

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

2 Electronically Filed
3 Jan 31 2022 02:26 p.m.
4 Elizabeth A. Brown
5 Clerk of Supreme Court

6 IN THE MATTER OF)
7 DISCIPLINE OF)
8 KARLON KIDDER, ESQ.,)
9 BAR NO. 11622)
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20)

**CASE SUMMARY FOR
RECORD ON APPEAL**

7 **1. Nature of the Case**

8 KARLON KIDDER (“Respondent”) appeared before a Formal
9 Hearing Panel (“Panel”) of the Northern Nevada Disciplinary Board on
10 December 3, 2021. The presiding Panel consisted of Barth Aaron, Esq.,
11 Chair, Nathan Aman, Esq. and lay-member Mike Labadie. Assistant Bar
12 Counsel R. Kait Flocchini, Esq. represented the State Bar of Nevada (“State
13 Bar”). Respondent represented himself.

14 The Complaint alleged that Respondent failed to adequately
15 represent his client in a probate proceeding by (i) failing to timely notice a
16 hearing and (ii) failing to timely file briefs. The Complaint also alleged that
17 Respondent failed to properly withdraw from the representation.

18 ///

1 Respondent defended that (i) he relied on the client to timely notice
2 the hearing and (ii) he did not realize that there was a deadline for filing
3 the brief-in-question. Respondent also defended that he did properly
4 withdraw from the court proceeding because the client terminated the
5 representation.

6 The hearing panel found that Respondent knowingly violated RPC 1.1
7 (Competence) because his failures exhibited a lack of thoroughness and
8 preparation. The hearing panel also found that Respondent negligently
9 violated RPC 1.3 (Diligence) when he failed to timely file the brief-in-
10 question.

11 The hearing panel found that the State Bar failed to prove by clear
12 and convincing evidence that Respondent violated RPC 1.16 (Declining or
13 Terminating Representation) when he withdrew from the court
14 proceeding.

15 The panel recommended issuance of a Public Reprimand for
16 violation of RPC 1.1 and RPC 1.3.

17 **2. Number of Grievances**

18 This case arose from a single grievance.

1 **3. Rules of Professional Conduct**

2 The Panel found that Respondent violated RPC 1.1 (Competence) and
3 RPC 1.3 (diligence). The Panel found no violation of RPC 1.16 (Declining
4 or Terminating Representation.

5 **4. Mental State**

6 The Panel found that Respondent acted:

- 7 1. Knowingly for RPC 1.1 (Competence); and
8 2. Negligently for RPC 1.3 (Diligence).

9 **5. Injury**

10 The Panel found that Respondent's conduct resulted in little or no
11 injury to his client.

12 **6. ABA Baseline for Imposing Sanction**

13 The panel found the appropriate baseline to be Standard 4.53 of the
14 ABA Standards for Imposing Lawyer Sanctions for the violation of RPC
15 1.1 (Competence) and Standard 4.53 for the violation of RPC 1.3
16 (Diligence). Both standards called for imposition of a reprimand.

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2022.01.31.Case Summary

Final Audit Report

2022-01-31

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IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE:

DISCIPLINE OF
KARLON KIDDER, ESQ.
STATE BAR NO. 11622

Case No:

Volume I

RECORD OF DISCIPLINARY PROCEEDINGS,
PLEADINGS
AND TRANSCRIPT OF HEARINGS

R. Kait Flocchini, Esq.
Assistant Bar Counsel
Nevada Bar #9861
9456 Double R Boulevard, Suite B
Reno, NV 89521

Attorney for State Bar of Nevada

Karlon Kidder, Esq.
620 N. Rock Blvd.
Sparks, NV 89431

Respondent

INDEX
ALPHABETICAL LIST OF DOCUMENTS

<u>Description</u>	<u>Page Nos.</u>	<u>VOL</u>
Amended Scheduling Order (Filed November 5, 2021)	27-31	I
Certificate of Service	336	II
Complaint and First Designation of Formal Hearing Panel Members (Filed September 2, 2021)	1-8	I
Findings of Fact, Conclusions of Law and Recommendation After Formal Hearing (Filed January 7, 2022)	56-65	I
Notice of Hearing (Filed November 2, 2020)	18	I
Order Appointing Hearing Panel Chair (Filed September 30, 2021)	13-14	I
Order Appointing Formal Hearing Panel (Filed October 18, 2019)	15-17	I
Order After Pre-Hearing Conference (Filed November 30, 2021)	52-55	I
Respondent's Final List of Exhibits & Witnesses (Filed November 12, 2021)	32-33	I
Respondent's Trial Statement (Filed November 22, 2021)	45-51	I
Scheduling Order (Filed November 2, 2021)	23-26	I
State Bar of Nevada's Final Disclosures (Filed November 2, 2021)	19-22	I

1	State Bar of Nevada’s Hearing Brief	34-44	I
2	(Filed November 19, 2021)		
3	State Bar of Nevada’s Memorandum of Costs	66-71	I
4	(Filed January 24, 2022)		
5	State Bar of Nevada’s Peremptory Challenges	9-10	I
6	(Filed September 2, 2021)		
7	Verified Answer	11-12	I
8	(Filed September 28, 2021)		
9	Transcript	72-202	I
10	(Hearing Held December 3, 2021)		
11	Hearing Exhibits	203-335	II



FILED

SEP 02 2021

STATE BAR OF NEVADA
BY _____
OFFICE OF BAR COUNSEL

Case No: OBC21-0217

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
)
KARLON KIDDER, ESQ.,)
BAR NO. 11622)
)
Respondent.)

COMPLAINT

TO: Karlon Kidder, Esq.
620 N. Rock Blvd.
Sparks, Nevada 89431

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. Attorney Karlon Kidder, Esq. (“Respondent”), Bar No. 11622, is currently an active member of the State Bar of Nevada and at all times pertinent to this complaint had his principal place of business for the practice of law located in Washoe County, Nevada.

2. Deborah Zelinski initiated a probate matter in the Second Judicial District Court regarding her deceased friend Rhonda Mitchell (the “Mitchell probate matter”). Zelinski filed the initial documents, including a Petition for Letters of Administration, *in pro per*.

3. Zelinski used the services of document preparer “For the People” for the initial documents in the Mitchell probate matter. When she needed additional assistance, “For the People” referred her to Respondent.

4. On October 28, 2020 Zelinski appeared *in pro per* at a hearing on her Petition. The Court stated that the hearing had not been properly noticed, and therefore, continued it until December 1, 2020. The Court noted that the December 1 hearing must be properly noticed.

5. Respondent and Zelinski entered in a retainer agreement on or about October 29, 2020 for representation of Zelinski in the Mitchell probate matter.

6. Zelinski paid Respondent a total of \$2,000 which would be billed against at an hourly rate of \$300 per hour.

7. Respondent filed a Notice of Appearance in the probate matter on November 2, 2020.

8. Respondent failed to properly notice the December 1, 2020 hearing.

9. Ms. Mitchell’s daughters (the “Daughters”) also appeared at the December 1, 2020 hearing.

10. On December 1, 2020, the Daughters filed an Objection to Zelinski’s Petition and a Counterpetition.

11. On December 4, 2020 the Probate Commissioner issued a Recommendation that Zelinski's Petition be denied without prejudice and that the Counterpetition be denied because it did not set forth qualifications for the suggested appointment.

12. The December 4, 2020 Recommendation advised that any renewed Petition be filed and served no less than 5 days before it was submitted to the Court.

13. On December 30, 2020, the daughters filed a Petition to be appointed Special Administrators and sought to admit a 1998 Will that supported their request.

14. Respondent failed to file an objection to the Daughters' second Petition.

15. On January 6, 2021, the Daughters submitted their Petition.

16. On January 14, 2021, Respondent met with Zelinski to discuss (i) filing a specific petition to accomplish her goals in the probate matter (a "Heggstad Petition") and (ii) an opposition to the Daughters' second Petition.

17. On January 15, 2021, Respondent filed the Heggstad Petition.

18. On January 15, 2021 the Court entered an order granting the Daughters' petition and appointing them Co-Administrators of the estate.

19. On January 18, 2021, Respondent filed an Opposition to the Daughters' petition that was already granted.

20. On January 18, 2021, Zelinski was informed directly that the Court had appointed the Daughters as Co-Administrators.

21. Respondent met with Zelinski on January 19, 2021. Zelinski terminated the representation that same day.

22. Respondent provided Zelinski with a detailed invoice for work performed which indicated she should be refunded \$420 from the advance she paid on fees. Respondent

provided Zelinski with a check for \$420 and asked her to hold it for a few days so that he could transfer funds to pay the check.

23. On January 19, 2021, Respondent filed a Substitution of Counsel replacing himself with Zelinski *in pro per*.

24. Second Judicial District Court Rule 23 requires any attorney that has appeared in a matter to seek permission to withdraw from the representation, not simply file a document indicating the party will proceed *in pro per*.

25. The Court continued to communicate with Respondent on behalf of Zelinski because the proper Motion to Withdraw was not filed.

26. Zelinski retained new counsel, who then properly appeared in the Mitchell probate matter on January 26, 2021.

COUNT ONE- RPC 1.1 (Competence)

27. RPC 1.1 states “[a] lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.”

28. In light of the foregoing paragraphs 2 through 26, Respondent violated RPC 1.1 (Competence) when he failed to follow statutory requirements and the Court’s direction in the Mitchell probate matter.

COUNT TWO- RPC 1.3 (Diligence)

29. RPC 1.3 states “[a] lawyer shall act with reasonable diligence and promptness in representing a client.”

30. In light of the foregoing paragraphs 2 through 26, Respondent violated RPC 1.3 (Diligence) when he failed to (i) follow statutory requirements in the Mitchell probate matter

and (ii) timely notice the December 1 hearing and (iii) timely file an opposition to the Daughters' second Petition.

COUNT THREE- RPC 1.16 (Declining or Terminating Representation)

31. RPC 1.16 states, in relevant part:

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

32. In light of the foregoing paragraphs 2 through 26, Respondent violated RPC 1.16 (Declining or Terminating Representation) when he failed to comply with WCDR 23 when terminating his representation of Zelinski.

WHEREFORE, Complainant prays as follows:

1. That a hearing be held pursuant to Nevada Supreme Court Rule 105;
2. That Respondent be assessed the costs of the disciplinary proceeding pursuant to SCR 120; and
3. That pursuant to SCR 102, such disciplinary action be taken by the Northern Nevada Disciplinary Board against Respondent as may be deemed appropriate under the circumstances.

Dated this 2nd day of September, 2021.

STATE BAR OF NEVADA
DANIEL M. HOOGE, Bar Counsel

By: 

R. Kait Flocchini, Assistant Bar Counsel
Nevada Bar No. 9861
9456 Double R Boulevard
Reno, Nevada 89521
(775) 329-4100



FILED

SEP 02 2021

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

Case No: OBC21-0217

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
)
KARLON J. KIDDER, ESQ.,)
BAR NO. 11622)
)
Respondent.)

**DESIGNATION OF
HEARING PANEL MEMBERS**

TO: Karlon J. Kidder, Esq.
The Kidder Law Group, Ltd.
620 N. Rock Blvd.
Sparks, NV 89431

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

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

1. Eric Stovall, Esq., Chair
2. Kendra Bertschy, Esq., Vice-Chair
3. Barth Aaron, Esq.
4. Sarah Almo, Esq.
5. Nathan Aman, Esq.
6. Adam Cate, Esq.
7. Marilee Cate, Esq.
8. Travis Clark, Esq.
9. Lucas Foletta, Esq.
10. William Hanagami, Esq
11. Scott Hoffman, Esq
12. Caren Jenkins, Esq.
13. Asher Killian, Esq.
14. Katherine Lyon, Esq.
15. John Nolan, Esq.
16. Nicholas C. Pereos., Esq.
17. Amos Stege, Esq.
18. Michael Sullivan, Esq..
19. Jan T. Barker, Laymember
20. Steve Boucher, Laymember
21. Brian Duffrin, Laymember
22. Deveron Feher, Laymember
23. Lynda Goldman, Laymember
24. Michael LaBadie, Laymember
25. Timothy Meade, Laymember

- 26. Stephen Myerson, Laymember
- 27. Sadiq Patankar, Laymember
- 28. Richard Teichner, Laymember
- 29. Brook M. Westlake, Laymember

DATED this 2nd day of September 2021.

STATE BAR OF NEVADA
Daniel M. Hooge, Bar Counsel

By: 

R. Kait Flocchini, Assistant Bar Counsel
9456 Double R Blvd., Ste. B
Phone: (775) 329-4100

Case No: OBC21-0217



FILED

SEP 02 2021

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

STATE BAR OF NEVADA
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
)
KARLON KIDDER, ESQ.,)
BAR NO. 11622)
)
Respondent.)

**STATE BAR OF NEVADA'S
PEREMPTORY CHALLENGES**

Pursuant to Supreme Court Rule 105(2)(a), the State Bar of Nevada hereby exercises its peremptory right to challenge the following member of the Northern Nevada Disciplinary Board from the Formal Hearing Panel in the above referenced matter:

1. Sadiq Patankar

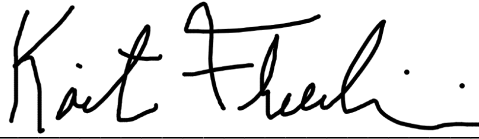
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2. Nicholas C. Pereos, Esq.

Dated this 2nd day of September 2021.

STATE BAR OF NEVADA
DANIEL M. HOOGE, Bar Counsel

By: _____



R. Kait Flocchini, Assistant Bar Counsel
Nevada Bar No. 9861
9456 Double R Boulevard
Reno, Nevada 89521
(775) 329-4100



FILED

SEP 28 2021

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

Case No.: OBC21-0217

STATE BAR OF NEVADA
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

VERIFIED ANSWER

KARLON KIDDER, ESQ.,

Respondent.

Respondent, KARLON J. KIDDER, ESQ. hereby answers the Complaint filed on September 2, 2021 and served on September 4, 2021, as follows:

1. Respondent admits the allegations contained in paragraphs 1, 2, 3, 5, 6, 7, 10, 11, 13, 15, 17, 18, 21, 23, 24, 26, 27, 29, and 31 of the complaint.
2. Respondent denies the allegations contained in paragraphs 8, 14, 16, 19, 20, 22, 25, 28, 30, and 32 of the Complaint.
3. Respondent is without sufficient knowledge to answer the allegations contained in paragraph 4, 9, and 12 of the Complaint.

WHEREFORE, Respondent prays that the complaint be denied, that the office of the Bar Counsel be responsible for all fees and costs associated with this matter, and for such other and further relief as is deemed appropriate by the Panel.

1 DATED this 20th day of September, 2021.

2
3 
KARLTON J. KIDDER, ESQ.

4 State Bar No. 11622

5 620 N. Rock Blvd.

6 Sparks, NV 89431

7 (775) 359-1936

8 (775) 359-1992(f)

9 kjk@kidderlawgroup.com

10 **VERIFICATION**

11 STATE OF NEVADA)

12 COUNTY OF WASHOE)

13)ss:

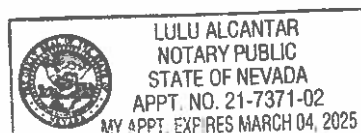
14 KARLTON KIDDER, under penalties of perjury, being first duly sworn, deposes and
15 says: That he is the Respondent in the above-entitled action; that he has read the foregoing
16 ANSWER knows the contents thereof; that the same is true of his own knowledge, except for
17 those matters therein contained stated upon information and belief, and as to those matters, he
18 believes them to be true.

19 DATED this 21st day of September, 2021.

20 
KARLTON J. KIDDER

21 SUBSCRIBED and SWORN to before
22 me this 21 day of September 2021.

23 
24 NOTARY PUBLIC





FILED

SEP 30 2021

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

Case Number: OBC21-0217

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
)
vs.)
)
KARLON KIDDER, ESQ.)
)
NV BAR No. 11622)
Respondent.)
)

ORDER APPOINTING
HEARING PANEL CHAIR

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

1. Barth Aaron, Esq., Chair

DATED this 30 day of September, 2021.

STATE BAR OF NEVADA

By: [Signature]
Eric Stovall, Esq., Chair
Northern Nevada Disciplinary Board

CERTIFICATE OF SERVICE BY E-MAIL

The undersigned hereby certifies that a true and correct copy of the foregoing **Order**

Appointing Hearing Panel Chair was served electronically upon:

1. Karlon Kidder, Esq. – kjk@kidderlawgroup.com
2. Kait Flocchini, Esq. – kaitf@nvbar.org
3. Barth Aaron, Esq. - aaronesq@sbcglobal.net

Dated this 30th day of September 2021.

Laura Peters
By: _____
Laura Peters, an employee of
the State Bar of Nevada



FILED

OCT 18 2021

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

Case No.: OBC21-0217

STATE BAR OF NEVADA
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

KARLON KIDDER, ESQ.
NV BAR No. 11622
Respondent.

ORDER APPOINTING
FORMAL HEARING PANEL

IT IS HEREBY ORDERED that the following members of the Northern Nevada Disciplinary Board have been designated as members of the formal hearing panel in the above-entitled action. The hearing will be convened on the 3rd day of December, 2021 starting at 9:00 a.m. via Zoom video conferencing.

1. Barth Aaron, Esq., Chair;
2. Nathan Aman, Esq.
3. Mike LaBadie, Laymember

DATED this 15th day of October, 2021.

STATE BAR OF NEVADA

By: [Signature]
Eric A. Stovall, Esq., Chair
Northern Nevada Disciplinary Board

NORTH Hearing Pnl Ord_Kidder

Final Audit Report

2021-10-15

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CERTIFICATE OF SERVICE BY E-MAIL

The undersigned hereby certifies that a true and correct copy of the foregoing **Order**

Appointing Formal Hearing Panel Panel was served electronically upon:

1. Karlon Kidder, Esq. – kjk@kidderlawgroup.com
2. Kait Flocchini, Esq. – kaitf@nvbar.org
3. Barth Aaron, Esq. - aaronesq@sbcglobal.net
4. Nathan Aman, Esq. - naman@renonvlaw.com
5. Michael LaBadie - mlab12770@gmail.com

Dated this 18th day of October 2021.

By: *Laura Peters*
Laura Peters, an employee of
the State Bar of Nevada



FILED

NOV 02 2021

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

Case No: OBC21-0217

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
)
KARLON KIDDER, ESQ.,)
BAR NO. 11622)
)
Respondent.)

NOTICE OF HEARING

TO: Karlon Kidder, Esq.
620 N. Rock Blvd.
Sparks, NV 89431

PLEASE TAKE NOTICE that the formal hearing in the above-entitled action has been scheduled for **Friday, December 3, 2021, beginning at the hour of 9:00 a.m.** The hearing will be conducted via Zoom (meeting # 88673664849). You are entitled to be represented by counsel, to cross-examine witnesses, and to present evidence.

DATED this 2nd day of November 2021.

STATE BAR OF NEVADA
DANIEL M. HOOGE, Bar Counsel

By: Kait Flocchini
R. Kait Flocchini, Assistant Bar Counsel
Nevada Bar No. 9861
9456 Double R Boulevard
Reno, Nevada 89521
(775) 329-4100



FILED

NOV 02 2021

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

Case No: OBC21-0289, OBC21-0353

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
 Complainant,)
 vs.)
)
 KARLON KIDDER, ESQ.,)
 BAR NO. 11622)
)
 Respondent.)

STATE BAR OF NEVADA'S
FINAL DISCLOSURES

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

A. Documentary Evidence

1. Any and all documentation contained in the State Bar of Nevada's Initial Disclosure of Documents and Witnesses and filed October 21, 2021 (SBN 1-214) and Respondent's Initial Disclosures filed November 1, 2021 (000001-000032).

B. Witnesses and Brief Statement of Facts

1. Respondent Karlon Kidder, Esq. may offer testimony about his retention and subsequent termination by grievant Deborah Zelinski.

2. Grievant Deborah Zelinski may offer testimony about her retention of, and communication with, Respondent. Ms. Zelinski's contact information is:

Deborah Zelinski
 6826 Quantum Ct.
 Sparks, NV 89436
 775-737-3897

1 3. Carole Pope, Esq., may offer testimony about her role as attorney to Deborah
2 Zesinski after Respondent was terminated. Ms. Pope's contact information is:

3 Carol Pope, Esq.
4 301 Flint Street
 Reno, NV 89501

5 3. A custodian of records from the Office of Bar Counsel may be called to testify
6 about Respondent's licensure and discipline history with the State Bar of Nevada.

7 Dated this 2nd day of November, 2021.

8
9 STATE BAR OF NEVADA
 DANIEL M. HOOGE, BAR COUNSEL

10
11 By: Kait Flocchini
 R. Kait Flocchini, Assistant Bar Counsel
12 Nevada Bar No. 9861
13 9456 Double R Blvd., Ste. B
 Reno, NV 89521
14 (775) 329-4100

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Karlon Kidder Esq.
620 N. Rock Blvd.
Sparks, NV 89431

Laura Peters

Kidder ROA - 21






2021.11.02.Notice of Hearing final disclosures

Final Audit Report

2021-11-02

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NOV 02 2021

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

Case No.: OBC21-0217

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

KARLON KIDDER, ESQ.,

NEVADA BAR NO. 11622

Respondent.

Scheduling Order

Pursuant to Rule 17 of the Disciplinary Rules of Procedure ("DRP"), on Thursday, October 14, 2021, at 10:00 a.m., Barth Aaron, Esq., the Formal Hearing Panel Chair, met telephonically with R. Kait Flocchini, Esq., Assistant Bar Counsel, on behalf of the State Bar of Nevada, and Respondent Karlon Kidder, Esq. ("Respondent") to conduct the Initial Conference in this matter.

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

The parties agreed to the following:

1. The parties consent to service by electronic means of all documents pursuant to SCR 109(2), NRCP 5, and DRP 11(b)(3).
2. The parties stipulate that venue is proper in Washoe County, Nevada.
3. The Formal Hearing for this matter is hereby set for **one (1) day starting at 9:00 a.m. on Friday, December 3, 2021**, and shall take place via simultaneous audio/visual transmission

(i.e. Zoom) or at the State Bar Office located at 9456 Double R. Blvd, Suite B, Reno, Nevada 89521 depending on the COVID-19 precautions in place on that date.

4. On or before **October 21, 2021**, the State Bar of Nevada's initial disclosures shall be served on all parties. The documents provided by the State Bar shall be bates stamped. *See* DRP 17 (a).

5. On or before **October 29, 2021**, Respondent's initial disclosures shall be served on all parties. The documents provided by the Respondent shall be bates stamped. *See* DRP 17 (a).

6. At or before 5:00 p.m. on **October 29, 2021**, the parties shall file and serve any Motions. The parties recognize that October 29, 2021 is a State holiday and that documents electronically served on that date are timely although they may be file-stamped on November 1, 2021, which is the next business day.

7. At or before 5:00 p.m. on **November 8, 2021**, all oppositions to the Motions, if any, shall be filed and served on the parties.

8. At or before 5:00 p.m. on **November 12, 2021**, all replies in support of filed Motions shall be filed and served on the parties.

9. On or before **November 12, 2021**, the parties shall serve a Final Designation of witnesses expected to testify and marked exhibits expected to be presented at the Formal Hearing in this matter, pursuant to SCR 105(2)(d), DRP 17(a) and DRP 21. The State Bar's exhibits shall be marked numerically and Respondent's exhibits shall be marked alphabetically.

10. On **November 15, 2021, at 1:00 p.m.**, the parties shall meet via simultaneous audio/visual transmission (i.e. Zoom) with Chair Aaron for the Pre-hearing Conference.

Pursuant to DRP 23, at the Pre-hearing conference (i) the parties shall discuss all matters needing attention prior to the hearing date, (ii) the Chair may rule on any motions or disputes including motions to exclude evidence, witnesses, or other pretrial evidentiary matter, and (iii) the

parties shall discuss and determine stipulated exhibits proffered by either the State Bar or Respondent as well as a stipulated statement of facts, if any.

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

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

Nov 2, 2021

Dated this ____ day of ~~October~~, 2021.

NORTHERN NEVADA DISCIPLINARY BOARD

By: Barth Aaron
Barth Aaron, Esq.
Hearing Panel Chair






proposed scheduling order

Final Audit Report

2021-11-02

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"proposed scheduling order" History

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2021-11-02 - 5:11:38 PM GMT



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NOV 05 2021

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

Case No.: OBC21-0217

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

KARLON KIDDER, ESQ.,
NEVADA BAR NO. 11622

Respondent.

Amended Scheduling Order

Pursuant to the parties agreement the Scheduling Order in this matter is amended as follows:

1. The parties consent to service by electronic means of all documents pursuant to SCR 109(2), NRCP 5, and DRP 11(b)(3).

2. The parties stipulate that venue is proper in Washoe County, Nevada.

3. The Formal Hearing for this matter is hereby set for **one (1) day starting at 9:00 a.m. on Friday, December 3, 2021**, and shall take place via simultaneous audio/visual transmission (i.e. Zoom) or at the State Bar Office located at 9456 Double R. Blvd, Suite B, Reno, Nevada 89521 depending on the COVID-19 precautions in place on that date.

4. On or before **October 21, 2021**, the State Bar of Nevada's initial disclosures shall be served on all parties. The documents provided by the State Bar shall be bates stamped. *See* DRP 17 (a).

5. On or before **October 29, 2021**, Respondent's initial disclosures shall be served on all parties. The documents provided by the Respondent shall be bates stamped. *See* DRP 17 (a).

1 **6.** At or before 5:00 p.m. on **October 29, 2021**, the parties shall file and serve any
2 Motions. The parties recognize that October 29, 2021 is a State holiday and that documents
3 electronically served on that date are timely although they may be file-stamped on November 1,
4 2021, which is the next business day.

5 **7.** At or before 5:00 p.m. on **November 8, 2021**, all oppositions to the Motions, if any,
6 shall be filed and served on the parties.

7 **8.** At or before 5:00 p.m. on **November 12, 2021**, all replies in support of filed
8 Motions shall be filed and served on the parties.

9 **9.** On or before **November 12, 2021**, the parties shall serve a Final Designation of
10 witnesses expected to testify and marked exhibits expected to be presented at the Formal Hearing in
11 this matter, pursuant to SCR 105(2)(d), DRP 17(a) and DRP 21. The State Bar's exhibits shall be
12 marked numerically and Respondent's exhibits shall be marked alphabetically.

13 **10.** At or before 5:00 pm on **November 17, 2021**, the parties shall file and serve any and
14 all objections to marked exhibits and designated witnesses expected to be presented at the Formal
15 Hearing.

16 **11.** On **November 18, 2021, at 10:00 a.m.**, the parties shall meet via simultaneous
17 audio/visual transmission (i.e. Zoom) with Chair Aaron for the Pre-hearing Conference.

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

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

Based on the parties' agreement and good cause appearing, **IT IS SO ORDERED.**

Dated this 5th day of November, 2021.

NORTHERN NEVADA DISCIPLINARY BOARD

Part 7 Rev-

By: _____
Barth Aaron, Esq.
Hearing Panel Chair






SBN v. Kidder: proposed amended scheduling order

Final Audit Report

2021-11-05

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"SBN v. Kidder: proposed amended scheduling order" History

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Signature Date: 2021-11-05 - 3:01:32 AM GMT - Time Source: server- IP address: 104.9.19.180
-  Agreement completed.
2021-11-05 - 3:01:32 AM GMT

CERTIFICATE OF SERVICE BY E-MAIL

The undersigned hereby certifies that a true and correct copy of the foregoing **Amended**

Scheduling Order was served electronically upon:

1. Karlon Kidder, Esq. – kjk@kidderlawgroup.com
2. Kait Flocchini, Esq. – kaitf@nvbar.org
3. Barth Aaron, Esq. - aaronesq@sbcglobal.net

Dated this 5th day of November 2021.

Laura Peters
By: _____
Laura Peters, an employee of
the State Bar of Nevada



FILED

NOV 13 2021

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

Case No.: OBC21-0217

STATE BAR OF NEVADA
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

KARLON KIDDER, ESQ.,

Respondent.

RESPONDENT'S FINAL LIST OF
DOCUMENTS AND WITNESSES

TO: DANIEL M. HOOGE, bar counsel, R. KAIT FLOCCHINI, assistant bar counsel
9456 Double R Boulevard Reno, NV 89521

PLEASE TAKE NOTICE that the following is the final list of witnesses and documents which may be offered by Respondent, KARLON J. KIDDER ESQ., at the time of Formal hearing scheduled for December 3, 2021. Respondent reserves the right to also offer any document disclosed by the State Bar of Nevada and any witness which has been offered by the State Bar of Nevada in his own case in chief as well as to supplement his disclosures with documents, and witnesses, as necessary.

A. DOCUMENTS

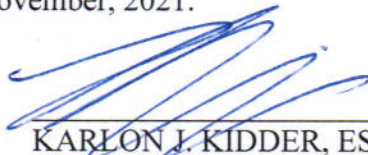
EXHIBIT	DESCRIPTION	#PAGES
A.	Filing receipt dated January 15, 2021.	1
B.	Email chain from December 8, 2020 and December 9, 2020 between Deborah Zelinski and Karlon J. Kidder.	1
C.	Email chain from November 20, 2020	1

D.	Email chain from November 13, 2020, November 16, 2020	1
E.	Email from Deborah Zelinski dated February 5, 2021	1
F.	Certificate of mailing filed November 3, 2020.	2
G.	Objection of Shawnan Bell and Jennifer Barco	15
H.	NRS 155.010 and 020.	1
I.	Declaration of Publication filed December 8, 2020.	2
J.	Substitution of Attorney filed January 19, 2021.	3
K.	Commissioner's Order dated January 22, 2021.	2
L.	Nevada Rule of Civil Procedure, Rule 12.	1
M.	Nevada Rule of Professional Conduct, Rule 1.16.	1

B. WITNESSES

1. Respondent Karlon J. Kidder, Esq., may offer testimony about his representation and the grievance.
2. Grievant Deborah Zelinski, 6826 Quantum Court, Sparks, NV 89436, may offer testimony about her retention of, communication with, and termination of respondent.
3. Lisa Wire, c/o KIDDER LAW GROUP, 620 N. Rock Blvd., Sparks, NV 89431 may offer testimony about communications between DEBORAH ZELINSKI and THE KIDDER LAW GROUP, LTD. as well as information about filing of pleadings in the court.

DATED this 12th day of November, 2021.



KARLON J. KIDDER, ESQ.
State Bar No. 11622
620 N. Rock Blvd.
Sparks, NV 89431
(775) 359-1936
(775) 359-1992(f)
kjk@kidderlawgroup.com



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NOV 19 2021

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

Case No: OBC21-0217

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
)
KARLON KIDDER, ESQ.,)
BAR NO. 11622)
)
Respondent.)

STATE BAR'S HEARING BRIEF

Introduction.

This disciplinary matter is about the adequacy of Respondent Karlon Kidder, Esq.'s representation of a client in a probate matter. A lawyer's duties to a client are of paramount importance. A failure to uphold those duties causes injury to the client and the integrity of the legal profession.

Probate matters are heavily governed by statute. Failing to comply with statutory requirements can be fatal to a petition in probate court. Neglecting to recognize the importance of the statutory scheme and strictly comply with it creates a great danger to a client that should not be tolerated.

///

1 **Statement of Facts.**

2 The uncontested evidence is as follows: Respondent was retained by Deborah
3 Zelinski to represent her in a probate matter. Zelinski initiated the probate matter *in pro*
4 *per*, and Respondent appeared on her behalf on November 2, 2020.

5 Zelinski originally filed a Petition for Letters of Administration on or about
6 September 10, 2020. Exhibit 3. The matter was set for a hearing, pursuant to NRS 139.100,
7 on October 28, 2020. At the hearing, the Probate Commissioner noted that Zelinski had not
8 properly noticed the hearing, and therefore, continued it to December 1, 2020. Feeling
9 overwhelmed by the process, Zelinski sought representation from Respondent.

10 On November 2, 2020, when Respondent appeared on behalf of Zelinski, there was
11 sufficient time to properly notice the December 1, 2020 hearing. *See* Exhibit H (setting forth
12 publication requirements for a Petition for Letters of Administration). However,
13 Respondent did not perform the necessary steps to get the notice published. Instead,
14 Zelinski engaged the publishing entity. *See* Exhibit 9.

15 On November 3, 2020, Zelinski filed a Certificate of Mailing *in pro per* despite
16 Respondent being counsel of record. The Certificate of Mailing stated that the mailing
17 occurred eight days *after* the filing date of the document. Respondent did not cure the date
18 confusion in the Certificate of Mailing.

19 Respondent did not file the notice of publication in the probate matter prior to the
20 December 1, 2020 hearing, instead allowing Zelinski to file it *in pro per* seven days after the
21 hearing took place. Exhibit 9. The Probate Commissioner denied Zelinski's Petition without
22 prejudice because of the lack of proper service. Exhibit 8. A Counterpetition for Special
23 Administration was also denied for procedural deficiencies. *Id.*

24 In the Recommendation denying the two petitions, the Court specifically stated that
25 any renewed Petition must be served no less than five days before it was submitted to the

1 Court for consideration. *Id.* This was particularly important considering that NRS 140.020
2 provides there is no notice requirement for a Petition for Special Administration. Thus, the
3 Recommendation actually built in a notice requirement and provided a set time for
4 responding to any filed petition.

5 The Recommendation was approved and ordered by the Court on December 30,
6 2020. Exhibit 10.

7 On December 30, 2020, the other party in the probate matter refiled the petition
8 seeking special administration in the probate matter. Exhibit 11. Pursuant to the Court's
9 order, the matter could not be submitted to the court until January 5, 2021, and implicitly
10 any objection to the petition should be filed no later than January 5, 2021.

11 Respondent did not have an opposition to the Petition for Special Administration
12 prepared before January 14, 2021. The opposition was filed on January 18, 2021.
13 Unfortunately, the Court had already granted the Petition for Special Administration on
14 January 15, 2021.

15 When Zelinski learned that the Court granted the other parties' petition without
16 receiving an opposition on her behalf, she terminated Respondent's representation. On
17 January 19, 2021, Respondent had Zelinski execute a "Substitution of Attorney" replacing
18 himself with her, operating *in pro per*. See Exhibit J. This "substitution" failed to comply
19 with the requirement of RPC 1.16 (c) and Rule 23 of the Second Judicial District Court Rules.

20 The undisputed facts show that Respondent repeatedly failed to follow the statutory
21 and procedural requirements to represent Zelinski in the probate matter, thereby causing
22 her to lose her petition on procedural grounds and the grant of the other parties' petition
23 without opposition.

1 **Appropriate Sanctions for a Violation of RPC 1.1 RPC 1.3, and RPC 1.16 in this**
2 **Matter.**

3 The Nevada Supreme Court has directed that four factors, as identified in The
4 Annotated Standards for Imposing Lawyer Sanctions, (the "Standards") are relevant to
5 determining what sanctions are appropriate for particular misconduct. *See Lerner, supra*,
6 at 1246. Those four factors are (i) the duty violated, (ii) the lawyer's mental state, (iii) the
7 potential or actual injury caused by the lawyer's misconduct and (iv) the existence of
8 aggravating or mitigating circumstances. *See id.*

9 An attorney may violate a duty to client, the public, the profession and/or the legal
10 system. *See The Annotated Standards for Imposing Lawyer Sanctions, Section 3.0 (pg. 117).*

11 The Standards provide that an attorney's mental state can be categorized as
12 intentional, knowing, or negligent. *See id.* at 120. "Intentional" is defined as acting "with a
13 conscious objective of purpose to accomplish a particular result." *See id.* at 121. "Knowing"
14 is defined as acting "with conscious awareness of the nature or attendant circumstances of
15 the conduct, but without the conscious objective or purpose to accomplish a particular
16 result." *See id.* at 122 (citations omitted). Finally, "negligent" is defined as when "a lawyer
17 lacks awareness of a substantial risk that circumstances exist or that a result will follow,
18 which failure is a deviation from the standard of care that a reasonable lawyer would exercise
19 in the situation." *See id.* at 124 (citations omitted). Mental state is distinguished from
20 motivation, which is evaluated as an aggravating or mitigating factor. *See id.*

21 Finally, the Standards discuss that an injury may be actual or potential and that injury
22 can be inflicted on the client or others, the public, the legal system, or the profession. *See*
23 *id.* at 126-127.

24 Standards 4.51 through 5.54 in the Standards address the appropriate sanction for
25 failing to understand the area in which the lawyer is practicing, thereby causing injury or

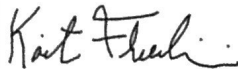
1 potential injury to the client. See Standards 4.51-4.54 attached hereto as **Exhibit A**. In
2 addition, Standards 4.41 through 4.44 address the appropriate sanction for failing to
3 perform services for a client, thereby causing the client injury or potential injury. See
4 Standards 4.41-4.44 attached hereto as **Exhibit B**. The different sections address when the
5 sanction of disbarment, suspension, reprimand, and admonition are warranted.

6 Particularly, Standard 4.52 is appropriate when “the evidence shows that the lawyer
7 failed to understand relevant legal doctrine or procedures or failed to adequately prepare for
8 a case.” The Annotated Standards for Imposing Lawyer Sanctions, pg. 194. In this matter,
9 Zelinski’s petition was governed by NRS 139, *et seq*. The other parties’ petition was governed
10 by NRS 140, *et seq*. The other procedural requirements in the probate matter are set forth
11 in the Second Judicial District Court Rules and the Court’s Recommendations and Orders.
12 There was no guess work in this probate matter and Respondent’s failure to comply with the
13 statutory and court requirements exhibits a failure to understand basic legal doctrine or a
14 failure to adequately prepare. Either way, it injured Respondent’s client and warrants a
15 suspension.

16 Nov 19, 2021

17 DATED this ____ day of November, 2021.

18 STATE BAR OF NEVADA
19 DANIEL M. HOOGE, BAR COUNSEL

20
21 

22 R. Kait Flocchini
23 Assistant Bar Counsel
9456 Double R Blvd, Suite B
Reno, Nevada 89521

2021.11.19.Hearing Brief w_o exhibits

Final Audit Report

2021-11-20

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2021-11-20 - 0:47:33 AM GMT

Exhibit A

Exhibit A

4.4 LACK OF DILIGENCE

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving a failure to act with reasonable diligence and promptness in representing a client:

4.41 Disbarment is generally appropriate when:

- (a) a lawyer abandons the practice and causes serious or potentially serious injury to a client; or
- (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or
- (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

4.42 Suspension is generally appropriate when:

- (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client; or
- (b) a lawyer engages in a pattern of neglect causes injury or potential injury to a client.

4.43 Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.

4.44 Admonition is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes little or no actual or potential injury to a client.

Exhibit B

Exhibit B

4.5 LACK OF COMPETENCE

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving failure to provide competent representation to a client:

4.51 Disbarment is generally appropriate when a lawyer's course of conduct demonstrates that the lawyer does not understand the most fundamental legal doctrines or procedures, and the lawyer's conduct causes injury or potential injury to a client.

4.52 Suspension is generally appropriate when a lawyer engages in an area of practice in which the lawyer knows he or she is not competent, and causes injury or potential injury to a client.

4.53 Reprimand is generally appropriate when a lawyer:

- (a) demonstrates failure to understand relevant legal doctrines or procedures and causes injury or potential injury to a client; or
- (b) is negligent in determining whether he or she is competent to handle a legal matter and causes injury or potential injury to a client

4.54 Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence in determining whether he or she is competent to handle a legal matter, and causes little or no actual or potential injury to a client.

CERTIFICATE OF SERVICE BY E-MAIL

The undersigned hereby certifies that a true and correct copy of the foregoing **State Bar's**

Hearing Brief was served electronically upon:

1. Karlon Kidder, Esq. – kjk@kidderlawgroup.com
2. Kait Flocchini, Esq. – kaitf@nvbar.org
3. Barth Aaron, Esq. - aaronesq@sbcglobal.net
4. Nathan Aman, Esq. - naman@renonvlaw.com
5. Mike LaBadie - mlab12770@gmail.com

Dated this 19th day of November 2021.

By: *Laura Peters*
Laura Peters, an employee of
the State Bar of Nevada



FILED

NOV 22 2021

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

Case No.: OBC21-0217

STATE BAR OF NEVADA
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

KARLON KIDDER, ESQ.,

Respondent.

RESPONDENT'S TRIAL
STATEMENT

Respondent, KARLON J. KIDDER, ESQ. hereby provides the panel his Trial Statement for the above described disciplinary hearing.

I. FACTS

Ms. Zelinski first met with me at my office on Thursday, October 29, 2020. She was seeking representation for a probate case which she had filed pro se. The initial consultation was free and she was not charged for the hour that she spent in my office. I met with her and she decided to hire The Kidder Law Group, LTD. to represent her in the case. She signed a retainer agreement and paid a \$1000.00 retainer on October 29, 2020. On November 2, 2020 I filed a notice of appearance in the case on her behalf. The first matter that was scheduled when I was hired was a continued hearing on Ms. Zelinski's Petition for letters of Administration scheduled for December 1, 2021. After I appeared in the case, I was able to review the pro se filings which Ms. Zelinski had made. It was clear, though through no fault of her own, Ms. Zelinski's petition to admit the will(s) would be denied because there were several incomplete wills and trusts which she had attempted to provide to the court. It appeared that the decedent had left a mess of

paperwork including multiple wills, trusts, codicils, and trust amendments, some of which were not properly executed. Ms. Zelinski and I appeared at the scheduled hearing for confirmation of her probate petition which as expected was denied. Ms. Zelinski was not happy.

I tasked Ms. Zelinski with getting together all the paperwork she could from the decedent to see if there was any valid will or trust that named her as a beneficiary and/or executrix/trustee. She brought those documents into my office and I reviewed them on December 4, 2020. I had a phone conversation with opposing counsel in this case on December 8, 2020 in which they suggested that the parties in the case agree to appoint a third-party administrator. I agreed that this was a good idea, seeing as how Ms. Zelinski was paying out of pocket for many of the expenses of the estate (which she may or may not have been a beneficiary of). I suggested this temporary resolution to her, but she would not agree to that resolution. I counseled her that it would be likely that the other parties in the case would file their own petition, (as they are the statutory beneficiaries of the decedent). The opposing parties filed a petition for special administration on December 30, 2020. This petition was submitted to the court by the opposing parties on January 6, 2021.

After further reviewing the documentation left by the decedent I determined that there was one testamentary document, a trust, that was validly executed and named Ms. Zelinski as beneficiary and Trustee, however the real property at issue in the case was never put into the trust. I researched this issue and presented a solution to Ms. Zelinski which was to file a *Heggstad* Petition. This research and solution as well as a petition filed by the opposing parties fell right in the holidays, which I was largely not in my office between December 23 and January 4. Despite this I met with Ms. Zelinski on December 30, 2020 and we confirmed that I would prepare a *Heggstad* Petition in the case. I prepared the *Heggstad* Petition on January 8, 2021. I prepared an opposition to the opposing parties' petition for Special Administration on January 13, 2021. Ms. Zelinski came into the office on January 14, 2021 to review and sign the petition and opposition. I requested a hearing from the probate court on January 14, 2021 but never received a response. On January 15, 2021 I filed the objection to the Special Administration as

well as the *Heggstad* petition despite never having received a hearing date for those pleadings. The court timed stamped the *Heggstad* Petition for January 15, 2021 but did not accept the Opposition until January 18, 2021. Also on January 15, 2021 the court issued an order granting the Petition for Special Administration filed by the opposing parties. Based upon the opposition and petition that I filed a hearing was held on whether to grant the Special Administration filed by the opposing parties but I never participated in that hearing because Ms. Zelinski terminated my employment by an email on January 18, 2021 and in person by signing a substitution of counsel on January 19, 2021, which Ms. Zelinski signed and I filed the same day. Ms. Zelinski was given a copy of her file, and a refund check for unearned funds in the amount of \$420.00 on January 19, 2021. The court continued to contact me despite there being a substitution of counsel filed on January 19, 2021. I informed the court and opposing counsel I no longer represented Ms. Zelinski and forwarded all correspondence to Ms. Zelinski. Ms. Zelinski later hired another attorney and requested further reimbursement from me on February 5, 2021.

II. APPLICABLE LAW

The Nevada State Bar has alleged that I have violated three sections of the Rules of Professional Conduct in my representation of Ms. Zelinski, they are as follows:

1. RPC 1.1(Competence) and
2. RPC 1.3 (Diligence) The state bar alleges that I failed to provide competent legal knowledge, skill, thoroughness and preparation. While the complaint does not offer any specific allegation regarding the violation of this section, the state bar has alleged that I failed to (diligently) follow statutory requirements and timely file an opposition so I will address those allegations under both section of the Rules of Professional Conduct. Firstly, the state bar has alleged that I failed to properly notice the December 1, 2020 hearing. NRS 155.010 and 155.020 provides that requirements for noticing a Petition for Letters of Administration, which requires that the notice be mailed by certified mail to any potential interested parties and the State Health and Human Services Office and the notice must be published three times prior to the date of hearing. The hearing was noticed

properly, though not by me, by Ms. Zelinski. When she hired me I had asked her if she had mailed out the notice of hearing to the required parties, which she said she had she just hadn't filed the certificate of mailing yet. The minutes of the first hearing indicate that the decedent's daughters (an interested party whom certified mailing was made to) had appeared at the hearing further indicating Ms. Zelinski had actually mailed the notice of hearing out as required. I asked her if she had published the notice of hearing, which she said she had already paid the Sparks Tribune to do but it had not been completed yet. She said that she would take care of the filing of the proofs of those notices because she already had them prepared. She filed the certificate of mailing of the Notice of Hearing on November 3, 2020, and mailed it out to all of the required parties, including the Opposing parties in this matter, the State Medicaid Office etc. to which notice is required all of whom had already received certified mailings prior to the first hearing. Prior to the second hearing I noticed that no proof of publication had been filed and I was informed that she had not received the proof back from the Sparks Tribune yet. This is a common problem in probates and usually if the court is informed that publication had been made they will allow the proof to be filed after the hearing to confirm what the party or counsel had told the court already regarding the publication. In this instance there was only 32 days between the two hearings and the Sparks Tribune only publishes once per week. It was a very tight deadline to meet to be able to provide the proof prior to the hearing. Ms. Zelinski and I prepared to inform the court of the status of the publication but we never really discussed that in the hearing because most of the focus was related to the mess of testamentary documents that had been presented to the Court and described thoroughly in the Objection that was filed that morning by the opposing parties. After the hearing I instructed Ms. Zelinski to provide me the proof of publication from the Sparks Tribune to correct the record. Instead she filed the proof herself on December 8, 2020, which did indicate that the notice of hearing had been published properly.

Secondly the state bar alleges that I failed to timely file an objection to the Opposing

parties' Petition for Letters of Special Administration. Letters of Special Administration are governed by NRS 140. They are typically brought when there is an emergency that exists that requires the temporary appointment of an administrator where the noticing requirements and hearing requirements are impractical and are waived because of said emergency. By their very nature they are *ex parte* petitions and neither require notice or a hearing. There is no statutory time limit in which to file an opposition or objection to letters of special administration in the statutes or the probate court rules. Oppositions or Objections to Special Administration are routinely brought months or years later in the court when some party finds out about the case or when later on the special administrator brings a noticed petition related to the case. In this case, I filed the Opposition to the petition within 20 days of its filing by whatever metric you use, the date which I filed it, January 15, 2021 or the date which the court accepted it, January 18, 2021. It should be noted that the court did have a hearing on this Opposition later in February, 2021 which I did not participate in because I had been terminated by Ms. Zelinski, so the opposition was heard and considered whether or not to revoke the letters of special administration. I will admit that I incorrectly believed the court would set this matter for hearing, even without an opposition having been filed, because of the already adversarial nature of the case and was surprised when the court issued an order granting the petition on January 15, 2021. Even though I was surprised by the court's decision I had already filed an opposition that day, which was later heard. There is no time requirement for which an opposition may be brought for a petition for letters of special administration so I did diligently and timely file an opposition for Ms. Zelinski.

3. RPC 1.16 (Declining or Terminating Representation) The State Bar alleges that I did not comply with WDCR 23 when I "terminated" my representation of Ms. Zelinski. This is neither true nor consistent with the facts. I did not "terminate" my representation of Ms. Zelinski, she did, and then we properly filed a substitution of counsel with the court. WDCR 23 states that "When a party has appeared by counsel, that individual cannot

thereafter appear on his/her own behalf in the case without the consent of the court.

Counsel who has appeared for any party shall represent that party in the case and shall be recognized by the court and by all parties as having control of the client's case, until counsel withdraws, another attorney is substituted, or until counsel is discharged by the client in writing, filed with the filing office, in accordance with SCR 46 and this rule."

The filing of the substitution of counsel on November 19, 2021 satisfies the requirements of WDCR 23 and SCR 46 as it is a discharge in writing filed with the court. Additionally, at the time of the filing of the substitution there were no pending hearings, and no pleadings which needed to be filed. Ms. Zelinski was not put in any undue prejudice by the filing of the substitution, which she both requested and signed. The court did issue an order for me to appear at the February hearing unless Ms. Zelinski had hired another attorney, which she did on January 26, 2021, so I did not appear at that hearing. Had she not hired another attorney I would have appeared at the hearing as ordered.

III. CONCLUSION

The allegations made by the State Bar of Nevada against me fail to show that I have violated the rules of professional conduct as described above. They allege that I improperly withdrew, which is inconsistent with WDCR 23 and SCR 46, they allege that I did not timely file an Opposition or Objection to the opposing parties' Petition for Special Administration when there is no statute, rule, or court order which requires me to have filed that in any specific amount of time, it was filed timely under the rules of civil procedure and was considered by the court and lastly alleges that I failed to properly notice the December 1, 2020 hearing, which is technically untrue as it was properly noticed, just not by me. My representation of Ms. Zelinski, though brief, was thorough and diligent and should not result in any discipline by this Panel.

DATED this 22nd day of November, 2021.

/s/ KARLON J. KIDDER ESQ.

KARLON J. KIDDER, ESQ.

State Bar No. 11622

620 N. Rock Blvd.

Sparks, NV 89431

(775) 359-1936

(775) 359-1992(f)

kjk@kidderlawgroup.com



FILED

NOV 30 2021

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

Case Nos.: OBC21-0217

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
)
KARLON KIDDER, ESQ.,)
BAR NO. 11622)
)
Respondent.)

ORDER AFTER
PRE-HEARING CONFERENCE

Pursuant to Rule 23 of the Disciplinary Rules of Procedure, the Hearing Panel Chair Barth Aaron, Esq., met via simultaneous audio/visual transmission (Zoom) with R. Kait Flocchini, Esq., Assistant Bar Counsel, on behalf of the State Bar of Nevada, and Karlton Kidder, Esq., ("Respondent"), on November 18, 2021 at 10:00 a.m. to conduct the Pre-hearing Conference in this matter. The admission of Exhibits, objections thereto, potential witnesses, and the location of the Formal Hearing were discussed.

DETAILS OF PRE-HEARING CONFERENCE

Based on oral representations, stipulations, and arguments made during the Pre-hearing conference, the following was decided:

1. Respondent's Objection to Witnesses and Exhibits, served on November 17, 2021 and the State Bar's response thereto shall be addressed on the record at the Formal Hearing.
2. The State Bar's Exhibits 1-15 and 17 are admitted by stipulation of the parties.
3. The State Bar withdraws Exhibit 16 because it is duplicative of Respondent's admitted exhibits.
4. Respondent's Exhibits C, D, G, H, J, K, are admitted by stipulation of the parties.
5. The State Bar's objection to Respondent's Exhibit B is overruled because the document is potentially useful for impeachment. Exhibit B may be distributed to the Panel prior to the hearing.
6. The State Bar's objection to Respondent's Exhibit L and Exhibit M is overruled because the documents are items to which judicial notice is proper. Exhibit L and Exhibit M may be distributed to the Panel prior to the hearing.
7. Respondent withdraws Exhibits A, E, F, and I.
8. State Bar's Exhibits 1-15 and 17 and Respondent's Exhibits B, C, D, G, H, J, K, L and M and may be distributed to the Panel prior to the hearing.
9. Respondent does not plan to call any witnesses.
10. The Parties stipulated that (i) Respondent filed an Petition on behalf of Ms. Zelinski on January 15, 2021 and Ms. Zelinski retained new counsel no later than January 26, 2021.
11. The Formal Hearing in this matter will proceed via simultaneous audio/visual transmission, i.e. Zoom platform, because Governor's Emergency Orders requiring all persons to be masked when indoors renders an in-person hearing less functional for (i) a

court reporter's ability to transcribe the proceeding and (ii) the Panel's assessment of any witness's demeanor.

Good cause appearing, IT IS SO ORDERED.

Dated this 29th day of November, 2021.

NORTHERN NEVADA DISCIPLINARY BOARD

By: *Barth Aaron*

Barth Aaron, Esq.
Hearing Panel Chair

CERTIFICATE OF SERVICE BY E-MAIL

The undersigned hereby certifies that a true and correct copy of the foregoing **Order After**

Pre-Hearing Conference was served electronically upon:

1. Karlon Kidder, Esq. – kjk@kidderlawgroup.com
2. Kait Flocchini, Esq. – kaitf@nvbar.org
3. Barth Aaron, Esq. - aaronesq@sbcglobal.net

Dated this 30th day of November 2021.

Laura Peters

By: _____
Laura Peters, an employee of
the State Bar of Nevada



FILED

JAN 07 2022

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

Case No. OBC21-0217

STATE BAR OF NEVADA
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
)
vs.)
)
KARLON KIDDER, ESQ.)
STATE BAR NO. 11622)
)
Respondent.)
)

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

This matter involving attorney Karlon Kidder, Esq. ("Respondent"), Bar No. 11622, initially came before a designated Formal Hearing Panel of the Northern Nevada Disciplinary Board ("Panel") at 9:00 a.m. on December 3, 2021, via simultaneous audio/visual transmission hosted on Zoom from Reno, Nevada. The Panel consisted of Chair Barth Aaron, Esq.; Nathan Aman, Esq.; and Mike LaBadie, Laymember. Assistant Bar Counsel R. Kait Flocchini, Esq., represented the State Bar of Nevada ("State Bar"). Respondent was present and represented himself.

1 The State Bar presented Exhibits 1-15 and 17, which were admitted into evidence by
2 stipulation during the Pre-hearing Conference. Respondent presented Exhibits B, C, D, G,
3 H, J, K, L and M which were admitted into evidence during the Pre-hearing Conference.

4 The Panel also heard statements from both parties and testimony from Respondent,
5 and grievant Deborah Zelinski.

6 Based upon the evidence presented and testimony received, the Panel unanimously
7 issues the following Findings of Fact, Conclusions of Law, and Recommendation:

8 FINDINGS OF FACT

9 Jurisdictional Facts

10 1. Respondent is an attorney licensed to practice law in the State of Nevada and
11 was admitted to the State Bar of Nevada on May 5, 2010. Transcript of Formal Hearing,
12 dated December 3, 2021, ("Transcript"), Exhibit 2.

13 2. During the period in question, Respondent maintained a law practice in
14 Washoe County, Nevada. Transcript at Exhibit 1.

15 Procedural Facts

16 3. On September 2, 2021, the Office of Bar Counsel filed a disciplinary
17 Complaint which charged Respondent with violations of Rule of Professional Conduct
18 ("RPC") 1.1 (Competence), RPC 1.3 (Diligence), and RPC 1.16 (Declining or Terminating
19 Representation). Transcript at Exhibit 1.

20 4. Respondent filed an Answer on September 28, 2021. *Id.*

21 5. The parties stipulated to hold the Formal Hearing on December 3, 2021. *Id.*

22 6. A Notice of Hearing was filed on November 2, 2021. *Id.*

23 7. An Order Appointing Formal Hearing Panel was filed on October 18, 2021.
24 *Id.*

1 Substantive Facts

2 8. Deborah Zelinski initiated a probate matter in the Second Judicial District
3 Court regarding her deceased friend Rhonda Mitchell (the "Mitchell probate matter").
4 Zelinski filed the initial documents, including a Petition for Letters of Administration, in
5 pro per. Transcript at 10:30-12:19 and Exhibit 3.

6 9. Zelinski used the services of document preparer "For the People" for the
7 initial documents in the Mitchell probate matter. When she needed additional assistance,
8 "For the People" referred her to Respondent. Transcript at 11:6-15:11.

9 10. On October 28, 2020 Zelinski appeared in pro per at a hearing on her
10 Petition. The Court stated that the hearing had not been properly noticed, and therefore,
11 continued it until December 1, 2020. The Court noted that the December 1 hearing must
12 be properly noticed. Transcript at 14:12-19.

13 11. Respondent and Zelinski entered in a retainer agreement on or about October
14 29, 2020 for representation of Zelinski in the Mitchell probate matter. Transcript at 15:12-
15 16:10 and Exhibit 5.

16 12. Respondent filed a Notice of Appearance in the probate matter on November
17 2, 2020. Transcript at Exhibit 6.

18 13. Respondent failed to properly notice the December 1, 2020 hearing. Instead,
19 Respondent relied on Zelinski, who was assisted by "For the People" to notice the
20 December 1, 2020 hearing. Transcript 46:21-52:15 and Exhibit 8.

21 14. Prior to the December 1, 2020 hearing, Respondent failed to verify that the
22 notice requirements had been met. *Id.*

23 15. Ms. Mitchell's daughters (the "Daughters") also appeared at the December 1,
24 2020 hearing. Transcript at Exhibit 8.

1 16. On December 1, 2020, the Daughters filed an Objection to Zelinski's Petition
2 and a Counterpetition. *Id.*

3 17. On December 4, 2020 the Probate Commissioner issued a Recommendation
4 that Zelinski's Petition be denied without prejudice and that the Counterpetition be denied
5 because it did not set forth qualifications for the suggested appointment. *Id.*

6 18. The December 4, 2020 Recommendation advised that any renewed Petition
7 be filed and served no less than 5 days before it was submitted to the Court. *Id.*

8 19. On December 30, 2020, the daughters filed a Petition to be appointed Special
9 Administrators and sought to admit a 1998 Will that supported their request. Transcript
10 at Exhibit 11.

11 20. There is no statutory deadline for filing a response to a Petition to be
12 appointed Special Administrator and the petition can be granted *ex parte*. The
13 Recommendation's 5 day waiting period was an individualized circumstance. Transcript
14 at 55:24-56:16 and 59:19-60:18.

15 21. Respondent failed to file an objection to the Daughters' second Petition
16 within the five-day period allowed by the Court. Transcript 57:10-21.

17 22. On January 6, 2021, the Daughters submitted their Petition. Transcript at
18 Exhibit 12.

19 23. On January 14, 2021, Respondent met with Zelinski to discuss (i) filing a
20 specific petition to accomplish her goals in the probate matter (a "Heggstad Petition") and
21 (ii) an opposition to the Daughters' second Petition. Transcript at 61:22-62:8.

22 24. On January 15, 2021, Respondent filed the Heggstad Petition. Transcript at
23 Exhibit 14.

24 25. On January 15, 2021 the Court entered an order granting the Daughters'
25 petition and appointing them Co-Administrators of the estate. Transcript at Exhibit 13.

26. On January 18, 2021, Zelinski's Opposition to the Daughters' petition (that was already granted) was filed. Transcript at Exhibit 15.

27. On January 18, 2021, Zelinski was informed directly that the Court had appointed the Daughters as Co-Administrators. Transcript at 26:22-27:11

28. Respondent met with Zelinski on January 19, 2021. Zelinski terminated the representation that same day. Transcript at 28:1-29:16.

29. On January 19, 2021, Respondent filed a Substitution of Counsel replacing himself with Zelinski *in pro per*. Transcript at Exhibit J.

30. Zelinski retained new counsel, who then properly appeared in the Mitchell probate matter on January 26, 2021. Transcript at 29:17-21 and Exhibit 1.

31. The Mitchell probate matter was settled on or about August 30, 2021.
Transcript at 33:20-34:9.

CONCLUSIONS OF LAW

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

1. The Northern Nevada Disciplinary Board has jurisdiction over Respondent and the subject matter of these proceedings pursuant to SCR 99.

2. Venue is proper in Washoe County.

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

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

1 a. Respondent violated RPC 1.1 (Competence) because he lacked
2 thoroughness and preparation in representing Zelinski. Specifically, Respondent failed to
3 verify that the notice requirements were met prior to the December 1, 2020 hearing and
4 failed to timely object to the December 30, 2020 Petition.

5 b. Respondent negligently violated RPC 1.3 (Diligence) because he failed to
6 timely object to the December 30, 2020 Petition.

7 c. Respondent acted negligently because he believed that he was acting
8 appropriately on behalf of Zelinski in the representation.

9 d. Respondent's misconduct resulted in little or no injury to his client,
10 and in fact, may have benefited her because she was not required to perform the
11 unpaid estate administrator duties.

12 Transcript at 123:3-124:5.

13 5. The Panel unanimously found that the foregoing findings of fact failed to
14 prove by clear and convincing evidence that Respondent violated RPC 1.16 (Declining or
15 Terminating Representation). Transcript at 122:18-123:2.

16 6. The appropriate level of discipline must be determined considering "all
17 relevant factors and mitigating circumstances on a case-by-case basis." *State Bar of*
18 *Nevada v. Claiborne*, 104 Nev. 11, 219, 756 P.2d 464, 531 (1988). We evaluate The
19 American Bar Association Standards for Imposing Lawyer Sanctions' four factors to be
20 considered in determining the appropriate disciplinary sanction: "the duty violated, the
21 lawyer's mental state, the potential or actual injury caused by the lawyer's misconduct, and
22 the existence of aggravating or mitigating factors." *See In re Discipline of Lerner*, 124 Nev.
23 1232, 1246, 197 P.3d 1067, 1078 (2008).

7. Pursuant to Standards 4.43 and 4.53 of the ABA Standard for Imposing Lawyer Sanctions, the appropriate baseline sanction for Respondent's violation of RPC 1.1 (Competence) and RPC 1.3 (Diligence) is a reprimand. *See* Transcript at 125:13-126:11.

8. Pursuant to SCR 102.5, the Panel unanimously found that Respondent's prior discipline (SCR 102.5(1)(a)) and substantial experience in the practice of law (SCR 102.5(1)(i)) were aggravating factors. Transcript at 124:13-17.

9. Pursuant to SCR 102.5, the Panel unanimously found that Respondent's absence of dishonest or selfish motive was a mitigating factor. *Id.*

10. The Panel unanimously found that the aggravating factors and mitigating factor did not warrant a deviation from the baseline sanction. *See generally* Transcript at 125:13-126:11.

RECOMMENDATION

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

1. Respondent be Publicly Reprimanded for negligently violating RPC 1.1 (Competence) and RPC 1.3 (Diligence).

2. Respondent be required to complete two hours of Continuing Legal Education (“CLE”) in Ethics and two hours of CLE in Probate, in addition to the annual CLE requirements, by December 31, 2022.

3. Respondent shall pay costs, provided for in SCR 120, in the amount of \$1,500 plus the hard costs of these proceedings. Such payment shall be made no later than the

///

1 30th day after the issuance of the Nevada Supreme Court's Order approving and accepting
2 this Recommendation.

3
4 DATED this 7th day of January, 2022.

5 *Bart Aaron*
6

7 BARTH AARON, ESQ., Chair
8 Northern Nevada Disciplinary Panel
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SBN v. Kidder: Proposed FF, CL, Recommendation

Final Audit Report

2022-01-08

Created:	2022-01-06
By:	Kait Flocchini (Kaitf@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAZ_rqf5gx031Adb2zNVxxllkxD3RNorF

"SBN v. Kidder: Proposed FF, CL, Recommendation" History

-  Document created by Kait Flocchini (Kaitf@nvbar.org)
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-  Document emailed to Barth Aaron (aaronesq@sbcglobal.net) for signature
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2022-01-08 - 0:32:44 AM GMT - IP address: 104.9.19.180
-  Document e-signed by Barth Aaron (aaronesq@sbcglobal.net)
Signature Date: 2022-01-08 - 0:34:31 AM GMT - Time Source: server- IP address: 104.9.19.180
-  Agreement completed.
2022-01-08 - 0:34:31 AM GMT

CERTIFICATE OF SERVICE BY E-MAIL

The undersigned hereby certifies that a true and correct copy of the foregoing **Findings of Fact, Conclusions of Law, and Recommendation After Formal Hearing** was served electronically upon:

1. Karlon Kidder, Esq. – kjk@kidderlawgroup.com
2. Kait Flocchini, Esq. – kaitf@nvbar.org
3. Barth Aaron, Esq. - aaronesq@sbcglobal.net

Dated this 7th day of January 2022.

Laura Peters

By: _____
Laura Peters, an employee of
the State Bar of Nevada



FILED

JAN 24 2022

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

Case No.: OBC21-0217

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)

Complainant,)

vs.)

KARLON KIDDER, ESQ.,)
NEVADA BAR NO. 11622)

Respondent.)

STATE BAR OF NEVADA'S MEMORADUM
OF COSTS

TO: Karlon Kidder, Esq.
620 N. Rock Blvd.
Sparks, NV 89431

Description	Amount
Sunshine Litigation – Transcript from 12/3/21 Formal Hearing	1,520.25
Certified Mailing Costs	14.66
SCR 120 Costs	1,500.00
TOTAL	<u>\$ 3034.91</u>

The costs set forth above are true and correct to the best of my knowledge and belief and were necessary and reasonably incurred and paid in connection with this matter.

//

//

1 True and correct copies of invoices supporting these costs are attached to this
2 Memorandum of Costs.

3 Dated this 24th day of January 2022.

4 STATE BAR OF NEVADA
5 DAN M. HOOGE, BAR COUNSEL

6
7 By: 
8 R. Kait Flocchini, Assistant Bar Counsel
9 Nevada Bar No. 9861
10 9456 Double R Blvd., Ste. B
11 Reno, NV 89521
12 (775) 329-4100
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CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that a true and correct copy of the foregoing
State Bar of Nevada's Memorandum of Costs was served by electronic mail to:
Karlton Kidder, Esq. - kjk@kidderlawgroup.com

DATED this 24th day of January 2022.

Laura Peters

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



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

Louise Watson
State Bar of Nevada
9456 Double R Blvd, Suite B
Reno, NV 89521

INVOICE

1 of 1

Invoice No.	Invoice Date	Job No.
1510804	12/21/2021	818241
Job Date	Case No.	
12/3/2021	OBC21-0217	
Case Name		
State Bar of Nevada vs. Kidder, Esq.		
Payment Terms		
Net 30		

Original & One Certified Copy - Hearing of:
Karlton Kidder

1,520.25
TOTAL DUE >>> \$1,520.25

Location of Job : Via Zoom
Reno, NV
Ordered by : R. Kait Flocchini, Esq.
State Bar of Nevada
9456 Double R Blvd, Suite B
Reno, NV 89521

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

OK to Pay - *Laura Peters*

Tax ID: 20-3835523

Please detach bottom portion and return with payment.

Louise Watson
State Bar of Nevada
9456 Double R Blvd, Suite B
Reno, NV 89521

Job No. : 818241 BU ID : RN-CR
Case No. : OBC21-0217
Case Name : State Bar of Nevada vs. Kidder, Esq.
Invoice No. : 1510804 Invoice Date : 12/21/2021
Total Due : \$1,520.25

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

PAYMENT WITH CREDIT CARD



Cardholder's Name: _____
Card Number: _____
Exp. Date: _____ Phone#: _____
Billing Address: _____
Zip: _____ Card Security Code: _____
Amount to Charge: _____
Cardholder's Signature: _____
Email: _____

Kidder ROA - 69

CERTIFIED MAILING CHARGES

Complaint Mailed 9/2/21	7019 2970 0001 3885 5214 8.76
Notice of Hearing, Final Disclosures Mailed 11/2/21	7019 2970 0001 3885
TOTAL	\$ 14.66






2022.01.24.MOC

Final Audit Report

2022-01-24

Created:	2022-01-24
By:	Laura Peters (laurap@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAGQPciwhoXaDwPUJoaQnqfv2YrYKfPz4d

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-  Document created by Laura Peters (laurap@nvbar.org)
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-  Document emailed to Kait Flocchini (kaitf@nvbar.org) for signature
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In the Matter Of:

State Bar of Nevada vs Kidder, Esq.

TRANSCRIPT OF FORMAL HEARING

December 03, 2021

Job Number: 818241

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STATE BAR OF NEVADA
NORTHERN NEVADA DISCIPLINARY BOARD

-o0o-

STATE BAR OF NEVADA, Case No. OBC21-0217
Complainant,
vs.
KARLON KIDDER, ESQ.,
State Bar No. 11622
Respondent.
_____ /

TRANSCRIPT OF FORMAL HEARING
FRIDAY, DECEMBER 3, 2021
RENO, NEVADA

REPORTED BY: CORRIE L. WOLDEN, NV CSR #194, RPR, CP
JOB NO. 818241

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DISCIPLINARY BOARD

Barth Aaron, Esq., Chair
Nathan Aman, Esq.
Mike LaBadie, Lay Member

ALSO PRESENT:

R. Kait Flocchini
Assistant Bar Counsel
9456 Double R Boulevard
Reno, Nevada 89521

Karlon Kidder, Esq.
Respondent

I N D E X

WITNESSES

PAGE

DEBORAH ZELINSKI

DIRECT EXAMINATION BY MS. FLOCCHINI	10
CROSS EXAMINATION BY MR. KIDDER	30
REDIRECT EXAMINATION BY MS. FLOCCHINI	39

KARLON KIDDER, ESQ.

DIRECT EXAMINATION BY MS. FLOCCHINI	42
REDIRECT EXAMINATION BY MS. FLOCCHINI	84
CROSS EXAMINATION BY MS. FLOCCHINI	95

S T A T E B A R E X H I B I T S

NUMBER	DESCRIPTION	MARKED	ADMITTED
1	Hearing Packet	5	6
2	Affidavit of Custodian of Records	5	6
3	Petition for Letters of Administration	5	6
4	Certificate of Mailing	5	6
5	Engagement Agreement	5	6
6	Notice of Appearance	5	6
7	Certificate of Mailing	5	6
8	Recommendation for Order Denying Petition for Letters of Administration	5	6
9	Declaration of Publication	5	6
10	Confirming Order	5	6
11	Petition to Appoint Shawnan Bell and Jennifer Barco as Special Administrators	5	6
12	Request for Submission	5	6
13	Order Appointing Special Co-Administrators	5	6
14	Petition for Order Confirming Trustee and Trust Assets	5	6
15	Objection to Petition to Appoint Special Administrator	5	6
17	Order Overruling Objection to Petition to Appoint Special Administrators	5	6

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R E S P O N D E N T ' S E X H I B I T S

NUMBER	DESCRIPTION	MARKED	ADMITTED
B	Email Chain from 12/8/20 and 12/9/20 Between Deborah Zelinski and Karlon J. Kidder	5	6
C	Email Chain from 11/20/20	5	6
D	Email Chain from 11/13/20 and 11/16/20	5	6
G	Objection of Shawnan Bell and Jennifer Barco	5	6
H	NRS 155.010 and 020	5	6
J	Substitution of Attorney Filed 1/19/21	5	6
K	Commissioner's Order Dated 1/22/21	5	6
L	Nevada Rule of Civil Procedure, Rule 12	5	6
M	Nevada Rule of Professional Conduct, Rule 1.16	5	6

1 RENO, NEVADA, FRIDAY, DECEMBER 3, 2021, 9:07 A.M.

2 -o0o-

3 (State Bar Exhibits 1 through 15 and 17 were marked.)

4

5 (Respondent's B, C, D, G, H, J, K, L, and M were marked.)

6

7 MR. AARON: Good morning. It is Friday,
8 December 3rd, 2021, at approximately 9:00 in the morning.
9 We are here for the formal hearing in the matter of the
10 State Bar of Nevada versus Karlon Kidder, Esq. It is Matter
11 OBC21-0217.

12 My name is Barth Aaron and I have been appointed
13 the Hearing Panel Chair. I would ask the other panel
14 members to introduce themselves.

15 MR. AMAN: This is Nathan Aman here.

16 MR. LaBADIE: Mike LaBadie. I'm the lay member.

17 MR. AARON: And, counsel, would you enter your
18 appearances.

19 MS. FLOCCHINI: Good morning. Kait Flocchini here
20 on behalf of the State Bar. Also appearing, or in the Zoom,
21 is Ms. Laura Peters, the hearing paralegal from the State
22 Bar.

23 MR. KIDDER: Good morning, everyone. Karlon
24 Kidder.

25 MR. AARON: Okay. Approximately 10 or 12 days

1 ago, maybe two weeks ago, the parties, counsel and I,
2 conferred at a prehearing conference at which an order was
3 entered that the following exhibits were authorized to be
4 entered into evidence, and it is the State Bar's Exhibits
5 1 through 15 and 17 and Respondent's Exhibits B, C, D, G, H,
6 J, K, L, and M, and those exhibits will be in evidence for
7 purposes of this hearing.

8

9 (State Bar Exhibits 1 through 15 and 17 were admitted.)

10

11 (Respondent's B, C, D, G, H, J, K, L, and M were admitted.)

12

13 MR. AARON: At that prehearing conference, the
14 parties also entered into the following stipulation: That
15 Respondent filed a petition on behalf of Ms. Zelinski on
16 January 15, 2021, and Ms. Zelinski retained new counsel no
17 later than January 26, 2021.

18 The panel should have received a hearing packet.
19 Exhibit 1 is that hearing packet that contains essentially a
20 procedural history of the case. It is the pleadings, the
21 complaint, the answer, other pleadings, and the preliminary
22 orders entered in this matter, as well as the other exhibits
23 that are now allowed into evidence.

24 And with that I would ask, Ms. Flocchini, do you
25 have an opening statement?

1 MS. FLOCCHINI: Yes, I do. Thank you.

2 Good morning and thank you for your time here
3 today to hear this matter. We will use your time as wisely
4 as we can.

5 The Supreme Court, or the Nevada Supreme Court has
6 told us that, generally speaking, the practice of law is the
7 application of your knowledge of the law to the facts of
8 another person, a specific other person, meant to enable
9 that person to accomplish a particular result.

10 The lawyer has to be able to apply the law both
11 general and specific, procedural, and substantive to those
12 specific facts that the client brings to them with the
13 understanding that they are trying to accomplish a
14 particular result for that client.

15 And that's what we offer the clients. That's what
16 we have. That's all we have is our knowledge of the law,
17 the way to apply it to facts and the time that we use
18 implementing that application. That's what we give to our
19 clients specifically. That's what the public expects from
20 us.

21 And lawyers have to use their training that they
22 have received. They have to use skill that they have
23 developed over time to know what's necessary for a
24 particular representation and to carry out those specific
25 representations.

1 So this case is about Mr. Kidder's failure to
2 either, one, know what was necessary to represent
3 Ms. Zelinski in this probate matter or, two, understand what
4 was necessary to accomplish her objective.

5 We have referenced already today the admitted
6 exhibits that the panel has received and been able to review
7 already, and you will hear testimony today about what
8 Mr. Kidder was hired to do, what he actually did do on
9 behalf of Ms. Zelinski, and how that affected her ability to
10 accomplish her objectives in that probate matter.

11 Ms. Zelinski will testify about her intentions in
12 the probate matter, what she expected Mr. Kidder to do, and
13 what happened to result in the denial of her Petition for
14 Letters of Administration and the grant of a competing
15 Petition for Appointment of Special Administrators.

16 You will also hear from Mr. Kidder today. The
17 State Bar will ask Mr. Kidder to testify about what he did
18 to represent Ms. Zelinski and why he did things in a
19 particular way.

20 Also, at issue in this case is Mr. Kidder's
21 failure to recognize and/or abide by the rules in a probate
22 matter in the Second Judicial District Court. This failure
23 we anticipate showing to the panel evidences inefficiency or
24 caused inefficiencies in the judiciary system and it caused
25 a fissure in the integrity of our profession.

1 This particular issue or the evidence that
2 supports this particular issue is really the documents that
3 the panel has already received, the admitted exhibits, but
4 the State Bar will also ask Mr. Kidder to testify about his
5 understanding of what those specific requirements are in the
6 Second Judicial District Court.

7 At the conclusion of the presentation of the
8 evidence, the State Bar is going to ask this panel to find
9 that Mr. Kidder violated Rule of Professional Conduct 1.1,
10 Rule of Professional Conduct 1.3, and Rule of Professional
11 Conduct 1.16 and that those violations warrant the
12 imposition of discipline consistent with the application of
13 the ABA standards 8.4 or, sorry, 4.4 and 4.5. Thank you.

14 MR. AARON: Thank you.

15 Mr. Kidder, do you have an opening statement?

16 MR. KIDDER: I will defer, Mr. Aaron.

17 MR. AARON: Okay. Ms. Flocchini, would you call
18 your first witness.

19 MS. FLOCCHINI: Yes. The State Bar calls
20 Ms. Deborah Zelinski to testify.

21 MR. AARON: Okay. Ms. Zelinski?

22 MS. ZELINSKI: Yes.

23 MR. AARON: Okay. Would you raise your right
24 hand.

25 ///

1 DEBORAH ZELINSKI,
2 called as a witness, having been duly sworn,
3 testified as follows:
4

5 MR. AARON: Ms. Flocchini, proceed.

6 MS. FLOCCHINI: Thank you.
7

8 DIRECT EXAMINATION

9 BY MS. FLOCCHINI:

10 Q Good morning, Ms. Zelinski.

11 A Good morning.

12 Q Thank you for being here today. I wanted to ask,
13 we had some questions with respect to the probate matter and
14 Mr. Kidder's representation. You filed a Petition for
15 Letters of Administration in the Second Judicial District
16 Court, right?

17 A Correct.

18 Q Okay. And I'm going to show you a document. I
19 apologize, my share screen is behind another screen.

20 Do you see a document that's been marked as
21 Exhibit 3?

22 A I do.

23 Q Okay. And it's further, the document is further
24 identified with Bates numbers down in the bottom right-hand
25 corner. The first page is Bates number SBN54. Do you

1 recognize this document?

2 A Yes.

3 Q Is it the Petition for Letters of Administration
4 that you filed?

5 A Yes, it is.

6 Q How did you prepare this document for filing?

7 A I met with For The People and they prepared it for
8 me to file.

9 Q And how did you pick to file a Petition for
10 Letters of Administration over the other options that are
11 available for a probate matter?

12 A In all honesty, I didn't know what my other
13 options were, so I just, you know, I was trying to follow
14 the procedure that I was told to file, also. That's why I
15 did it that way.

16 Q Who told you what the procedure was?

17 A For The People.

18 Q Okay. And For The People helped you prepare the
19 document?

20 A Correct.

21 Q Did you -- it looks like this was electronically
22 filed. Did you personally submit the document via
23 electronic filing?

24 A No.

25 Q How did it get filed?

1 A Through For The People.

2 Q So the people at, the employees of For The People
3 did the electronic filing for you?

4 A Yes.

5 Q Okay. And did you serve the Petition for Letters
6 of Administration?

7 A I did not personally serve it. They made packets
8 up for me, For The People did.

9 Q Okay. And did they mail them for you?

10 A No. I mailed them.

11 Q Okay. So tell me the process. What happened?

12 A I came in and they filed this. I reviewed it and
13 they told me that they would contact me, you know, that same
14 day and let me know when the packets were ready to be picked
15 up.

16 All I had to do was take them to the Post Office,
17 which I did. I picked them up that day and I left from
18 their office right directly to the Post Office on Vasser and
19 mailed out the packets.

20 Q Okay. And do you see a document that's titled
21 Exhibit 4 on your screen?

22 A I do.

23 Q And I have scrolled to the second page of that
24 document, which is identified further as Bates number SBN61.
25 Do you recognize the document?

1 A I do.

2 Q Is this the Certificate of Mailing that was
3 prepared for you?

4 A To the best of my knowledge, yes.

5 Q Okay. And so it was filed on September 16th. Is
6 that the date that you, that you put the packets into the
7 mail?

8 A It is and -- Okay. Go ahead, yeah.

9 Q Okay. And it identifies that the mailing was done
10 on the 18th of September. How come it says the 18th, but it
11 was filed on the 16th?

12 A Because when I was in that office, I had, I
13 questioned as to what, what is my deadline to get this into
14 the Post Office, and I was told the 18th was the latest.
15 Well, I went to the Post Office on the 16th and I came right
16 back to their office to show them that I had mailed it, and
17 so I'm assuming that's why they filed it on the 16th.

18 Q Okay. And there was a hearing -- I'm going to
19 stop sharing -- there was a hearing on your Petition for
20 Letters of Administration, right?

21 A Correct.

22 Q And that hearing was on October 29th?

23 A Yes, ma'am.

24 Q Okay. Before the October 29th hearing did you
25 publish notice of that hearing?

1 A I did.

2 Q Before October 29th?

3 A Yes.

4 Q And did you provide Notice of Publication? Did
5 you --

6 A Yes, but it wasn't going to be in the paper until
7 November, because I have the copy of the newspaper when it
8 was published.

9 Q Okay. So there was no publication prior to the
10 October 29th hearing, then?

11 A No, ma'am, sorry.

12 Q That's okay. What happened at the October 29th
13 hearing?

14 A They -- I was there. I was in Karlon, Karlon's
15 office and he attended with me, because that's the day I
16 also signed my document with him that he was my attorney,
17 and there was some issues about not being, not being noticed
18 in time, so they postponed, they rescheduled the next
19 hearing until December 1st.

20 Q Okay. Why -- after that hearing on October 29th,
21 you hired Mr. Kidder to represent you in the probate matter,
22 right?

23 A Correct.

24 Q Why did you hire Mr. Kidder at that point?

25 A Because I knew that this whole process with these

1 documents was a mess, and I was, I didn't know what to do,
2 so I hired him because I needed an attorney.

3 Q How did you find Mr. Kidder?

4 A He is, his wife and him, or his wife owns For The
5 People and he worked in that office.

6 Q And so did you know him because you had gone into
7 For The People or, I mean, how did you connect him?

8 A I met with him prior to the October meeting and we
9 went over the documents, and I asked him then, you know, I
10 mean, I need representation and so that's when I decided to
11 go ahead and have him represent me.

12 Q Okay. And when you retained Mr. Kidder, what was
13 your understanding he was going to do for you in the probate
14 matter?

15 A Well, handle any, any actions, you know, reviewing
16 my documents. And, again, I knew that this was a mess. I
17 just didn't know how bad it was, so I needed him to help me
18 sort this out and represent me in any hearing and then
19 give --

20 Q Okay.

21 A -- me direction.

22 Q Were there, was there any agreement that you were
23 going to do certain tasks and he was going to do other ones?

24 A No, no. He was going to handle it all.

25 Q Okay. So at the October 29th hearing was your,

1 was your petition granted or denied?

2 A No, because there were questions, so it wasn't --
3 it was just rescheduled.

4 Q Okay. And what was the rescheduled date?

5 A December 1st.

6 Q Okay. And you said that after the October 29th
7 hearing you hired Mr. Kidder, right?

8 A Well, it was on that day, yes.

9 Q Okay. And he appeared on your behalf, right?

10 A Yes.

11 Q Okay. How was the -- The December 1st hearing
12 needed to be noticed separately, right?

13 A Correct.

14 Q Okay. And how, how was that notice accomplished?

15 A It was the same way. I mean, they sent me, they
16 gave me the packets at For The People, because Karlon worked
17 out of that office, so I had them all prepared for me again.

18 Q Okay. So let me just unpack that.

19 A Okay.

20 Q So in anticipation of the second hearing, For The
21 People prepared some packets for you to mail; is that true?

22 A Correct.

23 Q Okay. And those packets were the notice of the
24 second hearing?

25 A You know, they were sealed, so I'm assuming that's

1 what was in there.

2 Q Okay. And you took the packets and mailed them?

3 A Yes, ma'am.

4 Q I'm going to share my screen again.

5 A Okay.

6 Q Do you see a document that's identified as
7 Exhibit 7?

8 A I do.

9 Q Okay. And the second page of the document is
10 further identified by Bates number SBN73. This document is
11 titled Certificate of Mailing, also. Do you recognize it?

12 A Yes. I mean, it's the same kind of document, so
13 to the best of my knowledge, yes.

14 Q Okay. Did you independently sign the Certificate
15 of Mailing, do you know?

16 A I would have, you know, I would have to look at
17 the second page, because I know there was one that had a
18 signature on it that was not mine.

19 Q That's the second page.

20 A That's mine. That's me, yes.

21 Q So that's your signature?

22 A Yes.

23 Q But the signature is dated August 26, right?

24 A Well, yeah, and I didn't put the date in there.

25 So I know I signed it, but I didn't put the date in there

1 because that's not my handwriting.

2 Q Okay. And this document, which was filed on
3 November 3rd of 2020, identifies that you mailed the packets
4 on November 11th. Do you know why it was filed before the
5 mailing date?

6 A Because I took it to them. I took it to the Post
7 Office and did the same process as I had done previously, so
8 I had again asked, you know, my drop dead date, you know,
9 for mailing and she said on this date here, which was
10 November 11th. I said, well, you don't have to worry about
11 it. I will take it over there right now like I did before.

12 Q Okay. So your process was For The People called
13 you to come in and pick up the documents for mailing?

14 A Correct.

15 Q And then you picked them up and went immediately
16 to the Post Office and mailed the documents?

17 A Correct.

18 Q Do you know why For The People didn't mail them
19 out for you?

20 A No. She just called me and told me they were
21 ready.

22 Q Okay. Do you know why you were asked to mail
23 these documents after Mr. Kidder had appeared as your
24 attorney?

25 A I have no idea. I just did what I was told to do.

1 Q Okay. There was publication of the second
2 hearing, right?

3 A Correct.

4 Q Okay. And do you know how that happened?

5 A I took that same packet over to, the one they had
6 fixed up for me, over to Sparks Tribune, and I had to go
7 there a couple times because they weren't there, but I took
8 it over there and filed the document and then paid the fine,
9 or the fee, not fine, the fee.

10 Q Okay. And do you know why you were the one who
11 took the documents to the Sparks Tribune after Mr. Kidder
12 had appeared on your behalf?

13 A I was just again doing what I was told to do.

14 Q Okay. And who told you to do it?

15 A For The People called me and told me.

16 Q Okay. And so you picked up the packet on
17 November 3rd, the same time that you picked up the package
18 for mailing?

19 A Yes.

20 Q And you took them to the Sparks Tribune that day?

21 A Correct, but they weren't open, so I had to go
22 back the following day.

23 Q Okay. So you deposited those documents with the
24 Tribune on the 4th; is that true?

25 A I would say, I would say that was the date, it was

1 the next day I had to go back, yes.

2 Q Okay. And what was your understanding what was
3 required for publication of the Notice of Hearing?

4 A I understood that it had to appear three times in
5 the newspaper, and they gave me a document that said, like
6 the first one was November -- I have got the paper sitting
7 right here because I picked up the newspaper for the first
8 one, but it was in November, you know, prior to the hearing
9 on December 1st.

10 Q Okay. I'm going to show you what's been marked as
11 Exhibit 9. Do you see the page that is identified with
12 Exhibit 9?

13 A I do.

14 Q And this document has a Bates number down at the
15 bottom that is 000024. The second page, that is, is marked
16 with that Bates number. Do you recognize the document?

17 A No, that is not my signature.

18 Q Okay. This states that it's a Declaration of
19 Publication and it was filed on December 8, 2020. Did
20 you -- you didn't sign the document?

21 A No, I did not. No, I did not.

22 Q Did you know that this document was filed?

23 A No.

24 Q Okay. The third page of the document, do you
25 recognize this page?

1 A I do.

2 Q **And what is it?**

3 A This is where they showed it came from Sparks,
4 from Sparks Tribune. It shows what the listing was going to
5 look like, and on the other side it says Declaration of
6 Publication so that way I can prove that I actually did it.

7 Q **Okay.**

8 A And it also has the dates that it was going to be
9 published.

10 Q **And did you have this page, this Declaration of**
11 **Publication from the Sparks Tribune, prior to the hearing on**
12 **December 1st?**

13 A I did.

14 Q **Did you provide it to Mr. Kidder prior to**
15 **December 1st?**

16 A I did.

17 Q **I will stop the share there.**

18 **So, Ms. Zelinski, did you go to the hearing on**
19 **December 1st?**

20 A I did.

21 Q **And tell us what happened there.**

22 A Well, we got in there and, you know, like I said,
23 the papers are a mess and the daughters were filing an
24 objection to me having administrative, administrative rights
25 to the estate, and so they were there, and there were so

1 many questions on this, again, it was a mess. It was a
2 mess.

3 Q Okay.

4 A So --

5 Q Let me back up a second.

6 A Okay.

7 Q Was it an in-person hearing?

8 A No. It was a Zoom meeting.

9 Q Okay. And did you appear by video like we are
10 doing right now or by phone?

11 A It was video.

12 Q There was --

13 A Let me think back. I'm trying to remember. I
14 know it was in his office and he had it on the computer, so
15 I was sitting on the other side of his desk, so my face was
16 not out there on the December meeting.

17 Q Okay. So you just verbally heard what was
18 happening in the hearing?

19 A Correct.

20 Q Did you speak during the hearing?

21 A They asked if I was present --

22 Q Okay.

23 A -- and I said yes.

24 Q Okay. And, and just to back up to reference, so
25 you, where were you when you appeared during the

1 **December 1st hearing?**

2 A In Mr. Kidder's office on Rock in Sparks.

3 Q **And did he appear with you?**

4 A Yes.

5 Q **Okay. And what, so ultimately what happened at**
6 **the hearing with respect to your petition?**

7 A They postponed, I mean, I'm trying to remember,
8 because I know the daughters were objecting so there were
9 some documents that were going to be filed and so they were
10 going to reschedule. Or there was, there were requirements
11 that had to be done, and, you know, I don't know exactly
12 what it was, the statement that was made that he had to do.
13 I just know that there were some requirements that had to be
14 done.

15 Q **Okay. Do you know, do you remember if your**
16 **petition was granted or denied during that hearing?**

17 A It was denied.

18 Q **Okay.**

19 A It was denied because of the questions of the
20 filing.

21 Q **Okay. So you referenced the daughters. So this**
22 **was an estate for your friend, right?**

23 A Correct.

24 Q **Okay. And who was objecting to your petition?**

25 A The daughters.

1 Q Of your friend?

2 A Correct. I'm sorry, yes.

3 Q Okay. No problem. You and I have been talking
4 about this case for awhile and our panel members haven't.

5 A Sure, no problem.

6 Q So I want to give them that background
7 information.

8 A Sure.

9 Q Did the, did your friend's daughters file, ask for
10 anything else from the Court besides denial of your
11 petition?

12 A They wanted special administrator status for their
13 mother's estate.

14 Q And did -- do you remember if the Court, the
15 Commissioner addressed their request during the December 1st
16 hearing?

17 A I don't remember if he actually addressed that. I
18 just know that they requested that, you know, I be denied,
19 and then he said that, you know, he would, my attorney would
20 have to file an answer to what their objection was.

21 Q Okay. Did you, did you know that the daughters
22 had filed a second Petition for Appointment as Special
23 Administrators?

24 A For themselves?

25 Q Uh-huh.

1 A Yes.

2 Q Okay.

3 A I believe so. I believe so.

4 Q Do you remember when that was relative to the
5 December 1st hearing?

6 A Well, the answer was due in January. That I knew.
7 So it had to be within that month.

8 Q Okay. Okay. So you, so you understood that an
9 answer or a response to their petition was necessary?

10 A Correct.

11 Q And how did you, how did you come to that
12 understanding?

13 A Through the, through the, you know, after speaking
14 with Karlon after the hearing that he would have to produce
15 an answer to this.

16 Q Okay. And, and what did you know about the
17 deadline for the answer?

18 A Well, I wasn't really told what the deadline was.
19 I just kept trying to communicate with him and was not
20 getting responses.

21 Q And, and so were you ever told that there was a
22 deadline for responding to the daughters' second petition?

23 A Well, when he told me to come in and sign, that he
24 had the document ready, because I kept asking and wasn't
25 getting a response, and finally he answered me.

1 And I do everything through e-mail just so I have
2 a tracking device, and he, and then finally he got ahold of
3 me and said he had the document ready and I could come into
4 his office.

5 **Q Okay. And the document was the answer to their**
6 **petition?**

7 A Correct.

8 **Q Okay. And when did you go into his office to**
9 **review that document with Mr. Kidder?**

10 A January 14th I believe the date was. It was a
11 Wednesday.

12 **Q Okay. And what happened when you reviewed the**
13 **document with Mr. Kidder?**

14 A I, you know, I mean, we went through the whole
15 thing and I said to him, I said after we were done, I asked
16 him when he was going to file that, and he stated to me
17 either that day or the next day he was going down to file
18 that.

19 **Q Okay. And ultimately the daughters were appointed**
20 **special administrators, right?**

21 A Correct.

22 **Q And how did you learn that they had been**
23 **appointed?**

24 A I got the phone call from For The People that
25 stated that the Judge had, and this was on the Monday, which

1 I believe was, I'm going to say the 18th of January, and
2 stated that the Judge had already signed the order for them
3 to have special administratorship and the reason -- I said,
4 well, you know, okay, where is Karlon at, because I couldn't
5 reach him. I tried immediately to get ahold of him and then
6 I called them back.

7 Then I said, I mean, you know, this is pretty
8 serious. Well, I was told it was because he did not file
9 the documents until that Sunday, which was the 17th.

10 Q And who told you that?

11 A That was For The People told me that.

12 Q Okay. Did you know, did you personally know what
13 needed to be done to oppose their petition?

14 A Well, the document had to be registered with the
15 Judge, or the Commissioner, whoever that person is, anyway,
16 that in order to, you know, have that discussion, the next
17 discussion about who was going to be it.

18 Q And where did you gain that understanding? How
19 did you gain the understanding of what needed to happen?

20 A Karlon told me.

21 Q Okay. Okay. So is it fair to say that you relied
22 on Mr. Kidder to help you oppose that petition --

23 A Yes.

24 Q -- for special administrator?

25 A Absolutely.

1 **Q When you -- after you learned that the daughters**
2 **had been appointed special administrators, what did you do?**

3 A I'm not going to say -- I'm not going to lie, I
4 was extremely angry, because I needed to get a hold of him
5 like right now and find out what happened. So he wouldn't
6 answer. I mean, there was no answer at his office, and so I
7 asked, I mean, and I thought, okay, you know, I sent him an
8 e-mail saying I need to talk to you right away, no response.

9 And so I contacted For The People and asked them
10 could you please text him, because I didn't have his cell
11 phone number. I said could you please text him and say I
12 need to talk to him right away.

13 And I waited until 4:00 in the afternoon. I had
14 an e-mail all ready for him firing him and telling him the
15 reason why and telling him how upset I was and what had
16 transpired was wrong, and finally he contacted me. That's
17 how I, that's what I did, and finally he did contact me.

18 **Q And when you spoke with Mr. Kidder, what did you**
19 **say?**

20 A It was on, through e-mail. Okay. He told me he
21 was sorry he didn't answer because he wasn't in the office.
22 Well, okay, but I asked him, I said, you know, you were
23 supposed to have this filed.

24 And he goes, Debbie, I don't know what you are so
25 upset about. You know, it can be reversed. Well, that gave

1 me a little bit of, okay, reprieve as far as my, you know,
2 my upset goes. I had been through this for a year and I
3 was, you know, so he -- so I said we need to meet. We need
4 to talk, you know.

5 And so he said, well, what do you want to do,
6 because I already told him he was fired in this e-mail, and
7 so I said I will come to your office and so then we met in
8 his office.

9 Q And, and did you continue with Mr. Kidder
10 representing you in the case or did you maintain your
11 position that he was terminated that you had put in the
12 e-mail?

13 A Oh, no, he was terminated, and I had already
14 contacted another attorney that same day when I found out
15 that he had not filed it in the amount of time that he was
16 told to file it.

17 Q Okay. And so you hired a different attorney to
18 represent you?

19 A Correct.

20 Q Okay. And that attorney appeared in the case?

21 A She did.

22 Q Okay. And has the probate matter, the case
23 regarding your friend's estate, been resolved at this point?

24 A It has.

25 Q Okay. Those are all the questions that I have for

1 you right now, Ms. Zelinski. Mr. Kidder may have some
2 questions for you at this point and then the panel may also
3 have questions for you. That's kind of how the flow happens
4 in these administrative proceedings, so thank you for your
5 time and coming to testify for us.

6 A Thank you so much.

7 MR. AARON: Mr. Kidder, any cross examination?

8 MR. KIDDER: Yes, sir.

9

10 CROSS EXAMINATION

11 BY MR. KIDDER:

12 Q Ms. Zelinski, you stated several times that the
13 quote/unquote documents were a mess. Can you explain what
14 that means?

15 A I did not -- I was not present when these
16 documents were formulated.

17 Q First, what documents are we referring to?

18 A I'm talking about the trust and her, and her will.

19 Q Okay. And so you said they were a mess. Can you
20 go ahead and explain what that means?

21 A Well, I didn't know what happened, because I
22 wasn't present when Rhonda created these documents. I had
23 no idea what she had done. Okay. So there was -- the
24 documents were not in the greatest order. There were things
25 that were missing according to, you know, after a review of

1 these documents and so that's what I mean by a mess, what I
2 was told was a mess.

3 Q Okay. You stated earlier that you provided the
4 proof of publication to me. When did you do that?

5 A It was the same day that I went to the Post
6 Office. I took it right back over to For The People.

7 Q But I think you are confused at what I'm asking.
8 You received a document back from the Sparks Tribune that
9 said it was published, the Notice of Hearing was published,
10 correct?

11 A Correct.

12 Q And you had testified earlier that you provided
13 that document to me?

14 A Correct.

15 Q When --

16 A That particular one.

17 Q When did you do that?

18 A The date, I don't know. I took it, once I got it
19 from the Sparks Tribune after it was formulated and ready to
20 go, they sent that to me and I took it over to you with
21 another set of documents that you had asked for me to
22 review, other documents that I had, and I took it to your
23 office.

24 You were not there. There was nobody in your
25 office. I took it and put it in an envelope and laid it on

1 the chair of your secretary. And then I contacted you
2 finally later that afternoon and told you that the office
3 was wide open and no one was in there, and I locked the door
4 when I left, but I put that envelope on the chair.

5 Q But you don't recall what day that was?

6 A No, sir.

7 Q Was it after the December 1st hearing?

8 A No, it would have been prior to.

9 Q What were these, what were the other set of
10 documents that you had brought in?

11 A You requested, you requested for me to go through
12 and look and see if there was anything else that could
13 possibly help, and it just so happened that those documents
14 I supplied to you you already had, so they were, they were,
15 there was no help to you, other than that notification of
16 the publication.

17 Q Do you get notice of the filings that are made in
18 the court sent to your e-mail?

19 A No.

20 Q So you are not an E-Filer?

21 A No.

22 Q You testified earlier that someone at For The
23 People told you that the special administration had been
24 granted, that they called you and told you that; is that
25 correct?

1 A That's correct.

2 Q So just out of the blue they called you and told
3 you that the special administration had been granted?

4 A Well, apparently For The People still were, I
5 mean, they were on the, I don't know the website for the
6 different cases and apparently notifications were sent to
7 them. I don't know how that process works.

8 Q And who was it at For The People that told you
9 that?

10 A Rhonda.

11 Q Okay. And you also testified that she told you
12 that that petition was granted because no opposition had
13 been filed?

14 A That's what she told me, yes.

15 Q Did she explain how she knew that?

16 A I don't recall if she told me how she knew that.

17 MR. KIDDER: Okay. I have no further questions.

18 MR. AARON: Ms. Zelinski.

19 THE WITNESS: Yes.

20 MR. AARON: You said that ultimately the estate
21 was resolved. Do you recall what the resolution was?

22 THE WITNESS: Yes, sir. It was on August 30th we
23 had a hearing. We went to mediation. Okay. Actually, let
24 me put it that way, we went to mediation, because we were
25 supposed to go to trial later.

1 But, anyway, we went to mediation and my attorney
2 was there, their attorney was there, and then the mediator
3 was, oh, my goodness, the Judge's name I can't remember.
4 Anyway she, we went back and forth. And do you want the
5 specifics of what was finalized?

6 MR. AARON: Well, my real question is were you
7 satisfied with the resolution and was there anything that
8 you thought you were entitled to you did not get?

9 THE WITNESS: Yes, sir. Okay. My friend when
10 I -- we were friends for 34 years, so she was more like my
11 sister. Okay. And she was very specific in the week before
12 she passed away in what she wanted.

13 That's when I found out that I was, that she chose
14 me to be the administrator and the trustee for her estate,
15 and so she was very specific. She had a very adversarial
16 relationship with her daughters, and so I was just doing
17 what I was asked to do.

18 So I had taken her whole estate. I got -- I
19 settled everything. I took care of the house. I made sure
20 that the house was kept up, you know, and she had a third --
21 a reverse mortgage, so I had to make sure that their
22 requirements were met.

23 Everything was done on that estate except for -- I
24 even had the house cleaned, so it was all ready to go except
25 to be sold. That was the only last thing that happened.

1 And all they did, because I lost administrator, the
2 administrator piece of it, they were able to be the ones to
3 sell this house.

4 And so what I got out of that was \$75,000 I
5 believe out of the \$420,000 that was available, so it was,
6 basically, quite frankly, I, you know, I had -- I just
7 wanted to do what my friend asked me to do, but, you know,
8 it was, it went back and forth and back and forth, so the
9 girls got the rest, the daughters got the rest of it.

10 MR. AARON: And do you think you were entitled to
11 more of the 420 than 75?

12 THE WITNESS: I do. I think I should have gotten
13 it all because that's what Rhonda wanted me to have, I mean.

14 MR. AARON: I understand. Reading through the
15 documents, there appeared to be a trust that she created.

16 THE WITNESS: Correct.

17 MR. AARON: And you were supposed to be the, what
18 is called successor trustee. She was her own trustee to
19 begin with and then on her death you became trustee of that
20 trust?

21 THE WITNESS: Correct. That's what I found out
22 the week before.

23 MR. AARON: And who was the beneficiary or
24 beneficiaries of that trust?

25 THE WITNESS: Me.

1 MR. AARON: And do you know what assets were in
2 that trust?

3 THE WITNESS: Well, it was, I want to say the main
4 thing that was in there, she, okay, she got the reverse
5 mortgage, so her house was in there originally. Okay. Then
6 she was told when she got the reverse mortgage she had to
7 take the house out, but she never put it back in.

8 So she did this, and I don't know the terminology,
9 I don't know if it is codicil or what, but there was this
10 piece of paper that she wrote in August of 2019 and it said
11 she wanted me to have it all, you know.

12 But it was a mess, I'm not going to lie, and I had
13 no idea what she truly did. I don't know. So I just know
14 she wanted me to do this, and I was trying to follow her
15 wishes.

16 MR. AARON: Okay. Understood. Do you know what
17 will, if any, was eventually probated or was there never a
18 will probated?

19 THE WITNESS: No. Well, there was, but again --
20 Okay. So what it looked like that Rhonda did, I mean, and I
21 don't know because I wasn't there, she produced these
22 documents in 2012 and she had left everything and had her
23 daughter, her one daughter be the trustee and whatever.

24 Okay. Well, apparently, and, again, I wasn't
25 there so I don't know, she had taken these documents that

1 she had done in 2012 and put my name into everything
2 instead, but then she used, we are thinking, the same
3 notaries and attached it to it rather than seeing an
4 attorney or rather getting it re-notarized.

5 So there is where the issue comes in, it looked
6 like, I mean, but I don't know because I wasn't there. I
7 don't know what she did. I'm just surmising that. It
8 doesn't make sense otherwise.

9 MR. AARON: Okay. So was that 2012 will actually
10 probated or --

11 THE WITNESS: Yes. Well, and then there was
12 another one in 1998 that if it went any further that was
13 going to come into play, but it looks like to me it was the
14 2012 one that was probated.

15 MR. AARON: Okay. And it was actually probated?

16 THE WITNESS: I believe so, yes, because that's
17 what was filed with them, so.

18 MR. AARON: Okay. Thank you.

19 Mr. Aman, do you have any questions?

20 MR. AMAN: No, I do not.

21 MR. AARON: Thank you. We have a court reporter,
22 so nodding and shaking the head doesn't come into the record
23 very well.

24 Mr. LaBadie, do you have any questions?

25 MR. LaBADIE: I do. I'm trying to understand the

1 relationship between For The People and Mr. Kidder.

2 Ms. Zelinski, did you testify that Mr. Kidder and his wife
3 own For The People?

4 THE WITNESS: Well, I understood his wife owns For
5 The People, but he is the attorney on staff there. I mean,
6 that's the way I have always known it to be, so I don't know
7 what the actual, you know, terminology is, but yeah.

8 MR. LaBADIE: So early on in the process, who at
9 For The People was advising you what to do?

10 THE WITNESS: That was, okay, so I took it in and
11 originally met with Rhonda. She went through my documents
12 and then they were handed over to Karlon.

13 MR. LaBADIE: So is Rhonda Mr. Kidder's wife?

14 THE WITNESS: No. Desiree is his wife. Rhonda
15 was a person that was working for him.

16 MR. LaBADIE: Okay. So then how did Mr. Kidder
17 come into the picture then?

18 THE WITNESS: Well, he reviewed my documents once
19 she brought them -- I brought them in. And I said to her,
20 are you going to be the one to put this altogether and she
21 said I'm not qualified. I will have to have our attorney
22 Karlon Kidder review your documents and then we will get
23 back with you.

24 MR. LaBADIE: Okay. So were you -- did you retain
25 For The People then early on or how does that process work?

1 THE WITNESS: I paid them, I paid them \$2,000 and,
2 you know, because I didn't know, I didn't know what to do.
3 I didn't know -- I just knew that I couldn't do it myself
4 because I had no idea how.

5 MR. LaBADIE: Okay. And then once you retained
6 Mr. Kidder, then you paid him separately?

7 THE WITNESS: Correct.

8 MR. LaBADIE: Okay. Got it. Thanks.

9 THE WITNESS: You bet.

10 MR. AARON: Ms. Flocchini, anything further for
11 this witness?

12 MS. FLOCCHINI: I just had one, I think one
13 follow-up question, Ms. Zelinski.

14

15 REDIRECT EXAMINATION

16 BY MS. FLOCCHINI:

17 Q You were talking with Mr. Kidder about the
18 documents being a mess, right?

19 A Correct.

20 Q And those documents were the documents that your
21 friend had put together to manage her estate, right?

22 A Correct.

23 Q Who told you that the documents were a mess?

24 A Well, you know, and, again, I don't know how it
25 works as far as a will goes or a trust, okay, so I just

1 brought in what Rhonda had left in an envelope, and she told
2 me where it was before she passed, and so I just looked at
3 this. I didn't touch anything. I didn't change the, you
4 know, the order of the documents.

5 I just, I said, okay, now what do I do, you know.
6 I mean, I just assumed that I'm just supposed to go on and
7 take care of her estate, do what she asked me to do, and
8 that's what I did until I found out from one of the
9 daughters that she asked me for a copy of the will, so I
10 gave it to her, and she said, you know, anyway.

11 **Q So that's all the process leading up to how you**
12 **got the documents collected. Who, who told you though that**
13 **the documents were a mess? When you walked into For The**
14 **People you didn't think they were a mess, did you?**

15 **A** No, because I had no idea. I had no idea what I
16 was looking at. It was Rhonda. Rhonda originally said to
17 me, you know, these, you know, there is so many questions
18 here that I have, and that's when I said to her, you know,
19 we ended up where she said I'm going to have to have Karlon
20 look at these, because, you know, to me they are a mess, so
21 okay.

22 **Q Okay. That was all I wanted to clarify. Thank**
23 **you, Ms. Zelinski.**

24 **A** Thank you.

25 **MR. AARON:** Mr. Kidder, anything further for this

DECLARATION OF LAURA PETERS
CUSTODIAN OF RECORDS

LAURA PETERS, under penalty of perjury, being first duly sworn, deposes and says as follows:

That Declarant is employed as a paralegal for the discipline department of the State Bar of Nevada and in such capacity is the custodian of records for the State Bar of Nevada;

That Declarant has reviewed the State Bar of Nevada membership records regarding Respondent Karlon Kidder, Esq., Nevada Bar No. 11622, and has verified that he was admitted to practice law in the State of Nevada on May 5, 2010. Respondent was ordered to serve a one-year suspension with nine months stayed on January 7, 2016. The Order is attached hereto.

Dated this 12th day of November 2021.

Laura Peters

Laura Peters, Paralegal
Office of Bar Counsel

1 MR. AARON: Ms. Flocchini.

2 MS. FLOCCHINI: Thank you.

3

4

DIRECT EXAMINATION

5 BY MS. FLOCCHINI:

6 Q Mr. Kidder, you were retained by Deborah Zelinski
7 to represent her in a probate matter, correct?

8 A Yes.

9 Q And I'm going to share my screen here and show you
10 what has been marked as Exhibit 5. Do you see Exhibit 5 on
11 your screen?

12 A I see the cover page for Exhibit 5, yes.

13 Q Okay. And the second page here is additionally
14 marked as SBN5. Did it scroll on your screen as well?

15 A Yes.

16 Q Okay. And the document, I'm reading from the
17 document, states that, "Karlton J. Kidder, Esq. of the
18 above-named law offices are engaged to provide legal
19 services on the following matter: Representation in probate
20 case in Washoe County." So that's the scope of the
21 representation for which you were retained, correct?

22 A Yes.

23 Q Is there anything in this Engagement Agreement
24 that allocates particular tasks of the representation to the
25 client?

1 A Not on this page. I believe on the second page
2 there is, there is language that indicates that if I task a
3 client with something that they would do it in a diligent
4 manner, and vice versa.

5 Q Okay. And is that a generalized term? I have
6 scrolled to the --

7 A Yeah, yeah. It's nothing specific.

8 Q Okay. So, Mr. Kidder, as part of your agreement
9 to represent Ms. Zelinski you appeared in the probate matter
10 as her counsel, correct?

11 A Yes.

12 Q How often have you appeared in probate proceedings
13 in the last 11 years?

14 A I'm not sure exactly how many, but probably,
15 probably two, two or three a year, give or take.

16 Q Okay. And I, and I, I put the period of time in
17 my question as 11 years, because that's how long you have
18 been licensed to practice law, right?

19 A Correct.

20 Q Okay. So two to three a year over 11 years, that
21 gets us somewhere in the 20 to 30 range, correct?

22 A I would say that's about right.

23 Q Okay. And probate matters are tightly governed by
24 statute, right?

25 A I mean, yes, generally I would say that that's

1 true.

2 Q Okay. And what did you do to prepare to represent
3 Ms. Zelinski?

4 A I reviewed the pleadings that had been filed in
5 the case. I mean, obviously, I met with her and got her
6 version of what was going on.

7 After I appeared, I had access to the full case
8 file. I reviewed everything that was in there. And then
9 we, at the initial meeting with Ms. Zelinski, she had
10 indicated to me that the daughters of the decedent
11 Rhonda Mitchell had appeared at the prior hearing, which I
12 wasn't a part of, and, and that they were going to file an
13 opposition, so I was waiting for that to come through to
14 understand what the, what their version of the issues were.
15 They eventually filed that on the morning of the
16 December 1st hearing.

17 Q Did you review the statutes and Ms. Zelinski's
18 intentions or her objectives in the case and make an
19 evaluation as to whether or not she had filed the
20 appropriate petition or the proper petition to accomplish
21 her objectives?

22 A Not, not initially. Obviously, when I first met
23 with her, I didn't have access to the whole file. She had a
24 copy of her petition when she came in, and I read it, and I
25 didn't go through the 42 pages of trust and wills that were

1 attached to it at that time. I did later on.

2 So what she had were two or three wills, at least
3 one trust, a couple of codicils, and then maybe an amendment
4 to a trust in those 42 pages. So a petition to, for general
5 administration based on the fact that there were wills
6 initially looked good to me, that she had filed the right
7 type of petition.

8 **Q Okay. Let's step back for a second. You have**
9 **been practicing law for approximately 11 years, right?**

10 A Yes.

11 **Q Did you, did you work at a firm during that time?**

12 A I did at two different firms at the beginning of
13 my career.

14 **Q Where did you work?**

15 A The Law Offices of Jamie Kalicki and that's
16 actually where I did a whole lot of trust and probate work.
17 I was only there for two or three months, but that's what
18 that office does almost exclusively.

19 And then after that I worked for the Law Offices
20 of Paul Freitag, the late Paul Freitag, former Justice of
21 the Peace of Sparks, for about 6 months before I opened my
22 own practice.

23 **Q And what did you do with Mr. Freitag?**

24 A We, we were doing a bunch of things back then, and
25 this was 2011, 2012 related to foreclosure defense. And,

1 you know, we were in the height of the economic downturn in
2 the housing crisis here and so we did all kinds of things
3 related to that, suing the banks, foreclosure and mediation
4 defense. I may have actually done one probate for him, but
5 that was primarily housing-related issues, property issues.

6 Q So between the two law firms, you worked in a firm
7 for less than a year; is that fair?

8 A Yeah, probably just less than a year.

9 Q Okay. And then you went out on your own?

10 A Correct.

11 Q And what have you been doing then in the last
12 10 years? What's been your primary area of practice?

13 A The first three or four years, five years was
14 mostly the same type of real property foreclosure-related
15 issues. Mostly the last four or five years probably
16 primarily family law. If I had to put a percentage to it,
17 it's probably primarily family law.

18 Q Okay. And you testified earlier a couple of
19 probate cases a year?

20 A That's correct.

21 Q Okay. So in this case, for which Ms. Zelinski
22 retained you, when you came into the case there was already
23 a hearing set for December 1st, right?

24 A Correct.

25 Q Did you evaluate whether or not Ms. Zelinski could

1 be prepared for that December 1st hearing?

2 A Can you explain what you mean by for her to be
3 prepared?

4 Q Well, there are certain things that have to happen
5 prior to the hearing, right?

6 A Yes.

7 Q Notices have to be sent out, right?

8 A Yes.

9 Q And between the time that you were retained and
10 when Ms. Zelinski, when the hearing on her petition happened
11 on December 1st did you evaluate whether or not all of the
12 prerequisites to granting her petition could be accomplished
13 during that time period?

14 A Yes.

15 Q And did you think that they could be accomplished?

16 A Yes. When she first came in here to my office,
17 because she had just, I think she had just gotten out of the
18 first hearing and so it was fresh in her mind that the, that
19 the Probate Commissioner Gorman had said that the noticing
20 requirements had not been met and kind of gave her
21 instruction on how to complete those.

22 So we talked about that, and I had asked if she
23 had mailed everything, certainly certified mailing is
24 required, and she said yes, and we -- and then she mentioned
25 that the Probate Court wanted her to publish her Notice of

1 Hearing. I asked her if she had done that. She told me
2 that she had contacted Sparks Tribune and paid for that
3 already, so we discussed what, if she wanted me to handle
4 that and she said, no, I had already done it.

5 **Q So this discussion happened on October 29th?**

6 A Yes.

7 **Q Did you ask Ms. Zelinski for the documentation so**
8 **that you could file it to provide notice to the Court of the**
9 **publication and the mailing?**

10 A She said that she was going to handle it. In
11 fact, that is the reason why I waited three or four days to
12 appear in the case, because she had indicated that she had
13 already had that stuff prepared and had already done it and
14 that she would file those, the Certificate of Mailing
15 specifically in that time frame.

16 **Q So you are testifying that Ms. Zelinski told you**
17 **on October 29th that she had already completed the mailings**
18 **and the publication?**

19 A The mailings for sure, and she told me that she
20 had, she had contacted the Sparks Tribune and provided them
21 with a Notice of Hearing already.

22 **Q Okay. And you didn't explain to Ms. Zelinski that**
23 **you could file those documents on her behalf?**

24 A I did. I asked her if she wanted me to take over
25 that, and she said that she already had that done. She

1 already had a Certificate of Mailing like form, I guess,
2 that For The People already prepared and was ready to just
3 do those things herself, and rather than pay me to redo
4 them, she decided that she would do them herself.

5 Q And this was all a verbal conversation?

6 A Yes.

7 Q Okay. Did you see the Certificate of Mailing come
8 through on your e-Filing?

9 A I did.

10 Q Did it concern you that Ms. Zelinski had filed
11 that personally after you had appeared?

12 A I mean, I think it was either the same day or a
13 day later. I mean, yes, but, you know, it definitely showed
14 that the requirements had been met, so, you know, oftentimes
15 when a pro se litigant or really any litigant hires an
16 attorney and they try to file themselves, something
17 themselves, the court will often reject those things and it
18 wasn't rejected, so, you know, since it went through, you
19 know, I didn't think much more of it.

20 Q The Notice of Publication was filed on
21 December 8th, right?

22 A Yes.

23 Q And it was filed under Ms. Zelinski's name, right?

24 A Yes.

25 Q Is there a reason why you didn't file that Notice

1 **of Publication?**

2 A I don't know. We discussed that on December 1st
3 when she was here in my office, because she met with me
4 prior to the hearing, and I wondered, I asked of her what,
5 what was going on with the publication, why she hadn't filed
6 the Notice of Publication yet and -- or the proof of
7 publication, excuse me, and I said -- well, she told me that
8 she hadn't received the proof of publication back from
9 Sparks Tribune yet.

10 And I had instructed her to give that to me when
11 she received it. She never did. Instead, she filed it
12 herself, or maybe For The People helped her file it, I'm not
13 sure, but --

14 **Q So the morning of the hearing, you inquired of**
15 **Ms. Zelinski whether or not the publication requirement had**
16 **been satisfied?**

17 A Yes.

18 **Q And you weren't, you didn't ask prior to the**
19 **hearing whether or not that had been satisfied to make sure**
20 **the proof had been filed for the Court?**

21 A I may, I mean, I may have talked to her three or
22 four days earlier about that, you know, in preparation for
23 that hearing, but I also knew that the timing of when the
24 publication was to occur she wouldn't have likely even have
25 gotten that, the proof of publication back from the Sparks

1 Tribune until maybe days before.

2 Q Pursuant to the statutes that apply to the notice
3 requirements for this type of probate matter, when did the
4 publication need to happen?

5 A It needed to be completed basically 10 days prior
6 to the hearing, the last date of publication.

7 Q So when would Ms. Zelinski have needed to start
8 the publication in order to meet that requirement?

9 A Approximately the first week of November.

10 Q Did you follow up any time between when you met
11 with her on October 29th and December 1st to see if she had
12 started that process and had evidence that would document
13 that?

14 A Well, she had told me on that, when I met with her
15 on that day that she had already contacted Sparks Tribune,
16 and then she did send me an e-mail in the middle of
17 November, you know, that indicated that she had done it,
18 that she had followed through.

19 Q Did you tell her a deadline by which she needed to
20 have the publication started?

21 A I can't recall if I did or not.

22 Q Okay. So it was a pretty tight deadline in order
23 to meet the notice requirements for the December 1st
24 hearing, right?

25 A Yes, it was.

1 Q And you relied, your testimony today is that you
2 relied on Ms. Zelinski to make sure that that notice had
3 been accomplished so that her petition was ripe for review?

4 A I mean, yes, I will say that the Court is usually
5 relatively lenient on, on these kinds of things. As you can
6 see, the first hearing was postponed 30 days to accomplish
7 that, and oftentimes just a discussion of whether or not
8 something had been noticed and the process by which it had
9 been done often occurs at the hearing and, and proof, and
10 then thereby be filed later on to back that up.

11 So it's been my experience over, you know, these
12 years that I do these cases that the Probate Court is pretty
13 lenient as far as, as long as it has been done, proof
14 doesn't necessarily have to have been filed prior to a
15 hearing for the appointment of administrator.

16 Q Did you, did you provide the Court with oral
17 testimony or evidence that the publication had been done
18 during --

19 A We really didn't, you know, we really didn't even
20 talk about it. The hearing was mostly about that objection
21 that had been filed that morning.

22 Q But when the Commissioner recommended that
23 Ms. Zelinski's petition be denied, one of the reasons was
24 that it was not published, right, the notice wasn't properly
25 given, right?

1 A That's what the written order said, yes.

2 Q Okay. Do you remember the date on which the
3 written, the Commissioner's recommendation was filed and
4 served?

5 A I don't recall exactly what date that was.

6 Q Okay.

7 A I don't think it was too much later.

8 Q I'm going to share my screen here. Do you see a
9 document that's titled Exhibit 8 on your screen?

10 A I do.

11 Q Okay. And I'm going to scroll to the second page
12 of the document. It's a document titled Recommendation for
13 Order Denying Petition for Letters of Administration. That
14 page is also specifically Bates numbered SBN98.

15 A Yes.

16 Q This is the Court's, this is the Commissioner's
17 recommendation that denied Ms. Zelinski's original petition,
18 correct?

19 A Correct.

20 Q And it was filed on December 4th, correct?

21 A Correct, that's what the filing says.

22 Q Okay. So there were, and it looks like even it
23 was filed at 5:38 p.m., so there were approximately three
24 days between when the hearing happened and when this
25 recommendation was published, right?

1 A Yeah, that sounds about right.

2 Q And but you didn't file the proof of publication
3 any time between the hearing and when the recommendation was
4 issued, correct?

5 A Correct. I didn't have it. I didn't have the
6 proof from Sparks Tribune.

7 Q So you are disputing Ms. Zelinski's testimony that
8 she provided it to you prior to the hearing?

9 A Correct.

10 Q Okay. The decedent's daughters filed a counter
11 petition to be appointed special administrators, right?

12 A Correct.

13 Q Okay. And it was denied without prejudice at that
14 December 1st hearing, right?

15 A Well, they didn't really -- it was just an
16 objection. They made some cursory request to be appointed
17 as special administrators, but that really wasn't what it
18 was and it certainly wasn't noticed in any way, shape or
19 form.

20 So, yes, the Court really didn't discuss that
21 either at the hearing, so that showed up in the written
22 order as well, but it really wasn't discussed at the
23 hearing.

24 Q Okay. So the Court's recommendation filed on
25 December 4th did reference the denial --

1 A Yes.

2 Q -- without prejudice of a counter petition?

3 A Correct.

4 Q And in that recommendation filed on December 4th,
5 the Court referenced that any renewed petition -- because
6 Ms. Zelinski's petition was denied without prejudice, also,
7 right?

8 A Correct.

9 Q Okay. So the Court referenced that any renewed
10 petition couldn't be submitted until 5 days after the
11 petition had been mailed to all interested persons, right?

12 A Correct.

13 Q Okay. What does it mean when a document is
14 submitted to the Second Judicial District Court?

15 A It means it's ripe for review.

16 Q Okay. So will the Court make a decision on a
17 motion or a petition that's filed prior to it being
18 submitted?

19 A Sometimes.

20 Q When you file a request for submission, what is
21 the intention when you file that with the Second Judicial
22 District Court?

23 A To get the Judge to review it.

24 Q Are there any rules about how long after a motion,
25 or a motion or petition is submitted to the Court that the

1 Court might rule on it?

2 A I mean, it depends on what you are talking about.
3 Yes, there are rules that say how long it's going to be, but
4 with this particular petition there aren't.

5 Q Okay. And when you say with this particular
6 petition, do you mean a Petition for Appointment of Special
7 Administrators?

8 A Correct.

9 Q Okay. So once a Petition for Appointment of
10 Special Administrator is submitted to the Court, they could
11 issue an order that day?

12 A Correct.

13 Q Okay.

14 A They often do. I probably filed two or three of
15 them myself and they are usually reviewed and granted within
16 a day or two.

17 Q Okay. Did you file a renewed petition for
18 Ms. Zelinski?

19 A No.

20 Q Did you file a Petition for Appointment as Special
21 Administrator for Ms. Zelinski?

22 A No.

23 Q The decedent's daughters did file a second
24 Petition for Appointment as Special Administrators, right?

25 A Well, again, I would argue that that's the first,

1 but, yes, they did eventually file one, yes.

2 Q Okay. And that was filed on December 30th,
3 correct?

4 A Correct.

5 Q Okay. Did Ms. Zelinski want to object to their
6 petition to be appointed as special administrators?

7 A Yes.

8 Q Did you know that on December 30th?

9 A Yes.

10 Q Okay. Did you file an objection on her behalf
11 within the 5 days after that petition had been filed?

12 A Not within 5 days, no.

13 Q Is there a reason why you didn't file it within
14 the 5 days after -- why you didn't file an objection or an
15 opposition to the petition within 5 days of its filing?

16 A Well, there is no requirement to do that, one,
17 and, two, it was right over the holidays, so I don't think I
18 was even in my office until, back in my office until
19 January 4th, if I recall correctly. So the full 5 days from
20 the day that the petition was filed, I wasn't even in my
21 office.

22 Q The attorney for the decedent's daughters
23 submitted that petition to be appointed as special
24 administrators on January 6th, right?

25 A Correct.

1 Q Did you receive notification that the request for
2 submission had been filed?

3 A I did.

4 Q Did you file an opposition to the petition to be
5 appointed as special administrators on the 6th or even the
6 7th?

7 A No.

8 Q Is there a reason why you, why you didn't feel an
9 urgency to file the opposition once the request for
10 submission had been filed?

11 A Well, I mean, again, because of the nature of the
12 Petition for Special Administration, literally it could have
13 been granted that day, so whether it was, whether I filed an
14 objection that day, the next day or 10 days later, it was
15 really the same effective result that the Court is either
16 going to grant it or not. Any opposition or objection to a
17 Petition for Special Administration should be heard. It
18 doesn't really matter when.

19 Q The appointment of a special administrator is not
20 appealable, is it?

21 A It's not appealable? I'm not sure. I would have
22 to review the rules of appellate procedure. I'm not sure.

23 Q So your understanding is that even though a
24 petition is granted, an objection to that petition could be
25 heard later?

1 A Yes, that's routinely the case, because Petitions
2 for Special Administration to appoint a special
3 administrator are typically granted or allowed when there is
4 an emergency that exists, and by their very nature, you
5 know, they are done as an ex parte procedure usually, so an
6 opposing party or someone who has an interest in that case
7 won't even know about it potentially for months or years.

8 And so when they do find out about it, they then
9 file, you know, an objection and the Court will review
10 whether that, whether that, the letters that grant that
11 administrator their abilities to act as special
12 administrator should be revoked or continued.

13 Q Okay. So your understanding is that it can be
14 revoked?

15 A Yes.

16 Q Okay. But you wouldn't be appealing the decision?

17 A No. I mean, again, I don't know if that is
18 appealable, but they are routinely revoked, yes.

19 Q In this case, the Commissioner specifically
20 required notice of any petition, including one for special
21 administrators, right?

22 A I'm not sure what you mean in your question.

23 Q Well, in the December 4th recommendation, which
24 was eventually confirmed by an order of the Court, right?

25 A Right.

1 Q It was confirmed. Okay.

2 A Right.

3 Q So in that December 4th recommendation, the
4 Commissioner stated that any petition, including one for
5 appointment of a special administrator, needed to be served
6 5 days before it was submitted to the Court for
7 consideration, right?

8 A That's what it said, yes.

9 Q So it essentially took away the ex parte position
10 of appointing a special administrator in this particular
11 case, right?

12 A I mean, kind of. I guess if you would consider
13 5 days to be done, you know, to taking away ex parte, then I
14 would answer that yes. I wouldn't consider that to be the
15 case, because there is basically no other thing except a
16 reply that is 5 days, and when we are talking 5 judicial
17 days, this was submitted certainly, you know, short of even
18 judicial days, so.

19 Q Okay.

20 MR. AARON: Ms. Flocchini, is this a good time to
21 take a break?

22 MS. FLOCCHINI: Sure. Yes.

23 MR. AARON: All right. Why don't we go off the
24 record for 10 minutes and then we will reconvene.

25 MS. FLOCCHINI: Thank you.

1 (Whereupon a break was taken from 10:30 a.m. to 10:41 a.m.)

2

3 MR. AARON: This is the continuation of the formal
4 hearing in the matter of the State Bar of Nevada versus
5 Karlon Kidder.

6 Ms. Flocchini, you can continue your examination
7 of Mr. Kidder.

8 Mr. Kidder, you are reminded that you are still
9 under oath.

10 MR. KIDDER: Yes, sir.

11 MS. FLOCCHINI: Thank you, Chair.

12 BY MS. FLOCCHINI:

13 Q Mr. Kidder, before the break we were talking about
14 the submission of the decedent's daughters' Petition for
15 Appointment of Special Administration. When did you expect
16 that petition would be submitted to the Court for review?

17 A I didn't have any expectation of when it would be.

18 Q Okay. Did you not expect that after the 5 days
19 that the Court had set forth in the recommendation that that
20 petition would be submitted?

21 A Yeah, it could be submitted at that point, yes.

22 Q Okay. When did you prepare Ms. Zelinski's
23 objection to the daughters' petition?

24 A If I recall correctly, January 13th.

25 Q And when did Ms. Zelinski review the objection

1 that you prepared?

2 A She came into my office on the 14th, I believe, to
3 review that as well as the Petition for Trust Administration
4 that I had prepared as well.

5 Q Okay. So would I be correct in assuming that as
6 soon as you told Ms. Zelinski that you had a document for
7 her to review and approve, she came in and did that?

8 A More or less, yes.

9 Q Okay. And the objection was officially filed on
10 January 18th, right?

11 A That's what the court stamp says, yes.

12 Q Okay. And --

13 A I filed it on the 15th, but that's here nor there.

14 Q Okay. The decedent's daughters' Petition to be
15 Appointed as Special Administrators was granted on the 15th,
16 correct?

17 A Yes.

18 Q And at that point Ms. Zelinski terminated your
19 representation of her in the probate matter, right?

20 A Well, the next week, yes.

21 Q Okay. We can agree that Rule of Professional
22 Conduct 1.16 requires that if a lawyer appears on behalf of
23 another person in a case, then the lawyer needs to get
24 permission to withdraw from that representation, right?

25 A No.

1 Q That's not what 1.16 states?

2 A Well, that's one of the things that it says, but
3 there are several other things that it says.

4 Q Okay. So we can agree that that's one of the
5 provisions of Rule of Professional Conduct 1.16?

6 A Yes.

7 Q And specifically that rule in subsection C says
8 that, "A lawyer must comply with applicable law requiring
9 notice to or permission of a tribunal when terminating
10 representation," right?

11 A Yes.

12 Q Okay. So did you file a Motion to Withdraw from
13 the representation --

14 A No.

15 Q -- with the Probate Court?

16 A No.

17 Q The Second Judicial District Court Rule 23
18 requires a motion, correct?

19 A No.

20 Q It does not?

21 A No. If you want me to elaborate on that, I would
22 be happy to.

23 Q I'm looking at Rule 23 of the Second Judicial
24 District Court Rules, subsection B, and I'm going to read
25 it. It says, "By order of the Court, upon motion and notice

1 as provided in these rules, when no attorney has been
2 retained to replace the attorney withdrawing," and then it
3 details information about what has to be included in the
4 motion, right?

5 A I don't have -- can you screen share that, please?

6 Q Well, I'm reading my book, but I could pull it up
7 on the internet and screen share it, sure.

8 So I have shared my screen. Can you see it's a
9 web page and in about the middle of the page it says Rule 23
10 and I will represent that this is the Second Judicial
11 District Court Rules.

12 A Yes.

13 Q Okay. So you see what I'm seeing?

14 A Yes.

15 Q And Rule 23 applies to appearances, substitutions,
16 withdrawal or change of attorneys, right?

17 A Yes.

18 Q And did I accurately reflect what the rule says in
19 subsection 2(b)?

20 A Yes.

21 Q Okay. And so you did not file a Motion to
22 Withdraw from representing Ms. Zelinski, correct?

23 A No.

24 Q No, you didn't file a motion or I'm wrong?

25 A No, I didn't file a motion, no.

1 Q Okay. Bad question, I apologize. Thank you for
2 clarifying.

3 And but Rule 23 says that you are supposed to file
4 a Motion to Withdraw, right?

5 A That's not all it says, no.

6 Q Is there a reason why you didn't file a motion?

7 A Because I filed a substitution of counsel upon
8 Ms. Zelinski's request substituting her in pro se.

9 Q And did the Court respond to that substitution?

10 A No.

11 Q Okay. Does Rule 23 say anything about parties
12 appearing in cases after counsel has appeared on their
13 behalf?

14 A Yes.

15 Q What does it say?

16 A It says that they will, that counsel will, you
17 know, continue in that case until they are discharged, that
18 a termination is filed with the Court in writing or the
19 attorney is substituted.

20 Q Does it say anything about the person appearing
21 pro se, or do you remember it saying anything about the
22 person appearing pro se once counsel has appeared during the
23 time of representation?

24 A I mean, it references that the Court may at its
25 discretion hear a party in open court even though they are

1 represented by counsel.

2 Q Okay. And you are reading from subsection 1 of
3 Rule 23, right?

4 A Correct, yeah.

5 Q Okay. And the beginning of that subsection states
6 that, "When a party has appeared by counsel, that individual
7 cannot thereafter appear on his/her own behalf in the case
8 without the consent of the court."

9 Did I read that correctly?

10 A Correct, yes.

11 Q Okay. So that would apply to a party appearing
12 pro se once counsel has appeared, right?

13 A Yes.

14 MS. FLOCCHINI: Okay. There is an additional
15 document that I think I need to find -- I'm going to stop my
16 share, I apologize -- that I think I need to locate, if I
17 can, and be able to share with the panel and address
18 questions.

19 Would you like me to just take a few minutes right
20 now and locate that or do you want to have me do that sort
21 of while other things are happening? Because I'm done with
22 my questions otherwise.

23 MR. AARON: I think you should complete your
24 examination, so is this a document that's already been
25 shared with Mr. Kidder?

1 MS. FLOCCHINI: Yes, it has already been shared,
2 but it has not been marked as an exhibit before, so I will
3 have to lay a foundation for it.

4 MR. AARON: Okay. So go ahead and locate the
5 document.

6 MS. FLOCCHINI: Okay. Thank you.

7 BY MS. FLOCCHINI:

8 Q Mr. Kidder, do you see a court record that is
9 identified by a filing date of January 22nd, 2021 on your
10 screen?

11 A Yes.

12 Q And it is identified by Bates number SBN192,
13 right?

14 A Yes, it is. And, for the record, Ms. Flocchini, I
15 believe that this is my Exhibit K, which has been admitted
16 already.

17 Q Okay. So then I pulled up Exhibit K, right, and
18 we are looking at Exhibit K, which is the same order that
19 was entered on January 22nd, or filed on January 22nd, 2021,
20 right?

21 A Yes.

22 Q Okay. And it's identified with Bates
23 Number 000029, correct?

24 A Yes.

25 Q And those are the Bates numbers that you have

1 **affixed to the documents you produced in this case, right?**

2 A Yes.

3 Q **Okay. And this is an order from the Commissioner,**
4 **correct?**

5 A Yes.

6 Q **And what does the order say about the substitution**
7 **that you filed with the Court?**

8 A It says, "The substitution is not a proper motion
9 under Washoe District Court Rule 23(2)(b), and until a
10 proper substitution of counsel or further court order,
11 counsel Kidder is not relieved as counsel."

12 Q **Okay. So what was the Court's response to your**
13 **substitution or your attempt to substitute Ms. Zelinski as a**
14 **pro per party?**

15 A They said that it didn't meet the requirements of
16 Washoe District Court Rule 23(2)(b).

17 Q **Okay. And so then it didn't meet the requirements**
18 **of Rule of Professional Conduct 1.16(c), right?**

19 A No. When I say no, I mean it did meet the
20 requirements of Rule 1.16.

21 Q **Were you relieved as counsel based on the**
22 **substitution of attorney?**

23 A Yes. Rule 23, 23(1) describes what happens when
24 you are terminated and what you have to do is file a written
25 termination with the Court, which is what that substitution

1 of counsel is.

2 If I wanted to withdraw, I would have to file a
3 motion, but that's not what this was. Ms. Zelinski
4 terminated me. What I am required to do is put that in
5 writing and file that with the Court. That's what a
6 substitution of counsel is.

7 Q So you disputed the Court's position with respect
8 to the document you filed?

9 A Yes.

10 Q That's your position?

11 A Yes.

12 Q Okay. Did you file a Motion to Withdraw after the
13 Court issued this order?

14 A No. If you go on to the second page of the order,
15 it says that I will appear at the hearing unless another
16 attorney is substituted in or appears in the case and that
17 happened on January 26, so I would have appeared at that
18 hearing and said those things and that's how it would have
19 went, but it didn't come to that.

20 Q Okay. So you would not have filed a Motion to
21 Withdraw no matter what?

22 A I would not.

23 Q You would have just appeared at this hearing?

24 A I would not have, no.

25 Q Okay. Was -- I'm sorry, I will stop sharing --

1 was Ms. Zelinski's objection to the Petition to Appoint
2 Special Administrator considered by the Court?

3 A Yes.

4 Q And --

5 A Well, I wasn't at that hearing, so but, yes, as
6 far as I understand, that's what the February 11th hearing
7 was.

8 Q What was the Court's decision on the objection?

9 A I don't know.

10 Q I apologize for the delay. I have a lot of
11 exhibits opened, so I'm scrolling through the documents to
12 find the proper one to share.

13 I'm trying to share Exhibit 15. Do you see a
14 document with the label Exhibit 15 on your screen?

15 A Yes.

16 Q And I'm going to the second page of that, which is
17 specifically Bate -- marked with Bates number SBN186.

18 A Yes.

19 Q I apologize, this wasn't the document I was
20 looking for. I'm looking for Exhibit 17. Do you see, let's
21 see, we will start with Exhibit 17 on your screen?

22 A Yes.

23 Q Okay. And the second page of that exhibit is
24 specifically marked with SBN210, right?

25 A Yes.

1 Q And this is the Court's order with respect to the
2 objection that you filed on behalf of Ms. Zelinski, correct?

3 A Yes.

4 Q And the Court's order identifies that the
5 objection was not timely filed and, therefore, is overruled,
6 correct?

7 A That's what it says, yes.

8 Q Okay. So the Court did not consider the substance
9 of Ms. Zelinski's objection that you filed, right?

10 A I don't know. I wasn't at that hearing.

11 Q The Court's order indicates it did not consider
12 the substance, correct?

13 A I don't think it specifically says that.

14 Q It was overruled as procedurally deficient,
15 correct?

16 A I guess you could say that, but it doesn't say
17 that specifically.

18 MS. FLOCCHINI: Okay. Thank you, Chair, for the
19 indulgence while I identified that extra document and
20 Mr. Kidder for informing that it was Exhibit K. Those are
21 all of the questions that I have at this time. Thank you.

22 MR. KIDDER: You are muted, Mr. Aaron.

23 MR. AARON: One of these days I will get used to
24 using Zoom.

25 Mr. Kidder, as you noticed with Ms. Zelinski, the

1 normal procedure is to allow counsel to question witnesses
2 and then the panel can ask questions.

3 MR. KIDDER: Sure.

4 MR. AARON: What I would prefer to do is have the
5 panel ask any questions that we may have and that way when
6 your time comes you can respond to everything that's been
7 asked.

8 MR. KIDDER: Sure.

9 MR. AARON: So I have a number of questions, and
10 if you would bear with me for just a moment.

11 Referring to the State Bar's Exhibit 7, which is
12 Ms. Zelinski's Certificate of Mailing which was filed on
13 November 3rd, 2020, should I share this document or can you
14 refer to it?

15 MR. KIDDER: I'm familiar with it. Yes, I can
16 bring it up.

17 MR. AARON: Now, it was your testimony that you
18 conferred with Ms. Zelinski on October 29th, correct?

19 MR. KIDDER: That's when she came into my office,
20 yes.

21 MR. AARON: Okay. And that was immediately or so
22 following or the same day at least as the initial hearing on
23 the Petition to Appoint a Special Administrator?

24 MR. KIDDER: That's correct.

25 MR. AARON: And it's your testimony that she had

1 already had prepared and had placed in the Post the notices
2 of the December 1st hearing?

3 MR. KIDDER: No, not of the December 1st hearing.
4 She had noticed already that October 29th hearing and she
5 was going to notice the new hearing because she already had
6 the forms ready for it. That's, that's what she said.

7 MR. AARON: Okay. So the, the notice forms had
8 been prepared, were ready to mail, and she was going to take
9 care of mailing them?

10 MR. KIDDER: Yes.

11 MR. AARON: Would you agree that probate matters
12 and specifically Petitions for the Appointment of a Special
13 Administrator are I will say procedurally sensitive, that
14 there are many requirements, procedural requirements that
15 are strictly enforced?

16 MR. KIDDER: That's a pretty vague question. I'm
17 not sure how I could answer that.

18 MR. AARON: Okay. Let me rephrase it. There are
19 certain notice and publication requirements for that kind of
20 petition, correct?

21 MR. KIDDER: Yes.

22 MR. AARON: And the Courts generally look at those
23 requirements as to be enforced, that notice should be
24 provided in accordance with the statute or the rules; is
25 that correct?

1 MR. KIDDER: Yes.

2 MR. AARON: Okay. In preparation for the
3 December 1st hearing did you review the Certificate of
4 Mailing that Ms. Zelinski had prepared?

5 MR. KIDDER: Yes.

6 MR. AARON: And did you have any concern that it
7 was filed on November 3rd, but yet is dated November 11th
8 and has on the second page an affirmation dated August 26?

9 MR. KIDDER: Yes, that's concerning.

10 MR. AARON: And what, if anything, did you do
11 about your concern?

12 MR. KIDDER: I don't think that I did anything.

13 MR. AARON: Do you have an opinion as to whether
14 the Certificate of Mailing would be sufficient for the Court
15 if those dates were revealed to the Court or to the
16 Commissioner?

17 MR. KIDDER: I wouldn't have concern because this
18 is a certified mailing, so I would have, I would assume that
19 Ms., that Ms. Zelinski had the certified mailing receipts so
20 she could actually prove that she had done it on a certain
21 day, if that question really came up.

22 MR. AARON: With reference to publication for the
23 December 1st hearing, did you personally do anything with
24 the Sparks Tribune? Did you contact them? Did you do
25 anything to confirm that publication had been or was being

1 made?

2 MR. KIDDER: No.

3 MR. AARON: What is the purpose of special
4 administration?

5 MR. KIDDER: To address an emergency issue with
6 the estate so that there aren't, there isn't waste going on
7 in the estate or some particular issue that has to be
8 addressed very quickly and thereby avoid the lengthy process
9 of noticing and having a hearing, et cetera.

10 I have used it several times when, let's say a
11 house is going up for a foreclosure sale and the clients
12 might have a potential interest in that, and so to either
13 prevent that or do a short sale or something very quickly,
14 instead of having to go through the noticing requirements
15 and appointing of an administrator.

16 MR. AARON: And that was true in this case.

17 MR. KIDDER: Well --

18 MR. AARON: There is in the record, the documents
19 that we have, there is an indication of a reverse mortgage
20 that would have been needed to be paid off on the death of
21 the mortgagee?

22 MR. KIDDER: Yes.

23 MR. AARON: And there is some evidence of some
24 kind of tenant or squatter on the property?

25 MR. KIDDER: Well, yeah, there was a tenant.

1 Ms. Zelinski had put in I think a friend of hers to live
2 there and they were paying a very small amount to basically
3 care take the property.

4 MR. AARON: Okay. Do you know with the daughters
5 being appointed special administrators what happened to the
6 property?

7 MR. KIDDER: I think I just heard today that
8 Ms. Zelinski said that it was sold, but I didn't know that
9 before then.

10 MR. AARON: Okay. What would be the benefit to
11 her of being named special administrator versus the
12 daughters?

13 MR. KIDDER: Really no, no other benefit than
14 confirming what she had already been doing for the last, for
15 the prior approximately 6 or 7 months. Special
16 administrative duties are very, you know, authority is very
17 limited, meaning you still can't sell property. You still
18 can't do, you know, distribute that property.

19 Really the special administrator is just to make
20 sure that there isn't waste going on in the estate. So it
21 wouldn't have benefited her any more than to confirm what
22 she already had been doing for the prior 6 or 7 months.

23 MR. AARON: Did you explain that to her? Did you
24 explain the nature of a special administrator?

25 MR. KIDDER: Yes. We had a lengthy conversation

1 about that in December, because I had had a conversation
2 with opposing counsel on December 8th where we had talked at
3 length about appointing an administrator that wasn't either
4 of these parties to take over just to make sure. That, you
5 know, they didn't trust Ms. Zelinski and Ms. Zelinski didn't
6 trust them, so we had suggested appointing a third party
7 administrator. I discussed that at length with Ms. Zelinski
8 and she refused to agree to that.

9 MR. AARON: Okay. And ultimately the daughters
10 through their counsel filed a Petition for Special
11 Administration on December 30th; is that correct?

12 MR. KIDDER: That's correct.

13 MR. AARON: And you did not file a response until
14 January 15th; is that correct?

15 MR. KIDDER: Correct.

16 MR. AARON: When did you first have notice or
17 receive a copy of that petition?

18 MR. KIDDER: Probably, I probably reviewed it for
19 the first time when I came back from whatever Christmas
20 vacation, New Year's was, so probably the 4th or the 5th, I
21 would say.

22 MR. AARON: Did you have any communication with
23 the daughters' counsel about that petition prior to filing
24 your opposition?

25 MR. KIDDER: Well, at the same, at the same time

1 that I talked to opposing counsel in December, she had
2 indicated that if we can't come to an agreement they were
3 going to file a petition. She didn't say what it was, but
4 other than that, no.

5 MR. AARON: Did you ever notice her even
6 informally that you were going to oppose that petition?

7 MR. KIDDER: No.

8 MR. AARON: Thank you.

9 Mr. Aman, do you have any questions?

10 MR. AMAN: You just got done testifying that you
11 didn't ever oppose the December 30th petition; is that
12 correct?

13 MR. KIDDER: No, I did. I filed an opposition on
14 January 15. It got officially filed on January 18th.

15 MR. AMAN: Okay. I'm looking at something dated
16 January 15, which is A Petition for Order Confirming Trustee
17 and Trust Assets.

18 MR. KIDDER: Yeah. So those got filed on the same
19 day I believe I filed my opposition. Later that day, the
20 order came in granting that petition. It should be one of
21 the exhibits. Let me --

22 MR. AMAN: Yeah. I'm just trying to figure out
23 which one it is. Like Ms. Flocchini, there is a lot of
24 exhibits I'm trying to go through.

25 MR. KIDDER: It is State's Exhibit 15.

1 MR. AMAN: I believe that's the only one I don't
2 have up.

3 I don't have any questions.

4 MR. AARON: Mr. LaBadie.

5 MR. LaBADIE: I was trying to get unmuted. Yeah,
6 I do have a question kind of along those lines. So on
7 December 30th the daughters filed a Petition to be Special
8 Administrators.

9 MR. KIDDER: Yes.

10 MR. LaBADIE: And I believe, Mr. Kidder, you
11 testified that Ms. Zelinski told you she wanted to file an
12 objection?

13 MR. KIDDER: I mean, yes, she did. She had
14 already previously told me that she didn't want them to be
15 the administrators in any way, shape or form, so that
16 conversation really had occurred sometime in December, not
17 after the filing.

18 MR. LaBADIE: Okay. And then, Ms. Flocchini, you
19 asked if he filed the objection within 5 days. Mr. Kidder
20 said there was no requirement to file it within 5 days, so
21 I'm trying to reconcile where the 5 days comes from? So,
22 Ms. Flocchini, maybe you can weigh in first.

23 MS. FLOCCHINI: Sure. I can ask some follow-up
24 questions.

25 MR. LaBADIE: Well, is it a legal requirement? I

1 did notice in your hearing brief, this is on page 3, line 8,
2 9, and 10, actually line 9 and 10, implicitly any objection
3 to the petition should be filed no later than January 5th,
4 2021, and I'm guessing that's where the 5 days comes from,
5 but is that a legal requirement?

6 MS. FLOCCHINI: Yeah. Let's see, I'm scrolling
7 around on these exhibits.

8 MR. KIDDER: I can answer that. The answer is no,
9 but what Ms. Flocchini is referring to is there may or may
10 not have been an implicit suggestion by the Court in its
11 order, the December 4th order, saying that essentially since
12 this petition couldn't be submitted, instead of, you know,
13 that same day, it couldn't be submitted for 5 days, that I
14 should have filed a response within those 5 days. That's
15 where the implicit requirement I guess would be.

16 MS. FLOCCHINI: And I'm sharing my screen here.
17 This is State Bar's Exhibit 8, which is the recommendation
18 that Mr. Kidder referenced, the December 4th, 2020,
19 recommendation.

20 And the Court -- the paragraph, well, the second
21 paragraph 14, which is on page SBN101 states that, "While
22 any interested person in this case may bring a petition or a
23 renewed Petition for Appointment of Special Administrator,
24 the Court will require proof of mailing of the petition on
25 all other interested persons of the estate at least 5 days

1 before submission to the Court for decision. If an
2 objection to any such petition is filed, a hearing will be
3 necessary and the Court will not grant letters ex parte."

4 So that's where the 5 day time period comes from
5 that we have been discussing.

6 MR. LaBADIE: Okay. Thanks. That was all I had.

7 MR. AMAN: Can I ask just one more question?

8 MR. AARON: Sure.

9 MR. AMAN: Mr. Kidder, I'm going back and looking
10 at these particular, the motion that Ms. O'Mara filed and
11 the opposition that you filed, and I know, you know,
12 attorneys often have conversations with their clients about
13 the chances for success of a particular motion versus
14 opposition.

15 Did you ever have a discussion with Ms. Zelinski
16 about whether you believed that she would have prevailed on
17 in terms of opposing the daughters being appointed as
18 special administrators?

19 MR. KIDDER: I did. In December when I had that
20 lengthy conversation with her about appointing a third party
21 administrator, I told her that a petition that they would
22 bring, meaning the daughters, would likely be successful and
23 that, you know, she should agree to have a third party in
24 there so at least it would be someone neutral that would
25 report to the Court and she might have some more level of

1 trust with that person than these daughters.

2 MR. AMAN: You also said in your experience you
3 could file an objection at any time years into it, into a
4 particular probate matter. Were you talking about an
5 objection or opposition?

6 MR. KIDDER: Yes.

7 MR. AMAN: Because my understanding is, and I have
8 had to talk to one of my partners who does trust and
9 probate, you can file a petition for revocation?

10 MR. KIDDER: Right. That's essentially what I
11 mean. An objection, a petition for revocation, essentially
12 the same thing. They are treated the same way in the Court,
13 but, yeah, because these are granted usually ex parte,
14 sometimes they are not, an objection or a petition to revoke
15 them are not brought, you know, until months or years later.

16 MR. AMAN: Okay. Those are all of the questions I
17 have.

18 MR. AARON: I want to go back with a couple. What
19 is, I think it's called a Heggstad petition?

20 MR. KIDDER: Sure. So that comes from a
21 California case, a case named Heggstad where, as you know,
22 to have a trust, you know, a proper trust, it has to be
23 funded.

24 And in this case the trust that, of all of the
25 documents that Ms. Zelinski had of Ms. Mitchell's, which

1 were multiple trusts and wills and codicils and amendments
2 and so on, there was one, a particular one that named her as
3 successor trustee, that named her as the beneficiary of said
4 trust, and also made a, had an appendix or an exhibit that
5 indicated that the house in particular and its contents were
6 supposed to be in the trust, but that never happened.

7 Ms. Mitchell never put the trust, never filed a
8 deed, put the house into the trust, and so what a Heggstad
9 petition essentially says is that if there is evidence that
10 a particular asset was supposed to be in a trust, you can
11 bring a petition to have the Court confirm that, and it's a
12 factual, you know, case whether those are granted or not.

13 But the case name is Heggstad. It's codified in
14 our statutes, and I don't remember what the, offhand what
15 the statute is, but it's in our statutes.

16 MR. AARON: Do you --

17 MR. KIDDER: I colloquial said a Heggstad, but
18 it's NRS 160 point something or other.

19 MR. AARON: Did you prepare such a petition?

20 MR. KIDDER: Yes, I did. I filed that the same
21 day, January 15. It's referenced in the objection that you
22 are seeing in Exhibit 15, and Exhibit 15 I believe is also
23 referenced in that petition and it's probably one of the
24 exhibits. Let me see, maybe not.

25 MS. FLOCCHINI: I believe it's Exhibit 14.

1 MR. AARON: Yeah, it appears to be. Was there
2 ever a ruling to your knowledge on that petition?

3 MR. KIDDER: I have no idea. I was out of the
4 case, so I didn't follow it after that.

5 MR. AARON: Okay. Anything further from anyone
6 before we allow Mr. Kidder to give his presentation?

7 MS. FLOCCHINI: I had a few follow-up questions,
8 if I may.

9 MR. AARON: Go ahead.

10 MS. FLOCCHINI: Thank you.

11

12 REDIRECT EXAMINATION

13 BY MS. FLOCCHINI:

14 Q Mr. Kidder, are you a registered E-Filer?

15 A I am, yes.

16 Q So when things are filed in a case where you are
17 attorney of record, you get notification by e-mail, right?

18 A Yes.

19 Q So when the Petition for Appointment of Special
20 Administrators was filed on December 30th, you would have
21 received a notification via e-mail, correct?

22 A Yes.

23 Q So you had notification and the Court anticipated
24 you knew of the filing as of December 30th, correct?

25 A Yes.

1 Q Okay. I'm going to share Exhibit 15. Do you see
2 the title page of Exhibit 15 on your screen?

3 A Yes.

4 Q And then the first page, or the second page of the
5 document is further specifically identified with Bates
6 number SBN186, right?

7 A Yes.

8 Q Okay. And we are looking at that page?

9 A Yes.

10 Q And in this objection to the Petition to Appoint
11 Special Administrators you asserted that the petition was
12 improperly submitted, correct?

13 A Yes.

14 Q What was the basis for that assertion?

15 A Well, even if, even if you, even if you, you know,
16 follow up with what the December 4th order said, it said
17 5 days. Anything under 10 days has to be judicial days and
18 it was submitted exactly 7 calendar days and there were, you
19 know, there was a holiday in there for sure and a weekend.
20 It was submitted sooner than 5 judicial days.

21 Q So your position is that that assertion is because
22 it was submitted less than 5 days, 5 judicial days after it
23 was filed?

24 A Correct. That's why I said improperly submitted.

25 Q You received notice of the submission on

1 **January 6, right?**

2 A Yes. Well, maybe the 7th, but, yes, sometime.

3 Q **Okay. Can you see the page that's titled**
4 **Exhibit L on your screen?**

5 A Yes.

6 Q **And this is an exhibit that you submitted in this**
7 **proceeding, right?**

8 A Yes.

9 Q **And I'm looking at the second page. It's a**
10 **recitation of Nevada Rule of Civil Procedure Rule 12, right?**

11 A Correct.

12 Q **What's the reason for submitting this as an**
13 **exhibit in this proceeding?**

14 A I'm just, I'm showing even though there is no
15 requirement in the statutes in which a time to file an
16 objection to a pleading, this particular pleading the
17 special administration, I'm showing that -- and there is no
18 rule in the Probate Court guidelines or Probate Court rules
19 about how long you are supposed to do it. That, you know,
20 you should refer back then to the Rules of Civil Procedure
21 if you are going to have any kind of time in noticing
22 requirements, and which in this case is 21 days, and my
23 opposition was filed within 21 days.

24 Q **So the importance of this exhibit is that it**
25 **evidences that your opposition was filed within the**

1 requirement set forth in NRCP Rule 12?

2 A Yeah. Yes.

3 Q And that's separate and apart from the 5 day
4 deadline that the Court had provided in its recommendation,
5 right?

6 A Well, again, that wasn't the deadline. If you
7 read the order it doesn't say an opposition has to be filed
8 within 5 days, so I'm going to argue with you in how you
9 interpret that.

10 MS. FLOCCHINI: Okay. I forget to stop sharing, I
11 apologize. Those were all of the additional questions I
12 had. Thank you, Chair.

13 MR. AARON: Thank you.

14 Mr. Kidder.

15 MR. KIDDER: Thank you, Mr. Chair. I want to
16 first talk about the allegation, the last one that we were
17 talking about, which is that I withdrew improperly. The
18 Court and apparently the Bar wants to refer to Washoe
19 District Court Rule 23(b) rather than Rule 23(1), which
20 describes how to get out of a case when someone terminates
21 your employment.

22 It's clear that Washoe District Court Rule 23(1)
23 says that to withdraw from a case if you have been
24 terminated you just have to file that termination with the
25 court. When I filed the substitution, that's what that is,

1 that meets the requirements of Washoe District Court
2 Rule 23(1) as well as Supreme Court Rule 46.

3 Otherwise, every time a client terminated you, you
4 would have to file a motion with the court and it makes no
5 sense to do that. I don't know how many times any of you
6 have done that, but I have filed substitutions of counsel
7 the same way, especially in family law cases, you know,
8 many, many, many times and there never has been an issue
9 with the court having an issue with that, because it does
10 comply with Washoe District Court Rule 23 and Supreme Court
11 Rule 46. So there is no, in my opinion, any violation of
12 Rule 1.16 the way that the termination happened.

13 Additionally, at the time that that was filed,
14 there were no pending hearings, there were no pleadings that
15 needed to be addressed, and so there was no undue, even if,
16 even if I had somehow done it improperly, which is not the
17 case, there would have been no undue, you know, burden on
18 Ms. Zelinski at the time that that was filed.

19 She asked me to do it. I did it. I could have
20 done it a bunch of different ways. I could have sat there
21 and waited until her new counsel contacted me and we filed a
22 substitution together, but she wanted it done right then and
23 so that's what we did.

24 Going back to the first allegation that my, that I
25 violated Rules 1.1 and 1.3 in that I failed to notice the

1 December 1st hearing properly according to the statutes, the
2 NRS requires that a, that a Certificate of Mailing, that a
3 mailing, a certified mailing be made to a couple of state
4 entities, creditors that are known, and any interested
5 parties.

6 That was done. Not by me, but by Ms. Zelinski.
7 She definitely did that. She did it twice. She did it for
8 the first hearing. She did it for the second hearing. She
9 filed the Notice of Completion certificate that she had done
10 that properly.

11 All indications were that she had done that
12 properly, because the other interested parties, the
13 daughters, appeared at the first hearing, so how else would
14 they have known that this hearing was going on if they
15 hadn't been certified mailed.

16 So she did it the second time properly, filed the
17 Certificate of Mailing. Arguably the dates were a little
18 confusing, but there is no indication even in the court that
19 that hadn't been done. The Court's issue was with the
20 publication and simply because a proof of publication hadn't
21 been filed by the time we got to hearing on December 1st.

22 Ms. Zelinski's testimony was that she provided
23 that to me beforehand. That absolutely is not the case. I
24 never met with Ms. Zelinski between the time that she came
25 to me on October 29th and the morning of that hearing, so

1 she could not have given it to me before then.

2 I will say that she referred to a time when she
3 gave it to me with some other documents. The only time she
4 brought me documents was on December 4th, because after the
5 December 1st hearing I had told her, hey, go back in all of
6 those papers and see if you can find anything else that, you
7 know, squares up any of these wills or trusts and missing
8 pages and signature pages, and I said get everything you can
9 and bring it to me so I can review it. That's the only time
10 that she brought me documents and that was December 4th, so
11 it was after that hearing.

12 And I will say that she didn't bring me that proof
13 of publication that day either. I would have filed it that
14 day. If she brought it to me the day before the hearing, I
15 would have filed it that day. If she would have brought it
16 to me the day of the hearing, I would have filed it that
17 day. It's very easy to file a proof of publication. If I
18 had it, I would have filed it.

19 And, in fact, I told her give it to me when you
20 get it, and she didn't. She instead filed it herself or
21 through For The People or whatever the case may be. I'm not
22 sure.

23 She is an E-Filer. When she testified that she
24 wasn't an E-Filer, that's simply wrong. You know, her
25 e-mail is listed. She is listed as, you know, that she

1 received notice on every pleading in this case.

2 So when, when the order appointing special
3 administrators was filed, when the, when the petition that
4 they filed was filed, she received all of that, and I
5 assumed that she did, because we would talk about things
6 that had been filed and she knew what was going on.

7 I don't think it's a coincidence that I met with
8 her on December 30th when that petition was filed. You
9 know, she saw that was filed and she came in. We talked
10 about it. We talked about the different things that can be
11 done. We discussed the Heggstad petition, and I later
12 prepared both the Opposition to the Petition for Special
13 Administration as well as that Heggstad petition.

14 I don't think it's a coincidence that when the
15 Court issued its order that she immediately saw that, was
16 worried, and fired me. Okay. She was receiving notice of
17 these things all along. When she testified and said she
18 wasn't receiving notice, she was because she has to be an
19 E-Filer to file any petition in the court.

20 So, you know, she knew what she was doing and, you
21 know, maybe rightfully or wrongfully trusted that she would
22 file the certificate properly, I believe she, or mailing
23 properly, I believe she did. I couldn't have filed a
24 petition, you know, the proof of publication for her because
25 it didn't exist until after that hearing.

1 You know, and, like I said, the Probate Court is
2 usually lenient if we tell the Court that it's been
3 published and the proof hasn't been filed yet. They will
4 allow you to file that after the fact, typically when a case
5 doesn't have any other issues.

6 In this case, there were lots of other issues.
7 When Ms. Zelinski says that the documents were a mess and
8 she, you know, she refers to what that means, it means that
9 there were at least two wills, at least two trusts, several
10 codicils, missing signature pages, duplicate signature
11 pages, improperly executed and witnessed codicils or wills.

12 And her petition that she filed herself was never
13 going to be granted. Whether or not publication had even
14 been done properly or not, it was just never going to be
15 granted, especially with the objection having been filed
16 that day by the daughters.

17 So we switched courses and tried to find a new way
18 to get what I still believe, and she does, too, that the
19 decedent did, you know, want her to get everything and
20 didn't want her daughters to get anything. So it sounds
21 like some resolution was made and she ended up getting a
22 portion of the estate and that's good.

23 That's kind of what I had advised her, that this
24 may happen, that there may be some settlement that has to be
25 made with these daughters, and she agreed to that, actually.

1 I don't know what the monetary breakdown ended up being, but
2 it sounds like that's kind of how it went.

3 So my objection that I filed for her, moving on to
4 the next violation that the Bar alleges I did, there is no
5 requirement again to file a special administration or an
6 objection to a special administration within a period of
7 time. I filed it in a reasonable amount of time.

8 Ms. Zelinski ended up having a hearing on that
9 objection. You know, the Court noted, you know, the Court
10 order says that it wasn't filed properly. If I had been at
11 that hearing I would have argued differently, you know, but
12 I wasn't there.

13 But it's neither here nor there. Even if it had
14 been filed timely under any estimation that you think it
15 wasn't filed timely, it was probably going to be granted.
16 The Court noted in its December 4th order that it would
17 probably be granted.

18 If you look at the language in the December 4th
19 order, it kind of intimates that if the daughters file a
20 Petition for Special Administration it's probably going to
21 be granted.

22 So whether or not an opposition was filed at all
23 probably would have got to the same place. It doesn't mean
24 it's the end of the case and it doesn't mean Ms. Zelinski
25 loses and, in fact, that's really not what a Petition for

1 Special Administration means at all. So it means that they
2 have to do some work, meaning the daughters.

3 And, you know, I guess you could say some control
4 was ceded to the daughters away from Ms. Zelinski, but
5 nothing that wouldn't have later, you know, affected
6 Ms. Zelinski's ability to be the beneficiary to bring her
7 own petitions. She could have brought as many petitions as
8 she wanted to regardless of who was the special
9 administrator of the estate and she did. I did for her.

10 I don't know if her counsel brought any other or
11 her new counsel brought any other petitions on her behalf.
12 I don't know. But ultimately it resulted in her getting
13 something from the estate where unfortunately, and through
14 no fault of her own, the, you know, the testamentary
15 documents were incomplete at best and almost led to a
16 question as to, you know, the validity of really any of them
17 because of how bad they were, and that's what the Court saw
18 and that's why the original petition was denied.

19 So it was going to be an uphill battle from that
20 point forward proving to the Court that any of those
21 documents were valid. And, you know, even though my, my
22 representation of her was brief, I believe that we got her
23 to a result that was positive based on the filings that I
24 made for her. That's, I guess that's all. That summarizes
25 what I wanted to say.

1 MR. AARON: Okay. Ms. Flocchini, do you have any
2 questions? You are muted if you are -- Ms. Flocchini, you
3 are muted.

4 MS. FLOCCHINI: It does not want to let me unmute.
5 I don't understand, but I'm pressing the space bar, so if
6 for some reason I become muted, that's because I forgot what
7 I was doing and let go. I will make it work. Thank you,
8 Chair Aaron.

9 CROSS EXAMINATION

10 BY MS. FLOCCHINI:

11 Q Mr. Kidder, is it your position that Ms. Zelinski
12 receiving direct notice of documents relieved you of an
13 obligation as her counsel --

14 A No.

15 MR. AARON: Don't speak over each other.

16 Ms. Flocchini, could you repeat the question and,
17 Mr. Kidder, wait until the question is asked to answer it.
18 Thank you.

19 MS. FLOCCHINI: I will do my best, yes.

20 BY MS. FLOCCHINI:

21 Q Mr. Kidder, is it your position that if
22 Ms. Zelinski was receiving direct notice of E-Filings, it
23 relieved you of an obligation to provide them to her?

24 A No. I offered that for the purposes of she
25 testified that she wasn't receiving any notice in this case

1 and I just don't think that's factually accurate.

2 Q Okay. Did I hear you correctly that you testified
3 you had met with Ms. Zelinski on December 30th?

4 A Yes.

5 Q And that was to discuss the petition that the
6 daughters had filed?

7 A I think that's one of the things that we talked
8 about. It was more about the petition, the Heggstad
9 petition. That was the primary purpose of it, just
10 confirming that that's the way she wanted to go.

11 Q You knew that she wanted to oppose any petition
12 that was filed, right?

13 A Correct, yes. That's what I testified to. She
14 had told me that weeks, you know, approximately two weeks
15 before that.

16 Q So earlier you testified that you reviewed the
17 petition somewhere around January 4th or 5th and --

18 A I said I don't know exactly, but, yes, probably
19 somewhere around then.

20 Q Okay. But you knew the petition had been filed on
21 December 30th?

22 A Only because I got, you know, I got an electronic
23 filing of it, but I had not reviewed it for several days for
24 sure.

25 Q But you discussed it with Ms. Zelinski when you

1 met with her on December 30th?

2 A You know, I'm not sure if I did or not, but I
3 think, I believe I did.

4 Q Okay. You also testified that when you filed the
5 substitution of attorney there was nothing pending that
6 required the Court's attention, right?

7 A Well, that would have required Ms. Zelinski's
8 attention, not the Court.

9 Q Okay. Was the Heggstad petition that you had
10 filed still pending when you filed that substitution of
11 attorney?

12 A I mean, we had filed it, you know. There was
13 nothing left for us to do at that point, yes.

14 Q In the normal course would you have expected an
15 opposition or response to have been filed?

16 A Sure. At some point, yes.

17 Q Would that petition in the normal course have been
18 set for hearing with the Probate Commissioner?

19 A Yes. I had requested a hearing date actually on
20 December -- I mean January 14.

21 Q Okay. So when you filed the substitution of
22 attorney that put Ms. Zelinski in there as a pro se
23 litigant --

24 A Correct.

25 Q -- you knew or you anticipated that there would be

1 a hearing on the petition that you had just filed?

2 A Some day, yes.

3 MS. FLOCCHINI: Okay. I think those are all of
4 the follow-up questions that I had. Thank you.

5 MR. AARON: Mr. Kidder, it's your recollection
6 that you met with Ms. Zelinski on December 30th?

7 MR. KIDDER: I know I met with her on December 30,
8 yes.

9 MR. AARON: Okay. In some of your other
10 statements you said that, and we know that was a holiday
11 period, that you were not in your office over the holidays.

12 MR. KIDDER: Correct. I think --

13 MR. AARON: One of the reasons, if I may finish,
14 one of the reasons for the delay in filing the opposition
15 and the Heggstad petition was because of the holidays and
16 your not being available.

17 MR. KIDDER: Correct.

18 MR. AARON: But you are sure it was December 30th
19 that you met with Ms. Zelinski?

20 MR. KIDDER: I'm sure I came in specifically to
21 see her.

22 MR. AARON: This file was being billed on an
23 hourly basis, correct?

24 MR. KIDDER: Yes.

25 MR. AARON: Do you have time records --

1 MR. KIDDER: Yes.

2 MR. AARON: -- for that?

3 MR. KIDDER: Yes.

4 MR. AARON: And you don't have them available
5 today?

6 MR. KIDDER: I could pull them up, yes.

7 MR. AARON: Would you show us your time records
8 for December 30th, 2020?

9 MR. KIDDER: I don't know how to share and I don't
10 have that ability.

11 MR. AARON: If you move your cursor to the bottom
12 of the screen --

13 MR. KIDDER: Yeah, I don't have that ability. We
14 discussed this before, Mr. Aaron. In the device that I'm
15 using, that's not an option for me.

16 MR. AARON: Well, while you have that up, can you
17 tell us what other work you did for Ms. Zelinski between
18 December 1st and December 30th?

19 MR. KIDDER: Sure. On, on December 4th I reviewed
20 the documents that Ms. Zelinski had brought in, the ones
21 that I had discussed that I had told her to, to gather up
22 all of the documents and see if there was anything else that
23 didn't make it into her original petition.

24 On December 8th, I had a phone call with the
25 opposing counsel. On December 22nd, I researched trust

1 administration and Heggstad petitions, and on that same day
2 I sent an e-mail to the opposing counsel that had documents
3 that Ms. Zelinski had brought in.

4 They had asked for like a copy of the lease for
5 the tenant that was in there and some other things and I
6 provided that to opposing counsel. And then on January 8th
7 I prepared the Heggstad petition, so that's what is on here.

8 MR. AARON: Thank you. I have nothing else.

9 Do any other panel members have any other
10 questions?

11 MR. AMAN: I do not.

12 MR. LaBADIE: I just have one question for
13 Mr. Kidder. During your testimony, you mentioned a couple
14 times that Ms. Zelinski told you she had already done
15 something or she would do something. Is that common for you
16 in your practice where somebody retains you and you either
17 trust that they have done something correctly or they tell
18 you they are going to go do it and you expect they will do
19 it correctly?

20 MR. KIDDER: You know, I wouldn't say it is
21 common, no. Has it happened, sure, yes.

22 MR. LaBADIE: Okay. Thanks.

23 MR. AARON: Okay. I will ask the Court reporter,
24 do you need a few minutes or should we continue?

25 THE COURT REPORTER: Could I just have 5 minutes?

1 MR. AARON: Okay. So, counsel, why don't you
2 prepare for your closing arguments. We will take 5 minutes
3 now, as we did earlier, and then we will come back on the
4 record.

5

6 (Whereupon a break was taken from 11:57 a.m. to 12:02 p.m.)

7

8 MR. AARON: This is the continuation of the matter
9 of the State Bar of Nevada versus Karlon Kidder.

10 And, Ms. Flocchini, your closing statement.

11 MS. FLOCCHINI: Thank you, Chair. Thank goodness
12 my mouse worked that time so I don't have to stand and hold
13 the space bar.

14 Thank you again, panel, for your dedication to the
15 disciplinary process today and giving us your time to hear
16 this matter. It's important to our self-regulation and to
17 us being able to continue a self-regulation in our
18 profession.

19 Lawyers don't have to guarantee success. We can't
20 guarantee success and we often tell our clients that. We
21 can't promise a result. But what we can promise and what we
22 should be doing is providing competent and diligent
23 representation to get a client's position heard by the
24 court.

25 That's all we have to offer is our time and our

1 knowledge of the law for the client's use. And a failure to
2 provide our knowledge, to use knowledge of the rules and
3 understand the rules and procedures hurts the client and it
4 ultimately hurts the profession.

5 As you know, the evidentiary standard in a
6 disciplinary case is clear and convincing evidence and
7 that's a medium standard for evidence to prove that there
8 has been a violation of the Rules of Professional Conduct.

9 It's higher than a basic civil case where it's
10 just a preponderance of the evidence, which just means a
11 little bit higher than the middle line, the 50 percent.
12 It's not as strong as a criminal case that requires beyond a
13 reasonable doubt. It's somewhere in the middle.

14 It means that it's more likely than not that facts
15 are particularly true based on the evidence. And the Bar,
16 the Bar submits that you have evidence before you today
17 between the exhibits and the testimony that you have heard
18 that Mr. Kidder violated Rules of Professional Conduct 1.1,
19 which is competence, 1.3, which is diligence, and 1.16,
20 which is declining or terminating representation.

21 Specifically, the exhibits and the testimony
22 establish that Ms. Zelinski hired Mr. Kidder to represent
23 her in the pursuit of letters of administration in a probate
24 matter to effectuate her goal, her objective of putting into
25 actuality her friend's intent upon her demise.

1 You heard testimony and you have evidence that
2 specifically Ms. Zelinski had issues understanding the
3 notice requirements on her own. She had filed this petition
4 on her own or at least with help of For The People, who I
5 guess we could summarize as like a document preparation
6 business, so she had filed those letters of administration
7 and tried to do it on her own and had been unsuccessful and
8 that's why she sought out the assistance of Mr. Kidder.

9 But instead of helping Ms. Zelinski in the places
10 where she was unable to figure it out by herself, Mr. Kidder
11 also failed to meet the procedural requirements for getting
12 such letters granted.

13 And specifically we talked about and Mr. Kidder
14 testified that probate is governed by statutes. There are
15 statutes that tell you the rules to follow in order to
16 effectuate your client's goals in a probate matter and an
17 estate matter.

18 And instead of making sure that those requirements
19 were satisfied, Mr. Kidder apparently relied on Ms. Zelinski
20 to make that happen when she hadn't been able to make it
21 happen the first time. She hired him in order to represent
22 her in this matter and at that hearing on December 1st, and
23 Mr. Kidder failed to make sure that Ms. Zelinski had the
24 best chance, you can't guarantee success, but the best
25 chance at success at the December 1st hearing.

1 And I submit that Mr. Kidder's testimony about
2 Ms. Zelinski taking on those obligations, and Ms. Zelinski's
3 testimony that she did it because For The People told her
4 and she somehow thought that Mr. Kidder and For The People
5 were intertwined and that they were giving instructions
6 based on something that came through Mr. Kidder.

7 You know, the theme of all of that information is
8 that Mr. Kidder is putting these deficiencies of the
9 representation, the deficiencies in her case back on
10 Ms. Zelinski, but he was hired to cover those deficiencies,
11 to provide her with the services that she couldn't do on her
12 own.

13 You have evidence today, you received evidence
14 between the exhibits and the testimony that Mr. Kidder
15 failed to understand the Court's directions for protecting
16 Ms. Zelinski's position. She wanted to oppose a petition
17 appointing the daughters as special administrators, and the
18 Court, the Court said you have got 5 days.

19 Normally, there wouldn't be a time, but the Court
20 said you have 5 days before I'm going to consider any
21 Petition for Special Administrators. So if you are going to
22 object, it's going to need to be done within those 5 days.

23 But instead Mr. Kidder failed to timely file, you
24 know, the objection to represent Ms. Zelinski's position on
25 that renewed petition and it essentially caused her to be

1 unrepresented on that particular issue. The Court granted
2 the petition without having considered Ms. Zelinski's
3 position, which is exactly what she was paying Mr. Kidder to
4 tell the Court.

5 Then when the petition was granted, when the
6 daughters were appointed as special administrators,
7 Ms. Zelinski was frustrated by the facts that she hadn't
8 received representation that she expected. Mr. Kidder
9 failed to follow the express procedure for withdrawing from
10 representation, and the Court specifically instructed that
11 it was unhappy with Mr. Kidder's attempt by using the
12 substitution process.

13 And Mr. Kidder testified that he thought his
14 conduct complied with Second Judicial District Court
15 Rule 23(1), and I'm going to read what subsection 1 says
16 about withdrawal. It says, "Counsel who has appeared for
17 any party shall represent that party in the case and shall
18 be recognized by the court and by all parties as having
19 control of the client's case, until counsel withdraws,
20 another attorney is substituted, or until counsel is
21 discharged by the client in writing, filed with the filing
22 office, in accordance with SCR 46 and this rule."

23 And so the substitution that was filed did not put
24 another attorney into place, so the substitution didn't
25 comply with that particular provision of Rule 23(1). It

1 wasn't a withdrawal, which is a motion. It requires a
2 Motion to Withdraw, so it doesn't comply with that
3 particular provision in this subsection.

4 And the counsel, Mr. Kidder wasn't discharged by
5 the client in writing filed with the filing office in
6 accordance with SCR 46. And SCR 46 specifically provides
7 that an attorney can be changed at any time before judgment
8 or final determination upon consent of the attorney,
9 approved by the client, or upon order of the Court or
10 judgment thereof on the application of the attorney or the
11 client. There was no application here. It was strictly a
12 substitution.

13 And then it also provides that when there is a
14 judgment or a final determination, the attorney can file a
15 withdrawal without the client's consent. And I think that's
16 what Mr. Kidder was referencing in his testimony that there
17 was nothing pending. That's what he was trying to get at
18 when he identified there was nothing pending.

19 But, in fact, there was something pending. There
20 was that petition that Mr. Kidder had filed and the Court,
21 you know, the Court has a prerogative to say I am not
22 comfortable, the Court is not comfortable moving forward
23 with a pro se litigant when there is something pending that
24 requires the attention of an attorney, the specialty, the
25 technical knowledge of an attorney, and courts have denied

1 requests to withdraw based on that.

2 And so instead of asking the Court to withdraw and
3 informing the Court for the basis of that, Mr. Kidder filed
4 a substitution. He didn't comply with Second Judicial
5 District Court Rule 23, and the Court put him on notice of
6 that.

7 Now, Ms. Zelinski did obtain substitute counsel
8 who appeared in the case at that point, but it doesn't
9 relieve Mr. Kidder from the obligation to follow the rules
10 of the Court. So all of this evidence that you have before
11 you shows that -- And you know what, I want to back up for
12 one second, because I want to also specifically emphasize
13 the testimony that Mr. Kidder knew that the Petition for
14 Appointment of Special Administrators had been filed on
15 December 30.

16 He received the E-Filing notification and his
17 testimony was that he knew it had been filed and at least
18 cursorily discussed it with Ms. Zelinski and knew that
19 Ms. Zelinski wanted to oppose that.

20 And then when the request for submission was filed
21 on January 6, Mr. Kidder -- well, one, Mr. Kidder didn't
22 file an opposition despite the Court's instruction that such
23 a petition would be considered within 5 days, and when it
24 was submitted, when the request for submission was filed,
25 Mr. Kidder didn't even try to get something in before the

1 Court finally made a decision.

2 Instead, Mr. Kidder waited until January 14th to
3 even present it to the client and then filed it on the 15th,
4 a whole 9 days after the Court, it was brought to the
5 Court's attention. Generally, a request for submission, as
6 Mr. Kidder testified, tells the Court something is ready for
7 your decision, and so that could be sitting on the Court's
8 desk ready for an order to be issued at any moment.

9 And instead of trying to address that emergent
10 issue, Mr. Kidder waited at least another week before filing
11 an objection, and, in fact, the objection was ultimately
12 filed after that petition had been granted, and Ms. Zelinski
13 did not get the representation that she thought she was
14 getting that she sought out from Mr. Kidder.

15 All of this evidence, the testimony and the
16 exhibits that you have, show that Mr. Kidder violated Rule
17 of Professional Conduct 1.1, which requires competence of
18 the attorney, by failing to recognize the importance of the
19 express statutory requirements for Ms. Zelinski's petition,
20 for letters of administration, and the Court rules for
21 withdrawing from representation.

22 In addition, all of this evidence shows a
23 violation of Rule of Professional Conduct 1.3, which
24 requires an attorney to act with reasonable diligence and
25 promptness in representing their clients.

1 Mr. Kidder failed to follow those express
2 statutory requirements for Ms. Zelinski's petition and
3 failed to follow the Court's direction and protect
4 Ms. Zelinski's position with respect to the daughters'
5 Petition for Appointment as Special Administrators, and then
6 finally there was a failure to with reasonable diligence and
7 understanding of the rules comply with the Court's rules for
8 withdrawing from representation.

9 Again, you know, that failure also fails to, is a
10 violation of Rule of Professional Conduct 1.16, specifically
11 subsections C, which requires an attorney upon withdrawing
12 or terminating representation to obtain consent from the
13 tribunal if that's what the tribunal says is supposed to
14 happen. All of this evidence shows that, establishes that
15 misconduct happened in the representation of Ms. Zelinski.

16 So once this panel finds that misconduct is
17 established, then the Supreme Court has instructed us that
18 the ABA factors for imposing lawyer sanctions have to be
19 applied to the situation and that using those factors the
20 panel will, can determine what sanction is appropriate and
21 arrive at a recommendation for the Supreme Court's ultimate
22 decision.

23 With reference to that specifically, I will, I
24 will include that the Supreme Court defers to this panel's
25 findings of fact using an abuse of discretion standard,

1 because this panel is the one who hears and sees the people
2 testifying and can measure the evidence, weigh the evidence,
3 weigh the credibility of witnesses and make a final
4 determination about the relevant facts for whether or not
5 there was misconduct.

6 Then the Court reviews de novo the conclusions of
7 law, so whether or not there are findings of misconduct
8 finally and then the other factors that are involved in
9 arriving at a sanction, and finally the Supreme Court
10 de novo reviews the recommendation for what sanction is
11 appropriate.

12 The four factors that the ABA standards provide to
13 us are, one, the duty violated, so what kind of duty was
14 violated, and the duty can be to a client, to the public at
15 large, to the judiciary, and to the integrity of the
16 profession. It can be to multiple entities within that list
17 or just one.

18 And then the panel also considers the mental state
19 of the attorney when they engage in that misconduct. There
20 are three different mental states that are specifically
21 provided for in the ABA standards. Those mental states are
22 negligence, knowing, and intentional.

23 Negligence means that the attorney lacked
24 awareness of a substantial risk that circumstances exist or
25 that a result will follow, which failure is a deviation from

1 the standard of care that a reasonable lawyer would exercise
2 in the situation.

3 So typically this is where there is some ambiguity
4 as to what an obligation might be. Often this might come
5 into play when there is a communication issue where there is
6 not a bright-line rule as to what the attorney needs to be
7 doing or is required to do.

8 The knowing mental state is a term of art separate
9 from intentional in discipline proceedings. Knowing is
10 defined by the ABA standards as having the conscious
11 awareness of the nature or attendant circumstances of an
12 attorney's conduct, but not the conscious objective or
13 purpose to accomplish a particular result. So knowing what
14 the attorney needs to do in order to comply with the Rules
15 of Professional Conduct, but not intending to violate that
16 obligation.

17 It's separate from intentional, which specifically
18 requires that the attorney have a conscious objective or
19 purpose to accomplish a particular result. There is an
20 appreciation of the consequences of the conduct.

21 Often intentional might be referenced in
22 misappropriation of client funds, that an attorney knew that
23 was the client's money and that they were using it for their
24 own benefit to the detriment of the clients and so that's an
25 intentional violation of the Rules of Professional Conduct.

1 I submit to you that most violations of the Rules
2 of Professional Conduct have a knowing mental state.
3 Attorneys are imputed with knowledge of the Rules of
4 Professional Conduct and the expectation that we will follow
5 them. It's part of the privilege of holding the license as
6 an attorney.

7 And so attorneys are supposed to know what is
8 required of them pursuant to the Rules of Professional
9 Conduct, such as following the rules of the tribunal when
10 terminating representation after an attorney has appeared in
11 a case, or needing to use thoroughness, skill, and knowledge
12 to competently represent a client in a particular case that
13 they have been hired for.

14 So the third element of the ABA factors is injury.
15 The panel is supposed to consider whether or not there is an
16 injury or potential injury created by the misconduct of the
17 attorney.

18 The injury can be to the client. It can be to the
19 public. Again, it can be to the judiciary or to the
20 integrity of the profession, and most of the ABA standards
21 do not distinguish between actual injury and potential
22 injury, although sometimes in the ultimate sanction that's
23 recommended that may be a factor. So both injury and
24 potential injury are treated the same by the ABA standards
25 for the most part.

1 The fourth element that the panel considers, you
2 use the first three elements to arrive at a baseline
3 sanction, and then the fourth element that the panel
4 considers, and ultimately the Supreme Court considers, is
5 aggravating or mitigating factors that warrant a deviation
6 from the baseline sanction from that baseline standard.

7 So applying the ABA factors here, we have the
8 duties that have been violated are a duty of competence,
9 diligence, and then appropriately terminating
10 representation. Those are primarily duties to a client.
11 You owe a duty of -- the ultimate duty is to the client to
12 competently and diligently set forth their position in
13 whatever representation you have been hired for. So those
14 are duties to the client.

15 Also, specifically that termination of
16 representation has a strong component of a duty to the
17 profession and the judiciary. You know, typically the Court
18 wants to be able to approve a withdrawal because it may be
19 to the detriment of the efficiency of the judicial system if
20 an attorney withdraws at a particularly crucial time in a
21 representation and that's why they are required to file that
22 Motion to Withdraw and not just substitute out.

23 So those are the duties that we have, and then, as
24 I indicated earlier, I submit that the appropriate mental
25 state to apply in this case is a knowing mental state to the

1 violation. The Rules of Professional Conduct are pretty
2 clear as far as what is required of an attorney and that the
3 violations here were not intentional.

4 I submit that there is not evidence that
5 Mr. Kidder appreciated the consequences of his failures at
6 the time that he was engaging in them and that was a piece
7 of what he was doing, but nonetheless these were violations
8 of the Rules of Professional Conduct that were clearly set
9 out and expectations that were clear to Mr. Kidder.

10 Third, with respect to the injury, there is
11 evidence here that there was both injury to Ms. Zelinski
12 because her petition was procedurally denied and her
13 objection was not considered by the Court, because it was
14 not timely filed.

15 And those failures, the reasons why it wasn't
16 procedurally considered and the reasons why the objection
17 wasn't considered or, I apologize, why the petition was
18 procedurally denied and the objection was not considered
19 were things that Mr. Kidder was supposed to do in the normal
20 course of representing Ms. Zelinski.

21 There was also the potential for greater injury to
22 Ms. Zelinski had she not obtained new counsel, because the
23 Court would not have, would have continued to communicate
24 with Mr. Kidder on her behalf.

25 That's what the Court indicated, that it was not

1 removing Mr. Kidder as counsel of record unless either, one,
2 the hearing happened on February 11th or Ms. Zelinski had
3 substitute counsel who appeared, and, in fact, she did get
4 substitute counsel who represented her in the case.

5 And, finally, as I referenced with respect to
6 those duties to the judiciary and the profession, there is
7 actual, albeit perhaps minimal, injury to the integrity of
8 the profession in this case and also to the efficiency of
9 the judiciary particularly with respect to that violation of
10 Rule of Professional Conduct 1.16.

11 So when we take all of those factors together, the
12 duties to the clients, the primary duty to the client, a
13 knowing mental state that caused injury or potential for
14 greater injury, I submit that the appropriate standards as
15 the baseline in this case would be rule, would be standard
16 4.42, which provides that suspension is generally
17 appropriate when, (a), a lawyer knowingly fails to perform
18 services for a client and causes injury or potential injury
19 to a client or, (b), a lawyer engages in a pattern of
20 neglect that causes injury or potential injury to a client.

21 And then similarly 4.52 provides that suspension
22 is generally appropriate when a lawyer engages in an area of
23 practice in which the lawyer knows he or she is not
24 competent and causes injury or potential injury to a client.

25 So both of those provide that the baseline

1 sanction for the misconduct in this case is suspension.

2 What does that mean? Just generally suspension, there is a
3 wide range of suspensions that are potentially sanctions in
4 Nevada.

5 Our Supreme Court has given us some markers within
6 the suspension world. The first is that a suspension that
7 is 6 months or less is a requirement the attorneys stop
8 practicing, notify all clients and all courts where matters
9 are pending of their suspension, but at the conclusion of
10 that suspension, whatever the length of the suspension is,
11 the attorney is automatically reactivated to active
12 practice. There is nothing that the attorney has to do in
13 order to then reengage in the practice of law.

14 If an attorney is suspended for 6 months and 1 day
15 or more, then the attorney has to apply for reinstatement to
16 the practice of law and comply with the requirements set
17 forth in SCR 116.

18 One of the requirements is that the attorney not
19 practice during the time period, but there is also other
20 requirements where there might be conditions that should
21 have been met and that the attorney recognizes the
22 wrongfulness of the conduct that they engaged in that
23 resulted in the suspension.

24 Another marker in the suspension world is in the
25 ABA standards. The ABA standards discuss that a suspension

1 of 3 years or more is a substantial suspension. That is a
2 lengthy marker, that the suspension of 3 years would be a
3 substantial suspension and indicates gross misconduct.

4 In Nevada, we then have a final marker which is
5 the 5 year mark. Pursuant to the Supreme Court Rules, if an
6 attorney is suspended for longer than 5 years, so 5 years
7 and 1 day, then the attorney has to in addition to
8 petitioning for reinstatement take the Bar exam again.

9 And I think they have to pass. I don't think it's
10 just taking it, but you have to pass the Bar Exam in order
11 to be reinstated if you have been suspended for longer than
12 5 years.

13 So those are the markers for suspension, and in
14 this case the Bar submits that the suspension that is
15 appropriate in this case is something longer than 6 months,
16 a suspension that requires a petition for reinstatement, and
17 that recommendation, that request of the panel that the
18 suspension be longer than 6 months is based on aggravating
19 factors that I think the panel should take into
20 consideration.

21 One is Mr. Kidder's substantial experience in the
22 practice of law. Mr. Kidder has been licensed to practice
23 for 11 years. That's a substantial period of time and, as
24 Mr. Kidder indicated, you know, he has been on his own
25 practicing for most of that period of time.

1 The second aggravating factor that I think this
2 panel should consider in making its recommendation for a
3 suspension that requires reinstatement is Mr. Kidder's prior
4 discipline.

5 Mr. Kidder was disciplined I believe on
6 January 7th of 2016. It's evidenced in Exhibit 2 that
7 particular discipline, and in that case there was a Supreme
8 Court order, they approved a conditional guilty plea and the
9 order suspended Mr. Kidder for I believe a full year, but
10 stayed the majority of that suspension so that Mr. Kidder's
11 actual suspension was only 3 months, and so there was
12 9 months that was held in abeyance pending completion of
13 particular conditions, a probationary term which Mr. Kidder
14 successfully completed.

15 Nonetheless, Nevada has a, the Supreme Court has
16 told us that we should be implementing progressive
17 discipline in these matters, and so if an attorney has prior
18 discipline for the same or substantially same kind of
19 conduct, then the response to repeated conduct needs to be
20 more substantial than the initial response.

21 And so in this case, we had a less than 6 month
22 suspension, actual suspension, where Mr. Kidder was then
23 put, was allowed to then return to practice without having
24 to do any reinstatement considerations, and so the next step
25 up is a suspension of 6 months and a day. That's the

1 progressive, that's the logical step in progressive
2 discipline I submit to the panel.

3 Okay. So those are how the State Bar requests
4 that the panel apply all of the factors set forth in the ABA
5 standards for imposing lawyer sanctions.

6 You know, these discipline cases are never easy.
7 There is always, there is always something that's hard for
8 the panel to consider, but the Supreme Court has told us
9 that the paramount objective of Bar disciplinary proceedings
10 is to protect the public from a person who is unfit to serve
11 as an attorney and to maintain the public confidence in the
12 Bar as a whole.

13 And I submit that this particular misconduct that
14 you have before you today that you have evidence of warrants
15 a suspension in order to protect the public from this
16 happening to anyone else, and in order to maintain the
17 public confidence in the Bar as a whole that we hold our
18 attorneys to a higher expectation that they should know and
19 understand and apply the law in every representation.

20 Of course, I would be remiss if I didn't indicate
21 to the panel that in addition to a sanction, the State Bar
22 requests that the panel impose costs that are set forth in
23 Supreme Court Rule 120.

24 And in this case, the State Bar's request would be
25 for the imposition of the administrative costs of \$2,500,

1 plus the hard costs of the proceeding, and that those costs
2 be required to be paid, you know, within 30 days of a
3 sanction order.

4 And specifically, again, I will reiterate that the
5 State Bar requests that this panel find that there was
6 misconduct, there was knowing misconduct which injured the
7 clients, and then in consideration of all of those factors,
8 plus the aggravating factors in this case, that the
9 appropriate sanction is a suspension of longer than
10 6 months. Thank you.

11 MR. AARON: Mr. Kidder.

12 MR. KIDDER: First, I just want to thank everybody
13 and echo Ms. Flocchini's sentiment that I appreciate your
14 time. It's very valuable and I wish we all could have met
15 under different circumstances.

16 With that being said, I think the evidence before
17 you is clear that there was no express violation of any
18 statute. There was no express violation of any rule or the
19 Rule of Professional Conduct, Nevada Revised Statute,
20 Probate Court rules, nothing.

21 You have to imply that what I did or didn't do
22 wasn't good enough. That's what Ms. Flocchini is asking you
23 to do is take a leap above and beyond what a statute says,
24 what a rule says and say what I did was or was not good
25 enough, you know, and I will leave that to the panel to make

1 that decision. I believe the evidence shows that I did,
2 what I did or didn't do doesn't meet the burden of having
3 violated any of these Rules of Professional Conduct that are
4 before you today.

5 Additionally, what I did or didn't do didn't
6 result in any injury or even a potential injury to
7 Ms. Zelinski. Her situation was not a good one from the
8 beginning and the result that was reached in that probate
9 case partially based on what I did was positive for her.

10 And, you know, I'm not going to go through and
11 rehash the evidence, but the attorneys on this panel
12 certainly know that there are, there are different levels of
13 discipline and certainly a suspension or disbarment are the
14 higher levels of those.

15 There are lower levels that Ms. Flocchini didn't
16 mention that this panel can consider if they think that what
17 I did or didn't do meets the burden of having violated these
18 rules, and that's all I want to say.

19 MR. AARON: Thank you. Now it's time to, for the
20 panel to retire and confer, and how do we do that on Zoom?

21 MS. PETERS: I will put you in your own room, the
22 three of you. You will get a little invite and just join,
23 and then you will be in your room. And when you want to
24 leave, you can leave when you are done deliberating.

25 MR. AARON: Okay. There is a way to exit the side

1 room?

2 MS. PETERS: Yeah, yeah. It's automatic.

3 MS. FLOCCHINI: If you accidentally enter
4 completely, just re-request to come into the Zoom and Laura
5 can let you back in.

6 MR. AARON: Okay. We will figure it out or Laura
7 will get a phone call from me.

8 MS. PETERS: That will work.

9

10 (Whereupon a break was taken from 12:37 p.m. to 1:32 p.m.)

11

12 MR. AARON: Okay. Once again, this is the
13 continuation of the matter of the State Bar of Nevada versus
14 Karlon Kidder. The hearing panel has had an opportunity to
15 confer in private session and we have a resolution to
16 propose.

17 First, there are three violations alleged, a
18 violation of RPC 1.1, RPC 1.3, and RPC 1.16, and we find
19 that there is no violation of RPC 1.16. Mr. Kidder did what
20 he thought was appropriate to terminate his representation
21 or to record the termination of his representation by his
22 client.

23 There is a writing signed by the client that was
24 filed with the Court, which complies with at least one part
25 of one of the rules. The fact that the Probate Commissioner

1 did not accept it is not Mr. Kidder's fault, so we find
2 there is no violation of that.

3 We do find violations of RPC 1.1 competence and
4 RPC 1.3 diligence. Specifically, RPC 1.1 states that a
5 lawyer shall provide competent representation to a client.
6 Competent representation requires the legal knowledge,
7 skill, thoroughness, and preparation reasonably necessary
8 for the representation.

9 We have an issue with the requirement of
10 thoroughness and preparation. We find that Mr. Kidder did
11 not act appropriately in verifying the notice and
12 publication requirements for the December 1st hearing, even
13 though those are statutory requirements that are strictly
14 required.

15 We found, we find that he did not sufficiently
16 prepare for the December 1st hearing and additionally his
17 failure to timely object to the December 30th hearing caused
18 or violated a duty to his client.

19 We find that the mental state was negligent, that
20 he thought he was doing what's right, but did not comply
21 with the statutory requirements. We find that there was
22 little or no injury to the client.

23 That the client not being appointed special
24 administrator may, in fact, have been a benefit, because
25 there were duties that are imposed on the special

1 administrator, and the ultimate resolution of the case after
2 Mr. Kidder left it was not inappropriate for the client
3 because of the tenuous nature of her position based upon the
4 documents that were filed with the Probate Court and our
5 understanding of them.

6 We find that the appropriate baseline sanction is
7 a reprimand, but we would also require that in addition to
8 the reprimand that appropriate continuing legal education
9 hours should be imposed, and we would require that there be
10 2 hours of continuing legal education into ethics and an
11 additional 2 hours into probate practice, and those 4 hours
12 be in addition to Mr. Kidder's required 13 hours annual CLE.

13 We find as requested the aggravating circumstances
14 be prior discipline and substantial experience in the
15 practice of law, but we find there is a mitigating
16 circumstance, the absence of a dishonest or selfish motive
17 that was certainly not any part of this case.

18 In addition to the reprimand and the CLE, we also
19 would impose the mandatory costs of \$2,500 and then the
20 actual costs of the proceeding, which I understand to be the
21 cost of the Court Reporter and any certified or other postal
22 mailing costs.

23 Ms. Flocchini, do you have anything?

24 MS. FLOCCHINI: Two questions or points of
25 clarification, if the panel intends issuance of a public

1 reprimand?

2 MR. AARON: Yes.

3 MS. FLOCCHINI: Okay. And then SCR 120 provides
4 different administrative processes associated with different
5 levels of discipline, so the administrative process
6 associated with the reprimand pursuant to the statute is
7 \$1,500. Suspension is \$2,500.

8 Is it the panel's intention to just go consistent
9 with what Supreme Court Rule 120 says or does the panel
10 specifically want an imposition of the \$2,500?

11 MR. AARON: No, it would be the required costs of
12 \$1,500.

13 MS. FLOCCHINI: Okay. Thank you. Did the panel
14 discuss the particular ABA standard that was applied or just
15 that by using the negligent violations that it was equal,
16 that it should result in a reprimand?

17 MR. AARON: There were two factors. One is the
18 negligence standard and the second is the little or no
19 injury to the client, extent of injury standard or factor.

20 MS. FLOCCHINI: Would it be fair to say that the
21 panel was using standard 4.43 and standard 4.53?

22 MR. AARON: If I had the ABA standards in front of
23 me, I would tell you. So presuming those are the
24 appropriate standards for negligence and little or no
25 injury, yes.

1 MS. FLOCCHINI: Okay. Yes, those are the -- let
2 me look.

3 MR. AARON: The worksheet Bar counsel gave me
4 doesn't reference the standards.

5 MR. AMAN: And, Kait, I have them here. They are
6 attached as Exhibit A and Exhibit B to your filing, which is
7 4.43 and 4.53.

8 MS. FLOCCHINI: Okay. Thank you. I wasn't sure
9 if the panel was looking more to one or the other or just
10 applying both.

11 MR. AARON: Both.

12 MS. FLOCCHINI: Thank you.

13 MR. AARON: Okay. Mr. Kidder, any questions?

14 MR. KIDDER: No. Thank you.

15 MR. AARON: All right. And I guess I should also
16 direct that the fine be paid within 30 days?

17 Mr. Kidder, is that appropriate?

18 MR. KIDDER: Would it be 30 days from today or
19 when the Supreme Court reviews this?

20 MR. AARON: Well, with a reprimand the Supreme
21 Court will not review it.

22 MR. KIDDER: Okay.

23 MS. FLOCCHINI: No, the Supreme Court does review
24 it. If it's a fully contested hearing, the Supreme Court
25 does review a recommendation for a public reprimand. If

1 it's a conditional guilty plea for a public reprimand, then
2 the Court doesn't review it, so we would have to send it up
3 for review.

4 MR. AARON: So after the Supreme Court's approval,
5 is that appropriate for payment of the fees?

6 MS. FLOCCHINI: That's what I would recommend in
7 the order.

8 MR. AARON: Okay. And the completion of the CLE
9 hours I would say before the end, before December 31st,
10 2022.

11 MR. KIDDER: Okay.

12 MR. AARON: So, basically, within the next year.
13 And then for the actual costs, the State Bar will prepare an
14 invoice and send it to you and that should be paid when?

15 MR. KIDDER: Probably the same 30 days, I would
16 think.

17 MS. FLOCCHINI: I would recommend that it would be
18 the same recommendation from the panel and so it would
19 ultimately be dependent on the Supreme Court's order that
20 they issue.

21 MR. AARON: Very good. So what will happen is
22 there will be an order of reprimand prepared. Mr. Kidder,
23 you will get a copy of it. I guess in this case it will be
24 sent to the Supreme Court for approval and then ultimately
25 published.

1 MS. FLOCCHINI: I assume the Chair would like me
2 to prepare that recommendation and then circulate it?

3 MR. AARON: As usual.

4 MS. FLOCCHINI: Okay.

5 MR. AARON: Yes, please.

6 All right. Is there anything else from anyone?

7 MS. FLOCCHINI: Thank you very much for your time.

8 MR. AARON: Yeah. Thanks, everyone, for their
9 time, their effort. I appreciate the way the hearing ran as
10 efficiently as it did, so I appreciate it and with that we
11 can sign off.

12 MR. KIDDER: Thank you.

13 MS. FLOCCHINI: Thank you.

14 (Whereupon the proceedings concluded at 1:43 p.m.)

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2 STATE OF NEVADA)
3 WASHOE COUNTY) ss.

4 I, CORRIE L. WOLDEN, a Certified Reporter of the State
5 of Nevada, in and for Washoe County, DO HEREBY CERTIFY;

6 That I am not a relative, employee or independent
7 contractor of counsel to any of the parties; or a relative,
8 employee or independent contractor of the parties involved
9 in the proceeding, or a person financially interested in the
10 proceeding;

11 That I was present by Zoom Videoconference for the
12 State Bar Hearing on December 3, 2021, and took verbatim
13 stenotype notes of the proceedings had upon the matter
14 captioned within, and thereafter transcribed them into
15 typewriting as herein appears;

16 That the foregoing transcript, consisting of pages 1
17 through 129, is a full, true and correct transcription of my
18 stenotype notes of said proceedings.

19 DATED: At Reno, Nevada, this 19th day of December,
20 2021.

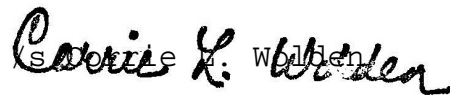
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CORRIE L. WOLDEN
CSR #194, RPR, CP

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