention to a specific document. That will be Exhibit 32,  
3 Bates-stamped SBN 356. And I'm going to share that on my screen  
4 for the panel.

5           A     356, what is it?

6           Q     Exhibit 32. Bates-stamped 356.

7           A     Okay. Hold on.

8           Q     And let me know when you are there, Mr. Padgett.

9           A     Okay.

10          Q     Okay. And you are currently looking at Bates stamp 356?

11          A     That's correct.

12          Q     And Mr. Padgett, what does that document appear to be?

13          A     A letter to the clients.

14          Q     Is this a letter or an email, Mr. Padgett?

15          A     It's an email to the clients.

16          Q     And who is it from?

17          A     From me.

18          Q     Okay. And let's scroll down to the following page, 357.

19 Do you see where it says -- do you see where it says from Amy  
20 Sugden, Mr. Padgett?

21          A     That's correct.

22          Q     And this was sent to you; is that right?

23          A     It looks like copy to the clients as well.

24          Q     But it was sent to you; correct, Mr. Padgett?

25          A     Directly, but also copied to clients, yes.

1 Q Okay. And let's scroll down to the next page, 358.

2 A Okay.

3 Q And is there another email located on that page?

4 A Looks like it, yes.

5 Q And who is that email from?

6 A Ms. Sugden.

7 Q And who is it to?

8 A Myself.

9 Q Okay. And does that appear to be the last email in this  
10 exhibit, Exhibit 32?

11 A It doesn't really say what exhibits are what, so I don't  
12 know, but it looks like 359 is the last in this run, or could be  
13 360.

14 Q Okay. And so I'm specifically speaking about pages 356  
15 to 359. Do you recall receiving these emails, Mr. Padgett?

16 A Yeah, I have some recollection, yes.

17 Q And based on your recollection, what did this email  
18 thread -- what was this email thread about?

19 A Well, I think I encapsulated it in my earlier testimony  
20 when I said that I think that Amy had some insight into what  
21 Washoe County wanted to do or what their appetite was for putting  
22 money on the table in settlement, and that that money could get  
23 reallocated elsewhere.

24 The clients weren't as receptive, as I think Amy felt  
25 the urgency, knowing the backstory with Washoe. I think they



1 wanted to look at it further and see if they could get the number  
2 up higher.

3 Q So, Mr. Padgett --

4 A What?

5 Q So, Mr. Padgett, this email thread, is this an example  
6 of what you were referring to, kind of a disagreement between  
7 Ms. Sugden and Mr. DiFrancesco and Mr. Feron?

8 A No, I can't -- if I could just finish what I was  
9 originally saying, Mr. Gosioco. Can I do that?

10 CHAIRMAN WILLIAMSON: No, Mr. Padgett. If you could  
11 answer Mr. Gosioco's questions. Again, you'll have an opportunity  
12 to respond, but you don't need to provide a narrative response  
13 every time. You can just answer his questions so that we can all  
14 move on.

15 THE WITNESS: Thank you, Mr. Chair.

16 What was the question, Mr. Gosioco?

17 BY MR. GOSIOCO:

18 Q Gosioco.

19 Was this a disagreement between Amy Sugden and  
20 Mr. DiFrancesco and Mr. Feron?

21 A I think this was an email from Amy to me stating that  
22 she was unhappy over certain things with regard to the clients.

23 Q Okay. And I'm looking at Bates stamp 358. Do you see  
24 the font in red from Ms. Sugden to yourself?

25 A I've got a black and white copy.

1 Q Okay. Let me just rephrase then.

2 Immediately under the, I guess, from the "from," "date,"  
3 "to" and "subject," there's a line that says "draft." Do you see  
4 that, Mr. Padgett?

5 A Yes, I do.

6 Q Can you read that paragraph immediately preceding the  
7 word "draft" quietly to yourself and let me know when you are  
8 finished. I'll highlight that portion to the panel.

9 CHAIRMAN WILLIAMSON: Immediately following the word  
10 "draft."

11 MR. GOSIOCO: Correct.

12 THE WITNESS: Yeah, I've read it.

13 BY MR. GOSIOCO:

14 Q Okay. And we're going to scroll up or go up to  
15 page 357, in another email. Do you see what I'm referring to,  
16 Mr. Padgett?

17 A No.

18 Oh. "Can you please review and then send"?

19 Q Yes.

20 A Okay.

21 Q So I'm looking at that and this email, as you testified  
22 earlier, Mr. DiFrancesco was actually cc'd on this email, correct?

23 A It looks that way, yes.

24 Q Okay. And let's go up to page 356. Let me know when  
25 you are there, Mr. Padgett.

1           A     Okay. I'm there.

2           Q     And you had testified earlier, you know, that sometimes  
3 Ms. Sugden and your client didn't see eye-to-eye and you would  
4 interject yourself because you didn't like the way Ms. Sugden was  
5 handling the case; correct?

6           A     No. Here in this case Ms. Sugden asked me to send them  
7 a letter because she said I really think it will be better from  
8 you.

9           Q     Okay. And then email on page 356, who wrote that email?

10          A     I did.

11          Q     And who is it addressed to?

12          A     To the clients.

13          Q     And was anybody cc'd on this email?

14          A     Ms. Sugden.

15          Q     Okay. And if you will do me a favor -- it looks like a  
16 pretty short email, Mr. Padgett -- would you read the entire email  
17 starting with "Bob and John," all the way to "all the best," right  
18 above your signature, quietly to yourself and let me know when you  
19 are finished.

20          A     I have read it.

21          Q     Okay. And pointing your attention -- and do you  
22 recognize -- do you remember writing this email, Mr. Padgett?

23          A     I don't remember writing it but I've read it and I  
24 recall it.

25          Q     But would you say it's a fair statement that you sent

1 this email to John DiFrancesco and Bob Feron?

2 A That's what it says.

3 Q Okay. And looking at this third line below "Bob and  
4 John," I'm going to highlight it. It starts with "At that time."  
5 Do you see what I am -- what line I'm referring to, Mr. Padgett?

6 A Yes.

7 Q Would you read that to yourself again and let me know  
8 when you're finished.

9 A I've read it.

10 Q And summarize it, I guess you can summarize. What did  
11 that line say?

12 A It says at the time I told her to remove the -- or find  
13 another attorney -- language, because that's not the way my office  
14 works.

15 Q Okay. And I'm going to move on from this.

16 Mr. Padgett, what is your current address?

17 A 1672 Liege Drive, but also now we're reopening 611 South  
18 6th Street as well.

19 Q Okay. But let me ask you this. What is your home  
20 address, Mr. Padgett?

21 A 1672 Liege Drive.

22 Q Okay. And at any point did you notify the State Bar  
23 that you were residing at 1672 Liege Drive?

24 A Well, the first thing I did in February of 2020 was I  
25 sent a notice of change of address to you, or to the State Bar,

1 Mr. Gosioco.

2 Then as my license needed to be renewed with CLE credits  
3 and fees paid, I updated -- I noticed that in my own private  
4 website that typically, or my own particular individual  
5 information on the Bar, from the Bar -- that typically Ruth  
6 handled, but she wasn't there anymore, Ruth was let go -- the  
7 information wasn't up to date, so I updated it.

8 Q Okay. But you did at some --

9 A That was on my own personal page, I believe.

10 Q But, Mr. Padgett, you did at some point notify the State  
11 Bar that you would be using 1672 Liege Drive as your main address,  
12 correct?

13 A February 2020.

14 Q Okay. So on February 2020, it's your testimony today  
15 that on or around February 2020 you notified the State Bar that  
16 you would be using 1672 Liege Drive as your primary residence for  
17 State Bar contact; is that correct?

18 A No, I believe what we said was we were moving the office  
19 to 1672 Liege, as I do have an office here, and we would be  
20 working out of that office as our server was breached, and our  
21 investigator Mick Elliott, who's a 25-year FBI special agent, had  
22 recommended that we work off flash drives and hard drives, because  
23 the server was not secure.

24 Q Okay. But the reason for you sending this letter in  
25 February of 2020 to the State Bar was to notify the State Bar that

1 if we had to communicate you, we should reach you at 1672 Liege

2 Drive, correct?

3 A Well -- so Connie Little had sent that to you, but  
4 shortly after that -- I'm not sure when you received it -- but  
5 shortly after that we had the pandemic and the state of emergency  
6 was called for.

7 And when I look at your emails, and those of the other  
8 State Bar members, Mr. Gosioco, there's a disclaimer down below  
9 the signature line that says because of the pandemic we're going  
10 to be working from our homes, and please be advised that if you  
11 send any mail to us, we may not get it and it may impact your  
12 case, so very similar.

13 Q Okay. But ultimately you did, your testimony is around  
14 February of 2020, you notified the State Bar that you could be  
15 reached at 1672 Liege Drive?

16 A Or the office. And that was done by Connie Little. I  
17 believe she supplied an affidavit to that extent.

18 Q Okay. And you submitted that affidavit, correct,  
19 Mr. Padgett?

20 A Yes, I did.

21 Q Okay. And, actually, we can look at that affidavit  
22 right now, which is -- it's going to be Exhibit 46 and it starts  
23 on Bates stamp 714, Mr. Padgett.

24 Let me start sharing my screen. Again, that's Bates  
25 stamp 714.

1           A     I'm looking at 714.

2           Q     **Okay. And what does that document appear to be?**

3           A     I'm notifying you again that you can reach me at 1672  
4   Liege Drive, because none of your mailings went to 1672 Liege  
5   Drive, they went to either the law office at 611 South 6th Street  
6   or my old home residence at 11274 Gammila Drive. And I wasn't  
7   getting any of your mailings.

8                     And so I went ahead and sent this to you at the same  
9   time that I notified you that I didn't have any notice of this  
10  case.

11          Q     **Okay. What was the date this email was sent,**  
12 **Mr. Padgett?**

13          A     It says October 15th, but I had sent you a letter prior  
14  to that as well.

15          Q     **But this email specifically is October 15th, 2020,**  
16 **correct?**

17          A     That's what it says, yes.

18          Q     **And that was the date of the formal hearing initially,**  
19 **correct?**

20          A     I don't recall, but we sent you something just prior to  
21  that, that was three or four pages long, explaining, with  
22  exhibits, the situation.

23          Q     **Okay. And let me scroll down. And this is -- I'm going**  
24 **to look at Bates stamp, starting at Bates stamp 720.**

25                     **Let me know when you are there, Mr. Padgett.**

1           A     Okay. Exhibit A.

2           Q     And Mr. Padgett, in that email that you sent on  
3     October 15th, 2020, you attached a letter which included exhibits  
4     to that email, correct?

5           A     Oh, this was -- we sent you a letter, and attached to  
6     the letter there were exhibits, yes.

7           Q     And Bates stamp 720 and 721, those are exhibits that you  
8     sent to the State Bar on October 15th, 2021, via email; correct?

9           A     720 and 721?

10          Q     Right. 720 says Exhibit A, and 721 appears to be an  
11     affidavit, or declaration. Affidavit.

12          A     Yeah, the affidavit is pages 721 to 722.

13          Q     Yes. And did you submit this to the State Bar,  
14     Mr. Padgett?

15          A     I believe it's in an exhibit to the letter that was sent  
16     to the State Bar, yes.

17          Q     But you submit this letter in the exhibit to the State  
18     Bar, correct?

19          A     My office did, yes.

20          Q     Under your direction, correct?

21          A     I suppose. Yes, I would say so.

22          Q     Okay. Looking at Bates stamp 721, Mr. Padgett,  
23     paragraph -- starting with paragraph 5, can you read five and six  
24     for me, Mr. Padgett, on Bates stamp 721?

25                     I will highlight that portion for the panel on my



1 screen.

2 A I see it.

3 Q Okay. And so is it a correct statement that on  
4 February 28 of 2021, according to Ms. Little, she mailed a notice  
5 of change of the law firm's address to the State Bar per your  
6 request; is that a correct statement?

7 A That's what it says here on paragraph 6.

8 Q Okay. And these are all true and correct statements,  
9 correct? It's on an affidavit?

10 A I believe Ms. Little made this statement and then it was  
11 notarized.

12 Q Okay. But you submit this statement to the State Bar;  
13 correct?

14 A I believe it was submitted, yes.

15 Q Okay. Would you agree with me that starting on  
16 page 714, Bates-stamped 714. Let's look at 714. Let me know when  
17 you are there, Mr. Padgett.

18 A I'm there.

19 Q At the very top of page 714, was -- this is an email,  
20 correct?

21 A That's what it looks like.

22 Q And does it appear to be -- did you send any attachments  
23 along with this email, Mr. Padgett?

24 A It says NVbarresponse.PDF.

25 Q So you would agree with me that there was an attachment

1 to your email, correct, Mr. Padgett?

2 A That's what it says.

3 Q Okay. And going to page 715, it looks like it's start  
4 of a letter. Do you see where I'm at, Mr. Padgett?

5 A I do.

6 Q Would you agree with me that this was part of the  
7 attachment in your email on October 15th, 2020?

8 A Well, it's dated earlier.

9 Q Would you agree with me that this was the attachment  
10 that was sent along with your email on October 15, 2020?

11 A You know, I can't say unless I look in my computer, but  
12 I can tell you that this was sent to the bar.

13 MR. GOSIOCO: Okay. Mr. Chairman, I will pass the  
14 witness.

15 CHAIRMAN WILLIAMSON: Why don't we take a break there.  
16 So it's 12:43. Let's resume at 1:45 sharp, after lunch.

17 And again, Mr. Padgett, hopefully over the lunch hour,  
18 you can get Zoom working, but we will be starting at 1:45 sharp.

19 Does anyone have any questions or need any other  
20 accommodations?

21 MR. GOSIOCO: No, sir.

22 MR. PADGETT: No, thank you.

23 Oh, Mr. Chair?

24 CHAIRMAN WILLIAMSON: Yes.

25 MR. PADGETT: Who are the other panel members?

1 CHAIRMAN WILLIAMSON: You've got Nathan Aman and Brooke  
2 Westlake.

3 MR. PADGETT: Thank you.

4 CHAIRMAN WILLIAMSON: And we are off the record.

5 (A recess was taken.)

6 CHAIRMAN WILLIAMSON: Okay. Let's go on the record.

7 It is now 1:45, resuming the formal hearing in State Bar  
8 of Nevada versus Brian C. Padgett, OBC19-1111.

9 A couple of housekeeping matters, I guess, just while  
10 we're seeing if Mr. Padgett will rejoin us.

11 One of our panel members needs to leave at 3 o'clock so  
12 we really do need to kind of try to move things along. And I  
13 would encourage both parties to, if -- you know, obviously, make  
14 whatever points you need to make, but if it's not material let's  
15 try to just focus on what we need with regard to the merits of  
16 this case and the points that each party needs to make.

17 And, likewise, if Mr. Padgett was here listening, I  
18 would encourage him strongly to just give clear and straight  
19 answers.

20 As he is not here, we were in the middle of his  
21 testimony, but Mr. Gosioco had passed the witness.

22 I'm going to assume Mr. Padgett is going to be fine  
23 with, at this point, with just reserving, and he can state his  
24 response and his direct, his direct narrative in his case in  
25 chief.

1           So as Mr. Padgett is not here with us right now,

2   Mr. Gosioco, do you have another witness?

3           Do you have another witness, Mr. Gosioco?

4           MR. GOSIOCO: I apologize, my Internet apparently is  
5   unstable right now, so I'm going to try to make sure I'm off of  
6   WiFi on other things.

7           I do have -- well, I was informed that Mr. DiFrancesco  
8   was back. I don't know how you would like to handle that,  
9   Mr. Williamson. I did have a few other questions for him, but in  
10  the interest of time, because he did have that appointment, that I  
11  did pass the witness to allow Mr. Padgett to ask some questions as  
12  well.

13          CHAIRMAN WILLIAMSON: Sure. Yeah. No, I think really  
14  the -- that witness is Mr. Padgett's right now. I'm fine if --  
15  obviously, I would think any questions you have could logically  
16  come up in rebuttal, and so let's hold off on Mr. DiFrancesco.

17          Was there anyone else you needed to include? Either the  
18  other grievants or more preferably, you know, any process servers,  
19  anything like that you want to just knock out and get that taken  
20  care of?

21          MR. GOSIOCO: Yeah. State Bar would call Sean Cassiday  
22  to the stand, please.

23          CHAIRMAN WILLIAMSON: Okay.

24          MR. GOSIOCO: Mr. Chairman, if you would like, in the  
25  interest of time, I'm trying to see who else is ready. Looks like

1 they may be looking for Mr. Cassiday at the moment.

2 CHAIRMAN WILLIAMSON: Do you we know if -- we've got a  
3 new face. I don't know where it is in your gallery. For me it's  
4 at the bottom. We think that's Mr. Padgett or one of the  
5 witnesses?

6 MS. PETERS: That is Sean Cassiday's employer. He was  
7 going to use her computer, but in the meantime Mike Sullivan is in  
8 the breakout room.

9 CHAIRMAN WILLIAMSON: Okay. Let's get Mike in here.  
10 Let's get anybody. Give me a witness.

11 MR. GOSIOCO: Yeah, State Bar would like to call Mike  
12 Sullivan to the stand, please.

13 CHAIRMAN WILLIAMSON: Okay.

14 MR. GOSIOCO: And, Ms. Peters, could you please put  
15 Mr. Cassiday's window back in the breakout room for now?

16 MS. PETERS: Louise Watson is also here.

17 Now, here is Mr. Padgett.

18 CHAIRMAN WILLIAMSON: Oh, good.

19 MS. PETERS: I'll let him in.

20 CHAIRMAN WILLIAMSON: Okay.

21 Mr. Padgett, are you there?

22 MR. GOSIOCO: I don't believe that's Mr. Padgett. I  
23 believe that audio is Mr. Cassiday.

24 MS. PETERS: Oh, okay. That's who it is. Okay.

25 MR. GOSIOCO: Is Mr. Cassiday now available?

1 MR. CASSIDAY: Yes.

2 CHAIRMAN WILLIAMSON: Do it.

3 MR. GOSIOCO: Okay. The State Bar would like to call  
4 Sean Cassiday to the stand, please.

5 Mr. Cassiday, can you please raise your right hand and  
6 prepare to be sworn.

7 MS. PETERS: Oops. Where'd she go?

8 CHAIRMAN WILLIAMSON: Uh-oh.

9 Ms. Peters: Uh-oh. It says he's in here.

10 Well, I'm trying.

11 MR. GOSIOCO: Ms. Peters, are you able to admit any of  
12 the other witnesses in, in the meantime?

13 MS. PETERS: How about Louise?

14 MR. GOSIOCO: That's fine. Let's try to put Louise in,  
15 please.

16 MS. PETERS: Okay.

17 MR. GOSIOCO: The State Bar would call Ms. Louise Watson  
18 to the stand.

19 CHAIRMAN WILLIAMSON: Good afternoon, Ms. Watson. Can  
20 you hear us?

21 MS. PETERS: Uh-oh. Now where did she go?

22 CHAIRMAN WILLIAMSON: The universe is against us here.  
23 I don't know what's going on.

24 MS. PETERS: There you are.

25 MS. WATSON: Sorry. I went into a breakout room, I

1 think. Wrong button.

2 CHAIRMAN WILLIAMSON: Ms. Watson, could you please your  
3 right hand.

4

5 LOUISE WATSON

6 called as a witness, having been duly sworn,  
7 testified as follows:

8

9 CHAIRMAN WILLIAMSON: Mr. Gosioco, your witness.

10 MR. GOSIOCO: Thank you, Mr. Chairman.

11 DIRECT EXAMINATION

12 BY MR. GOSIOCO:

13 Q Good afternoon, Ms. Watson. Could you please state your  
14 name and spell it for the record, please.

15 A My name is Louise Watson, W-A-T-S-O-N.

16 Q Thank you so much. And, Ms. Watson, how are you  
17 employed?

18 A I'm a paralegal/investigator with the Office of Bar  
19 Counsel.

20 Q Okay. And at any point during your duties as a  
21 paralegal/investigator, were you assigned to Grievance Number  
22 OBC19-1111?

23 A Yes.

24 Q That was a grievance pertaining to Brian C. Padgett,  
25 correct, Ms. Watson?

1           A     Correct.

2           Q     And who are the grievants in that matter?

3           A     It was, I believe his name -- oh. It's gone off the top  
4 of my head -- is Mr. Feron and his business partner.

5           Q     Okay. And was that business partner John DiFrancesco?

6           A     Correct.

7           Q     Thank you, Ms. Watson.

8                     Now, what was the nature of the grievance regarding  
9 Mr. Padgett?

10          A     They complained generally of a lack of diligence in  
11 the -- Mr. Padgett's office had assumed in their case. It was  
12 some kind of eminent domain/property rights case that they claim  
13 Mr. Padgett's office failed to prosecute timely, didn't prosecute  
14 within a five-year limitation; there were times when there was  
15 lack of communication that they complained about, and complaints  
16 regarding fees they had paid in anticipation of depositions being  
17 taken; the one -- just -- so lots of general lack of diligence  
18 complaints.

19          Q     Okay. Thank you. And, Ms. Watson, you testified that  
20 you are a paralegal and investigator. As it pertains to this  
21 specific matter, were you assigned as a paralegal or an  
22 investigator?

23          A     It's an investigative position, so I was an  
24 investigator.

25          Q     Perfect. Thank you.



1           Now, as part of your investigations, when you receive a  
2 grievance of this nature, what is your next step once you received  
3 this grievance?

4           A     We review it for the issues and a letter of  
5 investigation is developed to send to the responding attorney to  
6 have them provide a response to the allegations within the  
7 grievance.

8           Q     Okay. And in this matter, did you actually -- did you  
9 send a letter investigation to Mr. Padgett?

10          A     I did.

11          Q     And briefly, I just want to share my screen. And I'm  
12 showing you what's been previously marked and admitted as  
13 Exhibit 35.

14                Now, Ms. Watson, can you see my screen fine?

15          A     Yes.

16          Q     Thank you. And do you recognize this document?

17          A     Yes. That is the letter of investigation that I sent to  
18 Mr. Padgett.

19          Q     Okay. And at the bottom, is this your signature here?

20          A     Yes.

21          Q     Okay. Thank you so much, Ms. Watson.

22                Now, in this letter of investigation, what kind of  
23 things did you ask Mr. Padgett to provide?

24          A     At this one it was a response to the allegations of the  
25 grievance, along with a complete copy of his file, and that that

1 would include his retainer agreement, any correspondence, billing  
2 records, pleadings in the case, whatever would be in his file.

3 Q And, Ms. Watson, did Mr. Padgett, in fact, respond to  
4 your letter of investigation?

5 A He did.

6 Q Okay. I'm going to share my screen briefly. Showing  
7 you what's been previously marked and admitted as Exhibit 37.

8 Ms. Watson, can you see my screen okay?

9 A Yes.

10 Q And do you recognize this document, Ms. Watson?

11 A Yes, that is the response that we received from  
12 Mr. Padgett.

13 Q Okay. Perfect. Thank you so much.

14 And, Ms. Watson, to the best of your recollection, did  
15 Mr. Padgett provide the invoices as requested?

16 A He provided invoices from the initiation of the case, I  
17 think through November of 2016; but beyond that, he did not have  
18 invoices that he could produce.

19 Q Okay. And did he mention anything about any invoices  
20 past November 2016?

21 A He indicated that he had changed programs and he would  
22 supplement his response with those invoices or his accounting  
23 records, but he did not do so.

24 Q Okay. And did he -- okay. So you testified that  
25 Mr. Padgett did not send you a supplement to those invoices.

1           A     No.

2           Q     So as far as -- the only invoices received, the last  
3     date that you were able to review was November 2016; is that  
4     correct?

5           A     Correct.

6           Q     Okay. And just briefly, my understanding is that  
7     Ms. Sugden was also mentioned in these grievance -- by these  
8     grievants, correct?

9           A     Yes, she was an employee or an associate in  
10    Mr. Padgett's office that had some responsibility in this case.

11          Q     Okay. And did you ask Mr. Padgett about his  
12    relationship with Ms. Sugden?

13          A     I didn't specifically ask him about his relationship.  
14    In his response, I believe he, of his own accord, mentioned that  
15    she had responsibility for this case, and it was his opinion that  
16    he couldn't be held responsible as her supervisor because she was  
17    a contracted employee within his office rather than an actual  
18    employee.

19          Q     Okay. And, Ms. Watson, in this grievance, was there any  
20    mention -- I believe you testified earlier that there was some  
21    mention about some payments made by the grievants to go towards  
22    depositions; is that correct?

23          A     Correct.

24          Q     Did Mr. Padgett -- did you ask Mr. Padgett about those  
25    payments?

1           A     I believe I did, and his -- asked him to explain that,  
2     oh, how he accounted for those. And he explained that it was --  
3     because the clients owed money on prior invoices, that those funds  
4     were applied to that balance, even though they were intended for  
5     deposition payments --

6           Q     Okay.

7           A     -- and costs.

8           MR. GOSIOCO: Thank you. And I have no further  
9     questions for Ms. Watson.

10          CHAIRMAN WILLIAMSON: Okay. Mr. Padgett not being here,  
11     Ms. Watson, you are excused. Thank you.

12          THE WITNESS: Thank you.

13          CHAIRMAN WILLIAMSON: Mr. Gosioco, please call your next  
14     witness.

15          MR. GOSIOCO: Ms. Peters, is either Sean Cassiday or  
16     Mike Sullivan ready to go?

17          MS. PETERS: This will be Mike Sullivan. Well --

18          MR. GOSIOCO: Thank you. Then the State Bar would call  
19     Mike Sullivan to the stand, please.

20          CHAIRMAN WILLIAMSON: Okay.

21          MR. GOSIOCO: Ms. Peters, are there any other witnesses  
22     available right now in the breakout room?

23          CHAIRMAN WILLIAMSON: You're on mute, Laura.

24          MR. SULLIVAN: What do I do, just wait? Am I going to  
25     be going next?

1 MS. PETERS: Yeah, hold on.

2 It says Mike Sullivan should be in the room and I don't  
3 know why he's not. He has logged on.

4 MR. SULLIVAN: Yeah, I never left.

5 MS. PETERS: Yeah. Yeah. I know you didn't, Mike.

6 MS. FLOCCHINI: If he looks down at the bottom where the  
7 breakout rooms are, and clicks on the button that says "breakout  
8 rooms," there may be, like, an "enter" and "out" down there that  
9 he just has to click again.

10 MR. SULLIVAN: I'm doing it right now. Do I sign in One  
11 spot or Two?

12 MS. PETERS: One.

13 MR. GOSIOCO: Mr. Sullivan, if it's not too much  
14 trouble, could you maybe leave and then rejoin the room?  
15 Hopefully that works.

16 MS. PETERS: Yeah, I moved him and now I'll move him  
17 back.

18 MR. SULLIVAN: Now, I'm in Room Two and there are three  
19 people in there.

20 MS. PETERS: Yeah, I just shook it up, so maybe you'll  
21 be -- you'll appear now. You should be in Room One, that's where  
22 everybody else is.

23 MR. SULLIVAN: Yeah, that's what it says, it says you  
24 are in Room One.

25 MS. PETERS: Okay. Huh-oh.

1 MR. SULLIVAN: I'm the only person I see.

2 MS. FLOCCHINI: Can you now leave the breakout room?

3 Can you go to the leave button and leave the breakout room?

4 MR. SULLIVAN: Do I try the "leave room"?

5 MS. PETERS: Yeah. Yeah. Do that.

6 MR. SULLIVAN: Now it says returning back.

7 MS. PETERS: Okay. You are showing up. There you are.

8 CHAIRMAN WILLIAMSON: There you are. Good. All right.

9 Just a moment.

10 Thank you for joining us.

11 Would you please raise your right hand.

12 MR. SULLIVAN: So this is for me, Mike Sullivan?

13 CHAIRMAN WILLIAMSON: Yes, it is.

14

15 MICHAEL SULLIVAN

16 called as a witness, having been duly sworn,

17 testified as follows:

18

19 DIRECT EXAMINATION

20 BY MR. GOSIOCO:

21 Q Good afternoon, Mr. Sullivan.

22 A Good afternoon.

23 Q Will you state and spell your name for the record,  
24 please.

25 A Michael Sullivan. Last name spelled S-U-L-L-I-V-A-N.

1           Q     Thank you so much, Mr. Sullivan.

2                     Mr. Sullivan, how long have you been practicing law in  
3 the State of Nevada?

4           A     Just over 29 years.

5           Q     And of those 29 years, how many of those years have been  
6 spent in Washoe County?

7           A     29.

8           Q     Okay. So your entire practice has been in Washoe  
9 County; is that correct, Mr. Sullivan?

10          A     Yeah. I practiced outside of the Reno area but my  
11 office has always been in Reno.

12          Q     Okay. Thank you so much.

13                     Now, Mr. Sullivan, about how many cases do you take to  
14 trial? In your 29 years, could you give me an approximate number.

15          A     I can definitely give you an exact number. I've had 10  
16 or 11 jury trials. And I would say probably about the same amount  
17 or a little bit more for bench trials, and at least a hundred  
18 arbitrations.

19          Q     Thank you, Mr. Sullivan.

20                     Mr. Sullivan, do you know an individual by the name of  
21 John DiFrancesco?

22          A     Yes.

23          Q     What about Bob Feron?

24          A     Yes.

25          Q     And how do you know those two individuals, Mr. Sullivan?

1           A     Approximately two years ago I represented them for a  
2 brief period of time in a lawsuit that was in Washoe County.

3           Q     Okay. And did they, do you know why they hired you,  
4 Mr. Sullivan, in your opinion?

5           A     I do. They had previously, for approximately seven  
6 years, been represented by Brian Padgett and Amy Sugden, in  
7 Las Vegas, and they contacted me because they were not satisfied  
8 with how their attorneys were treating them, and they wanted to  
9 have my law firm substitute in as counsel for some damage control.

10          Q     Okay. And ultimately, Mr. Sullivan, how did the case  
11 end?

12          A     Let me give a little bit of background to put it into  
13 context.

14                I was contacted by these two gentlemen to assist them  
15 with the case, it was Case Number CV12-01788 in front of Judge  
16 Polaha, that had been going for about seven years.

17                And they -- when they contacted me they said, hey, we've  
18 talked to some other lawyers in Reno and Vegas about this Nevada  
19 five-year rule. We understand that after a case is filed, if you  
20 don't bring it to trial in five years, it can be dismissed against  
21 us. And we think we're out several hundred thousand dollars,  
22 maybe millions of dollars in damages.

23                But we're concerned, we've paid our lawyers a lot of  
24 money and we don't know who is telling us the truth, because the  
25 attorney we were dealing with, Amy Sugden, is not really



1 responding to us, and our former attorney, her boss, Mr. Padgett,  
2 has gone off the air. And we're worried that we're sort of being  
3 bamboozled and not being told exactly what's going on.

4           And so we need you to review this and find out, do we  
5 have a legitimate case, and if so, would you be able to take it to  
6 trial, because our attorneys who are in Vegas, they don't seem  
7 interested in actually trying the case or getting a settlement  
8 conference.

9           So after that, I picked up the phone and I called the  
10 adverse party's counsel, who is a very good attorney, Steve Silva.  
11 I asked him the situation. He said, Mike, the five-year rule had  
12 indeed ran, at least one year before I got involved, and he was  
13 waiting also to hear from both Ms. Sugden and Mr. Padgett. And he  
14 said his calls were not being returned.

15           So I said is there the chance to go to a settlement  
16 conference and see if we can resolve it, even though, basically,  
17 my hands are tied, and you could always laugh at me and say the  
18 five-year rule is running. And he said, no, the reason that's not  
19 going to work is two- or three-fold.

20           First, obviously as defense counsel, we don't really  
21 think that we have a lot of liability, but that the fund was set  
22 up several years ago, really doesn't have any money in it. And  
23 the only way it gets money is to go to the legislature.

24           So even if you wanted to go, even if you could convince  
25 me that there was something, I don't think we would have any

1 ability to fund it, even a modest amount. And, therefore, I've  
2 been instructed to dismiss the case.

3 And I said, so you're going to file a motion that  
4 basically says the five-year rule is absolute, there's no way to  
5 get around it, and therefore we lose; and then you're going to ask  
6 for your costs? Yes, and those are at least 10 to \$20,000, and  
7 then we could ask for attorney's fees.

8 So with all of that being said, I went back to both  
9 clients and I said here's the deal. If the other side moves for  
10 the five-year rule, there's no way to get around it that I'm aware  
11 of. I've looked at the case law, I've talked to some of my  
12 friends who are judges, you can't get around it.

13 The only way you could have got around it is to start  
14 the trial one day before the five-year rule runs, have the judge  
15 know what's going on and then extend the trial out. That never  
16 happened.

17 So if I were you guys, I would dismiss the lawsuit, lick  
18 your wounds, and do what you have to do.

19 And that's exactly what we ended up doing.

20 And the other side, Mr. Silva, said the only way his  
21 clients would accept it would be to do a dismissal with prejudice.  
22 Whether that has any legally-binding effect remains to be seen. I  
23 think it probably does.

24 And, therefore, my clients were not subjected to paying  
25 the other side's costs or paying my firm any more money than they

1 already had, to do damage control, and that's how we left it.

2           So my client got rid of the case, because that's all  
3 they could do.

4           **Q     Okay. So ultimately your clients, John DiFrancesco**  
5 **and --**

6           MR. PADGETT: Hello.

7           CHAIRMAN WILLIAMSON: Hold on, while --

8           MS. PETERS: Mr. Padgett just showed up.

9           CHAIRMAN WILLIAMSON: Mr. Padgett --

10          MR. PADGETT: Hello.

11          MR. WILLIAMSON: -- is joining us. It's 2:16.

12          Mr. Michael Sullivan is in the middle of --

13          MR. PADGETT: Yes, Padgett has been -- Mr. Who?

14          CHAIRMAN WILLIAMSON: Mr. Sullivan is in the middle of  
15 testifying.

16          MR. PADGETT: Okay.

17          Just for the record, I called in on this telephone-only  
18 number and I get elevator music, and then there's a brief gap  
19 where I can say hello to you guys, and then elevator music again.  
20 So there you go.

21          CHAIRMAN WILLIAMSON: Go ahead, Mr. Sullivan.

22          THE WITNESS: I think, if I recall correctly, the last  
23 question was how did the case resolve or end.

24          It ended with a stipulation to dismiss with prejudice,  
25 with each side to bear its, his or her own costs and attorney's

1 fees. And that's what we did. And that was probably sometime in  
2 the latter part or the middle part of the year 2019, and that's  
3 how we left it.

4 BY MR. GOSIOCO:

5 Q Okay. Thank you, Mr. Sullivan.

6 And is it your testimony that by the time John  
7 DiFrancesco and Bob Feron approached you regarding the case, that  
8 the five-year rule had already expired?

9 A Yes. Not only had the five-year rule expired with no  
10 possibility of resurrecting it, save and except for theoretically  
11 the party being sued allowing it -- when they knew that it was  
12 there -- stipulating. And even if they stipulated, the judge  
13 would have to stipulate.

14 So there was no chance of resurrecting it. It was dead  
15 on arrival when it got to me, so I was trying to recover some of  
16 my clients' damages and mitigate what they had gone through.

17 Q Thank you, Mr. Sullivan.

18 Now, based on your 29 years of experience practicing in  
19 Washoe County, is there any reason why this case could not have  
20 been tried within the five-year rule?

21 A Hypothetically speaking, yes, but not in reality, not in  
22 my understanding of how things work here in Washoe County.

23 There was nothing in the file that I reviewed or in  
24 talking with either client that would have, in reality, prevented  
25 this case from being -- going to trial within five years.

1           And I vetted it pretty carefully, because any time  
2 anybody tells me that a case is more than five years, there's  
3 already a problem. A case should be resolved in one or two years  
4 unless it's in Las Vegas where things just take a lot longer.

5           But in Washoe County things are typically done in two  
6 years. But yes, if there was a pandemic or if somebody died or  
7 the judge died, there could be an extenuating circumstance where  
8 it could go three or four years.

9           But to not get a case to trial in five years would take  
10 some extraordinary explanation that was never provided to me by  
11 anybody, even though I reached out to try to figure out why it  
12 took so long.

13           MR. GOSIOCO: Thank you. And I'll pass the witness.

14           CHAIRMAN WILLIAMSON: Okay. Thank you, Mr. Gosioco.

15           Mr. Padgett, any questions for Mr. Sullivan?

16           MR. PADGETT: Yes. Thank you, Mr. Chair.

17

18                                   CROSS-EXAMINATION

19 BY MR. PADGETT:

20           Q     **Mr. Sullivan, how are you?**

21           A     Great.

22           Q     **Good. So how long have you been practicing where?**

23           A     I've been practicing law since 1992 in both Washoe  
24 County, State of Nevada, and also in the State of California.

25           Q     **Where did you go to law school?**

1           A     I went to the University of San Francisco for law  
2 school.

3           Q     Yeah, my dad went to Golden Gate. Okay.

4                     But back into it.

5                     So when did you get the case in issue, when did you take  
6 it over?

7           A     Well, the substitution of counsel, I believe, was signed  
8 by your office, Amy Sugden, on March 18th, 2019. I'm looking at  
9 the substitution of counsel.

10                    So it would have come in to me probably about 30 days  
11 before that, because there were several emails, voicemails and  
12 conversations with your assistant, trying to get you guys to  
13 respond to me.

14                    So I would imagine 30 days before is when I was first  
15 contacted.

16           Q     Okay. Sir, are you aware that Ms. Sugden was terminated  
17 on March 15th, 2019?

18           A     I don't have that -- I don't have that committed to  
19 memory, no. I would not know that.

20                    I do know that you sent me an email that indicated that  
21 she was no longer with your firm. I don't know the exact dates.

22           Q     Okay. That's fair.

23                    Okay. So you got the case around March 18th, and did  
24 you have any conversations with Washoe County or the attorney of  
25 record for Washoe?

1           A     I did.

2           **Q     What did he tell you?**

3           A     His name is Steve Silva, and he told me that he had had  
4 a lot of difficulty in the last year, year and a half, in  
5 communicating with your office.

6                     He was very candid, and he said at the very beginning of  
7 the case your office was very polite, cordial and professional  
8 with him, but for reasons he didn't fully understand towards the  
9 end of it case, the last couple of years, the communications with  
10 your office, whether that was with you or Ms. Sugden, kind of fell  
11 apart and he was not being responded to.

12                    Because, when I first called him, I said I've made  
13 several phone calls with both you on your voicemail, emails to  
14 you, and then leaving voicemail messages with Amy and also your  
15 assistant, and so when I called him, I remembered him kind of  
16 saying, yeah, you're sort of facing the same problems I'm facing.

17           **Q     Interesting.**

18                    Well, at that time Ms. Sugden was let go and shortly  
19 thereafter Ruth was as well.

20                    So when you got the case, what did the clients tell you?  
21 What were they looking for?

22           A     They gave me background information and they said that  
23 when they first retained your office, everything sounded really  
24 good, and that it sounded like they had this very promising case.

25                    They did not give me exact dollar figures but it seemed

1 to me like their expectations were north of a million dollars,  
2 whether that's 1, 2 or 3 million, I can't tell you, but that they  
3 were convinced that after speaking with you and the other lawyers  
4 in your office, that they had a very strong case that was worth  
5 pursuing, and they did so; but they said in the last year, year  
6 and a half, that the case sort of just fell apart and they weren't  
7 getting any responses to.

8           And I remember them saying something like they sent  
9 \$7,500 that was requested, I believe by Amy, to do work, I can't  
10 remember if it was a deposition or an appraisal, but it was  
11 something necessary for the case.

12           They sent it, but this was well after the five-year rule  
13 had run. And they asked me questions about the five-year rule,  
14 and they said that it had been discussed and that Amy had  
15 mentioned it, but not in the concrete black and white detail that  
16 I tell people.

17           To me, if I know, I say you're up against the wall, the  
18 five-year rule has run.

19           That was not the impression they were getting. They  
20 were getting the impression that the five-year rule was more of a  
21 guidance, yeah, the court has discretion to dismiss the case.

22           I said, no, unfortunately, it's black and white and you  
23 can't grovel on your knees and get it back, and Steve Silva is not  
24 about to do that.

25           So I said I don't know what you guys want me to do but



1 the patient is now dead, not on life support. I can try to use my  
2 best skills to see if we can negotiate something. And I was  
3 trying to go to a mediation. He said, unfortunately, we can't do  
4 that. There's no money available right now. And, two, my clients  
5 know about the five-year rule and I'm about to file a motion.

6 But I pled with him, please don't do that, and if we can  
7 just simply dismiss the case, walk away from it, that way at least  
8 my clients wouldn't be having -- my clients wouldn't be  
9 responsible for paying 10 or 15 or \$20,000 worth of costs and  
10 possibly attorney's fees.

11 So that's the conversation I had with both Mr. Silva and  
12 both of the clients.

13 **Q Do you remember the offer you made to me to settle any**  
14 **issues outstanding?**

15 A I remember a couple of conversations with you, some may  
16 have been leaving each other voice messages, some might have been  
17 emails.

18 And I think there was a substantive conversation, one --  
19 I think there were two that stood out.

20 One, I think, was over the \$7500 that I think was a  
21 specific payment for a specific task that was done -- I don't  
22 think the task ever got completed. I think it was we're going to  
23 go send 7500. My memory is Amy said, hey, we need to do this one  
24 last thing to get the case ready for settlement conference.

25 They sent the \$7500 in. That task, whatever it was, was

1 never completed. And I think I wrote a demand letter on that  
2 saying, hey, you ought to give them the 7500 back, the five-year  
3 rule has run. You didn't need to do it, moreover, even more  
4 importantly, you didn't do it. And it was specifically earmarked  
5 for a specific task.

6           And I wrote a letter -- that I helped write for the  
7 clients -- to say well, at least you'll get the 7500 back. And  
8 the response was either no response or we're not going to pay  
9 that. That was one specific item I remember.

10           The second one I remember -- I can't swear that it was  
11 you, it could have been Amy, but it was one of the two of you --  
12 is once I knew the five-year rule was going to run, I made the  
13 suggestion that said I think you guys should give some of the  
14 money back that these two clients have paid after the five-year  
15 rule ran, because you don't have a letter to them that says, yeah,  
16 the five-year rule ran but we still could do this.

17           And I don't know what the billing amounts are. You  
18 would have to ask them.

19           But I said morally, legally, ethically, if I were you, I  
20 would try to resolve this by giving them some of their money back.  
21 And if you don't think they deserve it or they owe you money,  
22 please give me an accounting of what was paid and what was done.

23           I couldn't get that from your office, from your  
24 assistant, and also from the lady, I think her name was Rose,  
25 whoever your assistant was, paralegal.

1           **Q     Ruth.**

2           A     Yeah, Ruth. I would talk to Ruth many times. And I  
3 would say, Ruth, if you -- I said I defend lawyers all the time.  
4 If my clients are wrong, let me know. But they have paid a  
5 substantial amount of money. The five-year rule has run. So I'm  
6 not suggesting that there's attorney malpractice, I don't know.  
7 And I don't know if they have actual provable losses. They think  
8 they do, and they very well could, but I said but for you to do  
9 work after the five-year rule runs, when that probably can't help  
10 them, because the other side can just snap their fingers and have  
11 the case over, I would insist that you give them some of that  
12 money back. And if you don't think they owe it, then give a  
13 written response. And that fell on deaf ears.

14                 But those were the only two settlement proposals that I  
15 ever remember discussing with your office.

16           **Q     Okay. So I recall that you and I spoke about the 7500,**  
17 **what I told you was --**

18                 CHAIRMAN WILLIAMSON: Mr. Padgett. Mr. Padgett. Hold  
19 up, Mr. Padgett. I'm going to stop you right there. So this is  
20 your opportunity to ask questions of Mr. Sullivan.

21                 MR. PADGETT: Yes, Mr. Chair.

22                 CHAIRMAN WILLIAMSON: If you would like to testify later  
23 in your case in chief, obviously you're more than welcome to do  
24 that.

25                 MR. PADGETT: Yeah. Yes, you're not looking for me to

1 testify at this time. Okay.

2 BY MR. PADGETT:

3 Q So, Mr. Sullivan, you did speak to me once, though,  
4 right?

5 A I believe so, yes.

6 Q Did I tell you that, you know, Amy was no longer with us  
7 and I needed to kind of look at the bill and get back to you, so I  
8 couldn't give you an opinion on the 7500 at that time?

9 A I'm not disputing that you may have said that. I don't  
10 recall the specifics of you saying Amy's gone. But if you did, I  
11 have no reason to disagree with it.

12 Q Sure. So I didn't give you a refusal on the 7500, did  
13 I? Or did I say to you, I really need to look at this, and with  
14 her gone it's going to take me a little bit of time -- but I  
15 didn't give you a flat out refusal, did I?

16 A I don't recall you ever saying no, I'm definitely not  
17 going to do it. You were very charming and very polite with me.  
18 You didn't say anything that was negative or bad.

19 I was sort of pleading with you, I need you to get this.  
20 And again sort of giving you big brother advice, that if I were  
21 you, I would address it right away, because these guys are very  
22 smart, good business men, and they feel jilted.

23 And this \$7500, I specifically remember was for a task,  
24 so I left it with you to get back to them within a reasonable  
25 amount of time.

1           And I do know, from looking at my records today, I had  
2 left many messages and/or emails with you, your office, Amy -- I  
3 would always have copied you and Ruth at your office -- and just  
4 could never get a response.

5           Q     Were you aware that we believed that Amy had breached  
6 our server and wiped out a lot of our records?

7           A     I have no information about that.

8           Q     Okay. So are you aware of the email I got from Steve  
9 Silva last summer? Did you get a copy of that?

10          A     You would have to try to refresh my memory. I don't  
11 know what Steve Silva sent you, so I don't know.

12          Q     Sure. So if -- I don't have -- unfortunately, I don't  
13 have access to Zoom so I'm on a telephonic call, so I'm not able  
14 to put the document in front of you, but I believe it's part of  
15 the record. And that document was a conversation between me and  
16 Mr. Silva where I asked him, was there an issue with the five-year  
17 rule considering Judge Polaha had continued the case for some  
18 time.

19                   Did Mr. Silva tell you what his opinion on the five-year  
20 rule was?

21          A     Yes. Mr. Silva told me that in no uncertain terms he  
22 was aware that if he were to file a motion to dismiss, it would be  
23 granted. He said Mike, this is black and white, I teach classes  
24 on this stuff.

25                   And I know a lot about Steve Silva. I know he's a very

1 intellectual, scholarly type person who I trust and --

2 Q He is.

3 A -- I've had a case with him in the past. And he told me  
4 that the five-year rule had run and that it was jurisdictional.

5 And I don't know this for certain, but I assume that he  
6 was trying -- why he didn't file a motion to dismiss sooner than  
7 he did, I don't know, because perhaps he may have been in  
8 communication with your office before I got in. But when I talked  
9 to him, he said for about the last year, year and a half, his  
10 communications were, at best, sporadic and not very responsive.

11 And that's why he was happy that I was coming in,  
12 because he said win, lose or draw, I know where I'm going to stand  
13 with you, and if we agree to disagree, so be it.

14 But that's where he left it with me, and I'm convinced  
15 that he knew if at any time he wanted to file a motion to dismiss,  
16 he would get it and win it.

17 Q Okay. So are you familiar with what Washoe County  
18 offered the clients when we took the case?

19 A Would you please repeat that? I couldn't hear the  
20 question. Would you say it slowly?

21 Q I'm sorry. So were you aware of what Washoe County had  
22 offered the clients, had on the table at the time that my office  
23 took the case? And that Ms. Sugden's --

24 THE REPORTER: I couldn't hear the last part of the  
25 question.

1 MR. PADGETT: Ma'am, the question was: Were you aware  
2 of the settlement number that Washoe County had put on the table  
3 at the time my office took the case?

4 THE WITNESS: No. I don't know.

5 BY MR. PADGETT:

6 Q Okay. So would it surprise you to learn that it was  
7 zero dollars and zero cents down from 4.2 million?

8 A It would not surprise me, because I have no basis to  
9 know. I can't agree or disagree. I wouldn't be surprised.

10 Q Okay. So were you aware that right around that time we  
11 were still going through the recession, if it was about 2012?

12 A I recall the recession being primarily in the year 2008,  
13 and every year after that it seemed to get a little bit better,  
14 depending on where you lived and worked, but by about 2012, things  
15 were starting to turn up.

16 Q And were you aware of what Washoe County put on the  
17 table for the clients, according to Ms. Sugden, in your  
18 conversations with Mr. Silva, prior to us handing the case over to  
19 you?

20 A No.

21 MR. GOSIOCO: Objection, relevance.

22 THE WITNESS: I don't know.

23 MR. PADGETT: I think it -- Mr. Chair, I think it's  
24 relevant in showing that through her work and through us -- I  
25 guess, through Ms. Sugden having rapport with Mr. Silva, I think

1 that it shows that the number put on the table was in excess of  
2 the 4.2 they originally offered, and that's to the best of my  
3 recollection.

4 CHAIRMAN WILLIAMSON: Okay. Yeah, I believe it's in the  
5 best of your recollection. I'm actually not going to sustain the  
6 objection on relevance. What I'm going to say is the witness has  
7 already testified he has no idea what Washoe County offered the  
8 first time or the second time. So there's really no point.

9 I believe you and the best of your recollection, but  
10 you're not the witness.

11 MR. PADGETT: Sure.

12 CHAIRMAN WILLIAMSON: And the witness has already  
13 testified he has no idea what Washoe County offered to these  
14 people five or seven of years before --

15 MR. PADGETT: Sure.

16 CHAIRMAN WILLIAMSON: -- they were his clients.

17 MR. PADGETT: Sure. Well, Mr. Chair, this was right  
18 before Mr. Sullivan took over the case, end of, I want to say 18,  
19 November 18, I want to say, if my recollection holds, regarding  
20 what -- being what I gleaned from Ms. Sugden.

21 BY MR. PADGETT:

22 Q Okay. So let me ask you, how big is the client's  
23 property?

24 A I know that there is approximately 40 tenants there.  
25 I've never visited the site.



1           **Q     Okay. You never visited the site?**

2           A     I have not, not that I'm aware of. I did not in this  
3 particular case go to the site. I have lived in Reno my whole  
4 life and ride bicycles, so it's possible I've been there, but I'm  
5 not certain how big it is or what the dimensions are.

6           **Q     Okay. So do you believe that the clients have been hurt**  
7 **in this case by my --**

8           THE REPORTER: Stop. I couldn't hear the question.  
9 There was interference.

10          CHAIRMAN WILLIAMSON: Hold up.

11          THE REPORTER: So I didn't hear the question or the  
12 answer.

13          CHAIRMAN WILLIAMSON: Okay. So go back --

14          MR. PADGETT: So let me start over with the question.

15          CHAIRMAN WILLIAMSON: Okay. There you go.

16          MR. PADGETT: Okay. So, Ma'am, the question asked was:  
17 Do you believe that your clients, Mr. Sullivan, were injured by my  
18 office?

19          THE WITNESS: Yes.

20          MR. PADGETT: Or their property was injured by my  
21 office? And Mr. Sullivan said --

22          THE WITNESS: Yes.

23          MR. PADGETT: Mr. Sullivan, you said -- okay.

24 BY MR. PADGETT:

25          **Q     So are you aware of -- have you done any work in eminent**

1 domain?

2 A A little bit.

3 Q How much is a little bit?

4 A A couple of cases, but I am not an expert on eminent  
5 domain, don't claim to be.

6 Q Okay. So then it's safe to say that that's why you  
7 probably have no reason to go out and look at the property, right?

8 A No. That's exactly opposite.

9 By the time the clients came to me, I was in mission  
10 critical, trying to save the clients from incurring more  
11 attorney's fees from my office, losing a motion to dismiss, and  
12 potentially, theoretically being exposed to a hundred thousand  
13 dollar or more judgment against them, if the court were going to  
14 award them attorney's fees.

15 So I never was able to get into the meat and potatoes of  
16 how valuable or how good or strong the clients' claims were.

17 All I can tell you is this. If the claims were as good  
18 as the clients thought they were, after being represented by your  
19 office for seven years, if they were that good, then my  
20 conversations to the client would have been why didn't the law  
21 firm with Mr. Padgett or Amy Sugden go to a settlement conference  
22 within the five years, and then you would know one way or the  
23 other and get an independent evaluation from a judge, or  
24 alternatively, have the case tried within five years, or  
25 alternatively, start the case four years, 11 months, 30 days

1 before, and then you could continue for a year. That's another  
2 way to continue it.

3 And I said, but since we can't get to that answer, all I  
4 can do is damage control. So that's why they didn't want to pay  
5 me to go out and see the property on the Truckee River, look at  
6 the rentals, do all the stuff that your office presumably did over  
7 seven years.

8 Q Sure. Okay.

9 So -- but you had no reason to look at a, say, income  
10 approach for an appraisal, right?

11 A Can you say that one more time, please.

12 Q So you had no reason to look at an income approach and  
13 value the property through that, correct?

14 A Correct.

15 Q Okay. Did the clients ever tell you at any point in  
16 time that the biggest problem they would have is finding a  
17 replacement property if Washoe County took theirs?

18 A They did not tell me that that would be their biggest  
19 problem.

20 Q Okay. So you're familiar with how to value a property,  
21 right? You look at -- or a commercial property, you look at the  
22 square footage and how many units, and then you look at the price,  
23 the lease price per square foot; right?

24 A That is one way to do it. I believe that there are  
25 several different methodologies that appraisers use on commercial

1 property, but the one you just stated does seem to be a perfectly  
2 acceptable mechanism.

3 Q Sure. And there's a comparable sales approach too,  
4 right?

5 A True.

6 Q Okay. And then probably the replacement value approach?

7 A I agree with that.

8 Q Sure. So eminent domain, that the statute says you get  
9 the most probable price; is that correct?

10 A I don't know that for certain, but that sounds  
11 reasonable to me, that sounds like what the law would say.

12 Q Well, it's probable price. Okay.

13 So if, would you be surprised to know that if you took  
14 the square footage value with --

15 THE REPORTER: I couldn't understand.

16 MR. PADGETT: -- and you multiplied that by --

17 THE REPORTER: Excuse me.

18 MR. PADGETT: Am I really faint? Because I'm talking  
19 pretty loud.

20 THE REPORTER: It's garbled.

21 CHAIRMAN WILLIAMSON: You sort of mumbled.

22 MR. PADGETT: All right. Let me talk a little louder.

23 BY MR. PADGETT:

24 Q So would you be surprised that the law says the  
25 landowners should get the highest price for their land, according

1 to highest and of best use?

2 CHAIRMAN WILLIAMSON: Mr. Padgett, I'm sorry, I'll  
3 interject here. I want to give you an opportunity to  
4 cross-examine every witness offered against you.

5 At the same time, Mr. Sullivan is not here to  
6 demonstrate whether he's an expert on eminent domain valuation.  
7 In fact, he stated at the beginning he is not.

8 And the question is, and the issues that are pertinent  
9 to the matter before you, is did the five-year rule pass, yes or  
10 no; were the clients damaged, yes or no; were you communicating  
11 with the clients, yes or no; did Mr. Sullivan attempt to reach a  
12 resolution with you regarding fees that were allegedly paid, and  
13 that were allegedly not properly incurred or no work was done to  
14 earn those fees; those types of things.

15 So I really, to help me and help the other panel members  
16 evaluate the allegations against you, it would be really helpful  
17 if we focused on your conduct and your involvement with these  
18 clients, not Mr. Sullivan's knowledge of different methods -- or  
19 different valuation methodologies.

20 MR. PADGETT: Thank you, Mr. Chairman.

21 However, Mr. Sullivan said that the clients were  
22 substantially hurt by Ms. Sugden's handling of the case and my  
23 office.

24 So I want to do is to show him a valuation that might  
25 surprise him. And that's why I asked him, were you aware that

1 your client said that the biggest problem they would have if  
2 Washoe County ended up condemning the property was finding a  
3 replacement property. Because a 1033 exchange, which you get in  
4 an eminent domain case, allows you to hold the property -- hold  
5 the cash, the just compensation, for up to three years, and then  
6 reinvest it in lifetime property.

7           So the reason I'm asking him the question, Mr. Chair,  
8 because he says they've been hurt, well, I beg to differ, and  
9 there's a reason for that, you know. If I can have a little  
10 latitude, I can get a little further into that.

11           CHAIRMAN WILLIAMSON: I'll tell you what, Mr. Padgett,  
12 I'll certainly give you latitude if your defense is I did the  
13 clients a favor, letting the five-year rule lapse. By all means,  
14 I'm not going --

15           MR. PADGETT: No.

16           CHAIRMAN WILLIAMSON: -- to preclude you from making  
17 that defense.

18           MR. PADGETT: That's not the picture.

19           CHAIRMAN WILLIAMSON: Please don't interrupt, the court  
20 reporter can only take one of us at a time.

21           As I mentioned at the outset, I noticed you hadn't  
22 joined us yet again after the lunch break, but one of the panel  
23 members needs to leave at 3 o'clock. We might have a little bit  
24 of latitude on that, which I'll be happy to check on at a break,  
25 but we're running out of time.

1           And so I'll give you a little bit of latitude, but I  
2 encourage you, for your own sake, focus on the issues that are  
3 alleged against you.

4           MR. PADGETT: Yes. Yes.

5           CHAIRMAN WILLIAMSON: And so with that admonition, how  
6 ever you want to defend yourself, you go right ahead.

7           MR. PADGETT: Are we, Mr. Chair, are we reconvening on  
8 another day?

9           CHAIRMAN WILLIAMSON: Yeah, I think we're really going  
10 to have to, right? You haven't --

11          MR. PADGETT: Okay.

12          CHAIRMAN WILLIAMSON: We have been able -- some  
13 witnesses have come and gone, but clearly Mr. DiFrancesco has not  
14 gotten to complete his testimony. I don't know if you plan on  
15 doing any kind of direct, so it looks like we are.

16          But, again, Mr. Padgett, we are here for you, there are  
17 three volunteer panel members attempting to give you a fair  
18 hearing, but I think -- we've been going since 9 o'clock, and you  
19 have probably been on here for an aggregate period of about two  
20 hours. And so it's very frustrating that all of us have been  
21 trying to move your case forward in your absence, so I would ask  
22 you to be respectful of the panel's time.

23          MR. PADGETT: Well, Mr. Chair, I'm happy to come back on  
24 any day you would like. I apologize, but Zoom won't come up on my  
25 screen, it won't come up on my screen. I wanted a live hearing,

1 that's what I preferred, but I'm trying to do the best that I can  
2 with the telephone.

3 Of course, I lodge an objection that I should have to do  
4 that. I feel like I'm being -- that my ability to defend myself  
5 is prejudiced for sure, for certain. However, I'll do the best I  
6 can.

7 BY MR. PADGETT:

8 Q Mr. Sullivan.

9 A Yes.

10 Q So if you've lived in Reno your whole life, you're  
11 familiar with that area where the clients' property is?

12 A Yes, generally.

13 Q Okay. Is it close to the airport?

14 A I believe it's close to the Truckee River, but I don't  
15 think it -- when you say "close," you'd have to give me a mileage  
16 or a kilometers.

17 Q Well, are you aware of any flex storage space close to  
18 the -- closer to the airport than my clients' property, or your  
19 clients' property?

20 A I am not.

21 Q Okay. Would it sound reasonable to you if I told you  
22 that that they have the closest flex storage space to the airport  
23 than any property in Washoe County as of the day of the clients'  
24 complaint?

25 A I would have no ability to agree or disagree with that.



1           Q     But you've lived there for your whole life, right?

2           A     I have, except when I went to law school and when I went  
3 to UCLA for a year.

4           Q     Okay. So in your conversations with Washoe County, sir,  
5 did you -- Mr. Silva said there was no money available?

6           A     Mr. Silva said that the amount of funds that were  
7 available, by the time I got into the case, were substantially  
8 depleted, and that they had been significant about one or two  
9 years before.

10                   He did not give me exact amounts, but my impression was  
11 that it was less than a hundred thousand dollars of a fund that at  
12 one time had millions of dollars in it for people who had  
13 situations like our clients did.

14           Q     Sure. So are you aware of Ms. Sugden pressing the  
15 clients to pay attention to the last offer made by Washoe County  
16 when she was handling the day-to-day matters on the case?

17           A     No, Ms. Sugden never told me about any offers or about  
18 any settlement negotiations or why there had not been a settlement  
19 conference or mediation scheduled. So, no, I wouldn't know that.

20           Q     Okay. So no mention of a settlement number from  
21 Mr. Silva?

22           A     No.

23           Q     That was given to your clients?

24           A     I couldn't understand your last question. Can you  
25 please repeat it.

1           Q     I said so no mention of a settlement number from  
2 Mr. Silva that Ms. Sugden --

3           MR. GOSIOCO: Objection. Asked and answered already.

4           THE WITNESS: Correct. There was no settlement numbers.

5 BY MR. GOSIOCO:

6           Q     Okay. Would it surprise you that the offer might have  
7 been north of 4.2 million?

8           A     It wouldn't surprise me. Nothing would surprise me.

9           Q     Okay. Now as far as the -- as far as the \$7500 goes,  
10 when you contacted me and we spoke, I told you, you'd have to get  
11 back to me, because I hadn't been familiar with the records,  
12 correct, as far as the cost accounting?

13          A     I don't recall you giving me anything specific about  
14 that particular item. I remember sending a letter. I believe I'm  
15 the one that drafted the letter that says send the 7500 back,  
16 because it was for a specific task and that task never got  
17 performed.

18                 I'm pretty convinced that the money that was allocated  
19 for the task, the task never got performed. And so for that very  
20 limited -- well, this one's a no-brainer, we'll write a \$7500  
21 demand letter -- that never got responded to.

22                 And even after I sent a letter out, it's always my  
23 practice to call, email, have my secretary call just to make sure  
24 that my letter was received.

25                 And then I never got any kind of a response on that

1 \$7500 issue.

2 Q Well, you and I talked to the phone, didn't we?

3 A We did talk on the phone.

4 Q Okay. Now, are you aware that there was a substantial  
5 period of time where we did not bill your clients monthly?

6 A I believe that that's a position that you've taken.  
7 I've never seen anything to substantiate that.

8 Q Okay. So if I were to show you -- I -- unfortunately, I  
9 can't show you on the billable hours, because -- well, I don't  
10 have Zoom, I can't show you an exhibit -- but did the clients  
11 mention to you at any period of time that in excess of one year  
12 that we did not bill them and the case continued on?

13 A There was some discussion about Amy -- this is my  
14 recollection, the clients telling me --

15 MR. GOSIOCO: I'm going to object to that question as to  
16 relevance. It calls for speculation.

17 CHAIRMAN WILLIAMSON: Mr. Sullivan, to the extent that  
18 that --

19 MR. PADGETT: Well, I think he's entitled to answer.

20 CHAIRMAN WILLIAMSON: -- you know.

21 THE WITNESS: Yeah. I recall Amy talking to me a few  
22 times on the phone, seeming to sort of want to cover, if not for  
23 you, for the firm, like hey, I'm just kind of the worker bee, I'm  
24 the associate, I'll see what I can do.

25 Never once did she or you or anyone from your office

1 ever send me anything or tell me on the phone the reason \$7500  
2 wasn't returned, was because you owed it.

3 I was always asking for the whole file from your office.  
4 Never got it. I was always asking for the billing records,  
5 whatever. What am I missing here? What do I go back and tell  
6 these clients, who feel like, for the last seven years, have paid  
7 money.

8 And I said there's got to be a letter that says, hey,  
9 guys, your case is not that good, it's not that strong, I think  
10 you should take \$4 million. I never saw any of that type of  
11 information, so I had nothing to go back to the client with.

12 So all I had was no communication from Amy or your  
13 office. And I've got Steve Silva telling me he's got a gun to my  
14 head, he's going to pull the trigger. So that's why I was only in  
15 on a limited engagement.

16 But nobody ever gave me anything from your office,  
17 verbally or otherwise, that said we did not charge your client for  
18 one year because we were the good guys.

19 BY MR. GOSIOCO:

20 Q Okay. And when you requested the file, you didn't get  
21 the file?

22 A I don't believe so, no.

23 No, I got something from your assistant, which I think  
24 were just pleadings. Yes, I did get that from Ruth.

25 Q But you got you made a more comprehensive request?

1           A     Yes, I made a comprehensive request for everything.

2                     What I was really looking for, what I'm always looking  
3 for, would be the communications your office would have had to the  
4 clients, and the communications your office would have had with  
5 Mr. Silva, so that I could see where the disconnect was.

6                     Why, after five years, wasn't there, at a minimum, a  
7 settlement conference? I was looking for that. Or offers back  
8 and forth, where Steve Silva would write and say, no, we're not  
9 going to give you more than this, and here is why. I never got  
10 any of that from your office.

11                    I did get some pleadings from your office, but that was  
12 it, and it was sporadic, and it was after several attempts to get  
13 it.

14           Q     Well, I apologize for that, that we don't typically work  
15 like that.

16                   MR. PADGETT: Okay. Mr. Chair? Do we have to adjourn  
17 at 3:00 p.m.? Because I can end now.

18                   CHAIRMAN WILLIAMSON: I would like to finish with this  
19 witness, if we can, if you've got a few more questions. I would  
20 like to at least get Mr. Sullivan excused, and so --

21                   MR. PADGETT: I don't think I can be finished by  
22 3 o'clock and I would like to be able to share some documents.  
23 However, I can't do that because I only have a telephone -- not on  
24 a telephonic conference.

25                   CHAIRMAN WILLIAMSON: I understand. Do you anticipate

1 being able to functionally use Zoom by another hearing date?

2 MR. PADGETT: Yeah, I don't see why not. I mean I think  
3 that -- I think that would be the case, yes.

4 CHAIRMAN WILLIAMSON: Okay. All right. I'm going to  
5 tell you what, we're -- Mr. Sullivan, number one, thank you for  
6 your time.

7 Mr. Gosioco, do you have any objection to at least  
8 adjourning right now?

9 MR. GOSIOCO: None for the State Bar.

10 CHAIRMAN WILLIAMSON: Okay. Mr. Sullivan, thank you for  
11 your time. Would you be amenable to coming back and completing  
12 your testimony at a later date, obviously, to be coordinated with  
13 you?

14 MR. SULLIVAN: Yeah, and that would be -- the only  
15 caveat -- I'm more than happy to come back, and I can start as  
16 early as 7:00 and work late into the evening, but I do have a very  
17 busy calendar in the next month, month and a half, so if we could  
18 accommodate and maybe give me a ballpark estimate as to the total  
19 time.

20 And if there are documents that are going to be  
21 reviewed, and if Mr. Padgett doesn't have the ability to put them  
22 up on the screen, if he could get them to your office or something  
23 so we could do it. But, yes, I would be available.

24 And I do have time during the weekday, but I would like  
25 somebody to contact my office and give me two or three possible

1 different time and date slots.

2 CHAIRMAN WILLIAMSON: Absolutely. I'm sure that --

3 MR. PADGETT: Mr. Chair?

4 CHAIRMAN WILLIAMSON: -- State Bar will take care of  
5 that.

6 Yes, Mr. Padgett.

7 MR. PADGETT: Would it be possible that I could send  
8 some documents to Mr. Sullivan so that his time coming back would  
9 be minimized, because he would be familiar with the documents and  
10 then I could ask him some questions?

11 MR. GOSIOCO: I'm going to object to that. I don't --

12 CHAIRMAN WILLIAMSON: Yeah, wait. We've got a couple of  
13 problems there, Mr. Padgett. Number one --

14 MR. PADGETT: Let me --

15 CHAIRMAN WILLIAMSON: Sure. Let me just go ahead and  
16 address your question. Number one, I'm not going to give a  
17 witness homework. Obviously, if you and Mr. Gosioco after this  
18 hearing want to work something out and the witnesses are amenable  
19 to it, I'm not going to get in the way of it either, but I'm  
20 certainly not going to -- unless we're going to pay his, what I'm  
21 sure is a fairly sized billable rate, I'm not going to give  
22 Mr. Sullivan any homework.

23 The other practical problem --

24 MR. PADGETT: Well --

25 CHAIRMAN WILLIAMSON: -- if you may recall, is you have

1 not even done initial disclosures or final disclosures.

2 The document, the universal documents on which to rely  
3 would be the documents that are already admitted into evidence.  
4 I'm not going to allow you to find and enter new evidence now  
5 after the discovery period is closed.

6 So we can deal with all of that at another time. We  
7 don't need to monopolize Mr. Sullivan's time any more. So why  
8 don't we adjourn now.

9 MR. PADGETT: Mr. Sullivan, thank you.

10 CHAIRMAN WILLIAMSON: Sorry? Go ahead.

11 MR. SULLIVAN: You're welcome.

12 MR. PADGETT: No, I said Mr. Sullivan, thank you.

13 MR. SULLIVAN: Sure.

14 CHAIRMAN WILLIAMSON: So we'll excuse Mr. Sullivan and  
15 work on scheduling a different time. I would think we could do  
16 with the -- with the panel, at their convenience.

17 But if there's any questions, evidentiary matters,  
18 housekeeping matters, I'm happy to stick around, I'll stay here as  
19 late as you guys want, but let's at least excuse the witness now,  
20 go off the record, we can stay on the call, and decide where to go  
21 from here.

22 MR. SULLIVAN: All right. So I'll go ahead and leave?

23 CHAIRMAN WILLIAMSON: Okay. Yeah, you are excused.

24 Thank you, Mr. Sullivan.

25 MR. SULLIVAN: Thank you.



1 MR. PADGETT: Thank you.

2 CHAIRMAN WILLIAMSON: Okay. And I think, unless anyone  
3 has any objection, we'll also go off the record.

4 MR. GOSIOCO: None from the State Bar.

5 CHAIRMAN WILLIAMSON: Mr. Padgett, are you okay going  
6 off the record, or do you want to get something on the record?

7 MR. PADGETT: No, I think I'm fine going off the record  
8 at this time.

9 CHAIRMAN WILLIAMSON: Okay. So we can -- thank you,  
10 Ms. Eisenberg. We can go off the record.

11 (A discussion was held off the record.)

12 CHAIRMAN WILLIAMSON: Okay. Mr. DiFrancesco, can you  
13 please raise your right hand?

14

15 JOHN DiFRANCESCO

16 called as a witness, having been duly sworn,

17 testified as follows:

18

19 MR. DiFRANCESCO: Yes, I do. So help me God. Can say  
20 that anymore?

21 CHAIRMAN WILLIAMSON: You are certainly welcome to.

22 Yep. Yeah.

23 So you are good. Thank you. You can put your hand down  
24 now.

25 ///

## EXAMINATION

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

BY CHAIRMAN WILLIAMSON:

Q And, Mr. DiFrancesco, really, just one question. Do you understand that all of your testimony that you gave this morning was under that same oath, and that all of that testimony was given with the intent that it is -- it is your binding testimony given under penalty of perjury?

A Yes.

CHAIRMAN WILLIAMSON: Okay. I think that will do it for today, unless Mr. Gosioco or Mr. Padgett, you have any -- again, no new evidentiary questions, but anything to tie up that potential loose end there?

MR. GOSIOCO: Nothing further from the State Bar.

CHAIRMAN WILLIAMSON: Okay. Mr. Padgett?

MR. PADGETT: No, Mr. Chair, I have nothing further at this time.

CHAIRMAN WILLIAMSON: Great. Let's go back off the record.

(The proceedings concluded at 3:05 p.m.)

-o0o-

1 STATE OF NEVADA       )  
                                  ) ss.  
2 WASHOE COUNTY       )

3

4               I, CONSTANCE S. EISENBERG, a Certified Court Reporter,  
5 do hereby certify:

6               That on Friday, May 28, 2021, at the hour of 9:38 a.m.  
7 of said day, I was present in Reno, Nevada, and took verbatim  
8 stenotype notes of the proceedings held before the State Bar of  
9 Nevada, Northern Nevada Disciplinary Board, via Zoom  
10 videoconference, in the within-entitled matter, and thereafter  
11 transcribed the same into typewriting as herein appears;

12              That I am not a relative nor an employee of any of the  
13 parties, nor am I financially or otherwise interested in this  
14 action;

15              That the foregoing transcript, consisting of pages 1  
16 through 145, inclusive, is a full, true and correct transcription  
17 of my stenotype notes of said proceedings.

18              DATED: At Reno, Nevada, this 26th day of June, 2021.

19

20

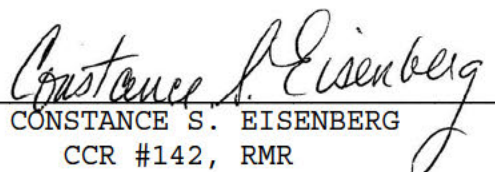
21

22

23

24

25

  
\_\_\_\_\_  
CONSTANCE S. EISENBERG  
CCR #142, RMR

1 HEALTH INFORMATION PRIVACY & SECURITY: CAUTIONARY NOTICE

2 Litigation Services is committed to compliance with applicable federal

3 and state laws and regulations ("Privacy Laws") governing the

4 protection and security of patient health information. Notice is

5 hereby given to all parties that transcripts of depositions and legal

6 proceedings, and transcript exhibits, may contain patient health

7 information that is protected from unauthorized access, use and

8 disclosure by Privacy Laws. Litigation Services requires that access,

9 maintenance, use, and disclosure (including but not limited to

10 electronic database maintenance and access, storage, distribution/

11 dissemination and communication) of transcripts/exhibits containing

12 patient information be performed in compliance with Privacy Laws.

13 No transcript or exhibit containing protected patient health

14 information may be further disclosed except as permitted by Privacy

15 Laws. Litigation Services expects that all parties, parties'

16 attorneys, and their HIPAA Business Associates and Subcontractors will

17 make every reasonable effort to protect and secure patient health

18 information, and to comply with applicable Privacy Law mandates,

19 including but not limited to restrictions on access, storage, use, and

20 disclosure (sharing) of transcripts and transcript exhibits, and

21 applying "minimum necessary" standards where appropriate. It is

22 recommended that your office review its policies regarding sharing of

23 transcripts and exhibits - including access, storage, use, and

24 disclosure - for compliance with Privacy Laws.

25 © All Rights Reserved. Litigation Services (rev. 6/1/2019)

1 Case No. OBC19-1111

2

3

4

5

6

STATE BAR OF NEVADA

7

NORTHERN NEVADA DISCIPLINARY BOARD

8

--oOo--

9

10 STATE BAR OF NEVADA,

11 Complainant,

12 vs.

BRIAN C. PADGETT, ESQ.,

13 Nevada Bar No. 7474,

14 Respondent.

15

16

17 TRANSCRIPT OF PROCEEDINGS

18 HEARING

19 VIA ZOOM VIDEOCONFERENCE

20 DAY 2

21 WEDNESDAY, JUNE 16, 2021

22

23 Job No. 770596

24 Reported By: Peggy B. Hoogs, CCR No. 160, RDR, CRR

## APPEARANCES

NORTHERN NEVADA DISCIPLINARY BOARD PANEL MEMBERS:

RICHARD WILLIAMSON, ESQ., CHAIRMAN  
NATHAN AMAN, ESQ.  
BROOKE WESTLAKE, LAYPERSON

FOR THE COMPLAINANT:

GERARD GOSIOCO, ESQ.  
STATE BAR OF NEVADA ASSISTANT BAR COUNSEL  
3100 West Charleston Boulevard, Suite 100  
Las Vegas, Nevada 89102

R. KAIT FLOCCHINI, ESQ.  
STATE BAR OF NEVADA ASSISTANT BAR COUNSEL  
9456 Double R Boulevard, Suite B  
Reno, Nevada 89521

FOR THE RESPONDENT:

IN PROPER PERSON, APPEARING VIA ZOOM

ALSO PRESENT:

LAURA PETERS, EXECUTIVE SECRETARY  
VICKI HETHERINGTON

1	INDEX	Page 3
2	WITNESSES FOR THE COMPLAINANT	PAGE
3	SEAN KESEDAY	
4	Direct Examination by Mr. Gosioco	39
5		
6	AMY SUGDEN	
7	Direct Examination by Mr. Gosioco	46
8		
9	JOHN DiFRANCESCO	
10	Redirect Examination by Mr. Gosioco	62
11	Examination by Chairman Williamson	69
12		
13	MARY JORGENSEN	
14	Direct Examination by Mr. Gosioco	73
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		

1 -oOo-

2 RENO, NEVADA; WEDNESDAY, JUNE 16, 2021; 9:04 A.M.

3 -oOo-

4

5 CHAIRMAN WILLIAMSON: Let's go on the record.

6 I want to preliminarily address Mr. Padgett's  
7 motion before we begin the hearing in earnest.

8 This is the date and time set for the continued  
9 hearing of State Bar of Nevada v. Brian Padgett.

10 Before we resume the hearing, I wanted to first  
11 address the motion that Mr. Padgett filed this morning.  
12 I've confirmed with assistant bar counsel that he also  
13 received it this morning. I'm sure he didn't have a long  
14 time to look at it but at least has reviewed it.

15 Before I hear from Mr. Gosioco in opposition to  
16 that motion, I want to address one incorrect statement  
17 that I noticed in your motion, Mr. Padgett, and that is,  
18 you stated that in the pretrial hearing you were limited  
19 to only peremptory challenges -- excuse me -- only  
20 challenges for cause. That is incorrect.

21 I think if you actually go back and look at the  
22 transcripts, I made it very clear that you could file any  
23 motion on any grounds to challenge any panel member. I  
24 pointed out that I believe the time for peremptory



1 challenges passed -- I think if you look at the DRP, it  
2 passes once a default is entered, and it does not get  
3 renewed when a defaulted party then later appears -- but,  
4 again, I invited you, if you had grounds to pursue either  
5 a peremptory challenge or a challenge for cause, I  
6 invited you to file those, and we did have a quick  
7 turnaround on that motion due to the looming hearing.  
8 You elected not to file any of the motions that we  
9 discussed at the pretrial hearing and now have filed this  
10 motion today, which appears to rehash several prior  
11 motions I've already ruled upon.

12 So with that said, I'd like to hear from  
13 Mr. Gosioco in opposition, and then, Mr. Padgett, I'll  
14 give you an opportunity to speak in reply of your motion.  
15 We'll then address the motion and can turn to the  
16 hearing.

17 MR. GOSIOCO: Thank you, Mr. Chairman.

18 I apologize ahead of time if my thoughts are  
19 kind of all over the place. I'm going to try my best to  
20 keep it as organized as possible.

21 So as you stated, Mr. Chairman, I did receive  
22 Mr. Padgett's motion to set aside orders and dismiss the  
23 case at 8:37 this morning. He makes six points, and I'll  
24 address each one of them briefly, if I may.

1           Mr. Padgett's first point is the appointment of  
2   the hearing panel chair without giving the respondent the  
3   designation of the hearing panel members' list an  
4   opportunity to use peremptory challenges to exclude.

5           As Mr. Chairman had stated at the prehearing  
6   conference which was held on -- one moment -- the  
7   prehearing conference held on May 19, 2021, you did state  
8   that Mr. Padgett did have the opportunity to make any  
9   challenges for cause or peremptory challenges he thought  
10   was fit within 24 hours. The reason it was 24 hours was  
11   because his challenges of the panel members are  
12   absolutely untimely.

13           As you had stated, Mr. Chairman, the  
14   Disciplinary Rules of Procedure are very clear as to when  
15   the appropriate time would be to challenge any members.  
16   Rule 13(a) for peremptory challenges states that "The  
17   peremptory challenges shall be delivered to the Office of  
18   Bar Counsel" and "If a Notice of Intent to Proceed on a  
19   Default Basis is filed and served...then that other party  
20   has waived the opportunity to exercise any peremptory  
21   challenges." So not necessarily the default itself,  
22   Mr. Chairman, but the Notice of Intent to Proceed on a  
23   Default Basis, which in this case had been filed actually  
24   two separate occasions, once before the original hearing

1 on October 15, 2020, and once before the instant hearing  
2 today.

3 As to the for-cause challenge, that is also  
4 untimely because the motion must be filed within ten  
5 judicial days after the members of the panel are  
6 appointed or the party receives notice of the grounds for  
7 disqualification, whichever occurs later.

8 At no point did Mr. Padgett mention any reasons  
9 for disqualification, any grounds for notification, and  
10 he has been noticed of the panel members since at least  
11 January when he had sent an email to the chairman as well  
12 as the other panel members requesting a stay of these  
13 proceedings. So he was on notice of the panel members  
14 already, and at that prehearing conference, the only  
15 person -- the only panel member that I was amenable to  
16 Mr. Padgett filing any type of a challenge was regarding  
17 Ms. Westlake because she had come in earlier to replace  
18 another panel member, and because of her late  
19 appointment, I did not oppose to Mr. Padgett filing any  
20 challenges as to Ms. Westlake.

21 So for those reasons, his challenges are  
22 untimely, and not only are they untimely, they're without  
23 merit.

24 As to his second point, Mr. Padgett brings up

1 no live hearing so respondent cannot confront his  
2 accusers and effectively cross-examine. This argument  
3 actually states that he has been prejudiced because this  
4 has been held on Zoom and, based off of directives of  
5 Governor Sisolak, that we should not be having these  
6 hearings via Zoom. He also argues that this is an equal  
7 protection violation as similarly situated lawyers in  
8 disciplinary hearings would have been allowed to face  
9 their accusers and examine and cross-examine witnesses  
10 directly with no Zoom barrier.

11 Mr. Padgett was on the call on May 28th or  
12 29th. He had an opportunity to cross-examine those  
13 individuals. Not only that, Mr. Padgett was aware of  
14 these proceedings being conducted on Zoom since at least  
15 February 22, 2021, when we held the initial case  
16 conference with Mr. Padgett on the phone where we had  
17 held that it's going to be held on Zoom until further  
18 notice and that he may submit his reasoning to conduct a  
19 live hearing by April 28th. Mr. Padgett did, in fact,  
20 submit his reasonings on April 21st. The State Bar  
21 responded on April 28th. Mr. Panel Chair ruled on  
22 April 28th and held that it was on Zoom.

23 So any prejudice based on this is created by  
24 Mr. Padgett's own conduct. He knew this was going to be

1 happening over Zoom, and, again, this is untimely.  
2 is this being raised 23 minutes before the continued  
3 formal hearing?

4 As to his third point, again, he states that  
5 the first day of the hearing started without respondent  
6 who only had telephonic access. Again, I reiterate my  
7 points as to his second argument. Mr. Padgett has been  
8 aware that this hearing would be conducted via Zoom. He  
9 should have prepared for the Zoom hearing. In fact,  
10 prior to today's hearing, Ms. Peters actually emailed  
11 Mr. Padgett on June 11th to ask if he would like to do a  
12 run-through to make sure there were no issues, and I  
13 believe Mr. Padgett responded yesterday that -- he said  
14 he tried, and he still had some issues coming up with his  
15 camera and that he's working on it. But, again, this is  
16 untimely.

17 As to his fourth argument, he states that he  
18 was denied the opportunity to call his own witnesses and  
19 use his own exhibits. As I stated in my trial brief, the  
20 Amended Scheduling Order clearly dictates when motions  
21 and disclosures were to be due. The State Bar has abided  
22 by every one of those deadlines. Mr. Padgett has not.

23 First and foremost, the initial disclosures,  
24 they were due on May 9th -- I'm sorry -- March 9, 2021.

1 I believe Mr. Padgett sent an email -- and that was due  
2 at 5:00 p.m. I believe Mr. Padgett sent Mr. Chairman as  
3 well as myself an email at 4:59, one minute prior to the  
4 deadline requesting an extension.

5 Mr. Chairman graciously allowed him to --  
6 granted an extension for two days, and Mr. Padgett did  
7 file what he describes as his initial disclosures.  
8 However, no witnesses were identified except for  
9 Mr. Padgett. He vaguely mentions documents. He did not  
10 actually produce any documents, and so the State Bar  
11 requested multiple times that he provide those identities  
12 of the witnesses as well as documents so that the State  
13 Bar has an opportunity to review what evidence  
14 Mr. Padgett would like to present at the formal hearing.

15 Mr. Padgett did not fix those issues, so the  
16 State Bar was forced to file a motion to compel, and,  
17 again, with the motion to compel, Mr. Chairman gave  
18 Mr. Padgett an ample amount of time to respond. He  
19 chalks it up to being a misunderstanding to the Amended  
20 Scheduling Order. However, at the end of the day,  
21 Mr. Chairman did again graciously give Mr. Padgett a  
22 response to file an opposition to the State Bar's motion  
23 to compel.

24 So Mr. Padgett already complained that he

1     didn't have the opportunity to oppose the State Bar's  
2     motion because the panel chair had already ruled on it,  
3     and Mr. Chairman did set aside that order giving  
4     Mr. Padgett the opportunity to file that opposition so  
5     that Mr. Panel Chair could revisit that issue, but,  
6     again, after being given a second opportunity to file an  
7     opposition to the State Bar's motion to compel,  
8     Mr. Padgett didn't submit anything. So, therefore, I  
9     would ask that that argument be denied, and it's without  
10    merit.

11               The second-to-last argument is failure to  
12    remove myself from the case. As I stated in my  
13    opposition, Mr. Padgett's motion was extremely untimely.  
14    The Amended Scheduling Order clearly stated that any  
15    motions shall be -- the parties shall file any motions on  
16    or before April 5, 2021, and Mr. Padgett filed the motion  
17    to remove myself from this case on April 30, 2021,  
18    25 days after the deadline. And not only that, in my  
19    opposition, his arguments are essentially a regurgitation  
20    of his Supreme Court briefs in his other disciplinary  
21    case, which his reasoning is -- it's a regurgitation of  
22    his arguments in the Supreme Court briefs which were  
23    filed well before the April 5 deadline, so there was no  
24    reason Mr. Padgett could not have made these arguments

1 prior to the motion deadline. Instead, this motion is  
2 simply -- is a frivolous motion and is not made in good  
3 faith and was made for purposes of delay.

4 In his motion to remove myself from this case,  
5 he requested that the instant proceedings be stayed until  
6 a new assistant bar counsel be assigned. Mr. Panel Chair  
7 denied this motion, and, again, he's bringing it up  
8 23 minutes before today's hearing, so for that reason the  
9 State Bar would request that you deny this argument.

10 And, lastly, Mr. Padgett takes issue with  
11 Ms. Sugden. He states that she was hired as an  
12 independent contractor, that she handled all these cases  
13 regarding the DiFrancescos, and he makes this argument  
14 that Ms. Sugden compromised his firm and deleted emails  
15 and breached his security servers without any proof. My  
16 opposition would state that essentially these are all  
17 attempts -- not only this argument, but his other  
18 arguments in his motion -- to introduce evidence that he  
19 was excluded from introducing in this case.

20 Not only that, he makes another  
21 misrepresentation where he states that, "However, she is  
22 not facing discipline and will be called as a witness for  
23 the State Bar in this disciplinary case." It's public  
24 record that Ms. Sugden did receive a public reprimand for



1 the DiFrancesco case, so that's another material mistake  
2 in Mr. Padgett's motion.

3 But for the foregoing reasons, Mr. Chairman,  
4 the State Bar would respectfully request that  
5 Mr. Padgett's motion in its entirety be denied.

6 Thank you.

7 CHAIRMAN WILLIAMSON: Thank you, Mr. Gosioco.

8 Mr. Padgett, anything in reply or in rebuttal?

9 MR. PADGETT: Yes, Mr. Chair. Just a couple  
10 points.

11 By and large on the whole, I'll stand by my  
12 written pleadings. I will state that any public  
13 reprimand received by Ms. Sugden is news to me. It's  
14 news to me, and it should not be news to me. Ms. Sugden  
15 was handling the day-to-day matters in this case. She  
16 got a public reprimand, yet I'm going through a  
17 disciplinary hearing. I find that to be very  
18 interesting, and it seems we're being treated  
19 dissimilarly. I had no idea. I think that would  
20 certainly factor into the bearings on this disciplinary  
21 hearing, sir. I feel that I've been extremely prejudiced  
22 as to that.

23 I'd also tell you that in the last -- in day  
24 one of this hearing, which was supposed to be cumulative,

1 a cumulative hearing, a prior attempt was made in good  
2 faith to conduct a hearing without a camera being  
3 workable for Zoom, so I participated telephonically. We  
4 did not finish a single witness, and I lodged all  
5 necessary objections to my having to participate  
6 telephonically.

7 And so today, as I had noticed with Ms. Peters,  
8 it looks like the camera on the laptop is burned out, so  
9 I would be relegated to a telephonic session, and I will  
10 tell you that the reason that I lodged my objections  
11 previously is because telephonic is not going to do it.  
12 I'm sure Mr. Gosioco would be thrilled if I was to agree  
13 to that and go forward telephonically. However, I can't  
14 do that. This is my license to practice.

15 I have never, and I repeat never, been  
16 sanctioned in any way, shape, or form until we got three  
17 cases that came before the -- came before the Bar that  
18 were then forwarded to me in the summer of 2019, all  
19 three with Ms. Sugden's fingerprints on them, and  
20 Ms. Sugden had just been fired three to four months prior  
21 to that time. So I would have to say that there is  
22 certainly a tangent here, a correlation between  
23 Ms. Sugden and what happened in those cases.

24 She worked for me for nine years as an

1 independent contractor. She went home when she wanted;  
2 she came in when she wanted. We wrote all checks to Ace  
3 Legal, LLC, the name of her contracting company. We had  
4 every reason to trust that -- in nine years I had seen  
5 enough from Ms. Sugden that I trusted her ability to  
6 handle the day-to-day matters in the cases, in certain  
7 cases, and yet at the same time that's not what she was  
8 doing.

9 I cited in my motion that there were about  
10 three instances where I sent written correspondence to  
11 the Bar, detailing to the Bar that I was extremely  
12 concerned that the server had been breached, that we  
13 believed it was Amy Sugden. It looks like that was  
14 confirmed by an IT company as well as an independent  
15 investigator hired by my firm. That also hampered our  
16 ability to pull documents and put them on in this case in  
17 my own defense.

18 So to that extent, I just want to make one last  
19 point, and then I'll stand on the written pleadings.

20 I am stunned to hear that Ms. Sugden got a  
21 reprimand for this. She was handling the day-to-day  
22 matters. She also handled the DKB case and the case with  
23 Ian Richie. I'm not aware she got any reprimand there.  
24 I know that I was suspended for five years, which doesn't

1    stack up anywhere close to similar situations. I didn't  
2    have any hands on to the extent it would have been  
3    necessary to give me that type of penalty.

4                So in this particular case, yes, I vehemently  
5    object to the fact that anyone advised me there was a  
6    public reprimand, and if it was public, why didn't I hear  
7    about it? It must not have been so public. I'd like to  
8    see what Ms. Sugden got in relation to me. There was no  
9    opportunity to discuss this case with Mr. Gosioco. There  
10   was no opportunity to discuss a reprimand situation. I  
11   don't know that I would have taken one. However, I don't  
12   know that I would not have. It was never offered.

13              So, again, here we have similarly situated  
14   individuals treated differently. So to that, again, I  
15   say the proceedings in this hearing have irreparably  
16   prejudiced and harmed me, and I would ask that this case  
17   be set aside and stand down so I can take a look -- for  
18   those reasons set forth in my written pleadings, but also  
19   because I want to see what Ms. Sugden got, what type of a  
20   reprimand did Ms. Sugden get, and why should it be lesser  
21   than I know what Mr. Gosioco would like to hang on me.

22              So to that extent I'd ask that this time be  
23   taken to explore that, and then perhaps a resolution can  
24   be reached as I will not stand for a hearing where I'm

1   relegated to the telephone again when, as you stated,  
2   Mr. Chair, in your Amended Scheduling Order, you're going  
3   to follow what is required by health officials. Health  
4   officials right now are saying everything is wide open,  
5   just as the justice court, five days ago, went ahead and  
6   withdrew their mandate for Zoom or BlueJeans -- excuse  
7   me -- BlueJeans conferencing or telephonic conferencing  
8   only in hearings.

9               Thank you very much.

10              CHAIRMAN WILLIAMSON: Okay. Thank you,  
11   Mr. Padgett. I wanted to go through each one if I can.

12              Before we get there -- well, I'll go through  
13   each one.

14              So first off on the peremptory challenges, I'm  
15   going to deny that on a couple grounds.

16              First, as Mr. Gosioco pointed out, any  
17   challenge for peremptory was waived, and any challenge  
18   for cause was untimely. Moreover, you were given the  
19   opportunity to assert any challenges you wanted to, did  
20   not do that timely even after I provided an extension,  
21   and even this motion just vaguely complains that you  
22   didn't get a chance to challenge but yet does not  
23   challenge. So the motion should also be denied on the  
24   merits because there's simply no support.

1           Regarding -- let me just kind of make sure I've  
2   got your arguments in order, Mr. Padgett. Okay.

3           Regarding the live hearing, again, this is --  
4   you basically refiled the same motion that you had filed  
5   several months ago asking for a live hearing. You are  
6   right that after we already commenced this Zoom hearing,  
7   that the health conditions did change effective  
8   January 1st -- excuse me -- effective June 1st, but this  
9   hearing commenced in May, and we had to go by what the  
10   public health officials and what the rules were at the  
11   time.

12           I'd also point out that in May you wanted to  
13   force everyone to fly to the same place and prevent  
14   anyone from wearing masks, which would have been a  
15   violation of both local and state regulations. So, yes,  
16   things have changed, but this hearing has already  
17   commenced. Moreover, you're reraising this untimely.  
18   You're reraising this this morning, on June 16th, a few  
19   minutes before we start the hearing rather than bring it  
20   up on June 1st and saying, "Hey, things have changed.  
21   Can we change the protocols for the hearing?" I don't  
22   know what I would have done if a properly supported  
23   motion had been filed on June 1st, but certainly minutes  
24   before the hearing I'm not inclined to change what we've

1 already got set in place, particularly when at the end --  
2 and now this sort of goes into your third point --  
3 particularly when at the end of the last hearing and on  
4 the subsequent conversations scheduling today's dates, I  
5 made very clear that you needed to have Zoom access; you  
6 needed to do whatever you needed to do to be able to  
7 participate via Zoom.

8           And I'm sorry that you feel or are somehow  
9 relegated to telephone access. I realize people are in  
10 different situations, and I am sympathetic to that, and I  
11 do recognize computer equipment can be expensive. At the  
12 same time, I, like you, am a litigator, and I'm quite  
13 used to -- over the last 18 months, numerous things have  
14 had to be held via Zoom and other remote means. I can  
15 get Zoom on my phone, on my iPad, on my desktop at work,  
16 and on my laptop at home, as well as my children have  
17 Zoom. So I find it a little bit incredulous for you to  
18 state that you are without the abilities to participate  
19 via Zoom.

20           Again, this seems to be a calculated move to  
21 try and delay this case, but, regardless, you know, I  
22 also practice in California -- I'm not sure whether you  
23 do -- and numerous things are done there via telephone,  
24 via CourtCall, you know, long before the pandemic. It

1 does not present any due process concerns. You certainly  
2 have the ability to participate by whatever means you  
3 choose, and I feel that if you had done your level best  
4 to find a way to participate via video, via Zoom, you  
5 could have done that. For whatever reason you're not  
6 able to. I'm glad you're here on time this morning by  
7 telephone, and I strongly encourage you to participate  
8 the full day via telephone.

9           The fact that we started the Zoom hearing  
10 without your participation the last time, yes, that is  
11 true. As I think even your moving papers pointed out,  
12 you said approximately the first hour was done without  
13 your participation. That's actually not true. We waited  
14 for you, I think, until 9:54, so 54 minutes after the  
15 hearing was supposed to commence. Let me just check my  
16 notes on that, but I believe it was sometime around the  
17 late 9:00 o'clock hour, and then you did not join us  
18 until 10:23, so an hour and 23 minutes after the hearing  
19 was supposed to start.

20           Again, as you know, the panel members are  
21 volunteers. I cannot just make them sit on Zoom until  
22 maybe sometime in the afternoon when someone feels like  
23 showing up for their formal hearing that's been noticed  
24 for months. So, yes, after giving you more than ample



1 time to appear and participate, we did commence the  
2 hearing around approximately 9:54 -- again, the record  
3 may bear me out on that or I may be off a few minutes one  
4 way or the other, but we did wait quite a long time and  
5 allow you plenty of time to show up. I know it was after  
6 9:30, and so I believe we only proceeded without you for  
7 less than 30 minutes or approximately 30 minutes before  
8 you finally did join us. So, again, that aspect of your  
9 motion is denied.

10 With regard to your complaint that you were  
11 unreasonably denied the opportunity to call your own  
12 witnesses and use your own exhibits, that is actually not  
13 true. So, number 1, as Mr. Gosioco pointed out, you had  
14 ample notice when the initial disclosures were due. You  
15 did not make any initial disclosures by the date stated  
16 in the Amended Scheduling Order. Again, as Mr. Gosioco  
17 pointed out, a few minutes before 5 o'clock, you asked me  
18 for additional time, and I gave you additional time, and  
19 then I believe on March 11th you filed initial  
20 disclosures that were woefully inadequate.

21 And, again, I would remind you that the subject  
22 of this hearing is your performance in a litigation case,  
23 and some of the evidence we have already heard goes to  
24 whether or not you pursued discovery appropriately based

1 on your clients' expectations and your clients's express  
2 directives, and yet, amazingly, your initial disclosures  
3 blatantly violated NRCP 16.1 and the Disciplinary Rules  
4 of Procedure, and so, again, I think you need to look  
5 maybe a little more in the mirror as to why you have  
6 limitations on what witnesses you can call.

7 But even with your inadequate disclosures, as  
8 you recall, I did not preclude you from calling all  
9 witnesses. Rather, your initial disclosures only listed,  
10 I believe, yourself by name. Everything else was through  
11 some sort of pseudonym, that you didn't actually list  
12 other witnesses, and so I confirmed that you could  
13 call -- excuse me -- you could speak yourself and appear  
14 as a witness, and, frankly, your initial disclosures did  
15 not list any other named witnesses. Therefore, you  
16 precluded yourself.

17 You also chose to not file any final  
18 disclosures at all. You filed no final disclosures in  
19 this case. Again, under the DRP, that and Rule 37 of the  
20 NRCP precludes you from being able to call witnesses.

21 With regard to your complaint on Ms. Sugden, I  
22 don't even think you listed her as a witness. I don't  
23 have your initial disclosures up in front of me, but I do  
24 not believe she was even one of your named witnesses.

1 Again, I think you were the only named witness in your  
2 initial disclosures, so I think it's very difficult for  
3 you to complain that you can't call her as a witness  
4 because you didn't seek to call her as a witness, but,  
5 certainly, if she appears and testifies, you are more  
6 than welcome to cross-examine her. Again, I did not  
7 preclude you from cross-examining any other witnesses.

8 Two other clarifications I want to point out:  
9 First, you stated we did not finish any other -- any  
10 witnesses at the last hearing. That's actually not true.  
11 There was a witness from the State Bar -- and I  
12 apologize. Let me review my notes.

13 MR. PADGETT: I believe Mr. Sullivan and  
14 Mr. DiFrancesco.

15 CHAIRMAN WILLIAMSON: Also Louise Watson  
16 testified, and she completed her testimony.

17 MR. PADGETT: Was Ms. Watson first in time,  
18 because I never heard her testimony at all?

19 CHAIRMAN WILLIAMSON: She was called at  
20 1:57 p.m., and as you recall, we resumed at -- I think we  
21 agreed to resume at either 1:30 or 1:45.

22 The ultimate point I want to point out is you  
23 complained you had no knowledge of Ms. Sugden's public  
24 reprimand. While I was kind of preparing my response

1 here, I went on the State Bar's website, typed in  
2 "Sugden," and her disciplinary record is publicly  
3 available on the State Bar's website.

4 My guess, although I don't know, is that it was  
5 also in the back of the Bar magazine at some point over  
6 the last few months because when I clicked on the  
7 hyperlink on the website for the State Bar, the public  
8 reprimand that came up for Ms. Sugden was file-stamped  
9 January 26, 2021. So I'm sorry that you did not do your  
10 due diligence or were not aware of that, but, again,  
11 that's publicly available information. Certainly, if  
12 you're preparing to cross-examine a witness, I would  
13 think you would want to at least check their State Bar  
14 status.

15 I also see that she received the public  
16 reprimand based on a conditional guilty plea in exchange  
17 for a stated form of discipline. So I also want -- I was  
18 not involved in that case. I don't know anything about  
19 it. From just my facial review, it does not appear that  
20 there's any disparate treatment. Rather, Ms. Sugden  
21 chose to enter into a conditional guilty plea for a  
22 stated form of discipline so that she sort of knew what  
23 she was getting. That's her right. You have chosen to  
24 vociferously dispute and defend and argue in these

1 proceedings, and that's your right. So it is not that  
2 the State Bar is treating anyone differently. It is that  
3 the two respondents chose markedly different strategies  
4 for how to respond to their respective Bar complaints.

5 But, again, if Ms. Sugden appears and  
6 testifies, you're welcome to cross-examine her on  
7 whatever basis you see fit. I would just caution you, on  
8 the motion that you filed, that you don't want any  
9 testimony where supposedly Ms. Sugden may have  
10 represented you or where there may be an attorney-client  
11 relationship between you. So if you choose in any  
12 cross-examination of Ms. Sugden to invade your claimed  
13 attorney-client privilege, I just want to warn you that  
14 would waive the privilege, and at that point, despite my  
15 prior ruling, then Mr. Gosioco would be able to go into  
16 any client privilege issues.

17 As to the failure to remove Mr. Gosioco, again,  
18 you filed that motion late, but you also filed it about  
19 45 days ago, it was disposed of, and I see no grounds to  
20 revisit it here. It is equally unsupported in this  
21 motion as it was in the previous motion, and it is even  
22 more so untimely now than it was before. So I'm going to  
23 deny that portion of your order as well.

24 And, finally, I already touched on this subject

1 a little bit, but your statement that, you know, she was  
2 an independent contractor and so on and so forth, to me,  
3 seems like one of the factual issues that you are raising  
4 in this hearing. Again, I want to welcome you to raise  
5 any factual issues or disputes that you see fit, but  
6 based on the last hearing, I already understand it's the  
7 Bar's position she was an employee, it's your position  
8 that she was an independent contractor, and regardless of  
9 what her employment status was, I think another key issue  
10 is whether or not you were the supervising attorney of  
11 her in the DiFrancesco case and whether or not you  
12 fulfilled your duties to the Bar, to the public, and,  
13 most importantly, to your clients in that role, if any.

14 So to the extent you raise some sort of factual  
15 disputes as to the characterization of Ms. Sugden as  
16 either an independent contractor or an employee, to me  
17 that seems like a factual issue that will be decided in  
18 this hearing and is not appropriate for some sort of a  
19 dispositive motion filed on the morning of the final  
20 hearing. So I'm not going to rule one way or the other  
21 on whether she was an employee or an independent  
22 contractor but will reserve judgment to the extent that  
23 that affects the outcome of these disciplinary  
24 proceedings whatsoever.

1           So I think I've now addressed everything in  
2 short. To the extent I didn't already state this, your  
3 motion was untimely, all the grounds therein were  
4 untimely, many were unsupported by either factual and/or  
5 legal support, and so I am denying the motion.

6           I'll ask Mr. Gosioco to prepare a proposed  
7 order. Obviously we've got other things to do today, so  
8 that written order can come later, but I will deny the  
9 motion on all the grounds filed.

10           With that, Mr. Gosioco, could you please call  
11 your next witness.

12           MR. GOSIOCO: Thank you, Mr. Chairman.

13           MR. PADGETT: Mr. Chairman, if I might before  
14 Mr. Gosioco gets started, I can't continue in this manner  
15 with no video. I need an in-person hearing, as I've  
16 requested, or some manner other than telephonic. It's  
17 absolutely untenable. And then hearing Mr. Gosioco talk  
18 about, well, Mr. Padgett, you did appear at the last  
19 hearing, and, you know, you did participate, and you  
20 asked some questions. Yes, I did. I did the best that I  
21 could in good faith while still maintaining my  
22 objections. However, it's impossible to adequately  
23 defend myself with no video. Actually, it's impossible  
24 to defend myself without having an in-person hearing.

1 That's the objection. It's the primary objection in this  
2 case. You cannot relegate somebody whose license is on  
3 the line to telephonic or even Zoom.

4 Now, I understand that you might have done  
5 Zoom, but I will tell you in every BlueJeans hearing I've  
6 done, I've opted for the telephonic option because I've  
7 found that it was much easier direct, and as long as my  
8 pleadings got filed, I wasn't dealing with evidence, I  
9 wasn't dealing with examining or cross-examining  
10 witnesses.

11 This puts me at a significant disadvantage and  
12 makes it so -- sure, I've got a tiny iPhone, but the only  
13 way I can work with exhibits, I've got to have a fixed  
14 camera, and the reason, apparently, I wasn't able to tap  
15 into Zoom before was simply that the video itself was  
16 out.

17 So now we find this out, and I'm saying to you,  
18 listen, your Amended Scheduling Order says that you're  
19 going to follow what's going on healthwise in the county  
20 at the time. As of May 28th, we had schools that had  
21 resumed classes, the governor had mandated masks in  
22 casinos for those people that had not -- for those people  
23 that had not been vaccinated at that point in time and  
24 ruled out large arena-style gatherings. Other than that,



1 we've resumed kind of a back-to-normal schedule. So I'd  
2 ask that, yes, everybody convene in Las Vegas because  
3 DRP, the Disciplinary Rules of Procedure, I believe Rule  
4 20, says that's what I'm supposed to be able to have.  
5 I'm supposed to be able to have a hearing down here in  
6 Las Vegas at my principal place of business, and that is  
7 Las Vegas.

8 Now, any time that you and I and Mr. Gosioco  
9 had talked about this, you had mentioned while up in Reno  
10 but the rules don't even contemplate and never did  
11 contemplate having a hearing in Reno. They contemplated  
12 having a hearing in Las Vegas, and now we're hearing  
13 Zoom.

14 The reason Mr. Gosioco -- I want to make a  
15 clear record here. We had stated -- we had this  
16 discussion in February, and he told you at that time we  
17 should do the Zoom conference, and I said, Mr. Chair, I'd  
18 like us to look at this a little closer in time to the  
19 hearing because if the vaccinations start rolling, we  
20 could have a different situation here in a month, two  
21 months, three months from today. It could markedly  
22 change the climate and the environment for an in-person  
23 hearing.

24 We did discuss it again in April, and you

1 declined a live hearing at that time, and then at the  
2 prehearing conference on May 19th, you declined it again.  
3 And my thought was, well, wait a minute now, if we look  
4 at when you put in the Amended Scheduling Order, which  
5 was filed in February of 2021, it says that you're going  
6 to follow health guidelines regarding this hearing, and  
7 it says here -- and I'll just be very brief, Mr. Chair --  
8 it says here the hearing for this matter, it says here,  
9 will take place either via Zoom or in person pursuant to  
10 public health recommendations.

11 Both for the first hearing on the 28th, public  
12 health recommendations said it would have been fine to  
13 convene a group setting, small group settings. I believe  
14 there's ten people on the phone. I believe group  
15 gatherings were allowed at that point in time, and,  
16 frankly, I was surprised that there hadn't been the issue  
17 of a live in-person hearing broached now as a result  
18 of -- as a result of what's been going on with the  
19 vaccination rates.

20 We're now at 70 percent of all Americans  
21 vaccinated, so we're almost close to that herd immunity,  
22 but in any event, there's no masks anywhere now except  
23 for those people that haven't been vaccinated, and I was  
24 surprised considering my request multiple times to have

1    this hearing take place live and in person so I could  
2    work with exhibits and witnesses.  You can't do that on a  
3    telephone.  I think you know that, Mr. Chair, and you  
4    can't do that over Zoom.  I think you know that, too.

5                   And no trial lawyer would ever agree to do a  
6    trial on Zoom.  They would punt until the situation got  
7    better, which is what I had asked us to do.  Let's look  
8    at the situation.  Let's have a hearing on this.  Let's  
9    look at it as close in time as we can, and at the time we  
10   looked at it, health guidelines did allow for an  
11   in-person hearing, and that in-person hearing should have  
12   been relegated to Las Vegas, you know, where I regularly  
13   reside and practice as a matter of course here in  
14   Las Vegas.

15                   So to that extent I cannot go forward on the  
16   telephone.  It is absolutely prejudicial and ludicrous  
17   for me because I cannot defend myself, because the rules  
18   allow for an in-person hearing, and at the time of the  
19   May 28th hearing, there was ample opportunity to follow  
20   the guidelines.  If they let children back in school,  
21   then they should have -- Your Honor, you should have  
22   allowed -- Mr. Chair, you should have allowed a hearing  
23   in person on May 28th.

24                   And certainly -- so if Ms. Watson was examined.

1 It must have been very quick. We had two other  
2 witnesses, Mr. DiFrancesco and Mr. Sullivan, and I don't  
3 think we got through half of their testimonies in total.  
4 There's no reason why we cannot have held an in-person  
5 hearing, and if I read your Amended Scheduling Order  
6 correctly, it states you're going to follow public health  
7 guidelines, so that should be something that we test the  
8 sensitivity of regularly. I've asked three times for an  
9 in-person hearing. I've been denied each time even  
10 though the guidelines suggested that that would have been  
11 fine. Now we have --

12 CHAIRMAN WILLIAMSON: Mr. Padgett, you just  
13 stated if you're reading the Amended Scheduling Order  
14 correctly. Can you point to me where in the Amended  
15 Scheduling Order you are reading from when you discuss  
16 the guidelines?

17 MR. PADGETT: Absolutely. Hold on a minute.

18 So as I look at the Amended Scheduling Order,  
19 it's page 3, paragraph 8. Okay. It says, "The hearing  
20 for this matter shall be set for one day, to wit, May 28,  
21 2021, starting at 9:00 a.m., and will take place either  
22 via Zoom or in person pursuant to public health  
23 recommendations." That's what I'm looking at.

24 CHAIRMAN WILLIAMSON: Correct. And that was in

1 May; correct?

2 MR. PADGETT: Well, at that point in time --

3 CHAIRMAN WILLIAMSON: May 28th?

4 MR. PADGETT: Yes, that was on May 28th.

5 Now, there is no line of demarcation on June 1  
6 when Governor Sisolak said no masks because schools have  
7 reconvened. The governor said you didn't need to wear  
8 masks for small gatherings, and most people, according to  
9 CDC guidelines, were not mandated to wear masks unless  
10 they weren't vaccinated. Okay?

11 So if that's the case, there was -- if children  
12 can reconvene a classroom of 20 to 30 people, then we  
13 should have been able to convene a hearing of ten  
14 people -- I suppose there's ten people here on this line  
15 now -- at that time on May 28th. And just because,  
16 Mr. Chair, you denied my request on May 19th to hold an  
17 in-person hearing doesn't mean -- with the short work we  
18 got into on May 28th, there's absolutely no reason to say  
19 that because we started on Zoom, although I was  
20 telephonic, we should continue on Zoom as a result. That  
21 scheduling order seems to suggest that we test the  
22 sensitivity as we go, and that's what I'm arguing for  
23 today.

24 CHAIRMAN WILLIAMSON: Understood.

1           And the other important point about the  
2   scheduling order is paragraph 6, which stated,  
3   "Respondent will submit his evaluation of the conditions  
4   relevant to hearing the hearing remotely versus holding a  
5   live hearing by April 21, 2021. The State Bar will have  
6   an opportunity to respond by April 28, 2021, when a final  
7   decision will be made by the panel chair."

8           That transpired, and you specifically asked in  
9   your emailed motion on April 21st that you did not want  
10   anyone to wear masks so that you could adequately examine  
11   and cross-examine witnesses called in the case, and,  
12   again, we could not have done a live hearing without  
13   masks on May 28th when this was scheduled for.

14           I also want to address something else. So in  
15   my response on April 28th, I did state that, thankfully,  
16   a Zoom hearing would allow us to do away with masks so  
17   that faces can be seen through Zoom video, and that was  
18   on April 28th.

19           Again, we proceeded via Zoom on May 28th before  
20   the mask requirement was lifted, and that's when this  
21   hearing commenced, and then at the conclusion of this  
22   hearing, when we didn't finish, everyone discussed and  
23   scheduled a new date for a new Zoom hearing, and that  
24   date was finalized on June 4, 2021. So this would have

1    been after the governor's -- the governor changed the  
2    mask mandate.

3                   And in that email I then stated, "We will start  
4    promptly at 9:00 a.m. and make the most of our time.  
5    Therefore, please make sure that you can be on Zoom a few  
6    minutes before we start. I would also recommend testing  
7    your hardware and the Zoom application far in advance so  
8    that you don't have any problems on the morning of the  
9    hearing."

10                  So on June 4th, Mr. Padgett, you were aware  
11   that we were proceeding by Zoom. I, in fact, even warned  
12   and recommended that you get your application tested,  
13   figure out whatever you needed to do so that you could  
14   participate by phone.

15                  I also -- and I'm glad you brought this up  
16   because I wanted to clarify something else -- Mr. Gosioco  
17   stated that you were aware this was going to be a Zoom  
18   hearing as far back as in January. I believe you  
19   actually knew at least as far back as October. I know  
20   Mr. Aman and I were on the original formal hearing,  
21   getting ready to start, in October of 2020 via Zoom, and  
22   that morning you apparently contacted Mr. Gosioco and  
23   asked for a continuance.

24                  So my guess is that you actually knew this was

1 going to be by Zoom all the way back in October, but  
2 certainly all through the spring you knew it was going to  
3 be by Zoom. It was on Zoom on May 28th in accordance  
4 with public health guidelines, and when we reset it for  
5 the subsequent hearing on June 4th and I again explained  
6 it was going to be by Zoom, you did not object. You did  
7 not ask for a live hearing at that point even though the  
8 health recommendations had, arguably, changed, and, in  
9 fact, you now waited until a few minutes before the  
10 hearing this morning to say that suddenly we need to do a  
11 live hearing.

12 So your arguments are untimely, and they are  
13 waived, and your motion on that ground is denied.

14 One final point and then we are going to move  
15 on to witnesses. You stated the venue issue. I believe  
16 Mr. Gosioco is in Las Vegas, and I presume, since I can  
17 see you're calling from a 702 number, that you are in  
18 Las Vegas. So you are in Las Vegas. No one forced you  
19 to fly to Reno or anywhere else in the state. You are in  
20 Clark County, and if you are outside of Clark County, it  
21 is by your own choosing. So there's certainly no issue  
22 with venue because you are, as you stated, where you live  
23 and where you practice.

24 So, again, your now thrice-renewed motion to



1 have a live hearing is denied.

2 Mr. Gosioco, please call your next witness.

3 MR. PADGETT: Thank you for hearing me out,  
4 Mr. Chair.

5 CHAIRMAN WILLIAMSON: You're welcome.

6 MR. GOSIOCO: Thank you, Mr. Chair.

7 And just briefly, if I may make just a quick  
8 suggestion. I did hear that Mr. Padgett was able to --  
9 his camera wasn't working. The nice thing about Zoom, as  
10 long as he has a working Internet connection, he can log  
11 on and still see our faces as well as the exhibits.

12 But with that, I will continue, and,  
13 Mr. Chairman, I don't know how you would like to  
14 proceed --

15 CHAIRMAN WILLIAMSON: Mr. Gosioco, thank you  
16 for bringing that up.

17 Mr. Padgett, Mr. Gosioco is right, and so you  
18 may have us at a disadvantage. I encourage you to log  
19 in, and then you can spy on all of us and see all the  
20 witness reactions although we won't be able to see you.

21 MR. PADGETT: Mr. Gosioco, good question. You  
22 won't be able to see me, but I can see you?

23 MR. GOSIOCO: That's correct.

24 MR. PADGETT: Okay. So that really doesn't fix

1 the problem, but okay. Let me try that while you're  
2 moving forward. Thank you very much.

3 CHAIRMAN WILLIAMSON: Mr. Gosioco, please  
4 proceed.

5 MR. GOSIOCO: Mr. Chairman, how would you like  
6 to proceed?

7 CHAIRMAN WILLIAMSON: Based on the experience  
8 last time, I'd say whatever witness is ready and is able  
9 to be extracted into the main hearing room here, that is  
10 fine.

11 I do want to make sure that Mr. Padgett gets an  
12 opportunity. I don't think he finished his  
13 cross-examination of either Mr. DiFrancesco or  
14 Mr. Sullivan, so I do want to make sure that happens, but  
15 we've already been bouncing around, and I do want to be  
16 mindful of witness schedules. So whichever witness is  
17 available to be called right now, let's go ahead and call  
18 that person and just keep moving.

19 MR. GOSIOCO: The State Bar will go ahead and  
20 call Mr. Sean Keseday, and I will resume -- would you  
21 like me to start my questioning when Mr. Padgett returns  
22 and tries to log in?

23 CHAIRMAN WILLIAMSON: Yeah. Let's get  
24 Mr. Keseday in. We could even get him sworn, but then,

1     yeah, let's give --

2                   MR. GOSIOCO:   Mr. Keseday, can you hear us?

3                   MR. KESEDAY:   Yes.

4                   MR. GOSIOCO:   Madam Court Reporter, for the  
5     time being, while we're waiting on Mr. Padgett, can you  
6     please swear in Mr. Keseday.

7                                 SEAN KESEDAY,

8                                 having been first duly sworn,

9                                 was examined and testified as follows:

10

11                                 DIRECT EXAMINATION

12     BY MR. GOSIOCO:

13                 Q     Mr. Keseday, we are waiting on Mr. Padgett to  
14     return, but, just briefly, can you please state your name  
15     and spell it for the record, please.

16                 A     First name Sean, S-e-a-n, last name Keseday,  
17     K-e-s-e-d-a-y.

18                 Q     Thank you, Mr. Keseday.

19                         Mr. Chairman, how long would you like us to  
20     wait for Mr. Padgett to return before I start my  
21     questioning?

22                         CHAIRMAN WILLIAMSON:   I believe Mr. Padgett is  
23     back. We've got a 702 phone number, and, in fact, audio  
24     has lit up a few times on that number, so I assume that's

1 Mr. Padgett ending in 5444.

2 MR. GOSIOCO: No, sir. That's the audio  
3 connected for Mr. Keseday.

4 CHAIRMAN WILLIAMSON: Got it. Thank you,  
5 Counsel.

6 I tell you what, it's 10:00 o'clock. Let's  
7 give Mr. Padgett five minutes to get squared in.

8 MR. GOSIOCO: Understood. Thank you,  
9 Mr. Chairman.

10 (A recess was taken.)

11 BY MR. GOSIOCO:

12 Q Good morning, Mr. Keseday. How are you doing?

13 A Good morning.

14 Q Mr. Keseday, how are you employed?

15 A I work as a legal process server.

16 Q And as a legal process server, what are your  
17 general duties?

18 A Serve legal documents, investigate.

19 Q You said serving legal documents. At any point  
20 in during your employment, did you attempt to serve an  
21 individual by the name of Brian Padgett?

22 A That's correct.

23 Q And I will just share my screen briefly.

24 Showing you what's been previously marked and

1 admitted as Exhibit 48, Mr. Keseday, can you see my  
2 screen?

3 A Yes.

4 Q Perfect. I'm going to scroll down just  
5 briefly.

6 Do you recognize this document, Mr. Keseday?

7 A Yes, I do.

8 Q And what does this appear to be?

9 A It's a picture of a vehicle that was parked in  
10 a driveway.

11 Q Okay. And I'll show you what's been previously  
12 marked and admitted as Exhibit 53.

13 Do you see this document, Mr. Keseday?

14 A Yes, I do.

15 Q And do you recognize this document?

16 A Yes, I do.

17 Q And what is this document?

18 A This is an Affidavit of Due Diligence.

19 Q And is this your signature at the bottom of  
20 this page, sir?

21 A Yes, that is.

22 Q And did you complete this affidavit?

23 A Yes.

24 Q Okay. And I'd like to turn your attention -- I

1 will highlight on the screen -- if you could just read it  
2 to yourself quietly and let me know when you are  
3 finished.

4 A Attempted at 1672 Liege Drive, Henderson,  
5 Nevada.

6 Q Okay. Is that the address you attempted to  
7 serve Mr. Padgett at, sir?

8 A That's correct.

9 Q And correct me if I'm wrong, sir, but it looks  
10 like you attempted to serve Mr. Padgett on three separate  
11 occasions; is that right?

12 A Yes, it is.

13 Q And were you able to get to the house on all  
14 three occasions?

15 A Yes, I was.

16 Q Were you alone, sir?

17 A I was security-escorted to the property.

18 Q Was that on all three occasions?

19 A Yes, it was.

20 Q Okay. And just briefly, I'm going to highlight  
21 the first portion of this attempt.

22 Can you read that to yourself quietly, sir, and  
23 let me know when you're finished.

24 A Yes.

1           Q    I just want some clarification, Mr. Keseday.

2                    You had written in your affidavit that there's  
3 no answer but could see movement inside.

4                    Now, what did you mean by that, Mr. Keseday?

5           A    Sometimes I don't go full distance into what I  
6 actually saw, but I did see a dog inside come to the door  
7 when I had rang the doorbell.

8                    The address -- the house has shaved glass on  
9 the front door so I could not directly see the entire  
10 front of the house inside, but on the edges it was clear.  
11 So I saw a dog come to the front door, and then in the  
12 background I saw a woman's high heels and a man wearing  
13 slacks and shoes walking around by a table behind the  
14 dog.

15           Q    Okay. Thank you, Mr. Keseday.

16                    Just for clarification purposes, you stated the  
17 door had both shaved glass and clear glass?

18           A    Correct.

19           Q    Okay. And when you attempt to serve an  
20 individual at a residence, what do you typically do when  
21 you arrive at the house?

22           A    Ring the doorbell, knock on the door. I look  
23 around to see if anybody is looking out the windows, if  
24 any lights are turned on or off. If I do have a clear