

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSEPH S. GILBERT, ESQ.,

Petitioner,

vs.

STATE BAR OF NEVADA,

Respondent.

Electronically Filed
Apr 13 2022 03:25 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No. 84113

RESPONDENT'S APPENDIX (VOL 1 OF 1) TO STATE BAR OF NEVADA'S
ANSWER TO PETITION
FOR A WRIT OF MANDAMUS OR PROHIBITION

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APPENDIX

Exhibit#	Document	Bates No.
1.	Original grievance w/attachments filed by James Richard C. dated January 29, 2021.	SBN001-SBN0048
2.	Roger O'Donnell's response to grievance w/attachment dated 2/19/21	SBN0049-SBN51
3.	Joseph Gilbert's Response to grievance w/attachment dated 2/18/21.	SBN0052-SBN0054
4.	Undated email from Tara C. to carlos @joeygilbertlaw.com.	SBN0055
5.	Undated email from Tara C. to carlos@joeygilbertlaw.com	SBN0056
6.	Undated email from Tara C. to Tara C..	SBN0057
7.	Email chain between Tara C. and Carlos Salmoran dated 9/23/20	SBN0058-SBN0062
8.	Email chain between Tara C. and Carlos Salmoran dated 10/7/20.	SBN0063-SBN0064
9.	Email chain between Tara C., James C., Carlos Salmoran, Daniel Staggs, Record Req dated 10/12/20.	SBN0065-SBN0067
10.	Email chain between Tara C., James C., and Carlos Salmoran dated 10/14/20.	SBN0068
11.	Email chain between Tara C., James C., Carlos Salmoran and John Durney dated 10/22/20.	SBN0069
12.	Email chain between Tara C. and John Durney dated 10/30/20.	SBN0070 -SBN 0073
13.	Email chain between Tara C. and Carlos Salmoran dated 11/10/20.	SBN0074
14.	Email to James C. from Joey Gilbert Law dated 11/20/20.	SBN0075
15.	Email chain between Tara C. and John Durney dated 1/14/21.	SBN0076-SBN0080
16.	Email chain between Tara C. and Laura Peters w/attachment dated 4/15/21.	SBN0081 – SBN0087
17.	Email from Tara C. to roger@joeygilbertlaw.com and Carlos Salmoran dated 1/18/21.	SBN0088
18.	Email chain between Tara C., John Durney and Eileen Freeman dated 1/25/21.	SBN0089 -SBN0090

19.	Undated email from Tara/James C. to John Durney, roger@joeygilbertlaw.com and Carlos Salmoran.	SBN0091
20.	Email chain between James C. and Laura Peters w/ attachment, dated 4/14/21.	SBN0092 – SBN0096
21.	Email chain between Dean Fernandez, Brian Kunzi, and Laura Peters w/ attachment dated 4/15/21	SBN0097- SBN0099
22.	Email chain between James C. and Laura Peters w/attachment dated 4/15/21.	SBN00100 - SBN00106
23.	Email chain between Mary Jorgensen, Brian Kunzi and Laura Peters dated 4/15/21.	SBN00107 - SBN00108
24.	Public Records procedure of the Office of Bar Counsel, adopted November 28, 2018.	SBN00109- SBN00112
25.	Return receipt postcard dated August 30, 2021.	SBN00113
26.	Objection to Letter of Reprimand dated September 10, 2021	SBN00114- SBN00116
27.	Notice of Intent to Proceed on a Default Basis, filed October 22, 2021	SBN00117- SBN00119
28.	Motion to Dismiss Complainant's Complaint, or in the Alternative, for a More Definite Statement, filed November 16, 2021	SBN00120 SBN00133
29.	Opposition to Respondent's Motion to Dismiss Complaint, filed November 30, 2021	SBN00134- SBN00154
30.	Order Denying Motion to Dismiss, or in the Alternative, Motion for a More Definite Statement, filed December 1, 2021	SBN00155- SBN00158
31.	Joseph S. Gilbert's Verified Response to Complainant's Complaint, filed December 15, 2021	SBN00159- SBN00179

From: nevadabarforms@gmail.com
To: [complaints; nevadabarforms@gmail.com](#)
Subject: New submission from File a Complaint Online
Date: Friday, January 29, 2021 5:57:46 PM

First, Middle and Last Name

James Richard C [REDACTED]

Your Address

601 SAM CLEMENS AVE
DAYTON, NV 89403-9718
[Map It](#)

Your Email

[taraci \[REDACTED\]@gmail.com](#)

Your Primary Telephone Number

(775) 338-8426

Your Secondary Telephone Number

(775) 338-9253

Attorney Information**Attorney Name**

Joey Gilbert

Law Firm Name

Joey Gilbert Law Office

Attorney Address

201 West Liberty Street Suite # 210
Reno, NV 89501
[Map It](#)

Previous Contact with the State Bar of Nevada**Have you previously contacted the State Bar of Nevada regarding this matter?**

No

If yes, when and how did you contact us?

N/A

If known, what was the file number for the case or claim?

N/A

Hiring the Attorney**Did you hire/retain the attorney about whom you are complaining?**

Yes

When did the representation begin?

9-11-20
What was the fee arrangement?
\$3,500.00
How much have you paid the lawyer to date?
\$3,500.00
Brief description of the nature of the case the attorney was engaged to handle (i.e. personal injury, criminal, malpractice)
Tier 1 Reinstatement and relief of registration requirements
Names and contact information for other persons who can provide additional information concerning your complaint
Tara C [REDACTED]
Litigation
Case Name
The State of Nevada Vs. James Richard C [REDACTED]
Case Number
CR98-2092
Name of court or agency
Dept No. 8
Explanation of Grievance
Complaint Details
<p>My name is Tara C [REDACTED] and for a couple of month prior to 9-11-20 I contact Carlos Salmoran about my husband, James C [REDACTED] case to see if they could help him either get moved back down to a tier 1 status or relieved of registration requirements completely. James was 6 months away from his 15 year requirement, from end of parole, to filing for release from registration when Megan's law passed. That moved James from a Tier 1, less likely to reoffend to a Tier 3, most likely to reoffend status. Changing his registration requirement that his was at for almost 15 years, of once a year to every three months and from being able to petition for registration relief to life time registration.</p> <p>I called Carlos Salmoran several time in a 3-6 month period to 9-11-20 to make sure this was a case that Joey Gilbert Law Office would want to take on as this is a very emotional subject for James. and our family. Carlos assured me it was just the type of case they were very good at handling. I finally decided to bring this very touchy subject to James the weekend of September 5, 2020. He agreed to speak to Carlos and see what he had to say.</p> <p>On September 11. 2020 James missed work to meet with Carlos and sign a contact with Joey Gilbert Law Office to submit a petition to the court on his behalf to either reduce James's registration requirement back down to a Tier 1 or release him of registration requirements completely. James paid Joey Gilbert Law Office the full amount of \$3,500.00 the required amount for their services per Carlos Salmoran.</p> <p>Since signing the contact the following has occurred.</p> <p>They spent from 9-11-20 to 10-7-20 trying to find his case.</p>

On Wednesday 10-7-20 they contact James and let him know that he was the one that needed to request the criminal file from the courts since it had been over 10 years.

On 10-7-20 at 5:24 PM Carlos told my husband to contact the court for his records.

On 10-8-20 at 12:30 PM I, Tara C [REDACTED], called the court house to find out what James needed to do to get his records. I was advised he could not to just email the request with copy of his driver license to the court house.

On 10-9-20 at 4:13 PM Court house was email with request to obtain James' records and a copy of his DL was attached.

On 10-12-20 at 9:15 AM We received email from Daniel Staggs Deputy Clerk with the Second Judicial District Court with James's criminal record file attached. All emails are sent thru [tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com) as James doesn't have access to email.

At 9:27 AM on 10-12-20 that file was to Carlos Salmoran

At 2:32 PM Carlos responded Thank you.

At 2:39 PM I asked what next step is?

At 9:27 AM on 10-14-20 I emailed Carlos Salmoran to see if he received the paperwork?

At 9:49 AM Carlos emailed that he would call me in a minute.

At 10:34 AM I, Tara C [REDACTED] responded OK

He never called

At 4:54 PM on 10-21-20 Emailed Carlos Salmoran for an update and to let him know character reference letters he requested we get from family and friends to support James's case would be mailed to their office that same weekend.

At 4:57 PM on 10-22-20 Carlos Salmoran emailed us telling us they are working on the motion and that John Durney will be calling us to gather missing information.

At 10:40 AM on 10-27-20 received email from John Durney introducing himself letting us know that he is drafting the petition for Termination of Registration Requirements for James and asking for times that we are available for phone calls.

At 12:11 PM on 10-27-20 I, Tara C [REDACTED], emailed John Durney back letting him know that James's availability and mine as well.

At 8:26 AM on 10-29-20 I, Tara C [REDACTED], emailed John Durney to see if he received email on 10-27-20?

AT 8:48 AM on 10-29-20 Received email from John Durney asking for good number and time to reach me

At 9:24 AM on 10-29-20 I emailed John Durney letting him know my and James schedule for phone calls.

AT 4:15 PM on 10-29-20 I emailed John Durney letting him know James was off work early and available for a phone call.

At 8:38 AM on 10-30-20 I emailed John Durney asking why we didn't hear from him yesterday?

At 12:18 PM on 10-30-20 John Durney emailed and said he was sorry for not contacting us he was very busy. He also told us that this was a "one-and-done" situation and that they needed to make sure it was the best possible petition prior to filing with the court. He said preliminary draft was done and submitted to supervision attorney for editing and proofing.

At 2:19 PM on 10-30-20 emailed John Durney letting him know we understand petition needs to be perfect and to take all the time needed to make it right for James's "one-and-done" opportunity.

At 3:30 PM on 11-9-20 emailed Carlos Salmoran to verify package with character reference letters was

received?

At 1:05 PM on 11-10-20 Carlos Salmoran responds he will check with John Durney on status of delivery.

At 4:44 PM on 11-20-20 We received email from Joey Gilbert Law Office telling us to activate our account with their portal to get updates on our case 24/7. I, Tara C [REDACTED] created the account same day.

AT 4:16 PM on 11-20-20 Received email from John Durney with a case update. He said again that this is going to be a long process but that the legal research and draft of the petition was done! The petition was in the final stages and would be filed with the court something the next week. He assured us he would be alongside us and in touch with us every step of the way.

At 12:15 PM on 1-4-21 I, Tara C [REDACTED] emailed John Durney for an update on our case and filing of the petition since we have not heard anything.

At 9:00 AM on 1-6-20 John Durney emailed letting us know he was sorry for late reply and that he was busy. He informed us the portal was really used for cases like James's so it was a reliable source for status updates. He provided not update on petition filing status. He said paralegals were out sick. He would follow up shortly.

At 11:51 AM on 1-7-20 John Durney emailed letting us know that the paralegal was still waiting to hear back from the court regarding a hearing date and further steps.

At 12:10 PM on 1-7-20 I, Tara C [REDACTED] emailed John Durney thanking him for the update and again asking him for dates on when the petition was filed with the court and to sent James and I a copy of the petition for our files and review.

At 12:12 PM on 1-12-20 I, Tara C [REDACTED] email John Durney again for update on case, date petition was filed and a copy to James and I via email or client portal.

At 4:51 AM on 1-14-20 I, Tara C [REDACTED] emailed John Durney again for copy of petition and verify filing date.

At 12:08 PM on 1-14-20 John Durney emailed saying he was sorry for late replay he stated back at Law School and will be in the office even less than he has been. He again said that the paralegal was out sick and he would try to locate a copy of the petition to send to us. He then provide two new contact for our case moving forward. Attorney Roger O'Donnell and Criminal Case Manager Carlos Salmoran. That they would be able to assist us more promptly. He said that he was going to consult with the attorney when he was free and get us a status of the case.

At 12:17 PM on 1-14-20 - I, Tara C [REDACTED], emailed John thanking him for his response and wishing him luck in law school. That we looked forward to receiving a copy of the petition as soon as possible.

At 5:14 AM on 1-18-20 - I, Tara C [REDACTED], emailed Mr. O'Donnell and Mr. Salmoran letting them know that John Durney has provided their contact information to James and I for all future contact on his case since John was back in school. I asked them for an update on the date of the petition filing, our case number and to get a copy of the petition. I also stressed the fact that James and I needed and wanted more communication from the firm about his case and wanted our questions answered in a more timely fashion since we have been asking for almost a month for the petition filing date and copy for our review, still with not answers.

At 12:21 PM on 1-21-20 I, Tara C [REDACTED], call Joey Gilbert Law Office and asked to speak to Carlos. I was told he was in a zoom meeting, to leave a message he would get back to me. I left our name and numbers.

At 1:05 PM on 1-22-20- I emailed Mr. O'Donnell and Mr. Salmoran to verify is my previous email on 1-18-20 was received by either party.

At 12:21 PM on 1-25-20- I, Tara C [REDACTED], called the office of Joey Gilbert Law and talked to a lady named Jessica. She took our information and she put me on hold to search for answers. After about 3

minutes on hold, John Durney got on the line. I said I was on hold with Jessica waiting for an update. He said that he was very sorry but Joey Gilbert Law was going to refund our full retainer of \$3,500. I said I don't understand what do you mean. John proceeded to tell me that they had not drafted or filed a petition for James's case. I asked him if they filed to be his legal representation with the courts after James signed the contract and paid \$3,500 on 9-11-20 John said NO. He said he was sorry but there was a horrible lack of communication at the firm and they never should have taken his case in the first place....they don't handle this type of specialized case. I cried and told him that he has been telling me that the petition was filed back in November and now I find out that it never existed and they never filed to be James's attorney for the case at all! I told John Durney that James was going to be heartbroken that they have done nothing over the past 4 months to help him.

At 1:05 PM on 1-25-20 received an email from John Durney saying he was sorry for the bad news about James's case and they they will be refunding the full amount of \$3,500.00 but it would take a few weeks. He said that Miss Eileen their bookkeeper would be reaching out to us regarding the refund. He provided a list of recommendation for post-conviction relief attorney who specialize in a case like my husbands. Then telling us he will be out of the office and reply when he can. Then wished us luck moving forward.

At 1:17 PM on 1-25-20 - I, Tara C [REDACTED] provided the requested information to Miss Eileen with our address and my cell number and asking for refund ASAP.

AT 1:20 PM on 1-25-20 - I, Tara C [REDACTED] emailed John Durney requesting the return of all original character reference letters that were obtained and mailed to their office per Carlos's request to support James's case.

At 12:21 on 1-26-20 - I, Tara C [REDACTED] email Mr. Durney, Mr. Salmoran and Mr. O'Donnell letting them know that Mr. Durney has told me that Joey Gilbert Law has decided to release James from his contact with them and asked them to provide an official letter of withdrawal including citing the reason why they made this decision 4 months after James signed a contact with the firm and they took their full fee of \$3,500.00. I also requested refund include interest for the 4 months they had the money in their possession. I asked for email confirmation of when refund will be mailed and that several weeks is not acceptable. We requested James's complete file and the original character reference letters be returned. We also asked that proof of filing to redraw as James's attorney of record be provided so that we can obtain new counsel.

I advised that this exact letter would be mailed return receipt request to the firms address.

As of 1-29-20, the time of this filing, James nor I have been contact by Miss Eileen or any other employee of Joey Gilbert Law Office via phone or email.

Explain what measures you have taken to resolve this matter directly with the attorney

We have made several attempts via email, certified mail and phone for information, updates and refund information. No contact has been made from the law office since 1-25-20. As of 1-29-20 refund hand letters have not been received.

Related File(s)

- [Return-Receipt.pdf](#)
- [Joey-Gilbert-Law-Office-Email-chain.pdf](#)
- [Joey-Gilbert-Law-Office-Contract.pdf](#)
- [C \[REDACTED\] Case-CR98-2092.pdf](#)



ORMSBY
2613 EMPIRE RANCH RD
CARSON CITY, NV 89706-9998
(800)275-8777

01/27/2021 12:08 PM

Product	Qty	Unit Price	Price
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First-Class Mail® Letter	1		\$0.55
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Reno, NV 89501
Weight: 0 lb 0.50 oz
Estimated Delivery Date
Sat 01/30/2021

Certified Mail®

Tracking #: 70192280000134206939

Return Receipt

Tracking #: 9590 9402 6228 0265 5354 71

Total \$7.00

Grand Total: \$7.00

Debit Card Remitted \$7.00

Card Name: VISA

Account #: XXXXXXXXXX8849

Approval #

Transaction #: 104

Receipt #: 018308

Debit Card Purchase: \$7.00

AID: A0000000980840

AL: US DEBIT

PIN: Verified

11000 is unactivated unactivated volume

7019 0265 1000 0822 6102

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CERTIFIED MAIL® RECEIPT
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For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Return to	0721 12
Certified Mail Fee	\$3.60
Extra Services & Fees (check box, add fee as appropriate)	\$2.85
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00
Postage	\$0.55
Total Postage and Fees	\$7.00

Sent To
Joey Gilbert Law
Street and Apt. No., or PO Box No.
2013 Liberty St. #110
City, State, ZIP+4®
Reno, NV 89501

Postmark Here
01/27/2021

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

Sep 15, 2020,
5:44 PM

to carlos, bcc: me

Good evening Carlos,

This is what I can find as far as any case number on his legal paperwork.

DA # 168551
RDP # 198832-98

I hope this helps. Please let me know if you need anything further.

We are currently working on the character reference letters as well. We should have them soon.

Thank you,

Tara C [REDACTED]

Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

Tue, Sep 15, 2020,
7:41 PM

to carlos, bcc: me

Good evening Carlos,

I don't know if this is helpful or not but here is the paperwork showing how James was assigned a level of threat upon his release back in June of 2002. I couldn't get the one page to scan completely so the bottom part is in the photo that is attached as well.

Thank you,

Tara

(will provide this if needed)

Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

Wed, Sep 16, 2020,
11:05 AM

to carlos

Good morning Carlos,

Just verifying that you received my previous emails?

Thank you.

Tara

SBN007

Carlos Salmoran <Carlos@joeygilbertlaw.com>

Wed, Sep 16, 2020,
11:13 AM

to me

I did, thank you!

Sent from my Verizon, Samsung Galaxy smartphone

Get [Outlook for Android](#)

Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

Wed, Sep 16, 2020,
6:34 PM

to Carlos

Hello Carlos,

James told me that all the numbers I gave you didn't help. Please try these

RJC: 93949

Dept: 4

These are that numbers I can find so I hope they work.

Please let me know.

Thank you

Tara

Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

Wed, Sep 16, 2020,
6:38 PM

to Carlos

Also, when do you need to have the character reference letters?

Carlos Salmoran <Carlos@joeygilbertlaw.com>

Wed, Sep 16, 2020,
7:10 PM

to me

Hi Tara hope this email finds you well.

We are trying to locate his case with second district court, for some reason we can't find the case number or any records regarding the case, also the court is closed to public to request the records in person.

Reading the letters you can drop them off by the office any day or email them with wet signatures.

Thank you.

Sent from my Verizon, Samsung Galaxy smartphone

SBN008

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Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

Wed, Sep 16, 2020,
7:53 PM

to Carlos

We are well thank you hope you are the same. When do you need the letters by? Is there a deadline?

I hope the numbers I sent you this evening will help. That is the last one I could find.

What happens if there are no records any longer?

Carlos Salmoran <Carlos@joeygilbertlaw.com>

Wed, Sep 16, 2020,
8:27 PM

to me

Tara we don't have a deadline, we are working on getting all the records and case number.

Its going to take few weeks to prepare the packages, then request a hearing with the judge, keep in mind that second district court is closed to any inperson hearings.

Sent from my Verizon, Samsung Galaxy smartphone

Get [Outlook for Android](#)

Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

Tue, Sep 22, 2020,
2:02 PM

to Carlos

Good afternoon Carlos,

Just checking in to see if you guys have made any progress on finding anything on James?

Have a great day,

Tara

Carlos Salmoran <Carlos@joeygilbertlaw.com>

Wed, Sep 23, 2020,
8:45 AM

to me

Hi Tara hope this email finds you well.

We summited a request to the court to locate the case for us , court its partial open so not sure how long is going to take for them to get back to us . if you have any documents with the case number that can help to shorts our search will be awesome, for some reason his criminal case does not appear or show any records on the data base with the court.

Thank you.

SBN009



Carlos Salmoran | Case Manager

Joey Gilbert Law

201 W. Liberty St. | Ste 210 | Reno, NV 89501 [map](#)

P: [775-284-7700](tel:775-284-7700) | F: [775-284-3809](tel:775-284-3809)

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Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

Wed, Oct 7, 2020,
1:30 PM

to Carlos

Hello there,

I know you two have been playing phone tag the last two days. The job he is currently on makes it very hard for him to answer the phone as he is often welding.

Is there anything you can tell me?

Thank you,

Tara

Carlos Salmoran <Carlos@joeygilbertlaw.com>

Wed, Oct 7, 2020,
4:26 PM

to me

Hi Tara, I know so sorry these two days been super crazy! if you want to call me so I can explain the situation and how we can get the records



Carlos Salmoran | Case Manager

Joey Gilbert Law

201 W. Liberty St. | Ste 210 | Reno, NV 89501 [map](#)

P: [775-284-7700](tel:775-284-7700) | F: [775-284-3809](tel:775-284-3809)

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SBN0010

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Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

Wed, Oct 7, 2020,
4:28 PM

to Carlos

Are you available right after 5pm when I get off work?

Carlos Salmoran <Carlos@joeygilbertlaw.com>

Wed, Oct 7, 2020,
5:24 PM

to me

Hi Tara, talked to your husband already, but if you want to call me its fine.

775713033

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

Tara C [REDACTED] <taracranfield@gmail.com>

Fri, Oct 9, 2020,
4:13 PM

to recordreq

Hello,

My name is James C [REDACTED] and I would like to request a copy of my criminal record please including all cases numbers.

My DOB is 12-22-73.

I have attached a copy of my driver license as requested.

Thank you,

James C [REDACTED]
(copy of his license is not attached if you need it please let me know)

Staggs, Daniel <Daniel.Staggs@washoecourts.us>

Mon, Oct 12, 2020,
9:15 AM

to RecordReq, me

Good morning,

SBNo011

Attached is the only criminal case found at 2JDC.

Daniel Staggs
Deputy Clerk
Second Judicial District Court

Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

Oct 12, 2020,
9:27 AM

to Daniel

Thank you Daniel!!!

Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

Mon, Oct 12, 2020,
9:27 AM

to Carlos

Good morning Carlos,

Here is the response from the court on James' request for his records.

Please let me know if none of the numbers work for you guys again!

Please let me know if they do work also.

Thank you,

Tara

(Copy of file attached as a separate document)

Carlos Salmoran <Carlos@joeygilbertlaw.com>

Mon, Oct 12, 2020,
2:32 PM

to me

Thank You.



Carlos Salmoran | *Case Manager*

Joey Gilbert Law

201 W. Liberty St. | Ste 210 | Reno, NV 89501 [map](#)

P: [775-284-7700](tel:775-284-7700) | F: [775-284-3809](tel:775-284-3809)

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SBN0012

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Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

**Oct 12, 2020,
2:39 PM**

to Carlos

Thank you. Please let us know what the next step is.

Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

**Wed, Oct 14, 2020,
9:27 AM**

to Carlos

Good morning Carlos,

James and I wanted to see if the paperwork I sent you gave you the numbers you needed?

If so, what is the next step?

Thank you,

James and Tara

Carlos Salmoran <Carlos@joeygilbertlaw.com>

**Wed, Oct 14, 2020,
9:49 AM**

to me

Let me call you in a minute.

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

**Wed, Oct 14, 2020,
10:34 AM**

to Carlos

OK

(HE NEVER CALLED)

Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

**Wed, Oct 21, 2020,
4:54 PM**

to Carlos

Good afternoon Carlos,

We are just wondering where we are with our case?

I will be sending all the character letters next this weekend.

SBN0013

Thank you for everything.

James and Tara C [REDACTED].

Carlos Salmoran <Carlos@joeygilbertlaw.com>

Thu, Oct 22, 2020,
4:57 PM

to John, me

Hi Tara we are working on the motion, John who is working the case will be calling to set a time to gather missing information, I have cc John on the email too.

Will be in touch soon.



Carlos Salmoran | *Case Manager*

Joey Gilbert Law

201 W. Liberty St. | Ste 210 | Reno, NV 89501 [map](#)

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John Durney <john.durney@joeygilbertlaw.com>

Tue, Oct 27, 2020,
10:40 AM

to me

Good Morning Mr. and Mrs. C [REDACTED],

I hope this email finds you well. My name is John Durney, I am a Law Clerk here at Joey Gilbert Law. I am working on drafting Mr. C [REDACTED]'s Petition for Termination of Registration Requirement.

This email is in regards to scheduling a time to call and discuss some of the issues regarding Mr. C [REDACTED]'s situation; what are some times that would work best for you? I just want to make sure I have all of the necessary information prior to filing this petition.

I look forward to hearing back from you! Have a wonderful rest of your day.

Sincerely,

John Durney

SBN0014



John Durney | Law Clerk

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Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

**Tue, Oct 27, 2020,
12:11 PM**

to John

Hello John,

We are well and hope you are the same. With James' work schedule most nights he is available about 7pm. I could text you if he gets off early one day or I can try and answer your questions first. He is also available on Sat if he doesn't work and Sunday any time he is off that whole day.

We look forward to hearing from you on what works best for you.

Thank you and have a great day.

Tara C [REDACTED]

Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

**Thu, Oct 29, 2020,
8:26 AM**

to John

Good morning John,

Did you receive our email?

John Durney <john.durney@joeygilbertlaw.com>

**Thu, Oct 29, 2020,
8:48 AM**

to me

Good Morning Mrs. C [REDACTED]

I hope your morning is going well so far! I did in fact receive your previous email, but unfortunately it appears that my return email did not make it to you. For some reason my email has been acting up lately and I apologize for that.

SBN0015

Ultimately, I will attempt to make contact with you at some point today to get some initial questions answered; if I still need some additional information, we can set up a call with Mr. [REDACTED] another time, but I am hopeful that you will be able to answer all of my questions.

I look forward to hearing back from you. Please reply with a good number and time to reach you and I will be in touch sometime today!

Sincerely,

John Durney



John Durney | *Law Clerk*

Joey Gilbert Law

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Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

Thu, Oct 29, 2020,
9:24 AM

to John

Good morning John,

I will be happy to help. Please call 775 338 9253 I go to lunch between 12 and 1pm is the best time to call or after work at 5pm

Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

Oct 29, 2020,
4:15 PM

to John

Good afternoon,

James got off early today he can be reached at 775 338 8426!

SBN0016

Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

Fri, Oct 30, 2020,
8:38 AM

to John

Good morning John,

We didn't hear from you yesterday and are very anxious to get this moving along as soon as possible. Can you email me questions?

Thank you,
Tara

John Durney <john.durney@joeygilbertlaw.com>

Fri, Oct 30, 2020,
12:18 PM

to me

Good Afternoon Mrs. C [REDACTED]

I hope this email finds you well! I am sorry I was unable to contact you yesterday; our office is closed today for Nevada Day, so we were very busy with meetings all day yesterday.

I completely understand your anxiousness to get this moving along as soon as possible. However, it is important to note that this is a "one-and-done" situation so to speak; by that I mean that we get one shot at filing this petition and that's it. As such, we need it to be the best possible draft that it can be prior to filing it with the court.

I have passed along a preliminary draft of the petition to a supervising attorney in the office, who will make edits and proofread it by next week. Along with that process, he will compile a list of necessary questions that we need answers to, so please do not be alarmed that you have not heard from us yet.

I absolutely understand where you are coming from, but this process will take a while longer in order to obtain the best possible result. Although I know this is not what you and Mr. C [REDACTED] want to hear, it is in the best interest of his case.

As always, please do not hesitate to reach out with any questions or concerns that you may have.

Sincerely,

John Durney



John Durney | Law Clerk

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SBN0017

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Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

**Oct 30, 2020,
2:19 PM**

to John

Thank you John,

Please take all the time you need to get us the possible chance we could have with our one opportunity!!

We appreciate everything you and the firm are doing!

Have a great weekend.

Tara.

Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

**Mon, Nov 9, 2020,
3:03 PM**

to Carlos

Good afternoon Carlos,

I wanted to make sure your office received the package of letters?

Thank you and have a great afternoon.

Tara

Carlos Salmoran <Carlos@joeygilbertlaw.com>

**Tue, Nov 10, 2020,
1:05 PM**

to me

I will check the with John if he got the package.

Thank you.

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

(Never received confirmation that letters were received)

SBN0018

Joey Gilbert Law <no-reply@mycase.com>

**Fri, Nov 20, 2020,
4:44 PM**

to me

Hi JAMES,

Welcome to the Joey Gilbert Law Client Portal. Activate your account by clicking the button below.

[Activate Now](#)

Our private and secure client portal is available 24 hours a day, 7 days a week for you to:

- View and upload documents related to your case
- Send and receive confidential messages
- Receive notifications about important dates
- View and print invoices

Have questions? Call us [7752847700](tel:7752847700)

Thank you,
Joey Gilbert Law

This is an automated notification. To protect the confidentiality of these communications,
PLEASE DO NOT REPLY TO THIS EMAIL.

This email was sent to you by Joey Gilbert Law.
Powered by [MyCase](#) | 50 Castilian Dr., Goleta, CA 93117

(Set up portal account same day)

Case Update

Joey Gilbert

John Durney <john.durney@joeygilbertlaw.com>

**Fri, Nov 20, 2020,
4:16 PM**

to me

Mr. and Mrs. C [REDACTED],

I hope this email finds you well! I just wanted to reach out with an update on Mr. C [REDACTED]'s Petition for Termination of Registration Requirement.

As I explained to you previously, this is going to be a long process. The first step was to do legal research and draft the Petition, which has been done! The Petition is in the final stages of review and should be filed with the court sometime next week.

SBN0019

Next, should the court deem Mr. C [REDACTED] an eligible applicant, the court will get in touch with us regarding holding a hearing on the Petition. At that hearing, we will be able to present witnesses and other evidence in support of termination of Mr. C [REDACTED]'s registration requirements.

Normally, it takes about six (6) to eight (8) months from the filing of a petition to get the termination finalized, should it be successful. However, that is not including the COVID-related obstacles--such as Zoom court hearings and the court docket backup--due to the pandemic. The holidays also pose an additional time restraint, as the courts are closed for much of the holiday season. These factors could ultimately add on months to the already long process, but we will be alongside you and in touch with you every step of the way.

Again, I hope this email finds you well and that it was able to help you understand where we are at with the process and the upcoming steps. As always, please do not hesitate to reach out with any questions or concerns. Take care!

Sincerely,

John Durney



John Durney | Law Clerk

Joey Gilbert Law

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Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)>

Jan 4, 2021, 12:15 PM

to John

Good afternoon John,

Happy New Year and hope you are doing well.

I checked our portal account to see if the paperwork has been filed yet with the court and it doesn't show that it has. Can you please provide us an update on where we stand right now?

Thank you and have a great day!

James and Tara C [REDACTED]

SBNo020

John Durney

Wed, Jan 6, 9:00
AM

to me

Good Morning Mr. and Mrs. C [REDACTED],

I hope this email finds you well at the beginning of this new year! I apologize for not getting back to you sooner, but the last couple days were very busy here at the office.

Unfortunately, I was out of the office on Monday and our criminal filing paralegal was out yesterday and today, but I will get with her tomorrow and let you know exactly where we stand with your filing and upcoming hearing dates if we have received one from the court!

It is important to note that the portal may not always be up to date or have all of the necessary information for cases like yours (post-conviction relief cases). We do not necessarily use the portal for more filing-type cases like this one; instead, it is used more for entries with active cases within our criminal department.

I hope this alleviates some of your burden. As I told you before, this will be a long process, but just know that we are doing everything we possibly can on our end to help you and Mr. C [REDACTED] through this tough time. As always, feel free to reach out with any questions or concerns.

Sincerely,

John Durney



John Durney | *Law Clerk*

Joey Gilbert Law

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SBN0021

John Durney

Thu, Jan 7, 11:51
AM

to me

Hello Mr. and Mrs. C [REDACTED],

I am just following up with my email from yesterday. Our criminal paralegal has informed me that we are still waiting to hear back from the court regarding a hearing date and further steps. Please do not be alarmed if we are not in touch for a while, as the court is setting dates out pretty far in the future due to COVID and its consequences.

With that said, we will be in touch with you and update you on your case as we get more information. Thank you for your patience, take care!

Sincerely,

John Durney



John Durney | Law Clerk

Joey Gilbert Law

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Again, I hope this email finds you well and that it was able to help you understand where we are at with the process and the upcoming steps. As always, please do not hesitate to reach out with any questions or concerns. Take care!

Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)>

Jan 7, 2021, 12:10
PM

to John

Thank you John. Can you please let me know what date it was filed on and email me a copy of the petition that was submitted?

Thank you for your response.

SBN0022

Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

Tue, Jan 12, 12:14 PM

to John

Good afternoon John,

Has the petition been emailed or uploaded to the portal?

Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

Thu, Jan 14, 4:51 AM

to John

Good morning John,

7 days ago I requested a copy of the petition be sent to James and I. I have not received a response yet.

Please advise why we have not been contacted yet. Also, please let us know how and when we will receive a copy of the petition that was filed.

A digital copy is fine for us so email or uploading it to our portal is fine as well.

Thank you in advance for your help in this matter!

Tara and James.

John Durney

Thu, Jan 14, 12:08 PM

to me

Good Morning Mrs. C [REDACTED],

I am sorry that I did not get back to you sooner. I was out of the office last Thursday afternoon--after you emailed--and Friday, and started back up with law school this week, so I will be in the office even less for the duration of this semester.

On top of that, our two criminal paralegals have been out sick, one of which is the one with access to the Petition. With that said, I could attempt to locate a draft of the Petition to send to you in the meantime.

Given the circumstances, I will consult with the attorney when he's free and see if he knows any more about the situation than I do. I am sorry for the inconvenience, but I will get in touch with you as soon as I know further.

SBN0023

Because I will be out of the office so much this semester, please free to reach out to our attorney Roger O'Donnell (roger@joeygilbertlaw.com), and/or our criminal case manager Carlos Salmoran (carlos@joeygilbertlaw.com), as they will be able to assist you more promptly than I will. Thank you for your patience, and we will get back to you with results as soon as we possibly can!

Sincerely,

John Durney



John Durney | *Law Clerk*

Joey Gilbert Law

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Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)>

Jan 14, 2021,
12:17 PM

to John

John,

Thank you for the response. Good luck in school.

We look forward to receiving a copy if the petition as soon as possible.

Thank you for the additional contact information.

Have a great day!

Tara

SBN0024

Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

Mon, Jan 18, 5:14 AM (11 days ago)

to roger, Carlos, me

Good morning Mr. O'Donnell and Mr. Salmoran,

John Durney has been our contact over the past several months about James' case. Last week he informed us he was going back to school and provided contact information for you both as contact points moving forward.

On Nov 20, 2020 Mr. Durney sent us an email letting us know that the petition was going to be filed sometime that week. We expected some update as to the actual filing date shortly after. On Jan 4, 2021 I emailed John and asked him to please confirm the filing date and to email or upload a copy of the petition that was submitted to our client portal for our records and review.

We still have not received any of that information.

We know this is going to be a very long process and understand that with Covid it will be even longer. However, we do want and need to be kept in the loop and receive information that is requested in a timely manner.

All we would like to know and see is:

What is our case number?

When was the petition filed?

Receive a copy of the petition either hard copy or digital?

We appreciate your efforts in James' case. We know this is going to be a very long process and we know that it is his "one shot only" at getting relief. We also believe your firm is his best shot at making that happen, that is why we hired you. All we are asking is for a little more communication, answers to questions and paperwork provided when requested.

Thank you for your time.

James and Tara C [REDACTED]

(This message was never responded to)

(I called the office @ 5:09pm and left a message for Carlos to return my call

Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

Fri, Jan 22, 9:34 AM (7 days ago)

to roger, Carlos

Good morning.

I would like to know if our email was received please?

Thank you.

(This message was never responded to)

SBN0025

(I called the office again @12:21 PM spoke with Jessica then John gets on the phone and tells me they had done nothing for James cases. No petition was filed and they never filed the paperwork with the court to become his attorney of record.)

John Durney

Mon, Jan 25, 1:05 PM (4 days ago)

to me, Eileen

Mrs. C [REDACTED],

I am incredibly sorry for the bad news regarding your husband's case. With that said, we are refunding the full amount of your husband's case, \$3,500.00, and it will be refunded to you via check at your home address within the next few weeks (as your credit card payment has already processed, so we will have to refund you via check).

Could you please reply to this email with your home address and your telephone number so that our Bookkeeper, Miss Eileen (CC'd), can contact you regarding the refund information? Thank you so much.

As far as recommendations for post-conviction relief attorneys who specialize in your husband's type of case, you can try the following list of attorneys:

- Nevada State Bar (<https://www.nvbar.org/>), who will be able to refer you to someone;
- William J. Routsis, II, Esq. (<https://www.reno.lawyer/writs-appeals-and-post-conviction-relief.html>);
- Jesse Kalter Law (<https://www.jessekalterlaw.com/sex-crimes-lawyer/>);
- Wolfe Law Office (<https://www.paulwolfelaw.com/sex-offenses>);
- Las Vegas Defense Group (<https://www.shouselaw.com/nv/defense/laws/sex-offender-registry/removal/>); or
- Richard P. Davies, Esq. (<http://www.richardpdavieslaw.com/practice-areas/reno/criminal-defense-attorney/record-sealing/>).

This is a preliminary list of attorneys that I was able to find who might be able to help you with your husband's case. Again, we are very sorry that there was a lack of communication within our office, as we do not typically practice this very specialized field of law.

I am out of the office most of the week, but I will try to answer any questions or concerns whenever possible. We wish you and your husband the best of luck moving forward.

Sincerely,

John Durney

John Durney | Law Clerk

Joey Gilbert Law

201 W. Liberty St. | Ste 210 | Reno, NV 89501 [map](#)

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SBN0026



[website](#)



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Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

Mon, Jan 25, 1:17 PM (4 days ago)

to John, Eileen

My address:

601 Sam Clemens Ave

Dayton, NV 89403

My phone#: 775 338 9253

Please mail refund check asap.

Thank you,

Tara

Thank you for the list.

(This message was never responded to and Miss Eileen has never contacted via phone or email about refund)

SBN0027

Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

Mon, Jan 25, 1:20 PM (4 days ago)

to John, Eileen, bcc: me

John,

Please return all the letters that were mailed to your office in regards to James case back to the address provided in last email.

Thank you,

Tara

(This message was never responded to)

Tara C [REDACTED] <tarac[REDACTED]@gmail.com>

Tue, Jan 26, 12:21 PM (3 days ago)

to John, roger, Carlos, bcc: me

Good afternoon,

Per my phone conversation yesterday with Mr. Durney I would like to request the following.

1. Office notice of your withdrawal from representing James in his case citing reasons why your firm made the decision to release James as your client 4 months after signing contract and full payment was made.
2. Full refund of \$3,500 plus interest from 9-11-20 to when check is cut.
3. Email confirmation of when refund check will be mailed. Several weeks as previously stated by Mr. Durney is not acceptable.
4. James' complete file.
5. All original character reference letters that were sent to your office per your request to support his case.
6. Proof of filing to redraw as his attorney of record so we can obtain new counsel.

SBN0028

I will be sending this exact document via us mail tomorrow return receipt requested.

Thank you,

James and Tara C [REDACTED]

(This message was never responded to)

Proof of Return receipt document is attached from sending the letter above to Joey Gilbert Law Office.

As of 1-29-21, the time of this filing, James nor I have been contacted by Miss Eileen or anyone else at Joey Gilbert Law Office via phone or email.

JOEY GILBERT

· LAW ·

FIGHTING FOR YOU

CONTRACT FOR LEGAL REPRESENTATION

22/11
= Jackass...

CLIENT:

I, James R. C, in consideration of the total fee of \$ 3500⁰⁰
retain the law firm of Joey Gilbert Law ("Attorneys") to represent me, regarding the
charge(s) of: MOVE BACK TO TEAR OUT / STOP SEX COGNITION
a SECOND DC and all attendant charges in RENO, Nevada.

The parties agree that the legal fees are for representation up to but not including a jury trial. This contract does not apply to a jury trial, appeal or retrial due to a mistrial or hung jury. If representation for a jury trial, appeal and/or retrial is necessary, then Attorneys and [Signature] agree to negotiate reasonable fees associated with said jury trial, appeal and/or retrial.

[Signature] also agrees that the Attorneys may, and are hereby authorized to, associate counsel of their choice, but compensation of such counsel shall be the sole responsibility of the Attorneys. Client further authorizes division of fees pursuant to the participation of associate counsel by entering into this agreement.

In addition, [Signature] agrees to pay any additional and necessary expenses in this case, including but not limited to: investigators, evaluations, classes, expert witnesses, travel expenses for witnesses and trial demonstrative evidence.

[Signature] further agrees that failure to pay for any outstanding attorney's fees and expenses in a timely manner will permit the Attorneys at their sole discretion to withdrawal from representation in the above - entitled case and all fees paid to that date shall be deemed earned.

This contract contains the entirety of the agreement by and between [Signature], client, and Attorneys for the representation of [Signature], by the law firm of Joey Gilbert Law. There are no collateral, oral or other written agreements. Any future modifications to this agreement shall be made in writing and signed by all parties.

Client Signature: [Signature]

Date: 9-11-20

Attorney Signature: [Signature]

Date: 9/11/2020

Joey Gilbert Law
201 West Liberty Street Suite 210
Reno, Nevada 89501
United States
7752847700

JAMES RICHARD C [REDACTED]
601 Sam Clemens Avenue
Dayton, NV 89403
United States

Balance \$0.00
Invoice # 05049
Invoice Date September 11, 2020
Payment Terms
Due Date

C [REDACTED] **JAMES**

Flat Fees

Date	EE	Item	Description	Amount
09/11/2020	CM	Flat Fee	Tier 1 Reinstatement	\$3,500.00

Flat Fee Total: **\$3,500.00**

Flat Fee Sub-Total:	\$3,500.00
Sub-Total:	\$3,500.00
Total:	\$3,500.00
Amount Paid:	\$3,500.00
Balance Due:	\$0.00

Payment History

Activity	Date	Payment Method	Amount	Responsible User	Deposited Into
Payment Received	Sep 11, 2020	Credit Card	\$3,500.00	Cindy Martinez (Receptionist)	Operating

SBN0031

Payment Receipt

\$3,500.00

Joey Gilbert Associates
201 W. Liberty St. Ste. 210
Reno, Nevada 89501
(775) 741-1000

Account Holder
JAMES RICHARD C [REDACTED]
601 Sam Clemens Avenue
Dayton, Nevada 89403

Payment Summary

Account: Operating
Reference: JAMES RICHARD
C [REDACTED]

Amount Paid: \$3,500.00
Payment Method: VISA
Card Number: *****8583
Entry Mode: Manual
Auth Code: 011231
Payment Date: September 11, 2020 11:04
am
Transaction Id: 35724724

Signature

By signing above, I confirm that I am an authorized user of the card being used for this transaction and understand and agree to the terms and conditions of this payment. I also agree to pay, and specifically authorize to charge my credit card for the services provided. I further agree that in the event my credit card becomes invalid, I will provide a new valid credit card upon request, to be charged for the payment of any outstanding balances owed.



www.joeygilbertlaw.com
joey@joeygilbertlaw.com

SBN0032

DA #168551

RPD 198832-98

FILED

'98 SEP -9 A8:13

Case No. CR98-2092

Dept. No. 8

S. Davis
DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE

* * *

THE STATE OF NEVADA,

Plaintiff,

v.

INFORMATION

JAMES RICHARD C [REDACTED],

Defendant.

RICHARD A. GAMMICK, District Attorney within and for
the County of Washoe, State of Nevada, in the name and by the
authority of the State of Nevada, informs the above entitled
Court that JAMES RICHARD C [REDACTED] the defendant above named,
has committed the crime of:

SEXUAL ASSAULT, a violation of NRS 200.366, a felony,
in the manner following:

That the said defendant on the 15th day of August A.D.
1998, or thereabout, and before the filing of this Information,
at and within the County of Washoe, State of Nevada, did
willfully, and unlawfully subject ANNA C. to sexual penetration
against her will, in that the defendant caused the victim to

SBN0033

1 submit to sexual intercourse at 3485 Lakeside Drive, #213, Reno,
2 Washoe County, Nevada.
3

4 All of which is contrary to the form of the Statute in
5 such case made and provided, and against the peace and dignity of
6 the State of Nevada.

7 RICHARD A. GAMMICK
8 District Attorney
9 Washoe County, Nevada

10 By: Cindi Elaine Heron
11 CINDI-ELAINE HERON
12 Deputy District Attorney
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1 The following are the names and addresses of such
2 witnesses as are known to me at the time of the filing of the
3 within Information:
4

5 RENO POLICE DEPARTMENT:

6 OFFICER DREELAN
7 OFFICER T. REID
8 OFFICER DONAHOE
9 DETECTIVE BOHACH

10 WASHOE COUNTY SHERIFF'S OFFICE:

11 DEPUTY TONI LEAL

12 ANNA M. C., 435 Tranquil Drive, Sparks, Nevada 89436

13 KATHY M. PEELE, SAINTS nurse

14 BILL SILVERSHIELD

15 JOAN SILVERSHIELD

16 SHANE DRURY

17
18
19
20 RICHARD A. GAMMICK
21 District Attorney
22 Washoe County, Nevada

23 By Cindi Elaine Heron
24 CINDI-ELAINE HERON
25 Deputy District Attorney

26 PCN 88443426

09083832

DA #168551

RPD 198832-98

Case No. CR98-2092

Dept. No. 8

FILED

'98 OCT 15 P12:43

BETTY J. LEWIS, CLERK
BY *Benson*
DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE

* * *

THE STATE OF NEVADA,

Plaintiff,

v.

AMENDED
INFORMATION

JAMES RICHARD C [REDACTED],

Defendant.

RICHARD A. GAMMICK, District Attorney within and for
the County of Washoe, State of Nevada, in the name and by the
authority of the State of Nevada, informs the above entitled
Court that JAMES RICHARD C [REDACTED], the defendant above named,
has committed the crimes of:

COUNT I. SEXUAL ASSAULT, a violation of NRS 200.366, a
felony, in the manner following:

That the said defendant on the 15th day of August A.D.
1998, or thereabout, and before the filing of this Information,
at and within the County of Washoe, State of Nevada, did
willfully, and unlawfully subject ANNA C. to sexual penetration
against her will, in that the defendant caused the victim to

SBN0036

1 submit to sexual intercourse at 3485 Lakeside Drive, #213, Reno,
2 Washoe County, Nevada.

3 COUNT II. SEXUAL ASSAULT, a violation of NRS 200.366,
4 a felony, in the manner following:

5 That the said defendant on the 15th day of August A.D.
6 1998, or thereabout, and before the filing of this Information,
7 at and within the County of Washoe, State of Nevada, did
8 willfully, and unlawfully subject ANNA C. to sexual penetration
9 against her will, in that the defendant caused the victim to
10 submit to anal intercourse at 3485 Lakeside Drive, #213, Reno,
11 Washoe County, Nevada.

12 All of which is contrary to the form of the Statute in
13 such case made and provided, and against the peace and dignity of
14 the State of Nevada.

15 RICHARD A. GAMMICK
16 District Attorney
17 Washoe County, Nevada

18 By: Cindi-Elaine Heron
19 CINDI-ELAINE HERON
20 Deputy District Attorney
21
22
23
24
25
26

1 The following are the names and addresses of such
2 witnesses as are known to me at the time of the filing of the
3 within Information:
4

5 RENO POLICE DEPARTMENT

6 OFFICER DREELAN
7 OFFICER T. REID
8 DETECTIVE BOHACH
9 OFFICER DONAHOE

10 WASHOE COUNTY SHERIFF'S OFFICE

11 DEPUTY TONI LEAL

12 ANNA M. C [REDACTED], 3345 Kietzke Lane, Reno, Nevada

13 KATHY M. PEELE

14 BILL SILVERSHIELD

15 JOAN SILVERSHIELD, U.S. Attorney's Office

16 SHANE DRURY

17
18
19
20 RICHARD A. GAMMICK
21 District Attorney
22 Washoe County, Nevada

23 By Cindi-Elaine Heron
24 CINDI-ELAINE HERON
25 Deputy District Attorney

26 PCN 88443426

10131832

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3-12
mg

DA #168551

RPD 198832-98

FILED

'99 MAR 11 P1:42

Case No. CR98-2092

Dept. No. 8

AMY HARVEY, CLERK
BY [Signature]
DEPT

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE

* * *

THE STATE OF NEVADA,

Plaintiff,

v.

SECOND AMENDED
INFORMATION

JAMES RICHARD C [REDACTED],

Defendant.

RICHARD A. GAMMICK, District Attorney within and for
the County of Washoe, State of Nevada, in the name and by the
authority of the State of Nevada, informs the above entitled
Court that JAMES RICHARD C [REDACTED], the defendant above named,
has committed the crime of:

ATTEMPTED SEXUAL ASSAULT, a violation of NRS 193.330,
being an attempt to violate NRS 200.366, a felony, in the manner
following:

That the said defendant on the 15th day of August A.D.
1998, or thereabout, and before the filing of this Information,
at and within the County of Washoe, State of Nevada, did
willfully, and unlawfully attempt to subject ANNA C. to sexual

SBN0039

1 penetration against her will, in that the defendant caused the
2 victim to submit to sexual intercourse at 3485 Lakeside Drive,
3 #213, Reno, Washoe County, Nevada.
4

5 All of which is contrary to the form of the Statute in
6 such case made and provided, and against the peace and dignity of
7 the State of Nevada.

8 RICHARD A. GAMMICK
9 District Attorney
10 Washoe County, Nevada

11 By: 
12 CINDI-ELAINE HERON
13 Deputy District Attorney
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1 The following are the names and addresses of such
2 witnesses as are known to me at the time of the filing of the
3 within Information:
4

5 RENO POLICE DEPARTMENT

6 OFFICER DREELAN
7 OFFICER T. REID
8 DETECTIVE BOHACH
9 OFFICER DONAHOE

10 WASHOE COUNTY SHERIFF'S OFFICE

11 DEPUTY TONI LEAL

12 ANNA M. C [REDACTED], 3345 Kietzke Lane, Reno, Nevada

13 KATHY M. PEELE

14 BILL SILVERSHIELD

15 JOAN SILVERSHIELD, U.S. Attorney's Office

16 SHANE DRURY

17
18
19
20 RICHARD A. GAMMICK
21 District Attorney
22 Washoe County, Nevada

23 By Cindi-Elaine Heron
24 CINDI-ELAINE HERON
25 Deputy District Attorney

26 PCN 88443426

10131832

FILED

MAR 12 1999

AMY HARVEY, CLERK

By: *[Signature]*
DEPUTY

1 Case No. CR98-0292

2 Dept. No. 8

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5
6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8 * * *

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

GUILTY PLEA MEMORANDUM

12 JAMES RICHARD C [REDACTED],

13 Defendant.

14 _____ /
15 1. I, JAMES RICHARD C [REDACTED], understand that I am
16 charged with the offense(s) of: ATTEMPTED SEXUAL ASSAULT, a
17 violation of NRS 193.330, being an attempt to violate NRS
18 200.366, a felony.

19 2. I desire to enter a plea of guilty to the
20 offense(s) of ATTEMPTED SEXUAL ASSAULT, a violation of NRS
21 193.330, being an attempt to violate NRS 200.366, a felony, as
22 more fully alleged in the charge(s) filed against me.

23 3. By entering my plea of guilty I know and understand
24 that I am waiving the following constitutional rights:

25 ///

26 ///

SBN0042

1 A. I waive my privilege against self-incrimination.

2 B. I waive my right to trial by jury, at which trial
3 the State would have to prove my guilt of all elements of the
4 offense beyond a reasonable doubt.

5 C. I waive my right to confront my accusers, that is,
6 the right to confront and cross examine all witnesses who would
7 testify at trial.

8 D. I waive my right to subpoena witnesses for trial on
9 my behalf.

10 4. I understand the charge(s) against me and that the
11 elements of the offense(s) which the State would have to prove
12 beyond a reasonable doubt at trial are that on the 15th day of
13 August, 1998, or thereabout, in the County of Washoe, State of
14 Nevada, I did, willfully, and unlawfully attempt to subject ANNA
15 C. to sexual penetration against her will, in that I caused the
16 victim to submit to sexual intercourse at 3485 Lakeside Drive,
17 #213, Reno, Washoe County, Nevada.

18 5. I understand that I admit the facts which support
19 all the elements of the offense by pleading guilty. I admit that
20 the State possesses sufficient evidence which would result in my
21 conviction. I have considered and discussed all possible
22 defenses and defense strategies with my counsel. I understand
23 that I have the right to appeal from adverse rulings on pretrial
24 motions only if the State and the Court consent to my right to
25 appeal. In the absence of such an agreement, I understand that

26 ///

1 any substantive or procedural pretrial issue or issues which
2 could have been raised at trial are waived by my plea.

3 6. I understand that the consequences of my plea of
4 guilty are that I may be imprisoned for a period of two to twenty
5 years in the Nevada State Prison and that I am not eligible for
6 probation unless a report is submitted by a psychologist licensed
7 to practice in the State of Nevada or a psychiatrist licensed to
8 practice medicine in the State of Nevada concluding that I am not
9 a menace to the health, safety or morals of others, pursuant to
10 NRS 176A.110. Additionally, I understand that I must submit to a
11 psychosexual evaluation, and that a report thereof must be
12 included in the presentence report, before I am sentenced,
13 pursuant to NRS 176.133-176.156.

14 7. In exchange for my plea of guilty, the State, my
15 counsel and I have agreed to recommend the following: The State
16 and the defendant agree to stipulate to a sentence of thirty-six
17 to one hundred twenty months in the Nevada State Prison.

18 8. I understand that, even though the State and I have
19 reached this plea agreement, the State is reserving the right to
20 present arguments, facts, and/or witnesses at sentencing in
21 support of the plea agreement.

22 9. I also agree that I will make full restitution in
23 this matter, as determined by the Court. Where applicable, I
24 additionally understand and agree that I will be responsible for
25 the repayment of any costs incurred by the State or County in
26 securing my return to this jurisdiction.

1 10. I understand that the State, at their discretion,
2 is entitled to either withdraw from this agreement and proceed
3 with the prosecution of the original charges or be free to argue
4 for an appropriate sentence at the time of sentencing if I fail
5 to appear at any scheduled proceeding in this matter OR if prior
6 to the date of my sentencing I am arrested in any jurisdiction
7 for a violation of law OR if I have misrepresented my prior
8 criminal history. I represent that I do not have a prior felony
9 criminal record. I understand and agree that the occurrence of
10 any of these acts constitutes a material breach of my plea
11 agreement with the State. I further understand and agree that by
12 the execution of this agreement, I am waiving any right I may
13 have to remand this matter to Justice Court should I later
14 withdraw my plea.

15 11. I understand and agree that pursuant to the terms
16 of the plea agreement stated herein, any counts which are to be
17 dismissed and any other cases charged or uncharged which are
18 either to be dismissed or not pursued by the State, may be
19 considered by the court at the time of my sentencing.

20 12. I understand that the Court is not bound by the
21 agreement of the parties and that the matter of sentencing is to
22 be determined solely by the Court. I have discussed the
23 charge(s), the facts and the possible defenses with my attorney.
24 All of the foregoing rights, waiver of rights, elements, possible
25 penalties, and consequences, have been carefully explained to me
26 by my attorney. I am satisfied with my counsel's advice and

1 representation leading to this resolution of my case. I am aware
2 that if I am not satisfied with my counsel I should advise the
3 Court at this time. I believe that entering my plea is in my
4 best interest and that going to trial is not in my best interest.

5 13. I understand that this plea and resulting
6 conviction may have adverse effects upon my residency in this
7 country if I am not a U. S. Citizen.

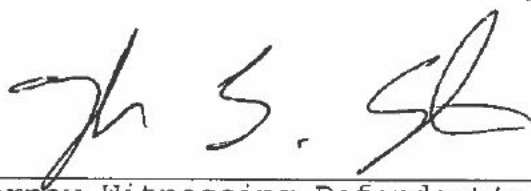
8 14. I offer my plea freely, voluntarily, knowingly and
9 with full understanding of all matters set forth in the Second
10 Amended Information and in this Plea Memorandum. I understand
11 everything contained within this Memorandum.

12 15. My plea of guilty is voluntary, is not the result
13 of any threats, coercion or promises of leniency.

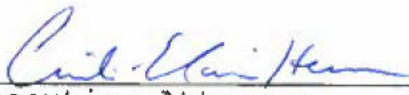
14 16. I am signing this Plea Memorandum voluntarily with
15 advice of counsel, under no duress, coercion, or promises of
16 leniency.

17 DATED this 12 day of March, 1999.

18
19 
20 DEFENDANT

21 
22 TRANSLATOR/INTERPRETER

23 Attorney Witnessing Defendant's Signature

24 
25 Prosecuting Attorney

26 10131832

1 No. CR98-2092

2 Dept. No. 8

FILED

MAY 06 1999

AMY HARVEY, Clerk

By

[Signature]
Deputy Clerk

3
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5
6 **IN THE SECOND JUDICIAL DISTRICT COURT**
7 **OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE**
8

9
10 **STATE OF NEVADA,**

Reporter: I. Zihn

11 **Plaintiff,**

12 **vs.**

J U D G M E N T

13 **JAMES RICHARD C [REDACTED]**

14 **Defendant.**
15 _____

16 The Defendant having entered a plea of Guilty, and no sufficient cause being
17 shown by Defendant as to why judgment should not be pronounced against him, the Court
18 rendered judgment as follows:

19 That James Richard C [REDACTED] is guilty of the crime of Attempted Sexual
20 Assault, a violation of NRS 193.330, being an attempt to violate NRS 200.366, a felony, as
21 charged in the Second Amended Information, and that he be punished by imprisonment in
22 the Nevada State Prison for a minimum term of thirty-six (36) months to a maximum term
23 of one hundred twenty (120) months. The Defendant is given credit for three (3) days time
24 served. It is further ordered that the Defendant pay the statutory Twenty-Five Dollar
25 (\$25.00) administrative assessment fee, restitution in the sum of Seven Hundred Thirty

26 ///

27 ///

28 ///

SBN0047

1 Dollars (\$730.00), the Two Hundred Fifty Dollar (\$250.00) DNA testing fee, and the sum of
2 Nine Hundred Twenty-Five Dollars (\$925.00) for the psychosexual evaluation.

3 Dated this 6th day of May, 1999.

4
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6 
7 DISTRICT JUDGE
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JOEY GILBERT LAW
ATTORNEYS AT LAW
LICENSED IN NEVADA AND CALIFORNIA

www.joeygilbertlaw.com
201 West Liberty Street, Suite 210
Reno, Nevada 89501

Telephone: (775) 284-7700
Facsimile: (775) 284-3809
Roger@joeygilbertlaw.com

February 19, 2021

VIA USPS FIRST CLASS MAIL
COPY VIA EMAIL TO Laurap@nvbar.org

Office of Bar Counsel
Attn: Laura Peters
9465 Double R Blvd. Ste B
Reno, NV 89521-5977

Dear Ms. Peters:

This letter is in response to your lawful demand for information from the Office of Bar Counsel in conjunction with an investigation, which was sent to me via email on February 8, 2021. As a preliminary matter, please see our firm's attached check record showing a full refund of \$3,500.00 repaid to James C. [REDACTED] on February 1, 2021. The check cleared our account on February 3, 2021. Accordingly, Mr. C. [REDACTED] had received a complete refund prior to our office's receipt of your Demand related to this matter.

With respect to Carlos Salmoran's and John Durney's roles, Mr. Salmoran is a paralegal at our firm who initially speaks with potential clients prior to either Mr. Gilbert or myself meeting with them. He also serves as a client communication liaison. Mr. Durney is a 3L Law Student at the University of Oregon School of Law who has been externing with us and is licensed for supervised practice of law under Mr. Gilbert's supervision pursuant to Sup. Ct. R. 49.3. He was asked to research the area of law and prepare an initial draft for Mr. Gilbert's review and editing of the Petition we had been retained to file on Mr. C. [REDACTED]'s behalf. To the best of my understanding, this accurately reflects the roles each of the above had with respect to Mr. C. [REDACTED]'s case.

Unfortunately, after putting considerable resources into research for the Petition, the firm came to the conclusion we were unable to competently represent Mr. C. [REDACTED] as the potential issues were too numerous to adequately research in a timeline which would have been acceptable, and neither Mr. Gilbert nor myself felt comfortable signing our names to a Petition, and especially didn't feel comfortable risking a client's rights with a Petition, which we felt did not meet our standards of practice. The issue was compounded by various work-from-home days and the holidays, which slowed down our progress and limited the firm's ability to coordinate its resources as we managed the impact of COVID-19 and flu season on our firm, our personnel and their families.

It was my understanding as of mid-December the firm was planning on refunding Mr. C. [REDACTED] his retainer, as whenever I discussed the matter, I indicated I was not comfortable with the nuances of that area of law and did not believe I would be able to adequately research it to file this Petition competently. Mr. Gilbert indicated he shared the concern and instructed staff to process a refund. I cannot recall the exact dates of these conversations, but I am sure they occurred prior to December

that evening, and he and I agreed we were happy to allow Mr. C [REDACTED]'s case to move on so he could seek alternate counsel and we could focus our energy on matters we were more familiar with.

Unfortunately, I do not know the source of the delay of the refund, nor do I know the details of most of the communication on this matter. I, personally, was not significantly involved in this matter and believed my role with respect to the C [REDACTED] matter was mostly to help John with his research and writing skills and ensure his work product was improving.

I hope I have fully addressed the concerns you raised in your correspondence of February 8, 2021. If I have not fully addressed any topic you asked me to, or if you would like additional information, please let me know and I would be happy to supplement my response.

Best regards,

JOEY GILBERT LAW



ROGER M. O'DONNELL, ESQ.

Encl.: As Stated

JOEY GILBERT LAW
ATTORNEYS AT LAW
LICENSED IN NEVADA AND CALIFORNIA

www.joeygilbertlaw.com
201 West Liberty Street, Suite 210
Reno, Nevada 89501

Telephone: (775) 284-7700
Facsimile: (775) 284-3809
Joey@joeygilbertlaw.com

February 18, 2021

VIA USPS FIRST CLASS MAIL
COPY VIA EMAIL TO Laurap@nvbar.org

Office of Bar Counsel
Attn: Laura Peters
9465 Double R Blvd. Ste B
Reno, NV 89521-5977

Dear Ms. Peters:

This letter is in response to your lawful demand for information from the Office of Bar Counsel in conjunction with an investigation, which was sent to me via email on February 8, 2021. As a preliminary matter, please see our firm's attached check record showing a full refund of \$3,500.00 repaid to James C. [REDACTED] on February 1, 2021. The check cleared our account on February 3, 2021. Accordingly, Mr. C. [REDACTED] has received a complete refund.

With respect to Carlos Salmoran's and John Durney's roles, Mr. Salmoran is a paralegal at our firm who initially speaks with potential clients prior to either Mr. O'Donnell or myself meeting with them. He also serves as a client communication liaison. Mr. Durney is a 3L Law Student at the University of Oregon School of Law who has been externing with us and is licensed for supervised practice of law under my supervision pursuant to Sup. Ct. R. 49.3. He was asked to research the area of law and prepare an initial draft for me to review and edit the Petition we had been retained to file on Mr. C. [REDACTED]'s behalf.

Unfortunately, after putting considerable resources into research for the Petition, the firm came to the conclusion we were unable to competently represent Mr. C. [REDACTED] as the potential issues were too numerous to adequately research in a timeline which would have been acceptable, and neither Mr. O'Donnell nor myself felt comfortable signing our names to a Petition, and especially didn't feel comfortable risking a client's rights with a Petition, which we felt did not meet our standards of practice. The issue was compounded by various work-from-home days and the holidays, which slowed down our progress and limited the firm's ability to coordinate its resources as we managed the impact of COVID-19 and flu season on our firm, our personnel and their families.

As of mid-December, I let my staff know we should issue a refund on Mr. C. [REDACTED]'s retainer, as as I was not comfortable with the nuances of that area of law and did not believe I would be able to adequately research it to file this Petition competently. Mr. O'Donnell indicated he shared the concern. I cannot recall the exact dates of these conversations, but I am sure they occurred prior to the holidays. Mr. O'Donnell and I agreed to have the refund issued and allow Mr. C. [REDACTED]'s case to move on so he could seek alternate counsel and we could focus our energy on matters we were more familiar with.

Unfortunately, my office was shorthanded around this time and with all the other matters we are working on the refund fell through the cracks. It wasn't until after the holiday that we wrote the refund check to Mr. C [REDACTED]

I hope I have fully addressed the concerns you raised in your correspondence of February 8, 2021. If I have not fully addressed any topic you asked me to, or if you would like additional information, please let me know and I would be happy to supplement my response.

Best regards,

JOEY GILBERT LAW

A handwritten signature in blue ink, appearing to read "J. Gilbert", is written over the printed name.

JOSEPH S. GILBERT, ESQ.

Encl.: As Stated

View Transaction Printable View

Transaction Information

Account: General Account - xxxxx3239
 Description: CHECK
 Amount: \$-3,500.00
 Status: Cleared
 Customer Reference Number: 5940
 Transaction: Check 5940
 Date Cleared: February 03, 2021
 Date Initiated: February 03, 2021

Note: Check and Deposit images older than 180 days are not available online, but can be obtained by ordering copies by visiting the services tab. In order to maintain service, there is scheduled maintenance every Saturday at 11:00 PM and on the last day of each month at 7:00 PM. During this time, which typically lasts about six hours, your images may not be available. We apologize for any inconvenience this may cause.

Joey Gilbert & Associates LTD 201 W. Liberty St. #210 Reno, NV 89501		NEVADA STATE BANK 100 Liberty St. Reno, NV 89501 957-1234	5940 2/1/2021
PAY TO THE ORDER OF James C. [REDACTED]		\$ 3,500.00	
Three Thousand Five Hundred and 00/100		DOLLARS	
James C. [REDACTED] 604 San Francisco Ave. Dayton, NV 89403		VOID AFTER 60 DAYS <i>Carlton M. Freeman</i> AUTHORIZED SIGNATURE	
#005940			

Enlarge
Save

DEPOSIT SLIP Deposit to [REDACTED] Amount \$ [REDACTED] Date [REDACTED] Signature [REDACTED]	CHECK # 5940 Amount \$ 3,500.00 Date 2/1/2021 Signature [REDACTED]
--	---

Enlarge
Save

From: Tara C [REDACTED]
To: carlos@joeygilbertlaw.com
Bcc: Tara C [REDACTED]
Subject: James C [REDACTED] Case #

Good evening Carlos,

This is what I can find as far as any case number on his legal paperwork.

DA # 168551
RDP # 198832-98

I hope this helps. Please let me know if you need anything further.

We are currently working on the character reference letters as well. We should have them soon.

Thank you,

Tara C [REDACTED]

From: [Tara C \[REDACTED\]](#)
To: carlos@joeygilbertlaw.com
Bcc: [Tara C \[REDACTED\]](#)
Subject: Tier Level Assessment
Attachments: [Tier Level Assessment.pdf](#)

Good evening Carlos,

I don't know if this is helpful or not but here is the paperwork showing how James was assigned a level of threat upon his release back in June of 2002. I couldn't get the one page to scan completely so the bottom part is in the photo that is attached as well.

Thank you,

Tara

From: [Tara C \[REDACTED\]](#)
To: [Tara C \[REDACTED\]](#)

To Whom It May Concern

I am very pleased to write this letter in support of my husband James C [REDACTED]. I met James in early 1999 and have been married to him for the past 16 years. I can't tell you enough what a great man, loving father, faithful friend, and amazing husband he is. He goes out of his way to help anyone who needs it without hesitation or compensation.

He has been a strong, loving, supportive and steadfast father to our son, his step-son, Stephen since he was 6 years old, now 27 years old.

Having been in the military himself, he has great compassion for others who have served and often will buy veterans their meal when we go out to eat, always asks to remain anonymous, as he never wants credit for his kindness.

James is one of the hardest working, honest, respectful, reliable and loving men I have ever met. It is a testament to his character to still possess these qualities.

James has strived to be the best man he can be, living a quiet life, while still supporting local animal shelters, veterans, the veterans house in Carson City, NV and Reno, NV, local businesses and community cancer fundraisers.

I know there are going to be a lot of letters telling you about what a great man, son, uncle and father James is and all of them are true. However, he is human and has his good and bad days just like everyone else. He can make me mad enough to spit nails at times with his lack of desire to help with housework, but nevertheless, he is still a good man.

Over the past 20 years, James has maintained a clean record and has been no threat to the public in any way. If removed from his registration obligations, there is no evidence to support this would change.

Respectfully,

Tara C [REDACTED]

SBN0057

From: [Tara C \[REDACTED\]](#)
To: [Carlos Salmoran](#)
Subject: Re: Emails

Good morning Carlos,

Just checking in to see if there are any updates?

Thank you,

Tara

On Wed, Sep 23, 2020 at 1:22 PM Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)> wrote:

I hope you are well also Carlos,

I am so sorry but I have given you every number I can find in all the paperwork he still has. The only other paperwork we have is child support, child custody and the divorce. I do not think any of those document numbers will be helpful.

Thank you,


Tara

On Wed, Sep 23, 2020 at 8:45 AM Carlos Salmoran <Carlos@joeygilbertlaw.com> wrote:


Hi Tara hope this email finds you well.


We submitted a request to the court to locate the case for us , court its partial open so not sure how long is going to take for them to get back to us . if you have any documents with the case number that can help to shorts our search will be awesome, for some reason his criminal case does not appear or show any records on the data base with the court.

Thank you.



Carlos Salmoran | *Case Manager*



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SBN0058

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From: Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)>
Sent: Tuesday, September 22, 2020 2:03 PM
To: Carlos Salmoran <Carlos@joeygilbertlaw.com>
Subject: Re: Emails

Good afternoon Carlos,

Just checking in to see if you guys have made any progress on finding anything on James?

Have a great day,

Tara

On Wed, Sep 16, 2020 at 8:27 PM Carlos Salmoran <Carlos@joeygilbertlaw.com> wrote:

Tara we don't have a deadline, we are working on getting all the records and case number.

Its going to take few weeks to prepare the packages, then request a hearing with the judge, keep in mind that second district court is closed to any inperson hearings.

Sent from my Verizon, Samsung Galaxy smartphone

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From: Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)>

SBN0059

Sent: Wednesday, September 16, 2020 7:53:55 PM
To: Carlos Salmoran <Carlos@joeygilbertlaw.com>
Subject: Re: Emails

We are well thank you hope you are the same. When do you need the letters by? Is there a deadline?

I hope the numbers I sent you this evening will help. That is the last one I could find.

What happens if there are no records any longer?

On Wed, Sep 16, 2020, 7:10 PM Carlos Salmoran <Carlos@joeygilbertlaw.com> wrote:

Hi Tara hope this email finds you well.

We are trying to locate his case with second district court, for some reason we can't find the case number or any records regarding the case, also the court is closed to public to request the records in person.

Reading the letters you can drop them off by the office any day or email them with wet signatures.

Thank you.

Sent from my Verizon, Samsung Galaxy smartphone

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From: Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)>
Sent: Wednesday, September 16, 2020 6:38:22 PM
To: Carlos Salmoran <Carlos@joeygilbertlaw.com>
Subject: Re: Emails

Also, when do you need to have the character reference letters?

On Wed, Sep 16, 2020, 6:34 PM Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)> wrote:

Hello Carlos,

James told me that all the numbers I gave you didn't help. Please try these

RJC: 93949

Dept: 4

These are that numbers I can find so I hope they work.

Please let me know.

Thank you

Tara

On Wed, Sep 16, 2020, 11:13 AM Carlos Salmoran <Carlos@joeygilbertlaw.com> wrote:

I did, thank you!

Sent from my Verizon, Samsung Galaxy smartphone

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From: Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)>
Sent: Wednesday, September 16, 2020 11:05:08 AM
To: Carlos Salmoran <Carlos@joeygilbertlaw.com>
Subject: Emails

Good morning Carlos,

SBN0061

Just verifying that you received my previous emails?

Thank you.

Tara

From: [Carlos Salmoran](#)
To: [Tara C \[REDACTED\]](#)
Subject: Re: James C [REDACTED]
Date: Wednesday, October 7, 2020 5:24:58 PM

Hi Tara, talked to your husband already, but if you want to call me its fine.

775713033


Sent from my Verizon, Samsung Galaxy smartphone
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From: Tara C [REDACTED] <tarac[REDACTED]@gmail.com>
Sent: Wednesday, October 7, 2020 4:28:13 PM
To: Carlos Salmoran <Carlos@joeygilbertlaw.com>
Subject: Re: James C [REDACTED]


Are you available right after 5pm when I get off work?

On Wed, Oct 7, 2020 at 4:26 PM Carlos Salmoran <Carlos@joeygilbertlaw.com> wrote:

Hi Tara, I know so sorry these two days been super crazy! if you want to call me so I can explain the situation and how we can get the records



Carlos Salmoran | *Case Manager*



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From: Tara C [REDACTED] <tarac[REDACTED]@gmail.com>
Sent: Wednesday, October 7, 2020 1:31 PM
To: Carlos Salmoran <Carlos@joeygilbertlaw.com>
Subject: James C [REDACTED]

SBN0063

Hello there,

I know you two have been playing phone tag the last two days. The job he is currently on makes it very hard for him to answer the phone as he is often welding.

Is there anything you can tell me?

Thank you,


Tara

From: [Tara C \[REDACTED\]](#)
To: [Carlos Salmoran](#)
Subject: Re: James C [REDACTED]


Thank you. Please let us know what the next step is.

On Mon, Oct 12, 2020 at 2:32 PM Carlos Salmoran <Carlos@joeygilbertlaw.com> wrote:

Thank You.



Carlos Salmoran | *Case Manager*



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From: Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)>
Sent: Monday, October 12, 2020 9:28 AM
To: Carlos Salmoran <Carlos@joeygilbertlaw.com>
Subject: Fwd: James C [REDACTED]

Good morning Carlos,

Here is the response from the court on James' request for his records.

Please let me know if none of the numbers work for you guys again!

Please let me know if they do work also.

SBN0065

Thank you,

Tara

----- Forwarded message -----

From: **Staggs, Daniel** <Daniel.Staggs@washoecourts.us>
Date: Mon, Oct 12, 2020 at 9:15 AM
Subject: RE: James C [REDACTED]
To: Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)>, RecordReq
<RecordReq@washoecourts.us>

Good morning,

Attached is the only criminal case found at 2JDC.

Daniel Staggs

Deputy Clerk

Second Judicial District Court

From: Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)>
Sent: Friday, October 09, 2020 4:37 PM
To: RecordReq <RecordReq@washoecourts.us>
Subject: Fwd: James C [REDACTED]

[**NOTICE:** This message originated outside of Second Judicial District Court, State of Nevada -- **DO NOT CLICK** on **links** or open **attachments** unless you are sure the content is safe.]

----- Forwarded message -----

From: **Tara C** [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)>
Date: Fri, Oct 9, 2020 at 4:13 PM

Subject: James C [REDACTED]
To: <recordreq@washoeccourt.us>

Hello,

My name is James C [REDACTED] and I would like to request a copy of my criminal record please including all cases numbers.

My DOB is 12-22-73.

I have attached a copy of my driver license as requested.

Thank you,

James C [REDACTED]

From: [Tara C \[REDACTED\]](#)
To: [Carlos Salmoran](#)
Subject: Re: Status

OK

On Wed, Oct 14, 2020 at 9:49 AM Carlos Salmoran <Carlos@joeygilbertlaw.com> wrote:
Let me call you in a minute.

Sent from my Verizon, Samsung Galaxy smartphone
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From: Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)>
Sent: Wednesday, October 14, 2020 9:27:38 AM
To: Carlos Salmoran <Carlos@joeygilbertlaw.com>
Subject: Status

Good morning Carlos,

James and I wanted to see if the paperwork I sent you gave you the numbers you needed?

If so, what is the next step?


Thank you,

James and Tara


From: [Carlos Salmoran](#)
To: [Tara C \[REDACTED\]](#)
Cc: [John Durney](#)
Subject: RE: Update please
Date: Thursday, October 22, 2020 4:57:51 PM

Hi Tara we are working on the motion, John who is working the case will be calling to set a time to gather missing information, I have cc John on the email too.

Will be in touch soon.



Carlos Salmoran | *Case Manager*



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From: Tara C [REDACTED] <tarad[REDACTED]@gmail.com>
Sent: Wednesday, October 21, 2020 4:54 PM
To: Carlos Salmoran <Carlos@joeygilbertlaw.com>
Subject: Update please

Good afternoon Carlos,

We are just wondering where we are with our case?

I will be sending all the character letters next this weekend.

Thank you for everything.

James and Tara C [REDACTED].

From: [Tara C \[REDACTED\]](#)
To: [John Durney](#)
Subject: Re: Mr. C [REDACTED] Petition

Thank you John,

Please take all the time you need to get us the possible chance we could have with our one opportunity!!

We appreciate everything you and the firm are doing!

Have a great weekend.

Tara.

On Fri, Oct 30, 2020, 12:18 PM John Durney <john.durney@joeygilbertlaw.com> wrote:

Good Afternoon Mrs. C [REDACTED],

I hope this email finds you well! I am sorry I was unable to contact you yesterday; our office is closed today for Nevada Day, so we were very busy with meetings all day yesterday.

I completely understand your anxiousness to get this moving along as soon as possible. However, it is important to note that this is a "one-and-done" situation so to speak; by that I mean that we get one shot at filing this petition and that's it. As such, we need it to be the best possible draft that it can be prior to filing it with the court.

I have passed along a preliminary draft of the petition to a supervising attorney in the office, who will make edits and proofread it by next week. Along with that process, he will compile a list of necessary questions that we need answers to, so please do not be alarmed that you have not heard from us yet.

I absolutely understand where you are coming from, but this process will take a while longer in order to obtain the best possible result. Although I know this is not what you and Mr. C [REDACTED] want to hear, it is in the best interest of his case.

As always, please do not hesitate to reach out with any questions or concerns that you may have.

Sincerely,

John Durney

John Durney | Law Clerk



SBN0070



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From: Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)>
Sent: Friday, October 30, 2020 8:38 AM
To: John Durney <john.durney@joeygilbertlaw.com>
Subject: Re: Mr. C [REDACTED] Petition

Good morning John,

We didn't hear from you yesterday and are very anxious to get this moving along as soon as possible.

Can you email me questions?

Thank you,
Tara

On Thu, Oct 29, 2020 at 4:15 PM Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)> wrote:
Good afternoon,

James got off early today he can be reached at 775 338 8426!

On Thu, Oct 29, 2020, 9:24 AM Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)> wrote:
Good morning John,

I will be happy to help. Please call 775 338 9253 I go to lunch between 12 and 1pm is the best time to call or after work at 5pm

On Thu, Oct 29, 2020, 8:48 AM John Durney <john.durney@joeygilbertlaw.com> wrote:

Good Morning Mrs. C [REDACTED]

I hope your morning is going well so far! I did in fact receive your previous email, but unfortunately it appears that my return email did not make it to you. For some reason my email has been acting up lately and I apologize for that.

Ultimately, I will attempt to make contact with you at some point today to get some initial questions answered; if I still need some additional information, we can set up a

SBN0071

call with Mr. C [REDACTED] at another time, but I am hopeful that you will be able to answer all of my questions.

I look forward to hearing back from you. Please reply with a good number and time to reach you and I will be in touch sometime today!

Sincerely,

John Durney

John Durney | *Law Clerk*



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From: Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)>
Sent: Thursday, October 29, 2020 8:26 AM
To: John Durney <john.durney@joeygilbertlaw.com>
Subject: Re: Mr. C [REDACTED] Petition

Good morning John,

Did you receive our email?

On Tue, Oct 27, 2020, 12:11 PM Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)> wrote:
Hello John,

We are well and hope you are the same. With James' work schedule most nights he is available about 7pm. I could text you if he gets off early one day or I can try and answer your questions first. He is also available on Sat if he doesn't work and Sunday any time he is off that whole day.

We look forward to hearing from you on what works best for you.

Thank you and have a great day.

SBN0072

Tara C [REDACTED]

On Tue, Oct 27, 2020, 10:40 AM John Durney <john.durney@joeygilbertlaw.com> wrote:

Good Morning Mr. and Mrs. C [REDACTED]

I hope this email finds you well. My name is John Durney, I am a Law Clerk here at Joey Gilbert Law. I am working on drafting Mr. C [REDACTED] Petition for Termination of Registration Requirement.

This email is in regards to scheduling a time to call and discuss some of the issues regarding Mr. C [REDACTED]'s situation; what are some times that would work best for you? I just want to make sure I have all of the necessary information prior to filing this petition.

I look forward to hearing back from you! Have a wonderful rest of your day.

Sincerely,

John Durney

John Durney | *Law Clerk*



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SBN0073

From: [Carlos Salmoran](#)
To: [Tara C \[REDACTED\]](#)
Subject: Re: James C [REDACTED]
Date: Tuesday, November 10, 2020 1:05:14 PM

I will check the with John if he got the package.

Thank you.

Sent from my Verizon, Samsung Galaxy smartphone
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From: Tara C [REDACTED] <tarac[REDACTED]@gmail.com>
Sent: Monday, November 9, 2020 3:03:35 PM
To: Carlos Salmoran <Carlos@joeygilbertlaw.com>
Subject: James C [REDACTED]

Good afternoon Carlos,

I wanted to make sure your office received the package of letters?

Thank you and have a great afternoon.

Tara

From: [Joey Gilbert Law](#)
To: [JAMES RICHARD C](#) [REDACTED]
Subject: Please activate your account with Joey Gilbert Law
Date: Friday, November 20, 2020 4:44:38 PM

Hi JAMES,

Welcome to the Joey Gilbert Law Client Portal. Activate your account by clicking the button below.

[Activate Now](#)

Our private and secure client portal is available 24 hours a day, 7 days a week for you to:

- View and upload documents related to your case
- Send and receive confidential messages
- Receive notifications about important dates
- View and print invoices

Have questions? Call us [7752847700](tel:7752847700)

Thank you,
Joey Gilbert Law

This is an automated notification. To protect the confidentiality of these communications,
PLEASE DO NOT REPLY TO THIS EMAIL.

This email was sent to you by Joey Gilbert Law.
Powered by [MyCase](#) | 50 Castilian Dr., Goleta, CA 93117

SBN0075

From: [Tara C \[REDACTED\]](#)
To: [John Durney](#)
Subject: Re: Case Update

John,

Thank you for the response. Good luck in school.

We look forward to receiving a copy of the petition as soon as possible.

Thank you for the additional contact information.

Have a great day!

Tara

On Thu, Jan 14, 2021, 12:08 PM John Durney <john.durney@joeygilbertlaw.com> wrote:

Good Morning Mrs. C [REDACTED],

I am sorry that I did not get back to you sooner. I was out of the office last Thursday afternoon--after you emailed--and Friday, and started back up with law school this week, so I will be in the office even less for the duration of this semester.

On top of that, our two criminal paralegals have been out sick, one of which is the one with access to the Petition. With that said, I could attempt to locate a draft of the Petition to send to you in the meantime.

Given the circumstances, I will consult with the attorney when he's free and see if he knows any more about the situation than I do. I am sorry for the inconvenience, but I will get in touch with you as soon as I know further.

Because I will be out of the office so much this semester, please feel free to reach out to our attorney Roger O'Donnell (roger@joeygilbertlaw.com), and/or our criminal case manager Carlos Salmoran (carlos@joeygilbertlaw.com), as they will be able to assist you more promptly than I will. Thank you for your patience, and we will get back to you with results as soon as we possibly can!

Sincerely,

John Durney

John Durney | Law Clerk



SBN0076



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From: Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)>
Sent: Thursday, January 14, 2021 4:51 AM
To: John Durney <john.durney@joeygilbertlaw.com>
Subject: Re: Case Update

Good morning John,

7 days ago I requested a copy of the petition be sent to James and I. I have not received a response yet.

Please advise why we have not been contacted yet. Also, ease let us know how and when we will receive a copy of the petition that was filed.

A digital copy is fine for us so email or uploading it to our portal is fine as well.

Thank you in advance for your help in this matter!

Tara and James.

On Tue, Jan 12, 2021, 12:14 PM Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)> wrote:
Good afternoon John,

Has the petition been emailed or uploaded to the portal?

Thank you,

Tar

On Thu, Jan 7, 2021, 12:10 PM Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)> wrote:
Thank you John. Can you please let me know what date it was filed on and email me a copy of the petition that was submitted?

Thank you for your response.

On Thu, Jan 7, 2021, 11:51 AM John Durney <john.durney@joeygilbertlaw.com> wrote:

SBN0077

Hello Mr. and Mrs. C [REDACTED]

I am just following up with my email from yesterday. Our criminal paralegal has informed me that we are still waiting to hear back from the court regarding a hearing date and further steps. Please do not be alarmed if we are not in touch for a while, as the court is setting dates out pretty far in the future due to COVID and its consequences.

With that said, we will be in touch with you and update you on your case as we get more information. Thank you for your patience, take care!

Sincerely,

John Durney

John Durney | *Law Clerk*



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From: Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)>

Sent: Monday, January 4, 2021 12:15 PM

To: John Durney <john.durney@joeygilbertlaw.com>

Subject: Re: Case Update

Good afternoon John,

Happy New Year and hope you are doing well.

I checked our portal account to see if the paperwork has been filed yet with the court and it doesn't show that it has. Can you please provide us an update on where we stand right now?

Thank you and have a great day!

James and Tara C [REDACTED]

SBN0078

On Fri, Nov 20, 2020, 4:16 PM John Durney <john.durney@joeygilbertlaw.com> wrote:

Mr. and Mrs. C [REDACTED],

I hope this email finds you well! I just wanted to reach out with an update on Mr. C [REDACTED]'s Petition for Termination of Registration Requirement.

As I explained to you previously, this is going to be a long process. The first step was to do legal research and draft the Petition, which has been done! The Petition is in the final stages of review and should be filed with the court sometime next week.

Next, should the court deem Mr. C [REDACTED] an eligible applicant, the court will get in touch with us regarding holding a hearing on the Petition. At that hearing, we will be able to present witnesses and other evidence in support of termination of Mr. C [REDACTED]'s registration requirements.

Normally, it takes about six (6) to eight (8) months from the filing of a petition to get the termination finalized, should it be successful. However, that is not including the COVID-related obstacles--such as Zoom court hearings and the court docket backup--due to the pandemic. The holidays also pose an additional time restraint, as the courts are closed for much of the holiday season. These factors could ultimately add on months to the already long process, but we will be alongside you and in touch with you every step of the way.

Again, I hope this email finds you well and that it was able to help you understand where we are at with the process and the upcoming steps. As always, please do not hesitate to reach out with any questions or concerns. Take care!

Sincerely,

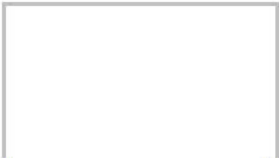
John Durney

John Durney | *Law Clerk*



201 W. Liberty St. | Ste 210 | Reno, NV 89501 [map](#)

P: [775-284-7700](tel:775-284-7700) | F: [775-284-3809](tel:775-284-3809)



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From: Tara C [REDACTED]
To: Laura Peters
Subject: Re: FW: Grievance File OBC21-0136/ Joseph S. Gilbert
Date: Thursday, April 15, 2021 11:39:47 AM

Hello again,

No, I was never told that Mr. Durney was a law student and did not approve of him either verbally or in writing to work on my case.

I did know that Mr. Solmoran was a Law Clerk, I believe that is what he said, but again did not verbally or in writing allow him to work on my case.

Honestly, I thought I hired Mr. Joey Gilbert to handle my case himself! That is what I thought I was paying for.

On Thu, Apr 15, 2021 at 11:31 AM Laura Peters <LauraP@nybar.org> wrote:

Me again,

Sorry, one more question: Under the rule that Mr. Gilbert is citing for supervision of Mistresses Solmoran and Durney, you must be informed, and approve in writing, the fact that they are law students and it is OK for them to work on your case from my reading of the rule. **Were you ever informed of the professional status of either Mr. Solmoran or Mr. Durney and, if you were, did you give written approval for them to work on your matter?**

From: Laura Peters
Sent: Thursday, April 15, 2021 10:28 AM
To: Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)>
Subject: RE: Grievance File OBC21-0136/ Joseph S. Gilbert

Good Morning:

I just reviewed your reply to Mr. O'Donnell's and Mr. Gilbert's responses again. **Even though Mr. Gilbert signed the fee agreement, neither he nor Mr. O'Donnell actually met with you at the initial consultation, correct?** You make some very valid points in your reply regarding the lack of supervision of staff. I'm looking into the claim that particularly Solmoran, but also Durney, were allowed to practice under the supervision of Mr. Gilbert. Not sure about that one but it doesn't sound right to me – I think there is some registration that has to go on with our membership department. All good questions from you as to the firm's unilateral decision to not pursue your case but the firm's delay in relaying that information to you. We may never know what the "numerous issues" were that

gave them so much pause, but *if* this proceeds to a formal hearing, that may be a question that will be asked of them.

If you could just confirm my understanding that you did not personally meet with either Mr. Gilbert or Mr. O'Donnell, that would be great. If you did meet with either of them, can you tell me when and how that occurred (phone, video, in person); it is my understanding that you did not though.

Thank you for your patience,

Laura

From: Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)>
Sent: Wednesday, April 14, 2021 4:42 PM
To: Laura Peters <LauraP@nvbar.org>
Subject: Re: Grievance File OBC21-0136/ Joseph S. Gilbert

You're welcome!

On Wed, Apr 14, 2021 at 4:02 PM Laura Peters <LauraP@nvbar.org> wrote:

That's what I thought – thank you!

Sent from [Mail](#) for Windows 10

From: [Tara C \[REDACTED\]](#)
Sent: Wednesday, April 14, 2021 4:01 PM
To: [Laura Peters](#)
Subject: Re: Grievance File OBC21-0136/ Joseph S. Gilbert

Good afternoon Laura,

Yes my response covers all employees of Joey Gilbert Law that were involved with my case.

Thank you for checking.

James

On Wed, Apr 14, 2021 at 3:18 PM Laura Peters <LauraP@nvbar.org> wrote:

Good Afternoon James,

I'm getting ready to begin my investigation to see if there are any rules violations on the part of either Mr. Gilbert or Mr. O'Donnell. When you replied to Mr. O'Donnell's response, did you mean for that to cover Mr. Gilbert as well?

The responses they prepared were almost identical, so I'm assuming your reply covers both attorneys but I wanted to check with you just in case.

Thanks,

Laura Peters

Paralegal/Investigator

Office of Bar Counsel

Ph: 775-824-1382

Email: aurap@nvbar.org



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SBN0083

action in reliance upon, this information by anyone other than the intended recipient is not authorized.

From: Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)>
Sent: Thursday, March 4, 2021 4:47 AM
To: Laura Peters <LauraP@nvbar.org>
Subject: Re: Grievance File OBC21-0136/ Joseph S. Gilbert

Good morning Ms. Peters,

Attached please find my response to Mr. O'Donnell's letter from February 19, 2021.

If you need anything further, please do not hesitate to contact me.

Have a great day.

James

On Mon, Feb 22, 2021 at 2:29 PM Laura Peters <LauraP@nvbar.org> wrote:

Good Afternoon Mr. C [REDACTED]:

Please find the attached communication from attorney Joseph Gilbert in response to a grievance filed with the Office of Bar Counsel on January 29, 2021. If you have further comment related to Mr. Gilbert's response or any additional information you would like to add to the file, please do so by return e-mail within approximately 2-3 weeks. This matter will be investigated and then presented to a Screening Panel of the Northern Nevada Disciplinary Board at the next opportunity. You will be informed of the Panel's decision shortly thereafter.

Thank you for your continued patience during this process,

Laura Peters

Paralegal/Investigator

Office of Bar Counsel

Ph: 775-824-1382

Email: laurap@nvbar.org



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Sent from [Mail](#) for Windows 10

March 4, 2021

Office of Bar Counsel
Attn: Laura Peters
9465 Double R Blvd., Suite B
Reno, Nv 89521

Ms. Peters:

This letter is in response to the correspondence received from Mr. O'Donnell, ESQ at Joey Gilbert Law.

I confirm that my full \$3,500 paid to Joey Gilbert Law Office was refunded to me on February 2, 2021.

In the second paragraph of Mr. O'Donnell's letter, he states Carlos Salmoran is a paralegal at their office who initially speaks with potential clients prior to either Mr. Gilbert or himself meeting with them. If this is in fact the process the firm follows, why didn't Mr. Gilbert or Mr. O'Donnell meet with me after signing the contract with Mr. Salmoran?

In the third paragraph, Mr. O'Donnell states after considerable resources were spent, Mr. Gilbert and Mr. O'Donnell decided the issues were too numerous to competently complete a petition that would meet their standards of practice and neither of them felt comfortable to put their names on. Why was I not notified right away about this decision? Mr. Gilbert nor Mr. O'Donnell contacted me at any time from 9-11-20 to 1-26-21, the date that my wife was told we were getting a full refund without any explanation and the firm made the decision to not represent me in this case. Also, I request further information noting the specific "numerous issues" preventing Mr. Gilbert or Mr. O'Donnell from completing a competent petition? I would like to stress the fact that during my wife's email conversations with Mr. Durney, the subject of time was addressed several times by Mr. Durney. He stated it was a "very long process". It would take several months or longer to process the petition, submit it to the court, wait for a response from the court and if the decision was in my favor, another 8 months to a year before it was completed within the Sex Offender Registry side of things. I was very aware of this time frame and I was fine with it. This is my life and the future quality of it, I was willing to take as much time needed for the best possible outcome. I feel it was Joey Gilbert Law Office that didn't want to invest the time after being retained. Covid-19 delays are not an acceptable reason.

In the fourth paragraph, Mr. O'Donnell states in Mid-December they were planning a full refund of my retainer. If that was the case, why was I not notified? Also, why did my wife and I receive an email from Mr. Durney on 11-20-20 that the petition was done and would be filed with the court that following week? If Mr. Durney was being supervised by either Mr. Gilbert or Mr. O'Donnell, why did neither of them know what he was telling me about my case? Why was I receiving information different from what Mr. O'Donnell indicated in his letter to the Bar Counsel? Why didn't Mr. Gilbert or Mr. O'Donnell take the initiative to reach out to me in person about their decisions back in December of 2020? Why did Mr. Gilbert and Mr. O'Donnell continue to let Mr. Durney fill my wife and I with false hope my petition was progressing and Joey Gilbert Law was working in my best interest when in fact it was the exact opposite? They decided to abandon my case long before my wife and I found out. Why did it take from September 11, 2020 to Mid-December for Mr. Gilbert and Mr. O'Donnell to become "uncomfortable

with the nuances of that area of law” when my contract with Joey Gilbert Law Office clearly states what they were being hired to do? If Mr. Gilbert or Mr. O’Donnell felt my case fell under this nuance of law, they were not comfortable with, why wasn’t this identified in the immediate days following September 11, 2020? Do Mr. Gilbert or Mr. O’Donnell review contracts of new clients being signed up by Mr. Salmoran? Also, if Mr. O’Donnell or Mr. Gilbert instructed their staff to process a refund in Mid-December why didn’t that happen? How can Mr. Gilbert or Mr. O’Donnell believe it is acceptable to decide to abandon a client and not personally notify their client? How is it acceptable for Mr. Gilbert or Mr. O’Donnell to instruct their staff to process a full refund and not personally make sure that refund is completed in a timely manner?

In the fifth paragraph of Mr. O’Donnell’s letter, he states he did not know the source of the delay of the refund that he and Mr. Gilbert instructed their staff to process? If they are overseeing their staff as Mr. O’Donnell states they do, how is it possible a refund requested in Mid-December 2020 not process until February 1, 2021? Do Mr. Gilbert or Mr. O’Donnell follow up on their cases? Also, in this same paragraph Mr. O’Donnell states that he does not know the details of most of the communication with my case. If Mr. Durney is licensed for supervised practice under Mr. Gilbert’s supervision (as stated in paragraph two of Mr. O’Donnell’s letter) how is it possible that Mr. Gilbert nor Mr. O’Donnell know what Mr. Durney’s communications with my wife and I were saying? Furthermore, my wife emailed Mr. O’Donnell and Mr. Salmoran on January 18, 2021 asking them for an update on the petition filing, case number and a copy of the petition. As of that date, if Mr. O’Donnell reads his emails, he should have realized I believed Joey Gilbert Law was still my attorney, no refund was processed and my petition was filed with the court as previously stated by Mr. Durney back in November of 2020. Mr. O’Donnell nor Mr. Salmoran responded to that email. It is unacceptable for Mr. O’Donnell to say he was not aware of these situations.

I do not believe that Mr. Gilbert nor Mr. O’Donnell did their due diligence overseeing the handling of my case. Mr. Gilbert and Mr. O’Donnell failed to adequately supervisor Mr. Durney and their staff. They allowed Mr. Durney to send my wife and I misleading emails filled with inaccurate information or down right lies about my case and petition status for months. Mr. Gilbert and Mr. O’Donnell both failed in their duty to act properly with my case causing myself and my wife months of undo stress and false hope.

I am sure you can understand, this is a very personal, sensitive and difficult topic for myself and my wife. Mr. Gilbert, Mr. O’Donnell, Mr. Salmoran and Mr. Durney have done nothing since September 11, 2020 but give me false hope and tell me lies about my “one-and-done” change on this petition.

It is my greatest hope that the Bar Counsel agrees with me that the reasons offered in Mr. O’Donnell’s letter are not acceptable. The fact that my retainer was refunded should not absolves Joey Gilbert Law Office, their attorney’s, their externs and their staff of the misrepresentation of my case.

Best Regards,

James C [REDACTED]

From: Tara C [REDACTED]
To: roger@joeygilbertlaw.com; Carlos Salmoran
Subject: Re: James C [REDACTED] Case

Good morning.

I would like to know if our email was received please?

Thank you.

On Mon, Jan 18, 2021, 5:14 AM Tara C [REDACTED] <[tarac\[REDACTED\]d@gmail.com](mailto:tarac[REDACTED]d@gmail.com)> wrote:

Good morning Mr. O'Donnell and Mr. Salmoran,

John Durney has been our contact over the past several months about James' case. Last week he informed us he was going back to school and provided contact information for you both as contact points moving forward.

On Nov 20, 2020 Mr. Durney sent us an email letting us know that the petition was going to be filed sometime that week. We expected some update as to the actual filing date shortly after. On Jan 4, 2021 I emailed John and asked him to please confirm the filing date and to email or upload a copy of the petition that was submitted to our client portal for our records and review.

We still have not received any of that information.

We know this is going to be a very long process and understand that with Covid it will be even longer. However, we do want and need to be kept in the loop and receive information that is requested in a timely manner.

All we would like to know and see is:

What is our case number?

When was the petition filed?

Receive a copy of the petition either hard copy or digital?

We appreciate your efforts in James' case. We know this is going to be a very long process and we know that it is his "one shot only" at getting relief. We also believe your firm is his best shot at making that happen, that is why we hired you. All we are asking is for a little more communication, answers to questions and paperwork provided when requested.

Thank you for your time.

James and Tara C [REDACTED].

From: [Tara C \[REDACTED\]](#)
To: [John Durney](#)
Cc: [Eileen Freeman](#)
Bcc: [tarac \[REDACTED\]@gmail.com](#)
Subject: Re: Refund and Recommendations

John,

Please return all the letters that were mailed to your office in regards to James case back to the address provided in last email.

Thank you,

Tara

On Mon, Jan 25, 2021, 1:17 PM Tara C [REDACTED] <[tarac \[REDACTED\]@gmail.com](mailto:tarac [REDACTED]@gmail.com)> wrote:

My address:
601 Sam Clemens Ave
Dayton, NV 89403

My phone#: 775 338 9253

Please mail refund check asap.

Thank you,
Tara

Thank you for the list.

On Mon, Jan 25, 2021, 1:05 PM John Durney <john.durney@joeygilbertlaw.com> wrote:

Mrs. C [REDACTED],

I am incredibly sorry for the bad news regarding your husband's case. With that said, we are refunding the full amount of your husband's case, \$3,500.00, and it will be refunded to you via check at your home address within the next few weeks (as your credit card payment has already processed, so we will have to refund you via check).

Could you please reply to this email with your home address and your telephone number so that our Bookkeeper, Miss Eileen (CC'd), can contact you regarding the refund information? Thank you so much.

As far as recommendations for post-conviction relief attorneys who specialize in your husband's type of case, you can try the following list of attorneys:

- Nevada State Bar (<https://www.nvbar.org/>), who will be able to refer you to someone;

- William J. Routsis, II, Esq. (<https://www.reno.lawyer/writs-appeals-and-post-conviction-relief.html>);
- Jesse Kalter Law (<https://www.jessekalterlaw.com/sex-crimes-lawyer/>);
- Wolfe Law Office (<https://www.paulwolfelaw.com/sex-offenses>);
- Las Vegas Defense Group (<https://www.shouselaw.com/nv/defense/laws/sex-offender-registry/removal/>); or
- Richard P. Davies, Esq. (<http://www.richardpdavieslaw.com/practice-areas/reno/criminal-defense-attorney/record-sealing/>).

This is a preliminary list of attorneys that I was able to find who might be able to help you with your husband's case. Again, we are very sorry that there was a lack of communication within our office, as we do not typically practice this very specialized field of law.

I am out of the office most of the week, but I will try to answer any questions or concerns whenever possible. We wish you and your husband the best of luck moving forward.

Sincerely,

John Durney

John Durney | *Law Clerk*



201 W. Liberty St. | Ste 210 | Reno, NV 89501 [map](#)

P: [775-284-7700](tel:775-284-7700) | **F:** [775-284-3809](tel:775-284-3809)

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From: Tara C [REDACTED]
To: John Durney; roger@joeygilbertlaw.com; Carlos Salmoran
Bcc: Tara C [REDACTED]
Subject: James C [REDACTED]

Good afternoon,

Per my phone conversation yesterday with Mr. Durney I would like to request the following.

1. Office notice of your withdrawal from representing James in his case citing reasons why your firm made the decision to release James as your client 4 months after signing contract and full payment was made.
2. Full refund of \$3,500 plus interest from 9-11-20 to when check is cut.
3. Email confirmation of when refund check will be mailed. Several weeks as previously stated by Mr. Durney is not acceptable.
4. James' complete file.
5. All original character reference letters that were sent to your office per your request to support his case.
6. Proof of filing to redraw as his attorney of record so we can obtain new counsel.

I will be sending this exact document via us mail tomorrow return receipt requested.

Thank you,

James and Tara C [REDACTED]

From: [Tara C \[REDACTED\]](#)
To: [Laura Peters](#)
Subject: Re: Grievance File OBC21-0136/ Joseph S. Gilbert
Date: Wednesday, April 14, 2021 4:01:59 PM

Good afternoon Laura,

Yes my response covers all employees of Joey Gilbert Law that were involved with my case.

Thank you for checking.

James

On Wed, Apr 14, 2021 at 3:18 PM Laura Peters <LauraP@nvbar.org> wrote:

Good Afternoon James,

I'm getting ready to begin my investigation to see if there are any rules violations on the part of either Mr. Gilbert or Mr. O'Donnell. When you replied to Mr. O'Donnell's response, did you mean for that to cover Mr. Gilbert as well?

The responses they prepared were almost identical, so I'm assuming your reply covers both attorneys but I wanted to check with you just in case.

Thanks,

Laura Peters

Paralegal/Investigator

Office of Bar Counsel

Ph: 775-824-1382

Email: laurap@nvbar.org



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SBN0092

From: Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)>
Sent: Thursday, March 4, 2021 4:47 AM
To: Laura Peters <LauraP@nvbar.org>
Subject: Re: Grievance File OBC21-0136/ Joseph S. Gilbert

Good morning Ms. Peters,

Attached please find my response to Mr. O'Donnell's letter from February 19, 2021.

If you need anything further, please do not hesitate to contact me.

Have a great day.

James

On Mon, Feb 22, 2021 at 2:29 PM Laura Peters <LauraP@nvbar.org> wrote:

Good Afternoon Mr. C [REDACTED]

Please find the attached communication from attorney Joseph Gilbert in response to a grievance filed with the Office of Bar Counsel on January 29, 2021. If you have further comment related to Mr. Gilbert's response or any additional information you would like to add to the file, please do so by return e-mail within approximately 2-3 weeks. This matter will be investigated and then presented to a Screening Panel of the Northern Nevada Disciplinary Board at the next opportunity. You will be informed of the Panel's decision shortly thereafter.

Thank you for your continued patience during this process,

Laura Peters

Paralegal/Investigator

Office of Bar Counsel

Ph: 775-824-1382

Email: laurap@nvbar.org



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Sent from [Mail](#) for Windows 10

SBN0094

March 4, 2021

Office of Bar Counsel
Attn: Laura Peters
9465 Double R Blvd., Suite B
Reno, Nv 89521

Ms. Peters:

This letter is in response to the correspondence received from Mr. O'Donnell, ESQ at Joey Gilbert Law.

I confirm that my full \$3,500 paid to Joey Gilbert Law Office was refunded to me on February 2, 2021.

In the second paragraph of Mr. O'Donnell's letter, he states Carlos Salmoran is a paralegal at their office who initially speaks with potential clients prior to either Mr. Gilbert or himself meeting with them. If this is in fact the process the firm follows, why didn't Mr. Gilbert or Mr. O'Donnell meet with me after signing the contract with Mr. Salmoran?

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SBN0095

with the nuances of that area of law” when my contract with Joey Gilbert Law Office clearly states what they were being hired to do? If Mr. Gilbert or Mr. O’Donnell felt my case fell under this nuance of law, they were not comfortable with, why wasn’t this identified in the immediate days following September 11, 2020? Do Mr. Gilbert or Mr. O’Donnell review contracts of new clients being signed up by Mr. Salmoran? Also, if Mr. O’Donnell or Mr. Gilbert instructed their staff to process a refund in Mid-December why didn’t that happen? How can Mr. Gilbert or Mr. O’Donnell believe it is acceptable to decide to abandon a client and not personally notify their client? How is it acceptable for Mr. Gilbert or Mr. O’Donnell to instruct their staff to process a full refund and not personally make sure that refund is completed in a timely manner?

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It is my greatest hope that the Bar Counsel agrees with me that the reasons offered in Mr. O’Donnell’s letter are not acceptable. The fact that my retainer was refunded should not absolves Joey Gilbert Law Office, their attorney’s, their externs and their staff of the misrepresentation of my case.

Best Regards,

James C [REDACTED]

From: [Dean Fernandez](#)
To: [Laura Peters](#)
Cc: [Brian Kunzi](#)
Subject: RE: Carlos Salmoran
Date: Thursday, April 15, 2021 3:34:20 PM
Attachments: [Durney, John.pdf](#)

Hi Laura!

I've checked my records and I did not receive an application for a Mr. Salmoran for student practice nor do I have a certificate bearing his name. I do have a certificate for John Durney which I've attached.

In regards to the rule, out of state law school students can apply for a level 2 certification as long as they are supervised by a Nevada licensed attorney who has been a member for at least 5 years. They do not show up on CV since they are not assigned a bar number through limited practice and thus are technically not a member of the bar.

Let me know if you need further clarification on anything else or you can call me at my cell below.

Dean Fernandez
Assistant Director of Admissions
State Bar of Nevada
3100 W. Charleston Blvd., Ste. 100
Las Vegas, NV 89102
702-205-8334

From: Brian Kunzi <briank@nvbar.org>
Sent: Thursday, April 15, 2021 1:48 PM
To: Dean Fernandez <DeanF@nvbar.org>
Subject: Fwd: Carlos Salmoran

Please check if this individual was certified as a student and follow up with Laura. Looks like she needs a primer on how the student certification works. Thanks.

Brian T. Kunzi
Sent from my iPad

Begin forwarded message:

From: Laura Peters <LauraP@nvbar.org>
Date: April 15, 2021 at 11:01:53 AM PDT
To: Brian Kunzi <briank@nvbar.org>
Cc: Mary Jorgensen <MaryJ@nvbar.org>

SBN0097

Subject: Carlos Salmoran

Good Morning:

I am investigating a matter involving a claimed externship and licensing of the above individual under SCR 49.3. Did Mr. Salmoran apply for supervised practice of law under Reno attorney Joseph S. Gilbert, SBN# 9033? Mr. Gilbert represents that Mr. Salmoran is a 3rd year law student at the University of Oregon law school. The rule focuses on those attending Boyd law school only from my understanding. I can't find Salmoran in the CV database – if he were allowed to practice under the rule, wouldn't he be in there as a conditional admittee? There is another law student at Gilbert's firm also – John Durney. I don't know where he goes to law school, or actually if he does, but same goes for him.

Thanks,

Laura Peters
Paralegal/Investigator
Office of Bar Counsel
Ph: 775-824-1382
Email: laurap@nvbar.org



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SBN0098

State Bar of Nevada

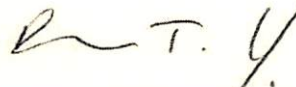
Level 2 Certification of Limited Practice Under SCR 49.3

John Durney

is hereby certified by the State Bar of Nevada in accordance with Nevada Supreme

*Court Rule 49.3, under the supervision of Joey Gilbert, Esq.,
who is an active member in good standing of the State Bar of Nevada.*

DATED this Thursday, June 4, 2020.



Brian T. Kunzi, Esq.
Admissions Director
State Bar of Nevada



From: Tara C [REDACTED]
To: Laura Peters
Subject: Re: Grievance File OBC21-0136/ Joseph S. Gilbert
Date: Thursday, April 15, 2021 10:57:43 AM

Good morning Laura,

You are correct. I did not meet with either Mr. Gilbert or Mr. O'Donnell at any point in time. Nor did I ever have any phone conversations with either of them.

Thank you,

James

On Thu, Apr 15, 2021 at 10:27 AM Laura Peters <LauraP@nvbar.org> wrote:

Good Morning:

I just reviewed your reply to Mr. O'Donnell's and Mr. Gilbert's responses again. **Even though Mr. Gilbert signed the fee agreement, neither he nor Mr. O'Donnell actually met with you at the initial consultation, correct?** You make some very valid points in your reply regarding the lack of supervision of staff. I'm looking into the claim that particularly Solmorán, but also Durney, were allowed to practice under the supervision of Mr. Gilbert. Not sure about that one but it doesn't sound right to me – I think there is some registration that has to go on with our membership department. All good questions from you as to the firm's unilateral decision to not pursue your case but the firm's delay in relaying that information to you. We may never know what the "numerous issues" were that gave them so much pause, but *if* this proceeds to a formal hearing, that may be a question that will be asked of them.

If you could just confirm my understanding that you did not personally meet with either Mr. Gilbert or Mr. O'Donnell, that would be great. If you did meet with either of them, can you tell me when and how that occurred (phone, video, in person); it is my understanding that you did not though.

Thank you for your patience,

Laura

From: Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)>
Sent: Wednesday, April 14, 2021 4:42 PM

SBNo0100

To: Laura Peters <LauraP@nvbar.org>
Subject: Re: Grievance File OBC21-0136/ Joseph S. Gilbert

You're welcome!

On Wed, Apr 14, 2021 at 4:02 PM Laura Peters <LauraP@nvbar.org> wrote:

That's what I thought – thank you!

Sent from [Mail](#) for Windows 10

From: [Tara C](#) [REDACTED]
Sent: Wednesday, April 14, 2021 4:01 PM
To: [Laura Peters](#)
Subject: Re: Grievance File OBC21-0136/ Joseph S. Gilbert

Good afternoon Laura,

Yes my response covers all employees of Joey Gilbert Law that were involved with my case.

Thank you for checking.

James

On Wed, Apr 14, 2021 at 3:18 PM Laura Peters <LauraP@nvbar.org> wrote:

Good Afternoon James,

I'm getting ready to begin my investigation to see if there are any rules violations on the part of either Mr. Gilbert or Mr. O'Donnell. When you replied to Mr. O'Donnell's

SBN00101

response, did you mean for that to cover Mr. Gilbert as well?

The responses they prepared were almost identical, so I'm assuming your reply covers both attorneys but I wanted to check with you just in case.

Thanks,

Laura Peters

Paralegal/Investigator

Office of Bar Counsel

Ph: 775-824-1382

Email: laurap@nvbar.org



Notice of Confidentiality: The information transmitted is intended only for the person or entity to whom it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking any action in reliance upon, this information by anyone other than the intended recipient is not authorized.

From: Tara C [REDACTED] <[tarac\[REDACTED\]@gmail.com](mailto:tarac[REDACTED]@gmail.com)>
Sent: Thursday, March 4, 2021 4:47 AM
To: Laura Peters <LauraP@nvbar.org>
Subject: Re: Grievance File OBC21-0136/ Joseph S. Gilbert

Good morning Ms. Peters,

Attached please find my response to Mr. O'Donnell's letter from February 19, 2021.

If you need anything further, please do not hesitate to contact me.

Have a great day.

James

On Mon, Feb 22, 2021 at 2:29 PM Laura Peters <LauraP@nvbar.org> wrote:

Good Afternoon Mr. C [REDACTED]:

Please find the attached communication from attorney Joseph Gilbert in response to a grievance filed with the Office of Bar Counsel on January 29, 2021. If you have further comment related to Mr. Gilbert's response or any additional information you would like to add to the file, please do so by return e-mail within approximately 2-3 weeks. This matter will be investigated and then presented to a Screening Panel of the Northern Nevada Disciplinary Board at the next opportunity. You will be informed of the Panel's decision shortly thereafter.

Thank you for your continued patience during this process,

Laura Peters

Paralegal/Investigator

Office of Bar Counsel

Ph: 775-824-1382

Email: laurap@nvbar.org



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SBN00103

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Sent from [Mail](#) for Windows 10

March 4, 2021

Office of Bar Counsel
Attn: Laura Peters
9465 Double R Blvd., Suite B
Reno, Nv 89521

Ms. Peters:

This letter is in response to the correspondence received from Mr. O'Donnell, ESQ at Joey Gilbert Law.

I confirm that my full \$3,500 paid to Joey Gilbert Law Office was refunded to me on February 2, 2021.

In the second paragraph of Mr. O'Donnell's letter, he states Carlos Salmoran is a paralegal at their office who initially speaks with potential clients prior to either Mr. Gilbert or himself meeting with them. If this is in fact the process the firm follows, why didn't Mr. Gilbert or Mr. O'Donnell meet with me after signing the contract with Mr. Salmoran?

In the third paragraph, Mr. O'Donnell states after considerable resources were spent, Mr. Gilbert and Mr. O'Donnell decided the issues were too numerous to competently complete a petition that would meet their standards of practice and neither of them felt comfortable to put their names on. Why was I not notified right away about this decision? Mr. Gilbert nor Mr. O'Donnell contacted me at any time from 9-11-20 to 1-26-21, the date that my wife was told we were getting a full refund without any explanation and the firm made the decision to not represent me in this case. Also, I request further information noting the specific "numerous issues" preventing Mr. Gilbert or Mr. O'Donnell from completing a competent petition? I would like to stress the fact that during my wife's email conversations with Mr. Durney, the subject of time was addressed several times by Mr. Durney. He stated it was a "very long process". It would take several months or longer to process the petition, submit it to the court, wait for a response from the court and if the decision was in my favor, another 8 months to a year before it was completed within the Sex Offender Registry side of things. I was very aware of this time frame and I was fine with it. This is my life and the future quality of it, I was willing to take as much time needed for the best possible outcome. I feel it was Joey Gilbert Law Office that didn't want to invest the time after being retained. Covid-19 delays are not an acceptable reason.

In the fourth paragraph, Mr. O'Donnell states in Mid-December they were planning a full refund of my retainer. If that was the case, why was I not notified? Also, why did my wife and I receive an email from Mr. Durney on 11-20-20 that the petition was done and would be filed with the court that following week? If Mr. Durney was being supervised by either Mr. Gilbert or Mr. O'Donnell, why did neither of them know what he was telling me about my case? Why was I receiving information different from what Mr. O'Donnell indicated in his letter to the Bar Counsel? Why didn't Mr. Gilbert or Mr. O'Donnell take the initiative to reach out to me in person about their decisions back in December of 2020? Why did Mr. Gilbert and Mr. O'Donnell continue to let Mr. Durney fill my wife and I with false hope my petition was progressing and Joey Gilbert Law was working in my best interest when in fact it was the exact opposite? They decided to abandon my case long before my wife and I found out. Why did it take from September 11, 2020 to Mid-December for Mr. Gilbert and Mr. O'Donnell to become "uncomfortable

SBN00105

with the nuances of that area of law” when my contract with Joey Gilbert Law Office clearly states what they were being hired to do? If Mr. Gilbert or Mr. O’Donnell felt my case fell under this nuance of law, they were not comfortable with, why wasn’t this identified in the immediate days following September 11, 2020? Do Mr. Gilbert or Mr. O’Donnell review contracts of new clients being signed up by Mr. Salmoran? Also, if Mr. O’Donnell or Mr. Gilbert instructed their staff to process a refund in Mid-December why didn’t that happen? How can Mr. Gilbert or Mr. O’Donnell believe it is acceptable to decide to abandon a client and not personally notify their client? How is it acceptable for Mr. Gilbert or Mr. O’Donnell to instruct their staff to process a full refund and not personally make sure that refund is completed in a timely manner?

In the fifth paragraph of Mr. O’Donnell’s letter, he states he did not know the source of the delay of the refund that he and Mr. Gilbert instructed their staff to process? If they are overseeing their staff as Mr. O’Donnell states they do, how is it possible a refund requested in Mid-December 2020 not process until February 1, 2021? Do Mr. Gilbert or Mr. O’Donnell follow up on their cases? Also, in this same paragraph Mr. O’Donnell states that he does not know the details of most of the communication with my case. If Mr. Durney is licensed for supervised practice under Mr. Gilbert’s supervision (as stated in paragraph two of Mr. O’Donnell’s letter) how is it possible that Mr. Gilbert nor Mr. O’Donnell know what Mr. Durney’s communications with my wife and I were saying? Furthermore, my wife emailed Mr. O’Donnell and Mr. Salmoran on January 18, 2021 asking them for an update on the petition filing, case number and a copy of the petition. As of that date, if Mr. O’Donnell reads his emails, he should have realized I believed Joey Gilbert Law was still my attorney, no refund was processed and my petition was filed with the court as previously stated by Mr. Durney back in November of 2020. Mr. O’Donnell nor Mr. Salmoran responded to that email. It is unacceptable for Mr. O’Donnell to say he was not aware of these situations.

I do not believe that Mr. Gilbert nor Mr. O’Donnell did their due diligence overseeing the handling of my case. Mr. Gilbert and Mr. O’Donnell failed to adequately supervisor Mr. Durney and their staff. They allowed Mr. Durney to send my wife and I misleading emails filled with inaccurate information or down right lies about my case and petition status for months. Mr. Gilbert and Mr. O’Donnell both failed in their duty to act properly with my case causing myself and my wife months of undo stress and false hope.

I am sure you can understand, this is a very personal, sensitive and difficult topic for myself and my wife. Mr. Gilbert, Mr. O’Donnell, Mr. Salmoran and Mr. Durney have done nothing since September 11, 2020 but give me false hope and tell me lies about my “one-and-done” change on this petition.

It is my greatest hope that the Bar Counsel agrees with me that the reasons offered in Mr. O’Donnell’s letter are not acceptable. The fact that my retainer was refunded should not absolves Joey Gilbert Law Office, their attorney’s, their externs and their staff of the misrepresentation of my case.

Best Regards,

James C [REDACTED]

From: [Mary Jorgensen](#)
To: [Laura Peters](#); [Brian Kunzi](#)
Subject: RE: Carlos Salmoran
Date: Thursday, April 15, 2021 11:23:24 AM

Hi Laura,

Neither is in CV and yes, they would be if they had been certified under the limited admissions rule.

Thanks.

Mary Jorgensen
Member Services Director
State Bar of Nevada
3100 W. Charleston Blvd., Suite 100
Las Vegas, NV 89102
702-382-2200



Looking for more ways to network with fellow attorneys? The State Bar of Nevada partners with numerous affiliate bar associations that offer targeted events, services and educational opportunities to their members. Affiliate bars exist for regional areas and minority groups.

To learn more, [visit the State Bar of Nevada's Affiliate Bar Associations page](#).

From: Laura Peters <LauraP@nvbar.org>
Sent: Thursday, April 15, 2021 11:02 AM
To: Brian Kunzi <briank@nvbar.org>
Cc: Mary Jorgensen <MaryJ@nvbar.org>
Subject: Carlos Salmoran

Good Morning:

I am investigating a matter involving a claimed externship and licensing of the above individual under SCR 49.3. Did Mr. Salmoran apply for supervised practice of law under Reno attorney Joseph S. Gilbert, SBN# 9033? Mr. Gilbert represents that Mr. Salmoran is a 3rd year law student at the University of Oregon law school. The rule focuses on those attending Boyd law school only from my understanding. I can't find Salmoran in the CV database – if he were allowed to practice under the rule, wouldn't he be in there as a conditional admittee? There is another law student at Gilbert's

SBN00107

firm also – John Durney. I don't know where he goes to law school, or actually if he does, but same goes for him.

Thanks,

Laura Peters
Paralegal/Investigator
Office of Bar Counsel
Ph: 775-824-1382
Email: laurap@nvbar.org



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Discipline Records Request Procedure

This procedure explains how to make a request for the State Bar of Nevada's discipline records and how the bar calculates how much it will cost to respond to a request.

WHAT RECORDS ARE PUBLIC?

Discipline files are confidential until the State Bar of Nevada files a formal complaint. If the matter is dismissed or closed without a formal complaint filed, then the file is public upon its conclusion.

Proceedings involving reciprocal discipline pursuant to Supreme Court Rule ("SCR") are public.

If the Supreme Court grants a petition for a temporary restraining order pursuant to SCR 102(3), then the file is public upon entry of the order.

If the Supreme Court grants a petition for a temporary suspension pursuant to SCR 102(4), then the file is public upon entry of the order granting the petition.

Proceedings under SCR 111, concerning attorneys convicted of crimes, are public.

The supreme court's order transferring an attorney to disability inactive status is public. All other proceedings in such matters are confidential, unless the attorney waives confidentiality.

Unless the attorney waives confidentiality, petitions for reinstatement from disability inactive status are confidential. If a petition is granted, then the file will become public upon entry of the order of reinstatement.

Reinstatement proceedings under SCR 116 are public.

Disbarments by consent under SCR 112 are public.

Bar counsel's work product and the panel's deliberations are never public.

Any portion of a file sealed by court order is not public.

The following information is personal information and will be redacted:

- a person's address, phone number or email address
- a person or business' salary, bank account, or financial details
- details about a person's property
- the fact that a person is a member, or leader, of an association and their attendance at meetings
- a person's medical details or health information, including records relating to a diversion program
- a person's fingerprints or blood type

- details about a person's religious or sexual preferences

The bar may share information with law enforcement agencies or other authorized agencies investigating the qualifications of judicial candidates, admission to practice, or investigating qualifications for government employment.

All records or other evidence of grievances that have been ***terminated by dismissal*** for more than three years are considered expunged and will not be subject to public disclosure.

Regardless of a file's public status, the state bar may disseminate the procedural status and the general nature of a grievance or complaint.

HOW TO REQUEST RECORDS

Requests should be sent via email to louisew@nvbar.org, or by letter directed to:

Louise Watson
State Bar of Nevada
3100 W. Charleston Blvd.
Suite 100
Las Vegas, NV 89102

CALCULATION OF FEES

The State Bar of Nevada charges a base fee of \$25 for all public document requests. In addition to the base fee, the State Bar of Nevada charges additional fees reasonably calculated to reimburse the bar for its costs of providing and conveying copies of public records. Typically, these fees include:

1. Staff time;
2. Copying costs; and
3. Postage.

CHARGES FOR STAFF TIME

1. As a courtesy, the bar does not charge for the first fifteen (15) minutes of staff time spent to respond to a public records request. The bar reserves the right to charge for all staff time if it receives frequent or repeated requests from the same source.

2. The bar charges for staff time for all public records requests that require more than fifteen (15) minutes of staff time to prepare a response, regardless of whether records are provided in paper or electronic form.

3. Charges for staff time are based on the bar's actual cost for the employees' time. Charges for staff time include, but are not be limited to, time spent locating, compiling, sorting, segregating, redacting and reviewing records to prepare them for inspection, obtaining legal advice about the request and supervising the inspection of records. The rates for staff most likely to respond to records requests are approximately as follows, and may change from time to time:

- a. Public Records Coordinator, \$30/hour
- b. IT Technical Support \$50/hour
- c. Assistant Bar Counsel, \$100/hour

COPYING PAPER RECORDS

1. Upon receipt of the \$25 base fee, the bar will provide up to ten (10) pages of copies at no additional charge. The bar reserves the right to charge for all copy expenses if it receives frequent or repeated requests from the same source.
2. The bar charges \$1 per page (after the first ten (10) pages of records) to recover its costs of photocopying. This photocopying charge includes the staff time required to make copies, but does not include staff time otherwise spent locating, compiling, sorting, segregating, redacting or reviewing records.
3. A page refers to the number of paper records copied onto a piece of 8-1/2 by 11-inch paper. Except where staff deems it most efficient, documents will not be reduced in size or otherwise manipulated to fit additional records on a page. A double-sided copy constitutes two pages.
4. The bar charges for any actual additional costs for copies made on paper larger than 8-1/2 by 11-inch format, with actual costs to be calculated on a case-by-case basis.

COPYING ELECTRONIC RECORDS

1. Upon receipt of the \$25 base fee, the bar will email responsive records that are smaller than 5MB in total size and are readily available in electronic format. While the bar sends emails at no cost, the bar charges for staff time otherwise spent locating, compiling, sorting, segregating, redacting or reviewing emailed electronic records. The bar will not email records that are larger than 5MB total in size, due to system constraints. The bar does not divide responsive electronic records into smaller sections to facilitate email.
2. In addition to the \$25 base fee, the bar charges \$15.00 for each DVD/CD or \$25.00 for a USB flash drive used to produce electronic records. This cost includes the staff time required to copy electronic records to the disk, but does not include staff time otherwise spent locating, compiling, sorting, segregating, redacting or reviewing electronic records. Due to the threat of computer viruses and other malware, the bar cannot permit requesters to provide their own disks or USB flash drive, and devices provided by the bar cannot be used for future requests.

POSTAGE

Unless a public records requestor arranges to pick up records at the bar, the bar will also charge for its actual postage costs to mail records.

WRITTEN ESTIMATE OF COSTS AND FEES

The bar will provide an estimate of the cost of producing records before it provides any records. The bar will not respond until the requester has paid the costs and fees.

PAYMENT

The bar accepts credit card, debit card, checks or money orders made out to the State Bar of Nevada. The bar reserves the right to require payment prior to providing responsive materials.

FEE WAIVERS

The bar will consider a fee waiver if it determines making the records available primarily benefits the general public. Fee waiver requests should explain why the request primarily benefits the general public.

LITIGATION

A party to litigation involving the bar, including discipline, seeking information related to that litigation, must notify the bar's General Counsel for general litigation and Bar Counsel for discipline.

QUESTIONS

Questions about the State Bar of Nevada's public records procedure should be sent in writing by email: louisew@nvbar.org or by mail: State Bar of Nevada, Public Record Requests, 3100 W. Charleston Blvd, Suite 100, Las Vegas, NV 89102.

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:

Joseph Gilbert, Esq.
405 Marsh Ave
Reno, NV 89509



9590 9402 6384 0303 4047 19

2. Article Number (Transfer from carrier label)

7019 2970 0001 3885 5177

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

8/30/21

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

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail® Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

SBN00113

JOEY GILBERT LAW
ATTORNEYS AT LAW
LICENSED IN NEVADA AND CALIFORNIA

www.joeygilbertlaw.com
405 Marsh Ave.
Reno, Nevada 89509

Telephone: (775) 284-7700
Facsimile: (775) 284-3809
Joey@joeygilbertlaw.com

September 10, 2021

***VIA USPS EXPRESS OVERNIGHT MAIL
COPIES VIA EMAIL TO LAURAP@NVBAR.ORG AND VIA SAME-DAY COURRIER***

Office of Bar Counsel
Attn: Bar counsel, c/o Laura Peters
9465 Double R Blvd. Ste B
Reno, NV 89521-5977

RE: **Disciplinary Grievance OBC21-0136 (James C [REDACTED])**

To whom it may concern:

Please accept this letter as my request to appeal the decision of the Northern Nevada Disciplinary Board's decision to find me in violation of Supreme Court Rule 49.5 and Rules 1.3, 5.5, 5.3 and 1.16 of the Rules of Professional Conduct (RPC).

The basis for this appeal is the numerous incorrect facts found by the Screening Panel. I would like a hearing to be held regarding the allegations of professional misconduct against me.

First, as an initial matter, SCR 49.5 was repealed effective August 22, 2019. Accordingly, I could not have been in violation of SCR 49.5 for conduct occurring in 2020, as found by the Panel. More importantly, however, I engaged in no unethical or prohibited conduct.

With respect to Rule 1.3 (Diligence), I had my firm put numerous hours into researching and preparing this matter to ensure we were doing the best job possible for Mr. C [REDACTED]. John Durney, at my instruction, spent weeks researching this matter, and my associate attorney, Roger O'Donnell was tasked with assisting John Durney in his research and writing ability. As part of that task, Roger O'Donnell spent between 10-20 hours researching the topic as well to familiarize himself with the law, the petition and to prepare for a possible hearing on the topic. I was aware my firm was expending considerable resources to prepare Mr. C [REDACTED]'s petition, and I was aware they were starting with a template from the firm's previous work in this area but were duplicating all the research themselves rather than accept as good work product the template which was the work product of a former associate of mine who was no longer working with the firm.

With respect to Rule 1.5 (Unauthorized Practice of Law), Carlos Salmoran was the only person physically in the room with Mr. and Mrs. C [REDACTED] when Mr. C [REDACTED] signed the retainer, due to my unforeseen COVID-induced quarantine at that time, but I was telephonically present for the meeting, both before and after Mr. C [REDACTED] signed his retainer, which I discussed with them. I did not hang up the phone until it appeared to me neither Mr. nor Mrs. C [REDACTED] had any further

SBN00114

questions, and I left them in the meeting for Carlos to do some initial fact gathering for me, so my team and I had a baseline to work from.

With respect to Rule 5.3 (Responsibility of Nonlawyer Assistants), (i) Carlos Salmoran did not engage in the unauthorized practice of law, so I could not have failed to ensure he did not do so.

(ii) Regarding John Durney's communications with Mr. and Mrs. C [REDACTED], it is my belief he misunderstood information being given to him, but he no longer works at the firm, and I am unable to speculate as to exactly what his thought process was. However, I do not believe the errors in John Durney's communication rose to the level of an ethical violation. In particular, during the middle of the COVID-19 pandemic, when numerous employees were regularly out of the office for both actual sickness and potential exposure quarantine, Mr. Durney did the best he could to keep in contact with the wife of a client who was constantly in contact with the office and who was getting frustrated with any communication delays lasting more than a couple of hours. I had explained, and I had asked staff to explain, to Mr. and Mrs. C [REDACTED] it would frequently take time to get back to her due to the volume of our workload, but we would endeavor to communicate with either Mr. or Mrs. C [REDACTED] in a reasonable timeframe.

That was never good enough, however, and in an effort to satisfy expectations and updates on an unusually frequent basis, John did, unfortunately, convey inaccurate information which I believe was conveyed because of a genuine misunderstanding on his part and a lack of time to consult with the whole team, and in particular, me. Of note, however, Mrs. C [REDACTED] was aware I was the attorney ultimately responsible for this matter, and she was aware she was communicating with John in the capacity of a client liaison who was communicating with her as much as he was because she was more comfortable being in contact regularly with staff than waiting for information to come from me. The system of communication was set up in an effort to accommodate her requests, and she was aware of that, having been specifically told I was frequently unable to review her case as regularly as she was calling seeking updates due to the firm's other caseload which I was also responsible for.

Regarding John's work on the Petition, John brought the Petition to my attention and to Roger O'Donnell's attention numerous times, and he received feedback directly from us numerous times. At no point was he making any legal decision or advising the client as to what path to take. John did not give legal advice to Mr. C [REDACTED], nor did he make any independent legal decisions on the case. In my opinion, John was never unsupervised while performing any action which could have been construed as giving legal advice to any client, or to Mr. C [REDACTED], specifically.

With respect to Rule 1.16, I made the decision to terminate representation in mid-late December. There was a delay in my staff following through on my instruction to issue the refund check. Although I realize timelier correspondence and follow through would have been preferable, I do not believe, given the circumstances, this delay rose to the level of an ethical violation. Between absences for the holidays and more staff sick/quarantine days between Christmas and when Mr. C [REDACTED] was issued his refund check, the office, and particularly the criminal team, was just moving slowly. Two key employees in my criminal team in fact contracted COVID and were out of the office for approximately three weeks during that time. As the workload did not decrease, I and my team - both Roger O'Donnell, my associate attorney, and my staff - were forced to prioritize the workload necessary for cases with upcoming Court appearances. This problem was

compounded by the backlog of cases which had been reset throughout the COVID pandemic, which prosecutors and the Courts were trying to ensure were finally getting heard, causing a perfect storm of increased workload and decreased staff and attorney availability. Given the practical reality we were living at the time, I do wish we had been able to refund Mr. C [REDACTED] sooner, but it was not possible.

With respect to returning Mr. C [REDACTED]'s papers, there were no papers to return, as the only documents we received were electronic PDF copies of relevant papers.

Overarching the above, I have subsequently learned Roger O'Donnell, my associate attorney, was contemplating leaving the firm during late December 2020 and early January 2021 and was therefore less invested into this matter that I had believed him to be. Although I know he did a significant amount of research into the matter to be able to help John with his research and writing, I do not believe he was helping ensure our normal timelines were followed in this case, as I had come to expect him to do in cases we work on collaboratively.

Nonetheless, although I believe Roger O'Donnell put in less time and attention than I had come to expect from him, I am aware of the time and attention he did, in fact, put into the Petition so he was able to substantially help John with his researching and writing skills and would be able to cover any hearing on the matter, if need be. There was a considerable amount of back and forth between John and Roger and between John and me on this matter. Although I must acknowledge the matter was taking longer than it should have, I do not believe John did anything that would amount to practicing law without a license or without proper supervision.

The above being so, I respectfully object to the decision of the Screening Panel and request a hearing on the allegations of ethical violations against me.

Best regards,

JOEY GILBERT LAW

JOSEPH S. GILBERT, ESQ.



FILED

OCT 22 2021

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

Case No: OBC21-0136

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
)
JOSEPH S. GILBERT, ESQ.,)
BAR NO. 9033)
)
Respondent.)

**NOTICE OF INTENT TO
PROCEED ON A
DEFAULT BASIS**

TO: JOSEPH S. GILBERT, Esq.
Joey Gilbert & Associates
405 Marsh Ave
Reno, NV 89509

c/o Dominic Gentile, Esq.
Clark Hill PLLC
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
dgentile@clarkhill.com

PLEASE TAKE NOTICE THAT unless the State Bar receives a responsive pleading in the above-captioned matter by **November 15, 2021**, it will proceed on a default basis and **the charges against you shall be deemed admitted**. Supreme Court Rule 105 (2) states in relevant part:

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

Additional copies of the First Amended Complaint previously served upon you accompanies this Notice.

DATED this 22nd day of October, 2021.

STATE BAR OF NEVADA
DANIEL M. HOOGE, Bar Counsel

By: 

R. Kait Flocchini, Assistant Bar Counsel
Nevada Bar No. 9861
9456 Double R Blvd., Ste. B
Reno, NV 89521
(775) 824-1384

CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that a true and correct copy of the foregoing **Notice of Intent to Proceed on a Default Basis**, along with a copy of the Complaint filed on 9/28/21, was placed in a sealed envelope in Reno, Nevada, postage fully prepaid thereon for certified and first class mail addressed to the following:

JOSEPH S. GILBERT, Esq.
Joey Gilbert & Associates
405 Marsh Ave Reno, NV 89509

In addition, electronic copies were sent to dgentile@clarkhill.com

DATED this 22nd day of October, 2021.

Laura Peters

Laura Peters, an employee of
the State Bar of Nevada.



FILED

NOV 16 2021

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

CLARK HILL PLLC
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STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

JOSEPH S. GILBERT, ESQ.

Respondent.

CASE NO. OBC21-0136

**MOTION TO DISMISS
COMPLAINANT'S COMPLAINT OR, IN
THE ALTERNATIVE, FOR A MORE
DEFINITE STATEMENT**

COMES NOW, Respondent JOSEPH S. GILBERT, ESQ., by and through his attorney, Dominic P. Gentile, Esq. of the law firm of Clark Hill PLLC, hereby submits his Motion to Dismiss Complainant's Complaint, filed on September 28, 2021, for failure to set forth a claim upon which relief may be granted, pursuant to NRCP 12(b)(5).

MEMORANDUM OF POINTS AND AUTHORITIES

I.

STATEMENT OF RELEVANT FACTS

This answering Respondent has a requirement to respond to each and every allegation as set forth in the State Bar of Nevada ("Complainant") Complaint. Pursuant to the Notice of Intent to Proceed on a Default Basis, Respondent files this responsive pleading by November 15, 2021, so that the charges against him will not be deemed admitted.

1 This instant case presents an egregious instance of misjudgment and overcharging by the
2 State Bar. Further, an examination of the Complaint reveals that it fails to meet the pleading
3 requirements, in that it fails to state a claim upon which relief may be granted pursuant to NRCP
4 12(b)(5).

5 III.

6 LEGAL ARGUMENT

7 A. Motion to Dismiss Legal Standard – NRCP 12(b)(5)

8 Attorney discipline proceedings are adversarial proceedings of a quasi-criminal nature
9 because a punishment or penalty can be imposed on the lawyer. *In re Ruffalo*, 390 U.S. 544,
10 550-551, 88 S.Ct. 1222, 1226 (1968). State courts have uniformly so held. *Moncier v. Bd. of*
11 *Professional Responsibility*, 406 S.W.3d 139, 156 (Tenn. 2013); *Iowa Supreme Court Attorney*
12 *Disciplinary Bd. v. Cepican*, 861 N.W.2d 841, 845 (Iowa 2015). To comply with constitutionally
13 protected due process, the charge must be known before the proceedings commence. *In re*
14 *Ruffalo*, 390 U.S. 544, 550-551, 88 S.Ct. 1222, 1226 (1968).

15 A court may dismiss a complaint pursuant to N.R.C.P. 12(b)(5) if it appears with
16 certainty a plaintiff can prove no set of facts which would entitle him or her to relief. *Edgar v.*
17 *Wagner*, 101 Nev. 226, 228, 699 P.2d 110, 112 (1985). All allegations pled must be accepted as
18 true. *Capital Mortgage Holding v. Hahn*, 101 Nev. 314, 315, 705 P.2d 126 (1985). Here, the sole
19 issue presented before the Court is whether a complaint states a claim for relief. *Merluzzi v.*
20 *Larson*, 96 Nev. 409, 411, 610 P.2d 739, 741 (1980), *overruled on other grounds by Smith v.*
21 *Clough*, 106 Nev. 568, 796 P.2d 592 (1990). Accordingly, this Court must inquire whether the
22 challenged pleading sets forth allegations sufficient to make out the elements of a right to relief.
23 *See Edgar*, 101 Nev. at 227, 699 P.2d at 111. The test for determining whether the allegations of
24 a complaint are sufficient to assert a claim for relief is whether the allegations give fair notice of
25 the nature and basis of a legally sufficient claim and the relief requested. *Ravera v. City of Reno*,
26 100 Nev. 68, 70, 675 P.2d 407, 408 (1984).

27 In reviewing the Complaint to determine its pleading sufficiency, the court should not
28 accept as true conclusions of law alleged as facts or unwarranted deductions from alleged facts.

1 *Ritzer v. Gerovicap Pharmaceutical Corp.*, 162 F.R.D. 642, 645 (D. Nev. 1995). To successfully
2 resist a motion to dismiss, therefore, a complaint must, at a minimum, plead “enough facts to
3 state a claim for relief that is plausible on its face.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544
4 (2007); *see also Conley v. Gibson*, 355 U.S. 41, 47-48 (1957).

5 **B. Motion For More Definite Statement Standard**

6 NRCPP 12(e) provides:

7 **(e) Motion for a More Definite Statement.** A party may move for a more
8 definite statement of a pleading to which a responsive pleading is allowed but
9 which is so vague or ambiguous that the party cannot reasonably prepare a
10 response. The motion must be made before filing a responsive pleading and must
11 point out the defects complained of and the details desired. If the court orders a
12 more definite statement and the order is not obeyed within 14 days after notice of
13 the order or within the time the court sets, the court may strike the pleading or
14 issue any other appropriate order.

12 **C. The Complaint Is Devoid of Any Intent Or *Mens Rea* Component Necessary For
13 Respondent To Accordingly Defend The Actions Asserted Against Him.**

14 In *Apprendi v. New Jersey*, 530 U.S. 466, 120 S. Ct. 2348 (2000), the United States
15 Supreme Court held that any fact that “expose[s] the defendant to a greater punishment than that
16 authorized by the jury’s guilty verdict” is such an “element” that must be submitted to and
17 determined by a jury. In the years since *Apprendi*, the Court has applied this rule to sentencing
18 guidelines, *United States v. Booker*, 543 U.S. 220, 125 S. Ct. 738 (2005). The adoption by the
19 Nevada Supreme Court of the American Bar Association Standards for Imposing Lawyer
20 Sanctions (“Standards”) in quasi-criminal proceedings such as these, make them the disciplinary
21 equivalent of sentencing guidelines. The State Bar Disciplinary Boards and the Nevada Supreme
22 Court have applied the Standards unwaveringly since adopting them.¹ Thus, from the moment a

23
24 ¹ *See, e.g., In the Matter of Discipline of Bloomfield*, 2016 WL 1223218; *In the Matter of*
25 *Discipline of Anderson*, 2016 WL 315270; *In the Matter of Discipline of Boggess*, 2016 WL

26 315289; *In the Matter of Discipline of Kolias*, 2016 WL 315259; *In the Matter of Discipline of*
27 *LaMadrid*, 2016 WL 1223270; *In the Matter of Discipline of Lombino*, 2016 WL 315304; *In the*
28 *Matter of Discipline of Botha*, 2015 WL 8187991; *In the Matter of Discipline of Datlof*, 2015
WL 8187700; *In the Matter of Discipline of Dy-Ragos*, 2015 WL 8187911; *In the Matter of*
Discipline of Jones, 2015 WL 9594320; *In the Matter of Discipline of O’Mara*, 2015 WL
6966400; *In the Matter of Discipline OF Schulze, III*, 2015 WL 9484739; *In the Matter of*
Discipline of Semenza, II, 2015 WL 6938292; *et al.*

1 Nevada lawyer is formally charged by Complaint, he is entitled to know and prepare to defend
2 against the Complainant's allegations as to the four factors that the Hearing Panel – the trier of
3 fact and equivalent of a jury - must consider in determining the disciplinary sanction it will seek.
4 Those factors are (1) the duty violated by the lawyer (and to whom it was owed), (2) the lawyer's
5 mental state, (3) the potential or actual injury caused by the lawyer's misconduct, and (4) the
6 existence of aggravating or mitigating factors.

7 The Standards are the product of a joint committee composed of members of the Judicial
8 Administration Division of the ABA, and the Standing Committee on Professional Discipline,
9 whose goal was to determine appropriate sanctions for lawyer misconduct. They set out
10 presumptive sanctions directly dependent upon the first three factors, adjustable upward or
11 downward based upon the presence of aggravating or mitigating circumstances. They are
12 "sanctioning guidelines" and to a lawyer a "sanction" is a "punishment" under the United States
13 Supreme Court jurisprudence of *In re Ruffalo*.

14 In explaining how the lawyer's mental state is important in determining the appropriate
15 sanction for any rule violation, the Standards state that "[t]he least culpable mental state is
16 negligence, when a lawyer fails to be aware of a substantial risk that circumstances exist or that a
17 result will follow, which failure is a deviation from the standard of care that a reasonable lawyer
18 would exercise in the situation." Standards, Theoretical Framework at 6 (emphasis added). On
19 the other hand, the extent of the injury is defined by "the type of duty violated and the extent of
20 actual or potential harm." *Id.* The Standards then proceed to recommend specific factors to
21 consider in determining the particular sanction that should be imposed for violating each of
22 several categories of rules, carefully distinguishing between situations in which the lawyer is
23 found to have acted either with intent,² knowledge,³ or negligence.⁴ *Id.* at 7; *See also* Preamble
24

25 ² "is the conscious objective or purpose to accomplish a particular result."

26 ³ "is the conscious awareness of the nature or attendant circumstances of the conduct but without
the conscious objective or purpose to accomplish a particular result."

27 ⁴ "is the failure of a lawyer to heed a substantial risk that circumstances exist or that a result will
28 follow, which failure is a deviation from the standard of care that a reasonable lawyer would
exercise in the situation."

1 and Scope, Ann. Mod. Rules Prof. Cond. Preamble and Scope, number 19 (“[T]he Rules
2 presuppose that whether or not discipline should be imposed for a violation, and the severity of a
3 sanction, depend on all the circumstances, such as the willfulness and seriousness of the
4 violation, extenuating factors and whether there have been previous violations.) Thus, the need
5 for notice of *mens rea* is essential to prepare a defense to this Complaint.

6 Here, the Complaint is devoid of any facts to suggest the mental state or intent of the
7 Respondent. Indeed, the Complaint names Joseph Gilbert as an active member of the State Bar
8 of Nevada and as a supervising lawyer to John Durney, and is otherwise absent of facts regarding
9 Gilbert. Indeed, Respondent is left to infer the position of Complainant’s charges against him,
10 where imposing any disciplinary sanctions for said charges will necessarily require an
11 analyzation of the *mens rea* component, in which Respondent must prepare to defend. As such,
12 the Complaint is wholly deficient as it does not put the Respondent on notice of the charges
13 against him.

14 **D. Count One – SCR 49.3 (Limited Practice for Law Students) Should Be**
15 **Dismissed for Failure to State a Claim Upon Which Relief May Be Granted.**

16 Supreme Court Rule 49.3 provides, in pertinent part:

17 **4. Supervision.** A “supervising lawyer” shall mean either a lawyer or law
18 professor employed by the William S. Boyd School of Law in a clinical program
and certified to practice in Nevada, or a member of the state bar in active practice.

19 (a) A supervising lawyer shall:

20 (1) Personally assume professional responsibility for all work undertaken
by the student while under the lawyer’s supervision.

21 (2) Assist and counsel the student in the activities permitted by this rule
22 and review such activities with the student, to the extent necessary for the proper
training of the student and protection of the client.

23 (3) Read, approve, and personally sign any pleadings, briefs, or other
24 papers prepared by the student before filing; read and approve any documents
25 prepared by the student for execution by any person before submission to that
person; and read and approve any correspondence prepared by the student before
mailing.

26 (4) Be present for any appearance by a student before a court or
27 administrative tribunal.

28 (b) In addition to the above, a supervising lawyer who is not employed by the
William S. Boyd School of Law in a clinical program shall:

1 (1) Be an active resident member of the state bar, and, before supervising
2 the activities specified in subsection 6, shall have actively practiced law in
Nevada as a full-time occupation for at least five (5) years.

3 (2) Supervise not more than one student, unless the students are
4 participating in a William S. Boyd School of Law externship program.

5 (3) Be continuously personally present throughout the activities
6 permitted under subsection 6(a), (b), and (c).

7 (4) Before commencing supervision of any student, file with the state bar
8 a notice in writing and signed by the supervising lawyer that states the name of
9 the student and the period during which the lawyer expects to supervise the
activities of the student.

10 (5) Notify the state bar in writing promptly whenever supervision of the
student pursuant to this rule ceases.

11 ...

12 **6. Activities permitted under level 2 certification.** A student with level 2
13 certification under this rule may engage in the following activities with the written
14 consent of the client on whose behalf the student is performing the activities, and
with the approval and under the supervision of a supervising lawyer:

15 (a) Appear in any court or before any administrative tribunal in this state on
16 behalf of any client.

17 (b) Counsel and give legal advice to clients.

18 (c) Negotiate and mediate the settlement of claims and disputes.

19 (d) Prepare documents to be filed in court or with a legislative or
20 administrative body.

21 (e) Prepare transactional documents such as contracts, incorporation papers
22 and by-laws, and filings required by a state, federal, or other governmental body.

23 Thus, according to the Rule, regarding limited practice for law students, under the
24 supervision of a supervising lawyer, a student with level 2 certification may, among other things,
25 appear in any court on behalf of any client, counsel and give legal advice to clients and prepare
26 documents to be filed in court. The Complaint contains the following alleged acts performed by
27 Durney, which all may be accomplished by a law student with level 2 certification pursuant to
28 SCR 49.3:

- Client's wife communicated on a regular, if not daily basis with Durney (or Salmoran) regarding the procedure and substance for the petition and its filing. See Complaint, ¶ 5.

- 1 • Durney asked the Clients to gather letters of support for the petition [to reduce or
2 eliminate requirement to register as Tier 3 Sex Offender]. *See* Complaint, ¶ 7
- 3 • Durney emailed the Clients that he completed the research and drafted the petition
4 and he would file it the following week. *See* Complaint, ¶ 8.
- 5 • Durney told the Clients by email that he was waiting on a hearing date. *See*
6 Complaint, ¶ 10.
- 7 • Durney notified the Clients by email that he would return to law school and limit
8 his time in the office, advising Clients to contact attorney Roger O'Donnell or
9 Salmoran. *See* Complaint, ¶ 11.
- 10 • Durney apologized to Clients and notified her that the firm was declining
11 representation and would refund the Client's deposit. *See* Complaint, ¶ 12.
- 12 • Durney advised Clients that they could expect the full refund to take a few weeks,
13 and provided a list of recommendations for post-conviction relief attorneys. *See*
14 Complaint, ¶ 13.

15 Here, the Complaint states that Respondent violated SCR 49.3 "because he failed to
16 properly supervise Durney's work product and communication with the Clients." *See* Complaint,
17 ¶ 17. However, the Complaint is deficient wherein there are absolutely no facts to support the
18 claim, such as *how* the Respondent failed to "properly" supervise Durney, or even, at a
19 minimum, *any indication* Respondent did in fact fail to supervise Durney. Simply, the Complaint
20 lacks any indication that Respondent failed to supervise Durney at any time, let alone any
21 specific time or occasion. Further, the alleged actions undertaken by Durney are allowable
22 pursuant to the Supreme Court Rules, as long as he was being supervised. Thus, where it can
23 only be deduced that in one of several actions Durney took, Respondent allegedly failed to
24 "properly" supervise him, and notwithstanding the ambiguity of the term "properly," this cause
25 of action fails to state a claim upon which relief may be granted, as it does not put the
26 Respondent on notice of the basis of this claim.

27 **E. Count Two – RPC 1.3 (Diligence)**

28 Count two of the Complaint alleges Respondent violated the Rules of Professional
Conduct, Rule 1.3, by failing to prepare the promised petition for over four months and promptly
notify the client when he decided to decline the representation.

1 Here, the Complaint alleges that Respondent, sometime in December 2020, decided he
2 would decline to represent client. *See* Complaint, ¶ 9. Notwithstanding the lack of indication
3 whether it was early in the month, mid-month, or late in the month, the Client's wife did not
4 contact the law office until January 25, 2021, when Durney advised the Client's wife that the
5 firm would refund the Client's deposit. *Id.* at ¶ 12. Thereafter, on February 1, 2021, a check was
6 issued to Client. *Id.* at ¶ 15. Thus, the waiting period for the Client to receive a refund was
7 approximately seven days. This is inconsistent with the wording of the Complaint, under the
8 charge of diligence, wherein Respondent is charged for lack of promptness.

9 Another considerable lack of mention is whether the Respondent declined representation
10 or whether the Respondent withdrew from representation, wherein both are asserted in the
11 Complaint yet are extremely different. *See* Complaint, ¶ 14, 15 (One paragraph asserting a letter
12 of withdrawal and the other referencing declining the representation). As such, the Complaint
13 fails to state a claim upon which relief may be granted.

14 **F. Count Three – RPC 5.5 (Unauthorized Practice of Law)**

15 Count three of the Complaint alleges Respondent violated the Rules of Professional
16 Conduct, Rule 5.5, by allowing Salmoran to meet alone with the client when he was initially
17 retained.

18 Nevada Rules of Professional Conduct, Rule 5.5 provides, in pertinent part:

19 (a) General rule. A lawyer shall not:

20 (1) Practice law in a jurisdiction where doing so violates the regulation of
21 the legal profession in that jurisdiction; or

22 (2) Assist another person in the unauthorized practice of law.

23 The gravamen of this claim is not only a "knowledge" requirement pursuant to subsection
24 2, to assist another in the unauthorized practice of law, which as stated *supra*, is wholly lacking
25 in the Complaint, but also necessarily requires an analysis of what encompasses "practicing
26 law." While the practice of law definition is not susceptible to a bright-line rule and Courts
27 throughout the country agree that what constitutes the practice of law must be decided on the
28

1 facts and in the context of each individual case,⁵ the claim as stated does not properly put the
2 Respondent on notice of the charge against him. Specific examples of activities found to
3 constitute the practice of law include advising a client about his or her legal rights and
4 recommending future actions, negotiating settlement of a client's claims, and preparing and
5 signing demand letters. *People v. Stewart*, 892 P.2d 875, 876 (Colo. 1995); *Mays v. Neal*, 327
6 Ark. 302, 310, 938 S.W.2d 830, 835 (1997); *In re Flack*, 272 Kan. 465, 473, 33 P.3d 1281, 1287
7 (2001).

8 Here, the Complaint simply asserts that Salmoran, a nonlawyer, met with a client alone
9 (which is acceptable under a number of circumstances) and does not deduce any plausible
10 explanation as to how Gilbert assisted him in this questionable "unauthorized practice." Indeed,
11 the Complaint is woefully lacking in allegations supporting a claim of violation of RPC 5.5,
12 including the requisite actual knowledge of Gilbert of any such unauthorized practice in order to
13 even assist another person in such. Thus, this cause of action fails to state a claim upon which
14 relief may be granted.

15 **G. Count Four – RPC 5.3 (Responsibilities Regarding Nonlawyer Assistants)**

16 Count four of the Complaint alleges Respondent violated the Nevada Rules of
17 Professional Conduct, Rule 5.3, by failing to (i) ensure that Salmoran did not engage in the
18 practice of law and (ii) ensure that Durney was timely and accurately communicating with the
19 Clients. *See* Complaint, ¶ 23.

20 RPC 5.3 states, in pertinent part:

21 With respect to a nonlawyer employed or retained by or associated with a
22 lawyer:

23 (a) a partner, and a lawyer who individually or together with other lawyers
24 possesses comparable managerial authority in a law firm shall make reasonable
25 efforts to ensure that the firm has in effect measures giving reasonable assurance
that the person's conduct is compatible with the professional obligations of the
lawyer;

26 ⁵ *In re Discipline of Lerner*, 124 Nev. 1232, 1240, 197 P.3d 1067, 1073 (2008); *Roberts v.*
27 *LaConey*, 375 S.C. 97, 650 S.E.2d 474, 477 (2007); *see also In re Flack*, 272 Kan. 465, 33 P.3d
28 1281, 1287 (2001) (stating that what constitutes the practice of law must be determined on a
case-by-case basis).

1 (b) a lawyer having direct supervisory authority over the nonlawyer shall
2 make reasonable efforts to ensure that the person's conduct is compatible with the
professional obligations of the lawyer; and

3 (c) a lawyer shall be responsible for conduct of such a person that would
4 be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:

5 (1) the lawyer orders or, with the knowledge of the specific conduct,
ratifies the conduct involved; or

6 (2) the lawyer is a partner or has comparable managerial authority in the
7 law firm in which the person is employed, or has direct supervisory authority over
the person, and knows of the conduct at a time when its consequences can be
avoided or mitigated but fails to take reasonable remedial action.

8 As argued *supra*, knowledge is a requisite to defend against the alleged violation. Indeed,
9 the Court in *Richards v. Jain*, 168 F. Supp. 2d 1195, 1203 (W.D. Wash. 2001), for example,
10 regarding Rule 5.3, stated that an attorney without **actual knowledge** of the nonlawyer's conduct
11 will only be responsible for the conduct where the attorney would have known about the conduct
12 but for the attorney's negligence or recklessness. Therefore, the Complaint fails to state a claim
13 upon which relief may be granted. Further, the Complaint is deficient, in part, due to its own
14 contradictions. Namely, the Complaint alleges Respondent failed to ensure that Durney was
15 timely communicating with Clients (*See* Complaint, ¶ 23), yet also states that the client's wife
16 communicated "on a regular, *if not daily*, basis with Salmoran and one of the firm's law clerks,
17 John Durney." *Id.* at ¶ 5.

18 Finally, the Complaint fails to sufficiently state facts upon which relief may be granted,
19 specifically in asserting the Respondent violated RPC 5.3 by failing to ensure Salmoran did not
20 engage in the practice of law, with no other facts. This is a fatal flaw in the pleading standard, as
21 it simply recites the elements of the cause of action. *See Bell Atlantic Corp. v. Twombly*, 550
22 U.S. 544, 555 (2007) (Holding a properly pled complaint must provide "[a] short and plain
23 statement of the claim showing that the pleader is entitled to relief."); *See also Ashcroft v. Iqbal*,
24 556 U.S. 662, 678 (2009) (While detailed factual allegations are not required, the rule demands
25 "more than labels and conclusions" or a "formulaic recitation of the elements of a cause of
26 action."). The only supporting fact for Complainant's claim is that the "Client met with Carlos
27 Salmoran ("Salmoran"), a nonlawyer in Respondent's office prior to signing the contract." *See*
28

1 Complaint, ¶ 4. There are no facts to support Complainant's conclusory allegation that
2 Respondent failed to ensure Salmoran did not engage in the practice of law. Thus, this cause of
3 action fails to state a claim upon which relief may be granted and must be dismissed.

4 **H. Count Five – RPC 1.16 (Declining or Terminating Representation)**

5 Count five of the Complaint alleges Respondent violated the Nevada Rules of
6 Professional Conduct, Rule 1.16, by failing to inform the Clients that he was declining the
7 representation for more than a month and failing to refund the fee for weeks thereafter. *See*
8 Complaint, ¶ 25.

9 RPC 1.16, provides:

10 (a) Except as stated in paragraph (c), a lawyer shall not represent a client or,
11 where representation has commenced, shall withdraw from the representation of a
12 client if:

13 (1) the representation will result in violation of the rules of professional conduct
14 or other law;

15 (2) the lawyer's physical or mental condition materially impairs the lawyer's
16 ability to represent the client; or

17 (3) the lawyer is discharged.

18 (b) Except as stated in paragraph (c), a lawyer may withdraw from representing a
19 client if:

20 (1) withdrawal can be accomplished without material adverse effect on the
21 interests of the client;

22 (2) the client persists in a course of action involving the lawyer's services that the
23 lawyer reasonably believes is criminal or fraudulent;

24 (3) the client has used the lawyer's services to perpetrate a crime or fraud;

25 (4) the client insists upon taking action that the lawyer considers repugnant or
26 with which the lawyer has a fundamental disagreement;

27 (5) the client fails substantially to fulfill an obligation to the lawyer regarding the
28 lawyer's services and has been given reasonable warning that the lawyer will
withdraw unless the obligation is fulfilled;

(6) the representation will result in an unreasonable financial burden on the
lawyer or has been rendered unreasonably difficult by the client; or

(7) other good cause for withdrawal exists.

1 (c) A lawyer must comply with applicable law requiring notice to or permission
2 of a tribunal when terminating a representation. When ordered to do so by a
3 tribunal, a lawyer shall continue representation notwithstanding good cause for
terminating the representation.

4 (d) Upon termination of representation, a lawyer shall take steps to the extent
5 reasonably practicable to protect a client's interests, such as giving reasonable
6 notice to the client, allowing time for employment of other counsel, surrendering
7 papers and property to which the client is entitled and refunding any advance
payment of fee or expense that has not been earned or incurred. The lawyer may
retain papers relating to the client to the extent permitted by other law.

8 To be clear, the rule itself, in subsection d, mandates "steps" to be taken to protect a
9 client's interest. According to the Complaint, the Client was notified that Mr. Gilbert's firm
10 would be withdrawing from representation and refunded the fees to the client. In stating so, steps
11 were taken to protect the client's interest and the allegation is left as being vague at best. A
12 temporal limitation is not included in the rule, so long as reasonable steps are taken by the
13 lawyer, in the client's best interest. As such, this matter fails to state a claim in which relief may
14 be granted.

15 **I. A More Definite Statement Is Also Appropriate**

16 In the event the Complaint is not dismissed in its entirety, Respondent requests that its
17 Motion for More Definite Statement be granted as follows:

18 1. Paragraph 21 and 23 of the Complaint: Please clarify facts in support of the
19 allegation that Carlos Salmoran engaged in the unauthorized practice of law, in which the State
20 Bar is alleging Respondent assisted in, as alleged in Count Three of the Complaint.

21 2. Please state, for each cause of action (or violation), the alleged *mens rea* or intent
22 of the Respondent in allegedly committing said violations.

23 3. Paragraph 23 of the Complaint: Please clarify whether the State Bar is alleging
24 that a true retainer must be refunded, regardless of work conducted, including research. Further,
25 please clarify whether the State Bar is alleging that a few weeks to issue a refund is
26 unreasonable.

27 4. Paragraph 17 of the Complaint: Please clarify what actions or inactions the State
28 Bar is alleging that Respondent failed to supervise regarding John Durney.

5. Please clarify the client or person to whom the Respondent owed a duty.

6. Paragraph 25 of the Complaint: Please clarify whether the State Bar is alleging that the Respondent took no steps to protect the client's interests despite the notification of withdrawal and returned funds.

IV.

CONCLUSION

Based upon the foregoing, Respondent respectfully requests this tribunal dismiss the Complaint as it fails to set forth relief that is plausible on its face.

Dated this 15 day of November 2021.

CLARK HILL PLLC


Dominic P. Gentile, Esq.
Nevada Bar No. 1923
3800 Howard Hughes Pkwy., #500
Las Vegas, Nevada 89169
Attorney for Joseph S. Gilbert, Esq.

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STATE BAR OF NEVADA
DANIEL M. HOOGE, Bar Counsel

CERTIFICATE OF SERVICE

R. Kait Flocchini, Assistant Bar Counsel
3100 West Charleston Boulevard, Suite 100
Las Vegas, Nevada 89102


An Employee of Clark Hill, PLLC



FILED

NOV 30 2021

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

Case No: OBC21-0136

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
)
JOSEPH S. GILBERT, ESQ.,)
BAR NO. 9033)
)
Respondent.)

**OPPOSITION TO RESPONDENT'S
MOTION TO DISMISS COMPLAINT**

The State Bar of Nevada, by and through Assistant Bar Counsel R. Kait Flocchini, hereby responds to Respondent's Motion to Dismiss Complaint and requests that the motion be denied.

This Opposition is based on the following Memorandum of Points and Authorities, the pleadings in this matter, and any oral argument requested by the Board Chair.

MEMORANDUM OF POINTS AND AUTHORITIES

The untimely Motion to Dismiss interprets, characterizes, and artfully selects allegations in the Complaint to argue that the Complaint fails to state a claim upon which relief may be granted. The entirety of the Complaint is sufficient to put Respondent on notice of the relief requested, specifically a finding of misconduct that warrants a sanction.

1 The Motion to Dismiss also attempts to require the State Bar to plead the factors
2 required to analyze *what* sanction would be appropriate for Respondent's misconduct. These
3 factors are part of the consequences, not culpability, analysis, and thus are not required to meet
4 the notice pleading standard.

5 For these reasons, the Motion to Dismiss should be denied.

6 **The Motion to Dismiss is Untimely**

7 Rule 15 of the Disciplinary Rules of Procedure ("DRP") provides that a motion to
8 dismiss, or for more definite statement, "must be filed and served within twenty (20) calendar
9 days of service of the formal Complaint."

10 Respondent was served with the Complaint on September 28, 2021. *See* Complaint, a
11 true and correct copy of which is attached hereto as **Exhibit A**. Respondent did not file or
12 serve the Motion to Dismiss by the twentieth day thereafter, to wit October 18, 2021.

13 Instead, Respondent filed and served the Motion to Dismiss on November 16, 2021,
14 which was twenty days after the State Bar filed and served a Notice of Intent to Proceed on a
15 Default Basis. *See* Notice of Intent to Proceed on a Default Basis, a true and correct copy of
16 which is attached hereto as **Exhibit B**.

17 Thus, Respondent's Motion to Dismiss should be denied as untimely.

18 **Legal Standard for a Motion to Dismiss**

19 Rule 8 of the Nevada Rules of Civil Procedure ("NRCP") provides that a claim "shall
20 contain (1) a short and plain statement of the claim showing the pleader is entitled to relief and
21 (2) a demand for judgment for the relief the pleader seeks."

22 Pursuant to NRCP 12 (b)(5), a complaint, or a portion thereof, may be dismissed for
23 failure to state a claim upon which relief may be granted. When entertaining a motion to
24 dismiss, pursuant to NRCP 12(b)(5), the "task is to determine whether or not the challenged
25 pleading sets forth allegations sufficient to make out the elements of a right to relief." *Edgar*

1 *v. Wagner*, 101 Nev. 226, 227, 699 P.2d 110, 111 (1985). In making this determination, the
2 allegations in the complaint “must be taken at ‘face value’ and must be construed favorably in
3 the plaintiff’s behalf.” *Id.* at 111-112 (citation omitted). “The complaint cannot be dismissed for
4 failure to state a claim unless it appears beyond a doubt that the plaintiff could prove no set of
5 facts which, if accepted by the trier of fact, would entitle him to relief.” *Id.* at 112. (citation
6 omitted).

7 A motion to dismiss asks for a bald review of the sufficiency of a complaint. The
8 complaint is not required to be perfect, nor must it detail the potential consequence for the
9 alleged misconduct.

10 **The Complaint Alleges Sufficient Facts to Notify Respondent of the Alleged**
11 **Violation of SCR 49.3.**

12 The Motion to Dismiss picks and chooses paragraphs in an attempt to bolster a lack of
13 knowledge regarding the alleged misconduct. For example, the argument regarding a violation
14 of SCR 49.3 focuses on what the law student may do, not on what the supervising lawyer must
15 do. SCR 49.3(4) specifically requires the supervising lawyer to (1) personally assume
16 professional responsibility for the student’s work, (2) assist and counsel the student in
17 activities permitted by the rule, and (3) read and approve any correspondence prepared by the
18 student before mailing. These are the requirements for Respondent and they are pled in the
19 Complaint. See **Exhibit A**. The Motion to Dismiss also conveniently skips the paragraph
20 describing that Respondent chose to decline representing the clients and no less than a week
21 later, Durney gave the clients the impression all was moving forward as planned. See **Exhibit**
22 **A, ¶¶ 9-10**. The facts are sufficiently stated to notify Respondent what is alleged to be
23 misconduct if the Complaint is read in its entirety.

24
25 ///

1 **Interpretation of the Facts Alleged Does Not Support Dismissal.**

2 A motion to dismiss does not allow an analysis of the sufficiency of the evidence
3 ultimately proven. The Complaint must only allege the facts that, if proven, could evidence
4 misconduct.

5 The Motion to Dismiss argues that the facts, as alleged, do not support a finding of a
6 lack of diligence, a failure to supervise, assisting in the unauthorized practice of law, or a failure
7 to properly decline representation. See Motion at 7:24-12:14. Each argument has variation,
8 but conceptually, they all argue that the facts alleged do not rise to the level of misconduct.
9 This argument goes beyond the requirement that there be a set of facts upon which, if proven,
10 relief could be granted.

11 For example, the Motion to Dismiss recites that the State Bar has alleged that
12 Respondent lacked diligence when he failed to prepare the promised petition for over four
13 months or promptly inform the client when he decided to decline the representation. The
14 Motion to Dismiss then argues that the time period is not evidence of a lack of diligence.¹ This
15 is not the standard for a Motion to Dismiss because it requires the weighing of the evidence.
16 The Motion to Dismiss demonstrates that the allegations of the Complaint are clear.
17 Respondent is notified of what is allegedly misconduct and those facts could prove that the
18 delay was unreasonable, thus, lacking diligence.

19 Similarly, Respondent's position as a lawyer with supervisory and/or managerial
20 authority is stated in paragraph 5 of the Complaint and reasonably implied in the paragraphs
21 identifying the hired firm as "Respondent's office."² See Exhibit A, ¶¶ 2, 3, 4, 9, 12, and 15.

24 ¹ This argument also applies to the analysis of the alleged violation of RPC 1.16.

25 ² This argument also applies to the analysis of the alleged violation of RPC 5.5. Respondent as
the supervising lawyer would be assisting his nonlawyer employee in engaging in the
unauthorized practice of law in his office.

1 The Motion to Dismiss also cites the statements in the Complaint regarding the alleged
2 unauthorized practice of law.³ See Motion 9:8-10 and 10:26-27. It then ignores *in re Discipline*
3 *of Lerner*, 124 Nev. 1232, 1241, 197 P.3d 1067 (2008), and cites to out-of-state case law to argue
4 that such conduct should not be considered the unauthorized practice of law.

5 The Motion to Dismiss recites the allegations of the Complaint. Then it attempts to (i)
6 be obtuse regarding the application of those allegations to argue that it is unclear what is
7 alleged to be misconduct or (ii) weigh the sufficiency of the potential evidence. This is not the
8 standard to which a Complaint is held. Are the facts clearly pled? Can they meet the elements
9 of the alleged violations of the Rules of Professional Conduct? If yes, then the notice pleading
10 requirement is satisfied and dismissal is inappropriate.

11 **Respondent's Mental State When he Engaged in the Alleged Misconduct is an**
12 **Element of What Sanction, or Relief in the Disciplinary Context, is Appropriate,**
Not Whether the Allegations State a Claim Upon Which Relief May be Granted.

13 The Motion to Dismiss argues that the Complaint must allege the factor of mental state,
14 as set forth in the four factors from the ABA Standards for Imposing Lawyer Sanctions, so that
15 Respondent may prepare a defense. Motion at 3:12-5:13.

16 Why a lawyer engaged in misconduct is not relevant to establishing that it happened.
17 The purpose of the Complaint is to notify the lawyer of the conduct that the State Bar alleges
18 violated the lawyer's duty to a client, the public, the judicial system, and/or the integrity of the
19 profession. It is an objective recitation of facts necessary to establish misconduct, not a
20 subjective analysis of the context surrounding that misconduct.

21 The Motion to Dismiss's argument is belied by the lack of argument that the Complaint
22 must allege the other two ABA factors— (i) injury or potential injury and (ii) aggravating and
23

24
25 ³ However, it fails to acknowledge the allegation that the unauthorized practice of law was when
Salmoran meet alone with the client when Respondent was initially retained by the client. See
Exhibit A ¶ 21.

1 mitigating factors. Noticeably, it would be irrational for the Complaint to allege aggravating or
2 mitigating factors. The existence of injury, or only potential injury, also does not change
3 whether or not a lawyer engaged in misconduct. This emphasizes that these factors are
4 important to for determining the appropriate relief after the base allegation of misconduct is
5 established.

6 Like the other two factors, the lawyer's mental state, be it negligent, knowing, or
7 intentional, is a component of which sanction is the appropriate relief for particular
8 misconduct. For example, depending on the lawyer's mental state, the same conduct that
9 evidences a lack of diligence might warrant a reprimand or suspension. That mental state fails
10 to modify the facts that establish a lack of diligence; thus it is not a necessary component of the
11 Complaint.

12 Finally, the standard for a Complaint does not require notice of the specific relief sought,
13 only that relief is sought. Here, the Bar has pled that the alleged misconduct warrants
14 disciplinary action, as set forth in SCR 102, and assessment of costs pursuant to SCR 120. This
15 is sufficient to satisfy the notice requirements.

16 This argument fails to establish that there is no set of facts upon which Respondent
17 could be sanctioned. It is not a basis for dismissing the Complaint.

18 **The Complaint is Definite Enough.**

19 The Complaint is not required to plead all the factors to be used in determining the
20 appropriate discipline. Thus, it does not need to be revised to include an allegation of
21 Respondent's mental state.

22 No Complaint is ever perfect. However, that is not the standard by which a complaint
23 is measured. The requested 'clarifications' are not required for Respondent to be on notice of
24 the allegations at issue in the disciplinary matter.

1 **Conclusion**

2 The Complaint alleges sufficient facts to make out the elements of a violation of SCR
3 49.3, RPC 1.3, RPC 5.3, RPC 5.5, and RPC 1.16. The Motion to Dismiss fails to assert otherwise,
4 and instead, asks for a weighing of the facts. The Motion should be denied.

5 Dated this ^{Nov 30, 2021} _____ day of November, 2021.

6 STATE BAR OF NEVADA
7 DANIEL M. HOOGE, Bar Counsel

8 
9 By: _____
10 R. Kait Flocchini, Assistant Bar Counsel
11 Nevada Bar No. 9861
12 3100 W. Charleston Blvd, Suite 100
13 Las Vegas, Nevada 89102
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Dominic Gentile, Esq.
Clark Hill, PLLC
3800 Howard Hughes Pkwy, Ste. 500
Las Vegas, NV 89169

Dated this 30th day of November, 2021.

Laura Peters, an employee
of the State Bar of Nevada

Exhibit A

Exhibit A



FILED

SEP 28 2021

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

Case No: OBC21-0136

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
)
JOSEPH S. GILBERT, ESQ.,)
BAR NO. 9033)
)
Respondent.)

COMPLAINT

TO: Joseph S. Gilbert, Esq.
405 Marsh Ave.
Reno, Nevada 89509

PLEASE TAKE NOTICE that pursuant to Supreme Court Rule ("SCR") 105(2) a VERIFIED RESPONSE OR ANSWER to this Complaint must be filed with the Office of Bar Counsel, State Bar of Nevada, 9456 Double R Boulevard, Ste. B, Reno, Nevada, 89521, within twenty (20) days of service of this Complaint. Procedure regarding service is addressed in SCR 109.

Complainant, State Bar of Nevada ("State Bar"), by and through its Assistant Bar Counsel, R. Kait Flocchini, is informed and believes as follows:

1 1. Attorney Joseph S. Gilbert, Esq. ("Respondent"), Bar No. 9033, is currently an
2 active member of the State Bar of Nevada and at all times pertinent to this complaint had his
3 principal place of business for the practice of law located in Washoe County, Nevada.

4 2. On September 11, 2020 James C [REDACTED] ("Client" or "Clients" when referenced
5 with wife Tara C [REDACTED]) signed a contract for representation with Respondent's office.

6 3. Client paid the full retainer of \$3,500 to have the firm submit a petition with the
7 court to either reduce or eliminate the requirement that Client continue to register as a Tier 3
8 Sex Offender.

9 4. Client met with Carlos Salmoran ("Salmoran"), a nonlawyer in Respondent's
10 office prior to signing the contract. Although the contract appears to have been signed by
11 Respondent, Client did not meet with an attorney prior to, or when, he signed the
12 representation contract.

13 5. Thereafter, Tara, Client's wife, communicated on a regular, if not daily, basis
14 with Salmoran and one of the firm's law clerks, John Durney, regarding the procedure and
15 substance for the petition and its filing.

16 6. Durney held a level 2 certification for the limited practice of law under Gilbert's
17 supervision pursuant to SCR 49.3.

18 7. Durney asked the Clients to gather letters of support for the petition, which
19 required Clients to inform friends and family of Client's past conviction.

20 8. On November 20, 2020, Durney emailed the Clients that he completed the
21 research and drafted the petition and he would file it the following week.

22 9. In December 2020, Respondent decided that he would decline to represent
23 Client.

1 10. On January 7, 2021, Durney told the Clients by email that he was waiting on a
2 hearing date, which implied that he had filed Client's Petition.

3 11. On January 14, 2021, Durney notified the Clients by email that he would return
4 to law school and limit his time in the office. Durney advised the Clients to contact either
5 attorney Roger O'Donnell or Salmoran (the Criminal Case Manager). Durney also told the
6 Clients that he would consult with the attorney about the case.

7 12. On January 25, 2021, Tara called Respondent's office and eventually spoke with
8 Durney. Durney apologized to Tara and notified her that Joey Gilbert Law would refund the
9 Clients' deposit. The firm had not drafted or filed a petition in Client's case. Durney apologized
10 to Tara for the lack of communication at the firm. He told her that the firm never should have
11 taken the case because the firm does not handle sex offender registration cases.

12 13. That same day, Durney emailed apologizing again for the bad news, said the
13 Clients should expect the full refund to take a few weeks, and provided a list of
14 recommendations for post-conviction relief attorneys specializing in cases like Client's.

15 14. The following day, Tara emailed Durney, Salmoran, and O'Donnell about the
16 decision to release Client from his contract with the firm. She requested an official letter of
17 withdrawal, including citing the reason why they made the decision four months after Client
18 signed the fee agreement and paid the full retainer. Tara also asked for the return of the
19 complete file and the original character reference letters that they provided to the firm.

20 15. On February 1, 2021, more than a month after deciding to decline the
21 representation, Respondent's office issued a check for \$3,500 to refund Client.

22 ///

23
24 ///

1 **COUNT ONE- SCR 49.3 (Limited Practice for Law Students)**

2 16. SCR 49.3 provides, in relevant part,:

3 4. **Supervision.** A “supervising lawyer” shall mean either a lawyer or law
4 professor employed by the William S. Boyd School of Law in a clinical program
5 and certified to practice in Nevada, or a member of the state bar in active
6 practice.

7 (a) A supervising lawyer shall:

8 (1) Personally assume professional responsibility for all work
9 undertaken by the student while under the lawyer’s supervision.

10 (2) Assist and counsel the student in the activities permitted by this rule
11 and review such activities with the student, to the extent necessary for the proper
12 training of the student and protection of the client.

13 (3) Read, approve, and personally sign any pleadings, briefs, or other
14 papers prepared by the student before filing; read and approve any documents
15 prepared by the student for execution by any person before submission to that
16 person; and read and approve any correspondence prepared by the student
17 before mailing.

18 (4) Be present for any appearance by a student before a court or
19 administrative tribunal.

20 (b) In addition to the above, a supervising lawyer who is not employed by the
21 William S. Boyd School of Law in a clinical program shall:

22 (1) Be an active resident member of the state bar, and, before supervising
23 the activities specified in subsection 6, shall have actively practiced law in
24 Nevada as a full-time occupation for at least five (5) years.

25 (2) Supervise not more than one student, unless the students are
participating in a William S. Boyd School of Law externship program.

(3) Be continuously personally present throughout the activities
permitted under subsection 6(a), (b), and (c).

(4) Before commencing supervision of any student, file with the state bar
a notice in writing and signed by the supervising lawyer that states the name of
the student and the period during which the lawyer expects to supervise the
activities of the student.

(5) Notify the state bar in writing promptly whenever supervision of the
student pursuant to this rule ceases.

1 . . .

2 **6. Activities permitted under level 2 certification.** A student with level
3 2 certification under this rule may engage in the following activities with the
4 written consent of the client on whose behalf the student is performing the
activities, and with the approval and under the supervision of a supervising
lawyer:

5 (a) Appear in any court or before any administrative tribunal in this state on
6 behalf of any client.

7 (b) Counsel and give legal advice to clients.

8 (c) Negotiate and mediate the settlement of claims and disputes.

9 (d) Prepare documents to be filed in court or with a legislative or
administrative body.

10 (e) Prepare transactional documents such as contracts, incorporation papers
11 and by-laws, and filings required by a state, federal, or other governmental body.

12 In all instances where, under this rule, a student is permitted to appear in
13 court or before an administrative tribunal, the student shall file with the court or
14 tribunal a copy of the written consent of the client required by this subsection
and shall bring that consent to the attention of the judge of the court or presiding
officer of the tribunal.

15 17. In light of the foregoing, including without limitation paragraphs 2 through 15,
16 Respondent has violated SCR 49.3 (Limited Practice for Law Students) because he failed to
17 properly supervise Durney's work product and communication with the Clients.

18 **COUNT TWO- RPC 1.3 (Diligence)**

19 18. RPC 1.3 requires a lawyer to "act with reasonable diligence and promptness in
20 representing a client."

21 19. In light of the foregoing, including without limitation paragraphs 2 through 15,
22 Respondent has violated RPC 1.3 (Diligence) by failing to prepare the promised petition for
23 over four months and promptly notify the client when he decided to decline the representation.

1 **COUNT THREE- RPC 5.5 (Unauthorized Practice of Law)**

2 20. RPC 5.3 states:

3 (a) General rule. A lawyer shall not:

4 (1) Practice law in a jurisdiction where doing so violates the regulation
5 of the legal profession in that jurisdiction; or

6 (2) Assist another person in the unauthorized practice of law.

7 21. In light of the foregoing, including without limitation paragraphs 2 through 15,
8 Respondent has violated RPC 5.5 (Unauthorized Practice of Law) by allowing Salmoran to
9 meet alone with the client when he was initially retained.

10 **COUNT FOUR- RPC 5.3 (Responsibilities Regarding Nonlawyer Assistants)**

11 22. RPC 5.3 states:

12 With respect to a nonlawyer employed or retained by or associated with a lawyer:

13 (a) A partner, and a lawyer who individually or together with other lawyers
14 possesses comparable managerial authority in a law firm shall make reasonable
15 efforts to ensure that the firm has in effect measures giving reasonable assurance
16 that the person's conduct is compatible with the professional obligations of the
17 lawyer;

16 (b) A lawyer having direct supervisory authority over the nonlawyer shall
17 make reasonable efforts to ensure that the person's conduct is compatible with
18 the professional obligations of the lawyer; and

18 (c) A lawyer shall be responsible for conduct of such a person that would be
19 a violation of the Rules of Professional Conduct if engaged in by a lawyer if:

20 (1) The lawyer orders or, with the knowledge of the specific conduct,
21 ratifies the conduct involved; or

21 (2) The lawyer is a partner or has comparable managerial authority in the
22 law firm in which the person is employed, or has direct supervisory authority over
23 the person, and knows of the conduct at a time when its consequences can be
24 avoided or mitigated but fails to take reasonable remedial action.

24 23. In light of the foregoing, including without limitation paragraphs 2 through 15,
25 Respondent has violated RPC 5.3 (Responsibilities Regarding Nonlawyer Assistants) by failing

1 to (i) ensure that Salmoran did not engage in the practice of law and (ii) ensure that Durney
2 was timely and accurately communicating with the Clients.

3 **COUNT FIVE- RPC 1.16 (Declining or Terminating Representation)**

4 24. RPC 1.16 states, in relevant part,:

5 (d) Upon termination of representation, a lawyer shall take steps to the extent
6 reasonably practicable to protect a client's interests, such as giving reasonable
7 notice to the client, allowing time for employment of other counsel, surrendering
8 papers and property to which the client is entitled and refunding any advance
payment of fee or expense that has not been earned or incurred. The lawyer may
retain papers relating to the client to the extent permitted by other law.

9 25. In light of the foregoing, including without limitation paragraphs 2 through 15,
10 Respondent has violated RPC 1.16 (Declining or Terminating Representation) by failing to
11 inform the Clients that he was declining the representation for more than a month and failing
12 to refund the fee for weeks thereafter.

13 WHEREFORE, Complainant prays as follows:

14 1. That a hearing be held pursuant to Nevada Supreme Court Rule 105;

15 2. That Respondent be assessed the costs of the disciplinary proceeding pursuant
16 to SCR 120; and

17 3. That pursuant to SCR 102, such disciplinary action be taken by the Northern
18 Nevada Disciplinary Board against Respondent as may be deemed appropriate under the
19 circumstances.

20 Dated this 28th day of September, 2021.

21 STATE BAR OF NEVADA
22 DANIEL M. HOOGE, Bar Counsel

23 By: R. Kait Flocchini
24 R. Kait Flocchini, Assistant Bar Counsel
25 Nevada Bar No. 9861
9456 Double R Boulevard
Reno, Nevada 89521
(775) 329-4100

Exhibit B

Exhibit B



FILED

OCT 22 2021

STATE BAR OF NEVADA
BY Lauff
OFFICE OF BAR COUNSEL

Case No: OBC21-0136

STATE BAR OF NEVADA
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
)
JOSEPH S. GILBERT, ESQ.,)
BAR NO. 9033)
)
Respondent.)

**NOTICE OF INTENT TO
PROCEED ON A
DEFAULT BASIS**

TO: JOSEPH S. GILBERT, Esq.
Joey Gilbert & Associates
405 Marsh Ave
Reno, NV 89509

c/o Dominic Gentile, Esq.
Clark Hill PLLC
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
dgentile@clarkhill.com


PLEASE TAKE NOTICE THAT unless the State Bar receives a responsive pleading in the above-captioned matter by **November 15, 2021**, it will proceed on a default basis and **the charges against you shall be deemed admitted**. Supreme Court Rule 105 (2) states in relevant part:

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

6 Additional copies of the First Amended Complaint previously served upon you
7 accompanies this Notice.

8 DATED this 22nd day of October, 2021.

9 STATE BAR OF NEVADA
10 DANIEL M. HOOGE, Bar Counsel

11 By: 

12 R. Kait Flocchini, Assistant Bar Counsel
13 Nevada Bar No. 9861
14 9456 Double R Blvd., Ste. B
15 Reno, NV 89521
16 (775) 824-1384
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JOSEPH S. GILBERT, Esq.
Joey Gilbert & Associates
405 Marsh Ave Reno, NV 89509

DATED this 22nd day of October, 2021.

Laura Peters, an employee of the State Bar of Nevada.






MTD w exhibits

Final Audit Report

2021-11-30

Created:	2021-11-30
By:	Laura Peters (laurap@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAjku_lxvSji8ftQQ4HKOHL0YAICQVLP4Z

"MTD w exhibits" History

-  Document created by Laura Peters (laurap@nvbar.org)
2021-11-30 - 10:15:53 PM GMT- IP address: 71.94.199.108
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FILED

DEC 01 2021

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

Case No: OBC21-0136

STATE BAR OF NEVADA
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
)
JOSEPH S. GILBERT, ESQ.,)
BAR NO. 9033)
)
Respondent.)

**Order Denying Motion to Dismiss
Complaint or, in the Alternative,
Motion for a More Definite
Statement**

The Motion to Dismiss Complainant's Complaint or, in the Alternative, Motion for a More Definite Statement filed by Respondent, Joseph S. Gilbert, Esq., along with the Opposition to said Motion filed by the State Bar of Nevada have come on regularly to the Chair of the Northern Nevada Disciplinary Board for decision.

The Declaration of Mailing of the State Bar of Nevada (SBN) on file in this matter shows that the underlying Complaint, which was filed on September 28, 2021, was sent to Gilbert via certified mail the following day. Rule 15 of the Disciplinary Rules of Procedure requires that Gilbert's present motion "be filed and served within twenty (20) calendar days of service of the formal Complaint...." As Gilbert's instant motion was not filed until November 30, 2021, forty-eight (48) days after service of the Complaint, it is untimely.

1 Further, a review of all of the allegations contained in the Complaint indicates that
2 the Complaint adequately complies with the notice pleading requirements of NRCP 8 in
3 that it contains sufficient information to give Gilbert "fair notice of the nature and basis of
4 the claim." *Crucil v. Carson City*, 95 Nev. 583, at 585, 600 P.2d 216 (1979).

5 Accordingly, Respondent's Motion to Dismiss Complaint or, in the Alternative,
6 Motion for a More Definite Statement, is denied.


7 Good cause appearing, IT IS SO ORDERED.

Dec 1, 2021

8 Dated this ____ day of December, 2021.

9 **NORTHERN NEVADA DISCIPLINARY BOARD**

10
11 By: _____


Eric Stovall, Esq.
Hearing Panel Chair

2021.12.01.Order Denying MTD

Final Audit Report

2021-12-02

Created:	2021-12-01
By:	Laura Peters (laurap@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAA_4mOKpQDC6ToClfr7ytlRk2ysvnBUI1-

"2021.12.01.Order Denying MTD" History

-  Document created by Laura Peters (laurap@nvbar.org)
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Signature Date: 2021-12-02 - 0:22:32 AM GMT - Time Source: server- IP address: 76.209.6.196
-  Agreement completed.
2021-12-02 - 0:22:32 AM GMT

CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that a true and correct copy of the foregoing **Order Denying Motion to Dismiss Complaint or, in the Alternative, Motion for a More Definite Statement** was placed in a sealed envelope in Reno, Nevada, postage fully prepaid thereon for first class mail addressed to the following:

Dominic Gentile, Esq.
Clark Hill PLLC
3800 Howard Hughes Pkwy., Suite 500
Las Vegas, NV 89169

In addition, an electronic copy were sent to dgentile@clarkhill.com

DATED this 1st day of December 2021.

Laura Peters

Laura Peters, an employee of
the State Bar of Nevada.

1 CLARK HILL PLLC
2 DOMINIC P. GENTILE
3 Nevada Bar No. 1923
4 Email: dgentile@clarkhill.com
5 3800 Howard Hughes Pkwy., #500
6 Las Vegas, Nevada 89169
7 Tel: (702) 862-8300
8 Fax: (702) 862-8400
9 Attorneys for Joseph S. Gilbert, Esq.

RECEIVED

DEC 15 2021

SBN

STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

CASE NO. OBC21-0136

Complainant,



FILED

vs.

DEC 15 2021

JOSEPH S. GILBERT, ESQ.

STATE BAR OF NEVADA

BY OFFICE OF BAR COUNSEL

Respondent.

JOSEPH S. GILBERT'S VERIFIED RESPONSE TO COMPLAINANT'S COMPLAINT

COMES NOW, Respondent JOSEPH S. GILBERT, ESQ., by and through his attorney, Dominic P. Gentile, Esq. of the law firm of Clark Hill PLLC, hereby submits his answer to Complainant's Complaint, filed on September 28, 2021.

GENERAL DENIAL

This answering Respondent has made an effort to respond to each and every allegation. However, to the extent any allegation was overlooking or not responded to, this answering Respondent denies said allegations.

ANSWER TO COMPLAINT

1. Respondent admits to the allegation of paragraph 1.
2. As to paragraph 2 Respondent admits that James Cr , signed a contract with a contract for Representation on or about September 11, 2020.
3. Respondent admits to the allegation of paragraph 3.

SBNO0159

1 4. Respondent admits that client met with Carlos Salmoran, an employee of Respondent's
2 law office, but denies all other allegations in paragraph 4.

3 5. As to paragraph 5, Respondent is without sufficient information to respond to the
4 allegations of this paragraph and therefore denies them and demands proof thereof.

5 6. Respondent admits the allegations of paragraph 6.

6 7. As to paragraph 7, Respondent, on information and belief, admits that Durney asked
7 Client to gather letters of support, but denies that Client was instructed by anyone in his office
8 that such letters required Client to inform the letter writers of his past conviction if they didn't
9 already know about it.

10 8. Respondent has it upon information and belief that a draft of the petition existed on or
11 about November 20, 2020 but is without sufficient information to respond to the remainder of
12 paragraph 8, and therefor denies its allegations.

13 9. Respondent denies the allegations of paragraph 9.

14 10. Respondent admits that Durney sent an email to Client regarding waiting for a hearing
15 date but denies the remaining allegations of paragraph 10.

16 11. Respondent admits the allegations of paragraph 11.

17 12. As to paragraph 12, Respondent denies that the petition was not drafted but admits it was
18 not filed. Respondent is without sufficient information to respond with regard to any non-written
19 communications between Durney and Clients, and therefor denies those allegations.

20 13. Respondent admits the substantive allegations of paragraph 13 but is without sufficient
21 information as to when this occurred, and therefor denies both its date and that it was the same
22 day as set out in paragraph 12, all of which were denied.

23 14. Respondent is without sufficient information to respond to when the allegations of
24 paragraph 14 occurred and has already denied the allegations of paragraph 12 that are subsumed
25 in this paragraph. With that said and excluded, Respondent admits the substantive allegations of
26 paragraph 14 but denies when they occurred.

27 15. Respondent admits that he refunded Client entire fee on February 1, 2021 but denies the
28 remaining allegations of paragraph 15.

1 16. Respondent admits the allegations in paragraph 16.
2 17. Respondent denies the allegations in paragraph 17.
3 18. Respondent admits the allegations in paragraph 18.
4 19. Respondent denies the allegations in paragraph 19.
5 20. Respondent admits the allegations in paragraph 20.
6 21. Respondent denies the allegations in paragraph 21.
7 22. Respondent admits the allegations in paragraph 22.
8 23. Respondent denies the allegations in paragraph 23.
9 24. Respondent admits the allegations in paragraph 24.
10 25. Respondent denies the allegations in paragraph 25.

11 **AFFIRMATIVE DEFENSES**

12 **FIRST AFFIRMATIVE DEFENSE**

13 Complainant, by publicly disclosing that the Screening Panel of the Northern Nevada
14 Disciplinary Board had issued the Letter of Reprimand which was then and is now not a final
15 determination of fact or law and is the subject of this formal hearing process, has demonstrated
16 that it has and continues to act in bad faith and with animus intended to Respondent's reputation.
17 The State Bar of Nevada's misconduct thus violates the Due Process Clauses of the Constitution
18 of the United States of America and the Constitution of the State of Nevada, as well as Nevada
19 Supreme Court Rule 121 and its mandates governing the confidentiality that must be maintained
20 regarding the deliberations of the panel. As a result of this deprivation of due process and breach
21 of confidentiality, this matter must be dismissed forthwith, with prejudice, as there is no other
22 adequate remedy at law for this violation.¹

23 **SECOND AFFIRMATIVE DEFENSE**

24 At all times pertinent hereto the Respondent acted with the subjective good faith belief
25 that his actions, words and conduct in supervising Carlos Salmoran and John Durney - when
26 considered in conjunction with that of his employee, Roger O'Donnell, Esq. - were what was
27

28 ¹ See attachments #1 & #2.

1 required of him by the Nevada Rules of Professional Conduct. Thus, Complainant's claims are
2 based upon rules of professional conduct that are insufficiently clear to place Respondent and
3 others similarly situated on notice of what conduct is required or expected of them and therefore
4 are void for vagueness and thus violate the Due Process Clauses of the Constitution of the United
5 States of America and the Constitution of the State of Nevada.

6 **THIRD AFFIRMATIVE DEFENSE**

7 Complainant's Complaint may be barred by other affirmative defenses enumerated in or
8 allowed by NRCP 8(c) and/or the Constitution of the United States of America and/or the
9 Constitution of the State of Nevada. Respondent hereby reserves the right to amend this list of
10 Affirmative Defenses should discovery and investigation reveal facts that would give rise to such
11 defenses.

12 WHEREFORE, Respondent prays as follows:

- 13 1. That the Complaint be dismissed with prejudice;
14 2. That Respondent be awarded his reasonable attorneys' fees and costs of defense;
15 3. For such other and further relief as deemed appropriate by the adjudicating body.

16 Dated this 15th day of December, 2021.

17 Respectfully submitted by:

18 */s/ Dominic P. Gentile, Esq.*

19 DOMINIC P. GENTILE
20 Nevada Bar No. 1923
21 3800 Howard Hughes Pkwy., #500
22 Las Vegas, Nevada 89169
23 *Attorney for Joseph S. Gilbert, Esq*
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JOSEPH S. GILBERT, ESQ., being first duly sworn, deposes and says that he is the Respondent; that he has read the foregoing verified response to the Complaint; and knows the contents thereof, and that the same are true of his own knowledge except for those matters therein stated on information and belief, and as for those matters he believes to be true.


JOSEPH S. GILBERT, ESQ.


NOTARY PUBLIC

JESSICA BRONDER
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 20-4375-02 - Expires March 9, 2024

CERTIFICATE OF SERVICE

The undersigned, hereby certifies that on the ____ day of December 2021, I served a copy of the **JOSEPH S. GILBERT, ESQ'S ANSWER TO NEVADA STATE BAR'S COMPLAINT**, by placing said copy in an envelope, postage fully prepaid, in the U.S. Mail at Las Vegas, Nevada, said envelope addressed to:

R. Kait Flocchini, Assistant Bar Counsel
3100 West Charleston Boulevard, Suite 100
Las Vegas, Nevada 89102

ATTACHMENT 1

AP: Letter of Reprimand

Metz, Samuel <SMetz@ap.org>

Wed 12/8/2021 3:50 PM

To: Info <info@joeygilbertlaw.com>

1 attachments (3 MB)

Gilbert Reprimand.pdf;

Dear Mr. Gilbert & Andrea,

I hope you're well. The Nevada Bar just verified the authenticity of a letter of reprimand that Mr. Gilbert received in August 2021. I'm going to write a story about it and was wondering if you'd like to comment.

Will you be appealing the letter?

Has the firm ever been disciplined for similar infractions before?

What does it say about a candidate running on their legal acumen that the Bar believes they harmed a client?

Please find the letter attached and let me know if you have any questions;

Sam

AP

~~Associated Press~~

Sam Metz

Nevada Statehouse Reporter

Associated Press / Report for America Statehouse News Initiative

102 N. Curry St.

Carson City, NV 89703

Cell: (775) 339-1456

@metzsam

smetz@ap.org

ap.org

~~Associated Press~~

THE ASSOCIATED PRESS

Advancing the Power of Facts

The information contained in this communication is intended for the use of the designated recipients named above. If the reader of this communication is not the intended recipient, you are hereby notified that you have received this communication in error, and that any review, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify The Associated Press immediately by telephone at +1-212-621-1500 and delete this email. Thank you.

STATE BAR OF NEVADA

August 27, 2021

LETTER OF REPRIMAND

Joseph Gilbert, Esq.
405 Marsh Ave.
Reno, NV 89509



Re: Disciplinary Grievance OBC21-0136 (James C. [REDACTED])

Dear Mr. Gilbert:

3100 W. Charleston Blvd.
Suite 100
Las Vegas, NV 89102
phone 702.382.2200
toll free 800.254.2797
fax 702.385.2878

A Screening Panel of the Northern Nevada Disciplinary Board has reviewed the above-referenced grievances and unanimously determined that a Letter of Reprimand be issued for violations of Supreme Court Rule 49.5 and Rules 1.3, 5.5, 5.3, and 1.16 of the Rules of Professional Conduct ("RPC").

9456 Double R Blvd., Ste. B
Reno, NV 89521-5977
phone 775.329.4100
fax 775.329.0522

GRIEVANCES

www.nvbar.org

In the Summer of 2020, Tara ([REDACTED]) contacted Carlos Salmoran, a staff member in your office, regarding her husband, James's legal issue. Tara discussed the matter multiple times with Salmoran to make sure that the office would want to take their case. Salmoran assured Tara that theirs was just the type of case the firm was very good at handling.

When James finally decided to pursue the matter, he met with Salmoran on September 11, 2020 and signed a contract for representation with your office. James paid the full retainer of \$3,500 to have the firm submit a petition with the court to either reduce or eliminate the requirement that he continue to register as a Tier 3 Sex Offender. James did not meet with an attorney when he signed the representation contract.

Thereafter, Tara communicated on a regular, if not daily, basis with Salmoran and one of the firm's law clerks, John Durney, regarding the procedure and substance for the petition and its filing. Durney was certified to practice law, pursuant to SCR 49.3, under your supervision.

On November 20, 2020, Durney emailed the client that the research and drafting of the petition had been completed and it would be filed with the court the following week. On January 7, 2021, Durney emailed the clients to update them that he was waiting on information from the criminal paralegal in your office regarding a hearing date, implying that James's petition had been filed.

On January 14, 2021, Durney emailed the client to let them know he would be returning to law school which would limit his time in the office. Durney provided new contacts for the case moving forward; the clients were advised to contact either attorney Roger

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Joseph Gilbert, Esq.
August 27, 2021
Page 2 of 4

O'Donnell or Salmoran (the Criminal Case Manager). Durney also let the clients know that he would be consulting with the attorney at the next possible opportunity regarding the matter. Although you are Durney's supervising attorney, you were not included in any of the email correspondence with the client.

On January 25, 2021, Tara called your office and eventually spoke with Durney who relayed that he was very sorry, but Joey Gilbert Law was going to refund the entire deposit because the firm had not drafted or filed a petition in James's case. Durney explained that they were sorry but there was a horrible lack of communication at the firm, and they never should have taken the case in the first place as the firm does not handle their type of specialized case. That same day, Durney sent an email apologizing again for the bad news, said the clients should expect the full refund to take a few weeks, and provided a list of recommendations for post-conviction relief attorneys specializing in cases like James's.

The following day, Tara emailed Durney, Salmoran, and O'Donnell about the decision to terminate the representation. She requested an official letter of withdrawal, including citing the reason why they made the decision four months after James signed the fee agreement and paid the full retainer. Tara also asked for the return of the complete file and the original character reference letters that she provided to the firm.

VIOLATION OF THE RULES OF PROFESSIONAL CONDUCT

Your conduct, related to representation of the foregoing client, violated SCR 49.5 (Limited Practice for Law Students). SCR 49.5 requires that a supervisory lawyer, who is not employed by Boyd School of Law:

- (1) Personally assume professional responsibility for all work undertaken by the student while under the lawyer's supervision.
- (2) Assist and counsel the student in the activities permitted by this rule and review such activities with the student, to the extent necessary for the proper training of the student and protection of the client.
- (3) Read, approve, and personally sign any pleadings, briefs, or other papers prepared by the student before filing; read and approve any documents prepared by the student for execution by any person before submission to that person; and read and approve any correspondence prepared by the student before mailing.
- (4) Be present for any appearance by a student before a court or administrative tribunal.

The rule also requires that any supervisory lawyer, who is not employed by Boyd School of Law, "be continuously personally present throughout the activities permitted under subsection 5 (a), (b), and (c)," which includes when the student gives legal advice to clients.

You were not present for, or aware of, the legal advice Durney gave to the C [REDACTED]. Alternatively, if you were aware of Durney's representations at the time that they were made, under SCR 49.5, you are responsible for their misleading content.

Your conduct also violated the Nevada Rules of Professional Conduct as follows:

RPC 1.3 (Diligence): You failed to diligently and promptly determine that you did not want to represent C [REDACTED]. Further, you made this determination one month after your subordinate law student told the client that you would be filing his petition imminently. Finally, after you determined you would terminate the representation, you failed to diligently and promptly convey that information to the client.

RPC 5.5 (Unauthorized Practice of Law): You allowed Salmoran to meet with C [REDACTED], without a licensed lawyer present, when C [REDACTED] initially retained the office and signed the retainer agreement.

Rule 5.3 (Responsibilities Regarding Nonlawyer Assistants): As Salmoran and Durney's supervisor you failed to ensure that (i) Salmoran did not engage in practice of law and (ii) Durney accurately and timely communicated with the C [REDACTED].

Rule 1.16 (Declining or Terminating Representation): For at least one month after you made the decision, you failed to (i) tell the client that you terminated the representation and (ii) return the unearned fee and client's papers to him.

**APPLICATION OF THE ABA STANDARDS FOR IMPOSING
LAWYER SANCTIONS**

ABA Standard 7.2 provides that "suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public or the legal system." ABA Standard 4.42 states that suspension is appropriate when a lawyer engages in a pattern of neglect which causes

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Joseph Gilbert, Esq.
August 27, 2021
Page 4 of 4

injury or potential injury to a client. Standard 4.62 states that "suspension is generally appropriate when a lawyer knowingly deceives a client, and causes injury or potential injury to the client."

You knew, or should have known, that your nonlawyer assistant was engaging in the practice of law and that the law student you supervised had deceived the client regarding the status of the matter. You also knew, or should have known, that you failed to timely terminate the representation and return the retainer and papers to the client. Your misconduct actually injured your client, albeit not substantially because he had no formal deadline for filing the petition. Your misconduct actually injured the integrity of the profession as well.

Taking into consideration that you were cautioned in 2018 regarding allowing nonlawyer assistants meeting with clients for substantive purposes, it is appropriate to apply Standard 7.2 in particular. However, the Panel balances this notice with the minimal nature of the injury and your lack of prior related discipline and finds that it is appropriate to deviate downward from a suspension to issuance of a reprimand.

REPRIMAND

Based upon the foregoing, you are hereby **REPRIMANDED** for your knowing violation of SCR 49.5, RPC 1.3 (Diligence), RPC 5.5 (Unauthorized Practice of Law), RPC 5.3 (Responsibilities Regarding Nonlawyer Assistants) and RPC 1.16 (Declining or Terminating Representation).

Finally, in accordance with Nevada Supreme Court Rule 120 you are assessed costs in the amount of \$1,500.

Sincerely,



Richard Williamson (Aug 27, 2021 09:57 PDT)

Richard Williamson, Esq.,
Screening Panel Chair
Northern Nevada Disciplinary Board

RW/rkf

ATTACHMENT 2

STATE BAR OF NEVADA

August 27, 2021

LETTER OF REPRIMAND

Joseph Gilbert, Esq.
405 Marsh Ave.
Reno, NV 89509



Re: Disciplinary Grievance OBC21-0136 (James C. [REDACTED])

Dear Mr. Gilbert:

A Screening Panel of the Northern Nevada Disciplinary Board has reviewed the above-referenced grievances and unanimously determined that a Letter of Reprimand be issued for violations of Supreme Court Rule 49.5 and Rules 1.3, 5-5, 5-3, and 1.16 of the Rules of Professional Conduct ("RPC").

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9456 Double E Blvd., Ste. B
Reno, NV 89521-5977
phone 775.329.4100
fax 775.329.0522

GRIEVANCES

www.nvbar.org

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When James finally decided to pursue the matter, he met with Salmoran on September 11, 2020 and signed a contract for representation with your office. James paid the full retainer of \$3,500 to have the firm submit a petition with the court to either reduce or eliminate the requirement that he continue to register as a Tier 3 Sex Offender. James did not meet with an attorney when he signed the representation contract.

Thereafter, Tara communicated on a regular, if not daily, basis with Salmoran and one of the firm's law clerks, John Durney, regarding the procedure and substance for the petition and its filing. Durney was certified to practice law, pursuant to SCR 49.3, under your supervision.

On November 20, 2020, Durney emailed the client that the research and drafting of the petition had been completed and it would be filed with the court the following week. On January 7, 2021, Durney emailed the clients to update them that he was waiting on information from the criminal paralegal in your office regarding a hearing date, implying that James's petition had been filed.

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On January 25, 2021, Tara called your office and eventually spoke with Durney who relayed that he was very sorry, but Joey Gilbert Law was going to refund the entire deposit because the firm had not drafted or filed a petition in James's case. Durney explained that they were sorry but there was a horrible lack of communication at the firm, and they never should have taken the case in the first place as the firm does not handle their type of specialized case. That same day, Durney sent an email apologizing again for the bad news, said the clients should expect the full refund to take a few weeks, and provided a list of recommendations for post-conviction relief attorneys specializing in cases like James's.

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- (2) Assist and counsel the student in the activities permitted by this rule and review such activities with the student, to the extent necessary for the proper training of the student and protection of the client.
- (3) Read, approve, and personally sign any pleadings, briefs, or other papers prepared by the student before filing; read and approve any documents prepared by the student for execution by any person before submission to that person; and read and approve any correspondence prepared by the student before mailing.
- (4) Be present for any appearance by a student before a court or administrative tribunal.

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Joseph Gilbert, Esq.
August 27, 2021
Page 4 of 4

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REPRIMAND

Based upon the foregoing, you are hereby **REPRIMANDED** for your knowing violation of SCR 49.5, RPC 1.3 (Diligence), RPC 5.5 (Unauthorized Practice of Law), RPC 5.3 (Responsibilities Regarding Nonlawyer Assistants) and RPC 1.16 (Declining or Terminating Representation).

Finally, in accordance with Nevada Supreme Court Rule 120 you are assessed costs in the amount of \$1,500.

Sincerely,


Richard Williamson (Aug 27, 2021 09:53 PDT)

Richard Williamson, Esq.,
Screening Panel Chair
Northern Nevada Disciplinary Board

RW/rkf






Gilbert.LOR_081921 rev

Final Audit Report

2021-08-27

Created:	2021-08-27
By:	Laura Peters (laurap@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBÇAABA AZHm4JMPH84ir8CQVd5uEinMbm8Q98toh

"Gilbert.LOR_081921 rev" History

-  Document created by Laura Peters (laurap@nvbar.org)
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-  Document emailed to Richard Williamson (rich@nvlawyers.com) for signature
2021-08-27 - 4:43:48 PM GMT
-  Email viewed by Richard Williamson (rich@nvlawyers.com)
2021-08-27 - 4:50:04 PM GMT - IP address: 68.190.180.187
-  Document e-signed by Richard Williamson (rich@nvlawyers.com)
Signature Date: 2021-08-27 - 4:53:31 PM GMT - Time Source: server - IP address: 68.190.180.187
-  Agreement completed.
2021-08-27 - 4:53:31 PM GMT

August 27, 2021



SENT VIA CERTIFIED MAIL: 7019-2970-0001-3885-5177

Joseph Gilbert, Esq.
Joey Gilbert & Associates Ltd.
405 Marsh Ave
Reno, NV 89509

3100 W. Charleston Blvd.
Suite 100
Las Vegas, NV 89102
phone 702.382.2200
toll free 800.254.2797
fax 702.385.2878

Re: State Bar of Nevada Disciplinary Grievance No. OBC21-0136

9456 Double R Blvd., Ste. B
Reno, NV 89521-5977
phone 775.329.4100
fax 775.329.0522

www.nvbar.org

Dear Mr. Gilbert:

A Screening Panel of the Northern Nevada Disciplinary Board met on August 19, 2021 and reviewed the subject grievance. The Panel determined that you violated the Rules of Professional Conduct, and that you should receive a Letter of Reprimand. The Letter of Reprimand signed by the Panel Chair is attached.

Appeal Procedures

In accordance with SCR 105(1)(b), you may object to the Letter of Reprimand within fourteen (14) days of receipt of the Letter. A Letter of Reprimand imposed without objection is final and not appealable.

Your right to object to the Letter of Reprimand is waived if a written objection is not served on the Office of Bar Counsel within the required 14 days. An objection should state the reasons you object to the Letter of Reprimand and may attach relevant documentary evidence supporting the objection.

If an objection is properly served on the Office of Bar Counsel, a Formal Hearing will be set concerning the grievance, in accordance with SCR 105(1)(c). A Formal Hearing Panel may recommend any disciplinary action it deems appropriate, up to and including suspension or disbarment. Recommendations for public discipline arising from a Formal Hearing must be reviewed by the Nevada Supreme Court *de novo* (except for a Public Reprimand issued upon consent pursuant to SCR 113).

You are encouraged to carefully review SCR 105 regarding the appeal process.

Joseph Gilbert, Esq.
August 27, 2021
Page 2 of 2

Notice Regarding Non-Confidentiality Of Letters Of Reprimand

Letters of Reprimand issued after March 1, 2007, are public. Pursuant to ADKT 518, filed by the Supreme Court on December 27, 2016, a Letter of Reprimand will be published in the Nevada Lawyer without redactions. Pursuant to ADKT 516, filed by the Supreme Court on May 5, 2017, an attorney will be assessed administrative costs in the amount of \$1,500 (SCR 120).

Issuance of a Letter of Reprimand without objection will result in closure of this disciplinary proceeding. Once the disciplinary proceeding is closed, the record of the proceeding becomes public in accordance with SCR 121. As required by the Rule, only bar counsel's work product and the panel deliberations remain protected. Accordingly, the State Bar will release record of the disciplinary proceeding upon receipt of a public record request for information concerning the lawyer's discipline record, or this grievance in particular.

You are encouraged to review SCR 121 in all its subparts in this regard.

Sincerely,



R. Kait Flocchini
Assistant Bar Counsel

LOR Enclosed






Gilbert.LOI cover_082321

Final Audit Report

2021-08-27

Created:	2021-08-27
By:	Laura Peters (laurap@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAYpUwTO_QUNZIYTVAAeH5MbF1UZIOAobMB

"Gilbert.LOI cover_082321" History

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-  Document emailed to Kait Flocchini (kaitf@nvbar.org) for signature
2021-08-27 - 5:31:26 PM GMT
-  Email viewed by Kait Flocchini (kaitf@nvbar.org)
2021-08-27 - 5:32:56 PM GMT - IP address: 54.178.183.143
-  Document e-signed by Kait Flocchini (kaitf@nvbar.org)
Signature Date: 2021-08-27 - 5:34:58 PM GMT - Time Source: server - IP address: 71.83.120.174
-  Agreement completed.
2021-08-27 - 5:34:58 PM GMT

1 **PROOF OF SERVICE BY ELECTRONIC MEANS**

2 The undersigned hereby certifies that, pursuant to NRAP 25(1)(d), electronic
3 notification for the filing of the **Respondent's Appendix (Vol 1 of 1) to State Bar**
4 **of Nevada's Answer to Petition for Writ of Mandamus or Prohibition** was sent
5 to the following:
6

- 7 1. Dominic Gentile - dgentile@clarkhill.com
8 2. Janeen Isaacson - jisaacson@lipsonneilson.com
9 3. Daniel Hooge – danh@nvbar.org
10 4. R. Flocchini - kaitf@nvbar.org

11 DATED this 13th day of April 2022

12 *Laura Peters*

13 _____
14 Laura Peters, an employee of
15 the State Bar of Nevada.
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