

1

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

3 IN RE:)
4 REINSTATEMENT OF)
5 WILLIAM A. SWAFFORD, ESQ.,)
6 BAR NO. 11469)
7 _____)

CASE SUMMARY FOR
RECORD ON APPEAL
Electronically Filed
Jun 22 2022 08:05 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

6 **1. Summary of Nature of the Case.**

7 William A. Swafford (“Petitioner”), who is currently suspended, has
8 petitioned for reinstatement.

9 **2. Suspension.**

10 The Nevada Supreme Court first suspended Petitioner from the practice of law
11 for a total of 6-months-and-one-day on September 22, 2016. Petitioner was found
12 to have violated Nevada Rules of Professional Conduct (“RPC”) 1.1 (competence),
13 RPC 1.3 (diligence), RPC 1.4 (communication), RPC 3.3 (candor toward the
14 tribunal), RPC 8.4 (a) (Misconduct: Violate or attempt to violate the Rules of
15 Professional Conduct, knowingly assist or induce another to do so, or do so through
16 the acts of another), RPC 8.4 (c) (Misconduct: Engage in conduct involving
17 dishonesty, fraud, deceit or misrepresentation) and RPC 8.4 (d) (Misconduct:
18 Engage in conduct that is prejudicial to the administration of justice.) Petitioner
19 did not participate in the disciplinary proceeding and a default was entered pursuant
20 to Nevada Supreme Court Rule (“SCR”) 105.

1 Petitioner's conduct resulting in his suspension, in part, was that he knowingly
2 assisted another attorney in representing two brothers with conflicting interests in
3 a criminal matter. Petitioner also overdrew his IOLTA account but failed to
4 provide the State Bar with any substantive response to its inquiries regarding the
5 overdraft.

6 The Nevada Supreme Court suspended Petitioner for an additional six-
7 months-and-one-day to be served consecutively to his prior suspension. Petitioner
8 failed to answer the State Bar's complaint in that matter, and thus, the charges
9 alleged in the complaint were deemed admitted pursuant to SCR 105(2). However,
10 Petitioner did appear at the Formal Hearing and assert mitigating factors for
11 consideration.

12 Petitioner's misconduct in the second matter was his failure to timely file a
13 pleading on behalf of a client, adequately plead the client's claims, communicate
14 with the client, deposit the client's funds into his trust account, and refund the client
15 his unearned fees. Petitioner was found to have knowingly violated RPC 1.1
16 (competence), RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.5 (Fees),
17 RPC 1.15 (safekeeping property), and RPC 8.4(d) (misconduct).

18 The second Suspension Order required Petitioner to (i) obtain a fitness-for-
19 duty evaluation from a competent, licensed neurologist, (ii) participate in any fee
20 dispute initiated by the aggrieved client and abide by any award therein, and (iii)

1 pay the costs of the disciplinary proceedings.

2 **3. Petition for Reinstatement.**

3 The Petition for Reinstatement was received by the State Bar on September
4 20, 2021. Pursuant to SCR 116, it was referred to the Northern Nevada
5 Disciplinary Board for consideration.

6 **4. Reinstatement Hearing.**

7 A Hearing Panel of the Northern Nevada Disciplinary Board (“Panel”)
8 convened on April 20, 2022, to consider the Petition for Reinstatement after the
9 parties stipulated to two continuances to accommodate witness testimony.

10 The Panel found by clear and convincing evidence that the testimony of
11 Petitioner was credible as it related to his legal abilities to continue the practice of
12 law. The Panel concluded that the Petitioner met his burden of clear and convincing
13 evidence; specifically, that (i) he recognized “the wrongfulness and seriousness of
14 the misconduct resulting in suspension” and (ii) “notwithstanding the conduct for
15 which the attorney was disciplined, the attorney has the requisite honesty and
16 integrity to practice law.”

17 Based upon the exhibits presented and statements offered by both Petitioner
18 and Assistant Bar Counsel, the Panel found by clear and convincing evidence that
19 Petitioner is not engaged in, nor has he attempted to engage in, the unauthorized
20 practice of law during the period of suspension; that no physical or mental disability

1 currently exists that would prevent him from practicing law; that Petitioner has not
2 engaged in any other professional misconduct since suspension; and that he has kept
3 himself informed about recent developments in the law and is otherwise competent
4 to practice. Subsequent to the hearing and before the Recommendation was filed,
5 Petitioner provided evidence that he reimbursed the Client Security Fund the \$5,000
6 it had paid to the aggrieved client based on that client's submission disputing the
7 fees he had paid Petitioner.

8 **5. Recommendation.**

9 The Panel unanimously recommends that the Petition for Reinstatement be
10 accepted pursuant to SCR 116(5) with the following conditions:

- 11 a. Petitioner must remedy any administrative suspension and become
12 current on his CLE requirements.
- 13 b. No later than the 90th day after reinstatement, Petitioner must
14 complete no less than three CLE credits in Ethics and two CLE credits in
15 practice management. Petitioner must report the completion of these
16 particular CLE credits directly to the Office of Bar Counsel and cannot rely
17 on the MCLE department to report them for him.
- 18 c. For two years after the date of reinstatement:
 - 19 i. Petitioner is prohibited from solo practice and must be under
20 the supervision of another attorney;

ii. Petitioner must continue to meet with appropriate medical providers and follow their recommendations; and

iii. Petitioner must report every 90 days to the Office of Bar Counsel regarding his compliance with the first two conditions, including (a) the name of his supervising attorney and (b) the name of his medical providers, that he continues to undergo treatment, and that he continues to be fit to practice law. The quarterly reports must be counter-signed by the supervisor and medical provider.

The panel also recommends that Petitioner be required to pay hearing costs, which consists of the greater of \$2,500 pursuant to SCR 120(5) or the “hard costs” of the proceeding such as transcript expenses, within 30 days of the Supreme Court’s order on reinstatement.

DATED this 16th day of June 2022.

STATE BAR OF NEVADA

Dan Hooge, Bar Counsel

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

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE:

REINSTATEMENT OF
WILLIAM A. SWAFFORD, ESQ.
STATE BAR NO. 11469

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

William A. Swafford, Esq.
21385 Saddleback Rd.,
Reno, NV 89521

Respondent

INDEX
ALPHABETICAL LIST OF DOCUMENTS

<u>Description</u>	<u>Page Nos.</u>	<u>Vol.</u>
Amended Notice of Hearing (Filed November 17, 2021)	35-37	I
Certificate of Service	1114	IX
Findings of Fact, Conclusions of Law and Recommendation After Formal Hearing (Filed June 15, 2022)	52-58	I
Notice of Reinstatement Hearing (Filed November 1, 2021)	32-34	I
Order Appointing Hearing Panel Chair (Filed September 20, 2021)	26-28	I
Order Appointing Formal Hearing Panel (Filed October 1, 2021)	29-31	I
SCR 116 Petition for Reinstatement Following Discipline and Suspension (Filed September 20, 2021)	1-25	I
State Bar of Nevada's Memorandum of Costs (Filed June 10, 2022)	46-51	I
Stipulation and Order Continuing Formal Hearing and Resetting PreHearing Conference Deadlines (Filed November 29, 2021)	38-41	I
Stipulation and Order Continuing Formal Hearing and Resetting Prehearing Conference Deadlines (Filed January 11, 2022)	42-45	I
Transcript – A.M. session	59-154	I
Transcript – P.M. session (Hearing Held April 20, 2022)	155-221	I

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Hearing Exhibits

222-361	II
362-477	III
478-583	IV
584-690	V
691-799	VI
800-912	VII
913-1022	VIII
1023-1113	IX



FILED

SEP 20 2021

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

1 **WILLIAM A. SWAFFORD, ESQ.**
2 Nevada State Bar No. 11469
3 21385 Saddleback Rd.
4 Reno, Nevada 89521
5 Telephone: 775.440.3449
6 swaffordw@gmail.com
7 *Petitioner in Proper Person*

8 **STATE BAR OF NEVADA**

9 **NORTHERN NEVADA DISCIPLINARY BOARD**

10 IN RE:

11 WILLIAM A. SWAFFORD, ESQ.,

12 Nevada Bar No. 11469

13 Petitioner

Supreme Court of Nevada Case No.:

70200 & 71844

State Bar of Nevada Case No.:

OBC15-0690 & OBC15-1069

14 **SCR 116 PETITION FOR REINSTATEMENT FOLLOWING DISCIPLINE AND**
15 **SUSPENSION**

16 COMES NOW, Petitioner, William A. Swafford, Esq., ("Petitioner") (Nv. Bar No.
17 11469) appearing in proper person, and hereby petitions this Honorable Northern Nevada
18 Disciplinary Board Panel ("NNDBP") of the State Bar of Nevada, to determine and recommend,
19 pursuant to Nevada Supreme Court Rule 116, that he be reinstated as a member of the Bar and
20 authorized to practice law in the State of Nevada.

21 The instant Petition is made and based upon the attached Memorandum of Points and
22 Authorities, all exhibits referenced, incorporated and attached hereto, all papers and pleadings on
23 file with this NNDBP in connection with the disciplinary cases at issue and any testimony
24 provided to this Honorable NNDBP during hearings related to this Petition for Reinstatement.
25
26
27
28

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**
3 **INTRODUCTION**

4 Petitioner seeks to be reinstated to practice law in Nevada pursuant to Nev. Sup. Ct. R.
5 116. Petitioner received two six-month-and-one-day suspensions by way of disciplinary orders
6 filed by the Nevada Supreme Court in Case No(s). 70200¹ and 71844², respectively. The two
7 Orders of Suspension at issue resulted from Office of Bar Counsel (“OBC”) disciplinary cases
8 involving many identical underlying facts and circumstances, and the two cases necessarily
9 required the referencing of one another. As demonstrated in the *Transcript of Formal Hearing*,³
10 October 10, 2016, (OBC Case No. OBC15-0169 – Nev. Sup. Ct. Case No. 71844) Deputy Bar
11 Counsel, Kait Flocchini (“Ms. Flocchini”), responded to a Panelist’s question as to why she had
12 initiated two separate disciplinary cases as opposed to alleging all misconduct in one case:
13

14 Ms. Flocchini: Primarily the aggravating circumstances we present to the Panel
15 are Mr. Swafford’s failure to participate in the proceeding, and the fact that
16 there’s prior discipline. I would characterize it as other discipline.

17 There is another matter for which Mr. Swafford has been suspended and that the
18 representations took place at the same time. So while Mr. Swafford was failing in
19 his duties to the Spencers, he was failing in his duties with other clients in a
20 similar fashion. And the other client’s failures have already resulted in a
21 suspension.⁴

22 Mr. Meade: The suspension that he currently has, it was at the same time? What
23 I’m understanding, the same time as when – this all occurred concurrently?

24 Ms. Flocchini: Yes... Just for the ease of reference, the other clients are the
25 Pardos, the other clients. So the representation of Mr. Spencer was happening [at]

26
27 ¹ *Order of Suspension 9/22/2016* filed by the Nevada Supreme Court in Case No. 70200 is
28 attached hereto as **Exhibit A**.

² *Order of Suspension 9/11/2017* filed by the Nevada Supreme Court in Case No. 71844 is
attached hereto as **Exhibit B**.

³ See *Transcript of Formal Hearing*, Oct. 10, 2016, attached hereto as **Exhibit C**.

⁴ See *Transcript of Formal Hearing (Ex. C)* at p. 17:13-23.

1 the same time and the failures were happening at the same time.⁵ ... The cases
2 track together. We received the complaint with respect to the Pardo case prior to
3 receiving the Spencers' complaint. That is why they weren't handled in one
4 hearing together because of the way they came into our office.⁶

5 As acknowledged by Ms. Flocchini, the two disciplinary cases arose from a common
6 nucleus of underlying facts and circumstances, and because they "tracked together" it was hard
7 to address the second case without referencing the first case. Dep. Bar Counsel suggested that all
8 of Rules of Professional Conduct ("RPC") violations in both cases could have been alleged in a
9 single complaint, but she initiated two separate proceedings due to the timing regarding when the
10 complaints were filed with her office. Given the close connection between these cases, it would
11 be difficult and inefficient to address each suspension in separate reinstatement petitions/
12 proceedings, and for this reason both suspension orders are addressed in the instant Petition.

13 At the outset, Petitioner would initially like to state to this Honorable Panel that he
14 recognizes, understands and appreciates the wrongfulness and momentousness of his actions for
15 which he was disciplined. Petitioner accepts full responsibility for the self-inflicted injuries
16 caused to his professional reputation, all harms to his clients, and of utmost importance, all
17 damages, both actual and potential, to the virtuous reputation of the Nevada Bar. Petitioner has
18 been genuinely embarrassed by his misconduct, resulting discipline and the publication thereof
19 in both Nevada's monthly bar journal and by online publication thereof. Petitioner has learned a
20 great deal from his mistakes and he seeks to move past this unfortunate stage of his legal career
21 and redeem himself by proving himself to be an outstanding lawyer in the future.
22

23 II. 24 LEGAL ANALYSIS PURSUANT TO SCR 116

25 i. Legal Standard

26
27 ⁵ *Transcript of Formal Hearing (Ex. C)* at p. 18:7-16.

28 ⁶ *Id.* at p. 18:19-23.

1 Nevada Supreme Court Rule 116 states that “[a]n attorney suspended for more than 6
2 months may not resume practice unless reinstated by an order of the supreme court.” Nev. Sup.
3 Ct. R. 116(1). Subsection 2 of SCR 116 states, “[a]n attorney may be reinstated or readmitted
4 only if the attorney demonstrates by clear and convincing evidence the following criteria, or if
5 not, presents good and sufficient reason why the attorney should nevertheless be reinstated or
6 readmitted:
7

- 8 (a) Full compliance with the terms and conditions of all prior disciplinary orders;
- 9 (b) The attorney has neither engaged in nor attempted to engage in the unauthorized
10 practice of law during the period of suspension;
- 11 (c) Any physical or mental disability or infirmity existing at the time of suspension
12 has been removed: if alcohol or other drug abuse was a causative factor in the
13 attorney's misconduct, the attorney has pursued appropriate treatment, has
14 abstained from the use of alcohol or other drugs for a stated period of time,
15 generally not less than one year, and is likely to continue to abstain from alcohol
16 or other drugs;
- 17 (d) The attorney recognizes the wrongfulness and seriousness of the misconduct
18 resulting in the suspension;
- 19 (e) The attorney has not engaged in any other professional misconduct since
20 suspension;
- 21 (f) Notwithstanding the conduct for which the attorney was disciplined, the attorney
22 has the requisite honesty and integrity to practice law; and
- 23 (g) The attorney has kept informed about recent developments in the law and is
24 competent to practice.

25 Nev. Sup. Ct. R. 116(2).

26 Petitioner unquestionably satisfies the criteria for reinstatement under the clear and
27 convincing evidence standard applicable, and this Honorable Panel should recommend that he be
28 reinstated to practice law. This hearing panel of the Board will hear arguments and consider the
testimony and evidence presented in order to determine whether Petitioner has met his burden for
seeking reinstatement. See Matter of Reinstatement of Loello, No. 74423, 2018 WL 2431686, at
*1 (Nev. May, 2018).

1 ii. **Petitioner Easily Satisfies the Criteria Listed in SCR 116(2) By Clear**
2 **and Convincing Evidence**

3 After considering all of the evidence and arguments presented, it should be clear that
4 Petitioner satisfies each of the criteria listed in subsection 2 of SCR 116 for the reasons
5 addressed immediately below.

6 a. **Petitioner Has Fully Complied with all Terms and Conditions of All Prior**
7 **Disciplinary Orders.**

8 As stated above, Petitioner was suspended for six-months-and-one-day in two separate
9 disciplinary cases resulting in two disciplinary orders filed by the Nevada Supreme Court,
10 respectively, on September 22, 2016 (Case No. 70200), and on September 11, 2017 (Case No.
11 71844).

12 **Nev. Sup. Ct. Case No. 70200**

13 The first disciplinary order filed in Case No. 70200 (Ex. A) mandated a suspension of
14 six-months-one-day and ordered Petitioner to pay \$500 to the State Bar of Nevada for staff and
15 counsel salaries plus the actual costs of the disciplinary proceedings and mailing expenses within
16 30 days of the order. These costs amounted to \$467.00 for transcript preparation costs and
17 \$74.14 in mailing expenses as reflected by the Bill of Costs, attached hereto as **Exhibit D**.

18 Petitioner did not practice law during his period of suspension and served this suspension in its
19 entirety before his second suspension was ordered nearly one year later. Petitioner timely paid
20 the entire \$1,041.14 in costs and fees as mandated in the disciplinary order to the State Bar.⁷

21 There were no additional terms or conditions stated in this order, and Petitioner fully complied
22 with every term/condition of this order.

23 **Nev. Sup. Ct. Case No. 71844**

24
25
26
27 ⁷ Petitioner will be filing a supplemental appendix that contains proof of payment of all costs, fees and
28 fines imposed in both orders, which he paid timely but does not have proof of payment at the time of
 filing but will file this supplement soon afterward.

1 The Second Order of Suspension mandated an identical term of suspension as the prior
2 order (six-months-and-one-day) beginning on September 11, 2017. Petitioner has not engaged in
3 the practice of law since his initial suspension and fully served his second suspension by the end
4 of March, 2018. The Order in Case No. 71844 stated that Petitioner was required to pay the
5 costs of the bar proceedings, including \$2,500 pursuant to SCR 120, within 30 days of the order.
6 Petitioner had no job or income at the time the Order was filed and pursuant to conversations
7 with Deputy Bar Counsel, he was permitted to make three monthly payments to satisfy the
8 payment. Petitioner made all three payments on time and complied with this mandate of the
9 Order.
10

11 Unlike the first disciplinary order which contained no additional terms or conditions to be
12 satisfied before petitioning for reinstatement, the second order in Case No. 71844 contained two
13 mandatory conditions to be satisfied prior to petitioning for reinstatement. These conditions are
14 discussed immediately below in subsections a(i) and a(ii).
15

16 **(i). Fitness for Duty Evaluation**

17 The Order of Suspension in Case No. 71844 states, “[b]efore applying for reinstatement,
18 Swafford must obtain a fitness-for-duty evaluation from a competent, licensed neurologist.”

19 This condition was recommended by the Northern Nevada Disciplinary Panel in its *Findings of*
20 *Fact, Conclusions of Law, and Recommendation After Formal Hearing*.⁸ The formal hearing at
21

22 issue was held on October 10, 2016, in connection with Case No. OBC15-1069, and during said
23 hearing Petitioner testified about the factors attributing to his mental state when he violated the
24 Nevada Rules of Professional Conduct alleged against him. Petitioner’s entire testimony is
25

26 ⁸ See *Findings of Fact, Conclusions of Law and Recommendation After Formal Hearing*,
27 Disciplinary Case No. OBC15-1069, p. 12 at. para. 3; attached hereto as **Exhibit G**. The
28 transcript of the *formal hearing* to which the Panel’s findings, conclusions and recommendations
relate was mentioned briefly above and is included in the Appendix as **Exhibit C**.

1 transcribed beginning at p. 65, ln. 5, and ending at p. 78, ln. 13 of the Transcript of Formal
2 Hearing, attached as **Exhibit C**.

3 In light of Petitioner's testimony, the Panel made the following findings:

4 Respondent and Routsis had a falling out regarding other cases that they worked
5 on together which impacted Respondent's willingness to communicate regarding
6 the Spencers' matter. See Transcript, 71:22-72:7 (strained relationship with
7 Routsis), 73:15-21 (relationship with Routsis soured), 76:11-25 (opinion that
8 Routsis was trying to hurt him). *At para. 46 of the Findings of Fact, p. 8.*

9 Respondent was dealing with medical issues that impacted his ability to
10 adequately represent the Spencers. Chiefly, Respondent was inaccurately
11 diagnosed and was being treated for Bipolar Disorder, which exacerbated his
12 symptoms of insomnia and anxiety. See Transcript, 89:4-92:9. *At para. 47 of the
13 Findings of Fact, p. 8.*

14 Respondent was re-diagnosed in January 2016 with Traumatic Brain Injury and
15 has been treating the symptoms of that diagnosis since that time. See Transcript,
16 87:11-89:3. Respondent continues to experience insomnia, anxiety, and difficulty
17 focusing. See Transcript, 67:12-24, 69:14-70:3 and 71:13-21 (discussing prior
18 symptoms and 88:8-89:3 (discussing current medical status). *At para. 48 of the
19 Findings of Fact, p. 8.*

20 In its Conclusions of Law, the Panel unanimously found numerous mitigating factors,
21 including those at (a) and (e), which respectively recognized the following mitigating factors:

- 22 a. Personal and emotion problems, including the major illnesses of Respondent's
23 father and uncle and the breakdown of Respondent's romantic relationship
24 (SCR 102.5(2)(c)). At p. 11, para. 11(a).
- 25 e. Mental disability which impacted Respondent's underlying conduct (SCR
26 102.5(2)(i)). At p. 11, para. 11(e).

27 As Petitioner's testimony reveals, at the time(s) he violated the Rules of Professional
28 Conduct for which he was subsequently disciplined, he was suffering from numerous symptoms
caused by an undiagnosed injury to his pituitary gland, was caring for both his father who was
dying of Alzheimer's disease and his uncle who was dying of cancer, and was dealing with the
consequences of a broken professional relationship with another attorney who was co-counsel on
both underlying cases. Consequently, the Panel recommended, and the Supreme Court ordered

1 Petitioner to provide a *fitness-for-duty* evaluation from a competent neurologist with his
2 reinstatement petition.

3 This condition was slightly problematic because Petitioner had never seen a neurologist
4 until earlier this year after his primary care physician referred him to Dr. Jon Artz, a neurologist
5 with Renown Medical Group in Reno. As is evidenced by Petitioner's prior testimony, he was
6 initially treated by numerous physicians and psychiatrists in Chicago who collectively
7 misdiagnosed him with bipolar disorder and medicated him with prescriptions that did nothing to
8 help him. It was not until Petitioner consulted with a Reno area endocrinologist in 2015 that he
9 was properly diagnosed with a traumatic brain injury affecting his pituitary gland,
10 hypopituitarism, and was finally treated effectively for the symptoms resulting from his serious
11 head injury.⁹ Petitioner has been regularly seeing both his endocrinologist and his primary care
12 physician every three months since 2015. While both physicians are aware of the symptoms
13 Petitioner suffered from at the time he committed the violations he was disciplined for, and
14 specifically treated him for those symptoms for numerous years, Dr. Artz has only known
15 Petitioner a few months based on two short office visits. During those visits Petitioner discussed
16 his struggle with migraines and explained to Dr. Artz his need for a *fitness-for-duty* evaluation.
17

18 Dr. Artz ordered and analyzed an MRI of Petitioner's brain and shared his written report
19 using MyChart, an online messaging system that facilitates efficient sharing of medical records
20 and communications with physicians and their patients. Dr. Artz's report stated that he analyzed
21 the MRI of Petitioner's brain without contrast and there was nothing suggesting a disease or
22 disorder within the brain matter itself that could be responsible for his migraines or any other
23
24
25

26 ⁹ Petitioner was playing competitive flag football and while attempting to catch a pass, a defender going
27 for an interception hit heads with him and caused his skull to be shattered in numerous locations. The
28 worst injury was to the cheek and sinus area of Petitioner's right side. This entire side of his face had to
be reconstructed. Other areas of his skull were repaired as well.

1 problem. Petitioner subsequently requested Dr. Artz to write a letter to the State Bar explaining
2 that he reviewed an MRI of his brain and could conclude that he did not suffer from any injuries
3 or diseases that would prevent or otherwise limit his ability to practice law. Dr. Artz did not
4 write a letter specifically addressed to the State Bar, but instead sent Petitioner a MyChart
5 message on July 26, 2021, stating verbatim as follows:
6

7 Will,

8 There is nothing on your Brain MRI from May 4th 2021 that is abnormal. I do not
9 have any reason or neurological evidence at this point to suggest that you CAN
10 NOT practice law at this time. Having migraine headaches should not preclude
11 you from practicing law.

11 Jonathan Artz MD

12 Dr. Artz's initial report addressing his conclusions about the MRI, Petitioner's written
13 letter to Dr. Artz specifically requesting a *fitness-for-duty* evaluation letter for the State Bar, and
14 the short letter Dr. Artz sent to Petitioner in response response concerning his ability to practice
15 law are all attached hereto as **Exhibit F**.

16 Provided Dr. Artz's conclusions are based entirely on his assessment of a recent MRI
17 with minimal knowledge of Petitioner's prior symptoms and his progress dealing with them over
18 the previous five years, Petitioner additionally requested his primary care physician to provide
19 him with a similar *fitness-for-duty* evaluation. P.A.-C, Matthew C. Wiese wrote a letter stating
20 that Petitioner has been under his care since February of 2019, and he has seen Petitioner every
21 three months during that time, and he has witnessed firsthand his conditions of anxiety and
22 depression and ADHD improve significantly with the help of medication and personal growth.
23 He concludes that he feels Petitioner should have due process from the State Bar of Nevada and
24 have his attorney license reinstated. Both the initial letter sent to Dr. Wiese by Petitioner
25 requesting the written *fitness-for-duty* evaluation, and the evaluation written by Dr. Wiese in
26 response are attached hereto at **Exhibit G**.
27
28

1 As evidenced by the letters and reports attached at Exhibits F and G, Petitioner has fully
2 complied with the first of the two conditions mandated in the Order of Suspension by meeting
3 with a neurologist, scheduling an MRI of his brain and requesting a *fitness-for-duty* evaluation
4 which was subsequently completed by a licensed and competent neurologist. Additionally,
5 because the neurologist knew little about the prior symptoms such as anxiety, depression and
6 ADHD that attributed to Petitioner's professional misconduct, his primary care physician was
7 asked for a *fitness-for-duty* evaluation as well which was also provided.
8

9 **(ii). Participating in Fee Dispute Proceedings**

10 The second of the two conditions mandated by the Order of Suspension in Case No.
11 71844 states, "*Swafford shall participate in any fee dispute arbitration proceeding instituted by*
12 *his client and shall abide by any award issued thereby.*"
13

14 The Order of Suspension in Case No. 71844 was filed by the Nevada Supreme Court on
15 September 11, 2017, and Petitioner was suspended from the practice of law for six-months-and-
16 one-day, with the suspension expiring sometime in mid-March of 2018. Participating in any fee
17 dispute arbitration commenced by client Jeffrey Spencer was a mandatory condition precedent to
18 the filing of Petitioner's reinstatement matter. However, Mr. Spencer did not file a fee dispute
19 application until October 1, 2019, by filing a claim with the State Bar's Fee Dispute Committee.
20 This was more than two years after the Order of Suspension was filed in Case No. 71844, and
21 more than three years after the formal hearing on October 10, 2016, attended by Mr. Spencer.
22

23 Had Petitioner attempted seek reinstatement as soon as possible following expiration of
24 his suspensions (mid-March of 2018) he would have been precluded from doing so due to Mr.
25 Spencer's delay in filing a claim for fee-dispute arbitration. While outlining his arguments for
26 reinstatement Petitioner struggled with the fact that he was unable to fulfill the condition of
27 participating in fee dispute arbitration because no claim was ever filed by Mr. Spencer.
28

1 Petitioner feared that this was unfair because Mr. Spencer had the ability to prevent Petitioner
2 from becoming relicensed for years by simply never instituting fee dispute proceedings.

3 In August of 2020 Petitioner realized that his fears were unfounded as Mr. Spencer did
4 previously file an agreement for a fee dispute arbitration on October 1, 2019, and Fee Dispute
5 Case No. FD19-104 was created. On August 30, 2020, Petitioner emailed the State Bar's Client
6 Protection Coordinator, Cathi Britz, and informed her that he had been notified of Mr. Spencer's
7 attempt to initiate fee dispute arbitration approximately ten months earlier and expressed a
8 sincere desire to participate in that proceeding if still possible.¹⁰ Petitioner explained to Ms.
9 Britz that he had been suspended after two separate disciplinary proceedings and never
10 responded to the allegations against him in either case¹¹ as he had been suffering from debilitating
11 stress, anxiety, insomnia, depression, ADHD and other mental abnormalities and ailments at the
12 time. Petitioner explained that his desire to participate in a fee dispute hearing was not motivated
13 solely by the condition of the disciplinary order mandating he do so, as it was his one and only
14 opportunity to present his own evidence, dispute Mr. Spencer's allegations and argue that he had
15 in fact earned his legal fees.

16 Ms. Britz forwarded Petitioner's email to Theresa Freeman who responded to Petitioner's
17 email¹² approximately two weeks later on September 3rd. Ms. Freeman explained that Mr.
18 Spencer had filed a claim with the Client's Security Fund on January 16, 2020,¹³ and the case file
19
20
21

22
23 ¹⁰ All email correspondence involving the Client Security Fund proceeding in Case No. CSF20-004,
24 including initial communications with Ms. Britz, Theresa Freeman, and Kirk Brennan are in
25 chronological order at **Exhibit H** of the Appendix to this Petition. The initial email sent to Ms. Britz on
26 August 20, 2020, is the first of these emails.

27 ¹¹ Petitioner's only participation in both disciplinary cases was his appearance at the final formal hearing
28 where the purpose was to determine what his recommended punishment should be.

¹² See email from Theresa Freeman dated September 3, 2020, contained within the emails in **Exhibit H**.

¹³ See Mr. Spencer's *CSF Application for Reimbursement* attached hereto at **Exhibit I**.

1 CSF20-004 was assigned to CSF investigator Kirk Brennan who was investigating the claims
2 asserted by Mr. Spencer. Ms. Freeman stated that the claim was initially scheduled for review
3 by the CSF Committee in April of 2020, but due to the Covid-19 pandemic the claim would not
4 be reviewed until the fall meeting at a Zoom hearing entirely online. Ms. Freeman informed
5 Petitioner that he could still respond to the claim filed by Mr. Spencer and provide any evidence
6 he want to rely on to corroborate his position, and his response was due no later than September
7 18, 2020.
8

9 Petitioner spent the next two weeks locating all of the evidence he could find on
10 numerous computers, email accounts, online drives and paper files he had moved in boxes and
11 suitcases. Petitioner arranged much of the evidence in two volumes of an appendix to his
12 response and additionally provided Investigator Brennan with access to online drives containing
13 expansive documents including letters, notes, transcripts, photographs, videos, legal research and
14 written notes, memos and complaints, motions and instructions he had prepared for co-counsel.
15 Petitioner then drafted his response to Mr. Spencer's CSF Application where he argued (for the
16 first time) that Mr. Spencer's allegations were substantially untrue and belied by the supporting
17 evidence Petitioner had gathered for the CSF Committee.
18

19 On September 17, 2020, Petitioner finished writing his responsive arguments and
20 emailed his *Response To CSF Application For Reimbursement* (Case No. CSF20-004) to CSF
21 investigator Kirk Brennan.¹⁴ This was the first time Petitioner had presented any arguments in a
22 proceeding against him that disputed Mr. Spencer's allegations against him. Immense amounts
23 of supporting evidence was provided as well in two separate volumes of the corresponding
24 appendix to Petitioner's Response.¹⁵
25

26
27 ¹⁴ Petitioner's Response to CSF Application for Reimbursement is attached hereto as **Exhibit J**.

28 ¹⁵ Volume I of the Appendix is attached hereto as **Exhibit K** and Volume II is attached at **Exhibit L**.

1 In Mr. Spencer's CSF Application for Reimbursement (and supporting exhibits) he
2 specifically stated as follows:

3 Mr. Swafford was paid \$35,000 and did not fulfill his contract. At the hearing at
4 the Nv. Bar, Mr. Swafford admitted to not doing what he was contracted for, he
5 was required by the Bar to provide proof of the work he did and the time spent.
6 He did not provide this either and never responded to the bar or my request when
I filed a fee dispute.¹⁶

7 These assertions by Mr. Spencer were consistent with what he had been alleging for
8 years; that Petitioner took his \$35,000 in legal fees without performing the agreed upon legal
9 work and then disappeared and failed to participate in proceedings before the State Bar. Mr.
10 Spencer alleged that with respect to his fee dispute request Petitioner failed to provide the State
11 Bar with proof of the work he did on the case and the time spent doing it. These allegations are
12 bellied by the evidence. As addressed above, Petitioner did not previously participate in bar
13 proceedings and challenge Mr. Spencer's allegations because he was not capable of doing so.
14 Once Petitioner's health improved and he recovered from the deaths of his father and uncle he
15 began addressing the allegations relevant to the fee dispute matter and wished that he had
16 challenged many of these allegations previously. While Petitioner accepts total responsibility for
17 each of the rules of professional conduct he violated, the fee dispute proceeding was his only
18 chance to stand up for himself and challenge allegations against him in the second proceeding.
19 When Petitioner learned that Mr. Spencer had attempted to initiate a fee dispute hearing for
20 which he was never notified, he immediately contacted Ms. Britz and asked to participate in that
21 requested hearing or institute another hearing involving the same dispute. Petitioner informed
22 Mr. Britz that he wanted to finally present evidence showing that the complaints of Mr. Spencer
23 relating to the fee dispute matter were misguided, and avoiding said proceeding was the exact
24 opposite of what he sought to do. In fact, once Petitioner was granted permission to file a
25
26
27

28 ¹⁶ See Ex. J at p. 5.

1 response to Mr. Spencer's Application for Reimbursement, he immediately gathered all the
2 evidence he could find, prepared a response and emailed everything he was able to complete in
3 two weeks' time to the CSF Investigator, Mr. Brennan. This is simply inconsistent with the claim
4 that Petitioner purposefully avoided a fee dispute hearing and presenting evidence of the work he
5 completed on Mr. Spencer's case.
6

7 It is worth mentioning here that Mr. Spencer's CSF Application for Reimbursement was
8 completed using a standard form containing a question that asked whether the attorney had died,
9 disappeared, been found mentally incompetent, etc., and specifically asked: "*Has the attorney*
10 *been disbarred or suspended from practice.*" (Paragraph 12 of the Application). Mr. Spencer
11 checked the boxes corresponding with the assertions that, (i) Petitioner had been suspended from
12 practice, (ii) Petitioner had disciplinary proceedings instituted against him in the State of
13 Nevada, and (iii) Petitioner had disappeared.¹⁷ These questions are important in light of an email
14 sent to Petitioner by Theresa Freeman on April 15, 2021, where she stated, "fee disputes are
15 referred to the Client's Security Fund when an attorney is suspended or disbarred if there is a
16 question of unearned fees that are no longer present in an attorney's trust account, then the taking
17 of those fees without having earned them can be considered by the CSF."¹⁸ Thus, if an attorney
18 is suspended and has been paid attorney fees that are not held in an IOLTA account, and there is
19 a question as to whether they were earned, it is proper for the CSF Committee to hear the
20 dispute. Hence, because Petitioner was suspended from practicing law and the CSF Application
21 claimed that Petitioner was paid \$35,000, did not earn any of those fees and did not deposit them
22 in an IOLTA account the fee dispute was properly before the CSF Committee which had the
23 authority to determine whether they were unearned and/or if Mr. Spencer's request for
24
25
26

27 ¹⁷ As demonstrated by the transcript of the Formal Hearing

28 ¹⁸ See Exhibit H, email dated April 15, 2021 from Theresa Freeman to Petitioner.

1 reimbursement of stolen funds should be approved in whole or in part.

2 At the CSF Committee meeting held on November 13, 2020, the investigator assigned to
3 the case, Mr. Brennan, presented his recommendations to the Committee which then decided to
4 approve Mr. Spencer's application for reimbursement in part in the amount of \$5,000. Thus,
5 while Mr. Spencer had claimed for years that Petitioner did nothing whatsoever to earn the
6 \$35,000 he paid him in legal fees and committed criminal acts of theft by failing to return them
7 in full, after a thorough review of the evidence and hearing from Investigator Brennan the CSF
8 Committee approved only 14.2% of his requested reimbursement.
9

10 With respect to the second condition of reinstatement mandated by the language of the
11 Order of Suspension filed in Case No. 71844, in consideration of all things relevant, *Petitioner*
12 *clearly complied with the condition that he participate in a fee dispute proceeding initiated by*
13 *Mr. Spencer before petitioning for reinstatement.* Mr. Spencer waited several years to file his
14 claim with the Fee Dispute Committee, finally doing so on October 3, 2019. Mr. Swafford was
15 not notified of this proceeding until August of 2020 after he began preparing his Petition and
16 researching how to proceed without an opportunity to participate in a fee dispute proceeding.
17 His communications with Ms. Britz and Ms. Freeman show that he tried to participate in the fee
18 dispute case that had been initiated by Mr. Spencer ten months earlier, and when he was
19 informed that the matter was before the CSF Committee he immediately drafted and sent his
20 *Response To CSF Application For Reimbursement* to the assigned CSF investigator. During the
21 CSF Committee meeting in November of 2020 the Committee decided to grant Mr. Spencer's
22 application in part for the amount of \$5,000, and Petitioner will send a check to fully reimburse
23 the CSF Committee in the amount of \$5,000 immediately after filing of the instant petition.¹⁹
24
25
26

27 ¹⁹ Proof of this payment will be attached to the supplemental appendix to be filed soon after the filing of
28 the instant Petition.

1 Petitioner has clearly complied fully with all terms and conditions of all disciplinary
2 orders filed against him in both cases.

3 **b. Any Physical or Mental Disability or Infirmary Existing at the Time of the**
4 **Suspension Has Been Removed**

5 SCR 116(2)(c) states that any physical or mental disability or infirmity existing at the
6 time of the suspension must be shown to have been removed. As discussed in the previous
7 section, the Northern Nevada Disciplinary Hearing Panel found that at the time Petitioner
8 violated the rules of professional conduct he was suffering from “personal and emotional
9 problems including the major illnesses of his father and uncle and the breakdown of his romantic
10 relationship.” *See Conclusions of Law*, p. 11, para. 11(a) (Ex. E). It additionally found that he
11 suffered from a mental disability which impacted his underlying conduct. *See Conclusions of*
12 *Law*, p. 11, para. 11(e) (Ex. E). The evidence and analysis provided in the previous section
13 demonstrates by clear and convincing evidence that Petitioner has been receiving treatment from
14 his injuries and prior emotional problems and is doing substantially better. He was not ordered
15 to see a mental health expert, although he has in fact seen one, and was only ordered to obtain a
16 fitness-for-duty evaluation from a competent and licensed neurologist, which he has done.

17 Petitioner has demonstrated that he is medically fit to practice law and does not suffer
18 from any injuries or diseases to the matter of his brain itself. It has been nearly three years since
19 his dad and uncle died, and he has been able to resolve the numerous property issues and
20 disputes that immediately followed their deaths which caused him to suffer additional emotional
21 distress at the time. **Petitioner has established by sufficient evidence that he no longer**
22 **suffers from the mental disability that impacted him at the time he violated the rules of**
23 **professional conduct that he was suspended for.**

24 **c. Petitioner Has Neither Engaged in Nor Attempted to Engage in the**
25 **Unauthorized Practice of Law While Suspended, Has Not Engaged in**
26 **Any Other Professional Misconduct, and Has Kept Informed About**

1 **Recent Developments in the Law and is Competent to Practice**

2 This section addresses the criteria listed in subdivisions (b) (e) and (g) of SCR 116(2).
3 These subdivisions address suspended attorneys' conduct during the periods they are suspended,
4 and prohibit them from practicing law or engaging in any other professional misconduct during
5 that time. SCR 116(2) (b) & (e). Subdivision (g) requires suspended lawyers to keep informed
6 concerning recent developments in the law and is competent to practice. For the reasons
7 discussed below, Petitioner easily satisfies each of these criteria.
8

9 Long before either of the two disciplinary cases against Petitioner had been commenced
10 he had already stopped representing his own clients due to the debilitating symptoms of his then
11 misdiagnosed brain injury which caused extreme anxiety, depression, mood swings, insomnia
12 and inability to concentrate. His family issues and uncertain future made these problems even
13 worse, and Petitioner quit trying to practice law, and instead focused on legal consulting. Instead
14 of representing individual clients and handling their personal legal issues, Petitioner worked
15 exclusively for other criminal lawyers and assisted them with specific issues in their cases as an
16 independent contractor for hire on a case-by-case and issue-by-issue basis. The attorney who
17 hired Petitioner to assist with their cases remained the sole attorney responsible for handling their
18 client's legal issues and Petitioner worked for the attorney only with no duties owed to that
19 attorney's clients who would never know of Petitioner's existence. Petitioner began working
20 primarily for attorney William J. Routsis, a criminal defense attorney with an office located in
21 Reno, Nevada. Petitioner was hired by Mr. Routsis to write various motions in criminal cases
22 including pretrial motions to suppress evidence, appellate briefs and a mix of petitions, motions
23 and replies in connection with postconviction writs of habeas corpus. Petitioner worked on these
24 cases with Mr. Routsis as an independent contractor legal consultant who owed no professional
25 duties to Mr. Routsis's individual clients.
26
27
28

1 The two cases underlying Petitioner's suspensions were the only cases Petitioner was
2 involved with where he personally represented clients, and he did so in both cases at the request
3 of Mr. Routsis who was co-counsel in both cases. These were the last two cases Petitioner
4 worked on where he actually engaged in the practice of law.
5

6 After the relationship between Petitioner and Mr. Routsis fell apart Petitioner started
7 working exclusively for attorney David R. Houston, an outstanding, highly respected attorney
8 with an office in Reno, Nevada. Mr. Houston's law practice is primarily focused on the area of
9 criminal defense and representing individuals charged with crimes in both state and federal
10 courts at all stages of criminal cases, ranging from prearrest investigation to postconviction
11 matters. Mr. Houston also practices civil law and represents clients in family law matters,
12 personal injury cases, civil rights litigation and complex tort claims as well.
13

14 Attached to the instant Petition as **Exhibit M** is a letter from Mr. Houston explaining the
15 nature of the work Petitioner is hired to do for him, and the value and attributes unique to
16 Petitioner. This letter, coupled with Petitioner's basis of knowledge concerning the work he has
17 done and continues to do for Mr. Houston is the basis of all following statements alleged below
18 in this subsection.
19

20 During the time in which the two disciplinary cases against Petitioner were pending,
21 and at all times thereafter, Petitioner has worked solely in the capacity of an independent
22 contractor, legal-consultant and ghost-writer, almost exclusively for Mr. Houston who gives him
23 a great deal of work, and oftentimes much more work than he is capable of handling. This work
24 consists of analyzing case files and writing memos addressing issues that may be successfully
25 argued to minimize potential punishment, as well as and drafting motions, petitions, appellate
26 briefs, post-conviction writs, letters to opposing counsel and any other legal document requested.
27 Mr. Houston retains sole responsibility for the handling of each of these cases, and at no time
28

1 during this working relationship has Petitioner ever engaged or attempted to engage in the
2 practice of law.

3 Working with Mr. Houston has afforded Petitioner with an invaluable, unique
4 opportunity to work on narrow, specific issues in connection with some of the most publicized,
5 unique and complex criminal, civil and administrative cases in Northern Nevada. The work
6 assignments given to Petitioner by Mr. Houston require him to continuously research and stay
7 informed of changes and developments in wide ranging areas of law. Petitioner has drafted
8 countless motions for filing at various stages of criminal and administrative cases, has prepared
9 appellate briefs in many of these same cases and has drafted successful postconviction writs of
10 habeas corpus resulting in convictions being vacated.
11

12 Mr. Houston oftentimes requests Petitioner to review complex DUI cases involving
13 felony charges and asks him to identify potential defenses involving jurisdiction issues,
14 challenges of chemical testing procedures and statutory interpretation of various statutes and
15 regulations pertinent to the charges. The unique, intricate and convoluted issues researched,
16 analyzed and explained by Petitioner during his work with Mr. Houston requires him to
17 continuously read cases from jurisdictions all over the United States that interpret and apply
18 Fourth Amendment, Fifth Amendment, Sixth Amendment, Eighth Amendment and Fourteenth
19 Amendment legal standards to rapidly evolving technologies and procedures utilized by law
20 enforcement agencies. Petitioner keeps sufficiently apprised of legislative amendments to
21 Nevada's statutes which are applicable to both criminal and administrative cases. In order to
22 perform the work that Mr. Houston hires him for, Petitioner must continuously monitor proposed
23 bills in both the assembly and the senate, track their progress, review letters and documents in
24 support or opposition thereof and anticipate how these amendments/enactments will create
25 opportunities for new arguments in future cases.
26
27
28

1 Petitioner's knowledge of the law and his unique ability to understand complex, wide
2 ranging legal issues and their applications to specific, unique factual scenarios has never been
3 disputed. Mr. Swafford was able to pass three bar exams all on his first attempt – Nevada,
4 Massachusetts and Illinois. Petitioner has been working with experienced criminal defense
5 lawyers and assisting them with the more complex issues arising in their cases since graduating
6 from law school in 2009, and the best criminal defense lawyers in Norther Nevada utilize his
7 expertise in their most challenging, meaningful cases.

9 **Petitioner has neither engaged in nor attempted to engage in the unauthorized**
10 **practice of law during the period of his suspension.** Even when Petitioner is relicensed to
11 practice law in Nevada it is extremely likely that he will continue working exclusively as a legal
12 consultant hired on a case-by-case basis by other criminal defense lawyers and will rarely
13 represent clients in his own cases. SCR 116(2)(b). **Petitioner has not engaged in any other**
14 **professional misconduct while he has been suspended, and there is no reason to suggest**
15 **that he has done so.** Petitioner has acquired an appreciation of the Rules of Professional
16 Conduct that he previously did not have over the previous few years while he was suspended,
17 and he will never violate any of these rules again. SCR 116(2)(e). **Finally, for the reasons**
18 **mentioned above, Petitioner has kept informed about recent developments in the law, and**
19 **he is competent to practice law.** SCR 116(2)(g).

22 **d. Petitioner Recognizes the Wrongfulness and Seriousness of the**
23 **Misconduct Resulting in Suspension, and Notwithstanding the Conduct**
24 **For Which He Was Disciplined He has the Requisite Honesty and**
25 **Integrity to Practice Law**

26 The final two criteria listed in SCR 116(2) are subdivisions (d) and (f), which require a
27 showing by an attorney seeking reinstatement that he recognizes the wrongfulness and
28 seriousness of the misconduct resulting in the suspension (d), and that notwithstanding the
conduct for which he was disciplined, the attorney has the requisite honesty and integrity to

1 practice law. (f).

2 The instant Petition was prepared by Petitioner himself, who is representing himself in
3 proper person before this Honorable Hearing Panel. In the Introduction to this Petition,
4 Petitioner addressed this Panel and stated that he fully recognizes, understands, and appreciates
5 the wrongfulness and momentousness of his actions that amounted to misconduct, violated
6 numerous rules of professional conduct and caused him to be disciplined. Petitioner recognizes
7 that although he was going through an extremely difficult time in his life, and was suffering from
8 severe anxiety, insomnia, depression, mood swings, ADHD and mental anguish generally which
9 were collectively mitigating as to the punishment he received, he still unquestionably committed
10 numerous acts of professional misconduct irrespective of his motives, reasons and intentions.
11 Petitioner understands the rules of professional conduct are regulations tailored and conceived in
12 the public interest and are designed to maintain the preservation of the society in which we all
13 live. Any violation of these important rules of professional conduct compromises and threatens
14 the public interests and even the preservation of society that are served and promoted by these
15 important rules in the first place. Thus, although Petitioner had no ill-will or malicious
16 intentions when he violated the rules, he still violated them and could have caused far more harm
17 than resulted to both himself, his clients, co-counsel, the public and the reputation of the State
18 Bar of Nevada. Petitioner is extremely embarrassed by his actions and regrets the misconduct
19 for which he was suspended. His life has been negatively impacted in numerous ways and he
20 has learned an invaluable lesson that he hopes serves him well in moving past this unfortunate,
21 low point of his life. Petitioner knows that he can make a positive and meaningful impact on this
22 State and can be an asset to Nevada's legal community, and for this reason he now seeks
23 reinstatement to practice law.
24
25
26

27 Furthermore, irrespective of Petitioner's misconduct for which he was disciplined, he
28

1 possesses the requisite honesty and integrity to practice law. Petitioner's misconduct did not
2 involve acts of dishonesty or malicious misconduct, but rather resulted in large part from
3 personal failures to recognize his personal shortcomings and limitations. Petitioner had become
4 aware that something was wrong with him medically which limited his ability maintain the life
5 he had recently created for himself. Petitioner had moved from Nevada to Chicago, Illinois and
6 organized a solo criminal defense practice with no connections or assistance and he was
7 completely on his own. He lived with his girlfriend of several years in a downtown apartment
8 and had obligations to her, her family, and those who helped them domestically while they both
9 worked exceptionally long hours. Petitioner's law practice required so much time and energy he
10 literally lived at his office most of the time and neglected his health, his girlfriend, his
11 obligations to her family, his own family and all of his other duties. As his health deteriorated
12 and his mental issues worsened, he gained considerable weight and became extremely stressed
13 out, anxious, tired and depressed. The situation became unsustainable, and he was twice taken to
14 the hospital in an ambulance. Petitioner quit taking on new cases and worked on finishing the
15 cases he already had, and he stopped paying for online marketing and other expenses associated
16 with getting new clients. Petitioner began traveling home to Reno more frequently after his
17 father and uncle became terminally ill, and he became even more stressed, depressed, anxious,
18 overweight and unhealthy.

21
22 Petitioner resumed working with Mr. Routsis who he had worked with a few years
23 previously as a consultant and ghost writer and was paid on a case-by-case basis. At the request
24 of Mr. Routsis, Petitioner eventually took on the representation of clients in two cases as co-
25 counsel to Mr. Routsis, and when his life became unmanageable following his father's
26 deteriorating condition and his own worsening health issues he began arguing with Mr. Routsis
27 about his limitations and difficulty performing the work Mr. Routsis wanted him to complete.
28

1 This argument escalated to the point where Petitioner eventually quit working with him as co-
2 counsel on his only two cases where he was actually practicing law, and he ended up being
3 disciplined in connection with both cases. During the time that the State Bar brought the two
4 disciplinary cases against him, Petitioner had to move, end his relationship, set up a living
5 situation where he could care for both his uncle and father while they died of their illnesses and
6 seek medical treatment for his own deteriorating ailments. Petitioner became mentally incapable
7 of responding to either complaint against him or communicating with the State Bar, and after all
8 allegations against him were deemed admitted by Petitioner he was disciplined and suspended in
9 both cases. In hindsight, Petitioner brought all of the discipline upon himself by trying to take on
10 too much responsibility at a time when he knew that something was wrong and he was incapable
11 of doing all of the things he forced upon himself. However, all things considered, none of his
12 misconduct involved dishonesty or character flaws, and Petitioner has always been very honest
13 and a person of great character. Petitioner sacrificed his relationship, his business, his health and
14 potentially his career so that he could take care of his dad and uncle at the end of their lives, and
15 help his mother with a terrible situation so that she could keep working and maintain her health
16 and sanity while her husband and brother died.

17
18
19 **This Hearing Panel Should find by clear and convincing evidence that Petitioner**
20 **recognizes the wrongfulness and seriousness of his misconduct, and irrespective of his**
21 **misconduct he has the requisite honesty and integrity to practice law.**

22
23 **iii. CONCLUSION**

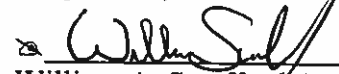
24 Petitioner respectfully requests that this Board determine and recommend to the Nevada
25 Supreme Court that he be immediately reinstated to practice law in Nevada. Petitioner served his
26 suspension and used the time to get his health and personal life in order. Petitioner demonstrates
27 remorse, regret and embarrassment, and he accepts full and total responsibility for the acts of
28

1 professional misconduct for which he was disciplined. If reinstated Petitioner will abide by the
2 Nevada Rules of Professional Conduct and will serve the community by practicing in the area of
3 criminal law, primarily as a consultant to other lawyers. He wants to move forward and make
4 valuable contributions to the State Bar of Nevada.

5
6 For these reasons, the Board should approve this Petition in its entirety.

7 DATED this 20th day of September, 2021

8 Respectfully submitted

9 

10 William A. Swafford, Esq.

11 Nevada State Bar No. 11469

12 21385 Saddleback Rd.

13 Reno, Nevada 89521

14 Telephone: 775.440.3449

15 swaffordw@gmail.com

16 *Petitioner in Proper Person*

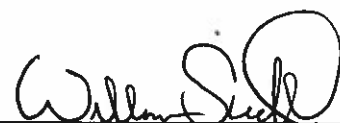
VERIFICATION

I, William A. Swafford, Petitioner, declare as follows:

That I am the Petitioner in the above-captioned action; that I have read the foregoing Petition for Reinstatement and I know the contents thereof; and that the same is true of my own knowledge, except for those matters therein stated upon information and belief, which, as to such matters, I believe to be true.

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

EXECUTED this 20th day of September, 2021.



William A. Swafford



FILED

SEP 20 2021

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

Case Number: SBN21-99129

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
)
vs.)
)
WILLIAM A. SWAFFORD, ESQ.)
)
NV BAR No. 11469)
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. Rich Williamson, Esq., Chair

DATED this 20 day of September, 2021.

STATE BAR OF NEVADA

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

North Hearing Chair Ord_Swafford

Final Audit Report

2021-09-20

Created:	2021-09-20
By:	Cathi Britz (cathib@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAA0x50UXjttKklbmIBGgBPmG0jiF1CR7S8

"North Hearing Chair Ord_Swafford" History

-  Document created by Cathi Britz (cathib@nvbar.org)
2021-09-20 - 8:01:03 PM GMT- IP address: 98.180.225.67
-  Document emailed to Eric A. Stovall (eric@ericstovalllaw.com) for signature
2021-09-20 - 8:01:24 PM GMT
-  Email viewed by Eric A. Stovall (eric@ericstovalllaw.com)
2021-09-20 - 9:01:29 PM GMT- IP address: 76.209.6.196
-  Document e-signed by Eric A. Stovall (eric@ericstovalllaw.com)
Signature Date: 2021-09-20 - 9:02:24 PM GMT - Time Source: server- IP address: 76.209.6.196
-  Agreement completed.
2021-09-20 - 9:02:24 PM GMT

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. William Swafford, Esq. – swaffordw@gmail.com
2. Kait Flocchini, Esq. – kaitf@nvbar.org
3. Rich Williamson, Esq. - rich@nvlawyers.com

Dated this 20th day of September 2021.

Laura Peters

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



FILED

OCT 01 2021

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

Case Nos.: SBN21-99129

STATE BAR OF NEVADA
NORTHERN NEVADA DISCIPLINARY BOARD

IN RE: PETITION FOR REINSTATEMENT)
)
)
WILLIAM SWAFFORD,)
)
Nevada Bar No. 11469)
Petitioner)

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 1st day of December, 2021 starting at 9:00 a.m. via Zoom Video Conferencing.

1. Rich Williamson, Esq., Chair;
2. William Hanagami, Esq.
3. Tim Meade, Laymember

DATED this 1st day of October, 2021

STATE BAR OF NEVADA

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

North Reinstatement Ord__Swafford

Final Audit Report

2021-10-01

Created:	2021-10-01
By:	Cathi Britz (cathib@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAA-lvkB9th7dqtnz2OBUNMuh4Zt_QVfwlB

"North Reinstatement Ord__Swafford" History



Document created by Cathi Britz (cathib@nvbar.org)

2021-10-01 - 7:47:33 PM GMT- IP address: 98.180.225.67



Document emailed to Eric A. Stovall (eric@ericstovalllaw.com) for signature

2021-10-01 - 7:47:56 PM GMT



Email viewed by Eric A. Stovall (eric@ericstovalllaw.com)

2021-10-01 - 7:49:07 PM GMT- IP address: 76.209.6.196



Document e-signed by Eric A. Stovall (eric@ericstovalllaw.com)

Signature Date: 2021-10-01 - 7:49:51 PM GMT - Time Source: server- IP address: 76.209.6.196



Agreement completed.

2021-10-01 - 7:49:51 PM GMT



Adobe Sign

CERTIFICATE OF SERVICE BY E-MAIL

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

Appointing Formal Hearing Panel was served electronically upon:

1. William Swafford, Esq. - swaffordw@gmail.com
2. Kait Flocchini, Esq. – kaitf@nvbar.org
3. Rich Williamson, Esq. - rich@nvlawyers.com
4. William Hanagami, Esq. – Bill@Hanagami.com
5. Tim Meade - timmeade1@yahoo.com

Dated this 1st day of October 2021.

Laura Peters

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



FILED

NOV 01 2021

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

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

In Re REINSTATEMENT OF

WILLIAM SWAFFORD, ESQ.

Bar No. 11469

Petitioner.

NOTICE OF REINSTATEMENT
HEARING

TO: William Swafford, Esq.
21385 Saddleback Rd.
Reno, NV 89521

PLEASE TAKE NOTICE that the formal hearing in the above-entitled action has been scheduled for **Wednesday, December 1, 2021, beginning at the hour of 9:00 a.m.** The hearing will be conducted via Zoom (meeting #89095820392). You are entitled to be represented by counsel, to cross-examine witnesses, and to present evidence.

DATED this day of November 2021.
~~NOV 1, 2021~~

STATE BAR OF NEVADA
Daniel M. Hooe, Bar Counsel


By: Kait Flocchini

R. Kait Flocchini, Assistant Bar Counsel
9456 Double R. Blvd., Ste. B
Reno, Nevada 89521
(775) 329-4100
Attorney for State Bar of Nevada

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

The foregoing documents were also e-mailed to: swaffordw@gmail.com,
kaitf@nvbar.org

DATED this 15th day of November 2021.



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


Notice of Hearing

Final Audit Report

2021-11-01

Created:	2021-11-01
By:	Laura Peters (laurap@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAekFdgxNGFdKpKHj6pYYJbZp3bFi6NKi7e

"Notice of Hearing" History

-  Document created by Laura Peters (laurap@nvbar.org)
2021-11-01 - 7:18:14 PM GMT- IP address: 71.94.199.108
-  Document emailed to Kait Flocchini (kaitf@nvbar.org) for signature
2021-11-01 - 7:18:41 PM GMT
-  Email viewed by Kait Flocchini (kaitf@nvbar.org)
2021-11-01 - 7:29:23 PM GMT- IP address: 13.57.238.31
-  Document e-signed by Kait Flocchini (kaitf@nvbar.org)
Signature Date: 2021-11-01 - 7:29:48 PM GMT - Time Source: server- IP address: 24.180.40.66
-  Agreement completed.
2021-11-01 - 7:29:48 PM GMT



FILED

NOV 17 2021

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

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

In Re REINSTATEMENT OF)
WILLIAM SWAFFORD, ESQ.)
Bar No. 11469)
Petitioner)

AMENDED NOTICE OF HEARING

PLEASE TAKE NOTICE that the Reinstatement Hearing in the above-entitled action has been rescheduled for **Thursday, January 20, 2022, beginning at the hour of 9:00 a.m.** The hearing will be conducted via Zoom (new meeting number to be distributed at later date). You are entitled to be represented by counsel, to cross-examine witnesses, and to present evidence.

DATED this Nov 17 day of Nov November 2021.

STATE BAR OF NEVADA
DANIEL M. HOOGE, BAR COUNSEL

By: [Signature: Kait Flocchini]
R. Kait Flocchini, Assistant Bar Counsel
Nevada Bar No. 9861
9456 Double R Blvd., Ste. B
Reno, NV 89521
(775) 329-4100

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5

Amended Notice of Hearing was served by electronic mail upon:

William Swafford, Esq. - swaffordw@gmail.com
 Rich Williamson, Esq. - rich@nvlawyers.com
 Bill Hanagami, Esq. - bill@hanagami.com
 Tim Meade - timmeade1@yahoo.com
 R. Kait Flocchini, Esq. - kaitf@nvbar.org

Dated this 17th day of November 2021.

Laura Peters

Laura Peters, an employee of
the State Bar of Nevada






2021.11.17.Amended Notice of Hearing

Final Audit Report

2021-11-17

Created:	2021-11-17
By:	Laura Peters (laurap@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAATNbIL9UTLongPjXo8nEHkNfJRYLKdCp-

"2021.11.17.Amended Notice of Hearing" History

-  Document created by Laura Peters (laurap@nvbar.org)
2021-11-17 - 6:29:39 PM GMT- IP address: 71.94.199.108
-  Document emailed to Kait Flocchini (kaitf@nvbar.org) for signature
2021-11-17 - 6:30:42 PM GMT
-  Email viewed by Kait Flocchini (kaitf@nvbar.org)
2021-11-17 - 6:56:45 PM GMT- IP address: 13.52.61.199
-  Document e-signed by Kait Flocchini (kaitf@nvbar.org)
Signature Date: 2021-11-17 - 6:57:03 PM GMT - Time Source: server- IP address: 71.83.120.174
-  Agreement completed.
2021-11-17 - 6:57:03 PM GMT



FILED

NOV 29 2021

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

STATE BAR OF NEVADA
NORTHERN NEVADA DISCIPLINARY BOARD

In Re REINSTATEMENT OF

WILLIAM SWAFFORD, ESQ.

Bar No. 11469

Petitioner

STIPULATION AND ORDER
CONTINUING FORMAL
HEARING AND RESETT
PREHEARING CONFERENCE
DEADLINES

Petitioner William Swafford, Esq., and the State Bar of Nevada, by and through Assistant Bar Counsel, R. Kait Flocchini, Esq., hereby stipulate and agree to continue the Formal hearing in this reinstatement matter to January 20, 2022 starting at 9:00 a.m. and conducted via simultaneous audio/visual transmission using the Zoom platform.

///

///

///

///

1 The parties further stipulate and agree to reset the deadline for exchange of marked
2 hearing exhibits and identification of hearing witnesses to January 10, 2022 at 12:00 pm and
3 the date for the Prehearing Conference in this matter to January 11, 2022 at 1:30 pm.

4
5 IT IS HEREBY STIPULATED.

6 Dated this Nov 24 day of November, 2021.

Dated this 24th day of November, 2021.

7 STATE BAR OF NEVADA
8 Daniel M. Hooge, Bar Counsel

9 By: Kait Flocchini
10 R. KAIT FLOCCHINI, Esq.
11 Assistant Bar Counsel
12 Nevada Bar No. 9861
9456 Double R. Blvd, Suite B
Reno, Nevada 89521
Attorney for State Bar of Nevada

By: William Swafford
William Swafford, Esq.
Nevada Bar No. 11469
Petitioner

13 ORDER

14 On agreement of the parties, and good cause appearing,
15 IT IS SO ORDERED.

16 Richard D. Williamson
17 Richard D. Williamson (Nov 29, 2021 10:10 PST)
18 RICHARD WILLIAMSON, ESQ.
Hearing Chair, Northern Nevada Disciplinary Board









William Swafford_stipulation order (002)

Final Audit Report

2021-11-29

Created:	2021-11-24
By:	Laura Peters (laurap@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAjblh7MvdMMbo6EsDpjV9wAHszaDmF_

"William Swafford_stipulation order (002)" History

-  Document created by Laura Peters (laurap@nvbar.org)
2021-11-24 - 11:02:04 PM GMT- IP address: 71.94.199.108
-  Document emailed to Kait Flocchini (kaitf@nvbar.org) for signature
2021-11-24 - 11:03:41 PM GMT
-  Email viewed by Kait Flocchini (kaitf@nvbar.org)
2021-11-24 - 11:21:44 PM GMT- IP address: 54.183.176.12
-  Document e-signed by Kait Flocchini (kaitf@nvbar.org)
Signature Date: 2021-11-24 - 11:22:03 PM GMT - Time Source: server- IP address: 172.58.36.229
-  Document emailed to Richard D. Williamson (rich@nvlawyers.com) for signature
2021-11-24 - 11:22:05 PM GMT
-  Email viewed by Richard D. Williamson (rich@nvlawyers.com)
2021-11-24 - 11:22:25 PM GMT- IP address: 68.190.180.187
-  Document e-signed by Richard D. Williamson (rich@nvlawyers.com)
Signature Date: 2021-11-29 - 6:10:26 PM GMT - Time Source: server- IP address: 68.190.180.187
-  Agreement completed.
2021-11-29 - 6:10:26 PM GMT

CERTIFICATE OF SERVICE BY E-MAIL

The undersigned hereby certifies that a true and correct copy of the foregoing
**Stipulation and Order Continuing Formal Hearing and Resetting Prehearing
Conference Deadlines** was served electronically upon:

1. William Swafford, Esq. - swaffordw@gmail.com
2. Kait Flocchini, Esq. – kaitf@nvbar.org
3. Rich Williamson, Esq. - rich@nvlawyers.com
4. William Hanagami, Esq. – Bill@Hanagami.com
5. Tim Meade - timmeade1@yahoo.com

Dated this 29th day of October 2021.

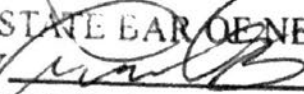
Laura Peters
By: _____
Laura Peters, an employee of
the State Bar of Nevada

Case No.: SBN21- 99129



FILED

JAN 11 2022

STATE BAR OF NEVADA
BY 
OFFICE OF BAR COUNSEL

**STATE BAR OF NEVADA
NORTHERN NEVADA DISCIPLINARY BOARD**

In Re REINSTATEMENT OF
WILLIAM SWAFFORD, ESQ.
Bar No. 11469
Petitioner

**STIPULATION AND ORDER
CONTINUING FORMAL
HEARING AND RESETTING
PREHEARING CONFERENCE
DEADLINES**

Petitioner William Swafford, Esq., and the State Bar of Nevada, by and through Assistant Bar Counsel, R. Kait Flocchini, Esq., hereby stipulate and agree to continue the Formal hearing in this reinstatement matter to April 20, 2022 starting at 9:00 a.m. and conducted via simultaneous audio/visual transmission using the Zoom platform.

///

///

///

///

1 The parties further stipulate and agree to reset the deadline for exchange of marked
2 hearing exhibits and identification of hearing witnesses to April 8, 2022 at 12:00 pm and the
3 date for the Prehearing Conference in this matter to April 11, 2022 at 1:30 pm.
4

5 IT IS HEREBY STIPULATED.

6 Dated this 11th day of January, 2022.

Dated this 11th day of January, 2022.

7 STATE BAR OF NEVADA
8 Daniel M. Hooge, Bar Counsel

9 By: Kait Flocchini
10 R. KAIT FLOCCHINI, Esq.
Assistant Bar Counsel
Nevada Bar No. 9861
11 9456 Double R. Blvd, Suite B
Reno, Nevada 89521
12 *Attorney for State Bar of Nevada*

William Swafford
By: William Swafford (Jan 11, 2022 16:45 PST)
William Swafford, Esq.
Nevada Bar No. 11469
Petitioner

13 **ORDER**

14 On agreement of the parties, and good cause appearing,

15 IT IS SO ORDERED.

16 Richard Williamson
Richard Williamson (Jan 11, 2022 17:09 PST)
17 RICHARD WILLIAMSON, ESQ.
18 Hearing Chair, Northern Nevada Disciplinary Board
19
20
21
22
23
24
25








Swafford Reinstatement Petition: Second Stipulation and Order

Final Audit Report

2022-01-12

Created:	2022-01-11
By:	Kait Flocchini (Kaitf@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAgWata_BhYpAvW8h0dJ4t7Qsk6yNrfwok

"Swafford Reinstatement Petition: Second Stipulation and Order" History

-  Document created by Kait Flocchini (Kaitf@nvbar.org)
2022-01-11 - 5:41:07 PM GMT - IP address: 71.83.120.174
-  Document emailed to William Swafford (swaffordw@gmail.com) for signature
2022-01-11 - 5:41:50 PM GMT
-  Document e-signed by William Swafford (swaffordw@gmail.com)
Signature Date: 2022-01-12 - 0:45:24 AM GMT - Time Source: server- IP address: 209.58.130.54
-  Document emailed to Richard Williamson (rich@nvlawyers.com) for signature
2022-01-12 - 0:45:26 AM GMT
-  Email viewed by Richard Williamson (rich@nvlawyers.com)
2022-01-12 - 1:08:31 AM GMT - IP address: 68.190.180.187
-  Document e-signed by Richard Williamson (rich@nvlawyers.com)
Signature Date: 2022-01-12 - 1:09:00 AM GMT - Time Source: server- IP address: 68.190.180.187
-  Agreement completed.
2022-01-12 - 1:09:00 AM GMT

CERTIFICATE OF SERVICE BY E-MAIL

The undersigned hereby certifies that a true and correct copy of the foregoing
**Stipulation and Order Continuing Formal Hearing and Resetting Prehearing
Conference Deadlines** was served electronically upon:

1. William Swafford, Esq. - swaffordw@gmail.com
2. Kait Flocchini, Esq. – kaitf@nvbar.org
3. Rich Williamson, Esq. - rich@nvlawyers.com
4. William Hanagami, Esq. – Bill@Hanagami.com
5. Tim Meade - timmeade1@yahoo.com

Dated this 11th day of January 2022.

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



FILED

JUN 10 2022

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

Case No. SBN21-99129

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

IN RE REINSTATEMENT OF)
WILLIAM SWAFFORD, ESQ.)
NEVADA STATE BAR NO. 11469,)
PETITIONER)

STATE BAR OF NEVADA'S
MEMORANDUM OF COSTS

Description	Amount
Transcript (Reinstatement hearing held 4/20/22) – Morning session	\$ 1,187.25
Transcript (Reinstatement hearing held 4/20/22) – Afternoon session)	\$ 869.50
SCR 120 Administrative Costs	\$ 2,500.00
Subtotal	\$ 4,556.75
Cost Deposit <\$1,000>	- \$ 1,000.00
Total:	\$ 3,556.75

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

4 Dated this 10th day of June 2022.

5 STATE BAR OF NEVADA
6 DAN HOOGE, Bar Counsel

7 

8 By: _____

9 R. Kait Flocchini, Assistant Bar Counsel
10 Nevada Bar No. 9861
11 9456 Double R Blvd., Suite B
12 Reno, NV 89521
13 (775) 329-4100
14
15
16
17
18
19
20
21
22
23
24
25

1
2 **CERTIFICATE OF MAILING**

3 The undersigned hereby certifies that a copy of the foregoing **STATE BAR OF**
4 **NEVADA'S MEMORANDUM OF COSTS** was e-mailed to William Swafford, Esq. -
5 swaffordw@gmail.com.

6 Dated this 10th day of June 2022

7 By: Laura Peters
8 Laura Peters, an employee of
9 the State Bar of Nevada
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25






2022.06.10.Memo of Costs

Final Audit Report

2022-06-10

Created:	2022-06-10
By:	Laura Peters (laurap@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAGyRfkyLanbpUM9x6LIKwnAaBDmDNTnnP

"2022.06.10.Memo of Costs" History

-  Document created by Laura Peters (laurap@nvbar.org)
2022-06-10 - 7:57:53 PM GMT
-  Document emailed to Kait Flocchini (kaitf@nvbar.org) for signature
2022-06-10 - 7:58:22 PM GMT
-  Email viewed by Kait Flocchini (kaitf@nvbar.org)
2022-06-10 - 9:36:39 PM GMT
-  Document e-signed by Kait Flocchini (kaitf@nvbar.org)
Signature Date: 2022-06-10 - 9:36:54 PM GMT Time Source: server
-  Agreement completed
2022-06-10 - 9:36:54 PM GMT

INVOICE

1 of 1



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

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

Invoice No.	Invoice Date	Job No.
1548708	6/10/2022	841165
Job Date	Case No.	
4/20/2022		
Case Name		
In Re: William Swafford		
Payment Terms		
Net 30		

ORIGINAL AND 1 CERTIFIED COPY OF TRANSCRIPT OF:
Hearing on Reinstatement Swafford - AM Portion

1,187.25

TOTAL DUE >>>

\$1,187.25

Location of Job : Zoom

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.

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

Job No. : 841165 BU ID : RN-CR
Case No. :
Case Name : In Re: William Swafford
Invoice No. : 1548708 Invoice Date : 6/10/2022
Total Due : \$1,187.25

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: *Swafford ROA - 50*
Email: _____

INVOICE

1 of 1



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

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

Invoice No.	Invoice Date	Job No.
1548491	6/10/2022	872760
Job Date	Case No.	
4/20/2022		
Case Name		
In Re: William Swafford		
Payment Terms		
Net 30		

ORIGINAL AND 1 CERTIFIED COPY OF TRANSCRIPT OF:
Hearing on Reinstatement Swafford - PM Portion

869.50

TOTAL DUE >>> \$869.50

Location of Job : Zoom

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

(-) Payments/Credits: 0.00

(+) Finance Charges/Debits: 0.00

(=) New Balance: **\$869.50**

OK to Pay - *Laura Peters*

Tax ID: 20-3835523

Please detach bottom portion and return with payment.

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

Job No. : 872760 BU ID : RN-CR

Case No. :

Case Name : In Re: William Swafford

Invoice No. : 1548491 Invoice Date : 6/10/2022

Total Due : \$869.50

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:

Swafford ROA - 51



FILED

JUN 15 2022

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

Case No: SBN21-99129

STATE BAR OF NEVADA
NORTHERN NEVADA DISCIPLINARY BOARD

IN RE: PETITION FOR REINSTATEMENT)
WILLIAM A. SWAFFORD, ESQ.,)
Bar No. 11469)
Petitioner.)

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND RECOMMENDATION
AFTER REINSTATEMENT HEARING**

This matter came before a Reinstatement Hearing Panel of the Northern Nevada Disciplinary Board ("Panel") on April 20, 2022 at 9:00 a.m. The Panel consisted of Chair Richard Williamson, Esq., William Hanagami, Esq., and lay member Tim Meade. Petitioner William Swafford ("Petitioner") was present and represented himself in the proceeding. Assistant Bar Counsel, R. Kait Flocchini, Esq., represented the State Bar of Nevada ("State Bar").

Petitioner presented Exhibits 1-17, which were admitted by stipulation. The State Bar's Exhibit A, consisting of underlying pleadings in this matter, and Exhibit B, consisting of Petitioner's licensure history, were admitted without objection.

Respondent presented testimony from Ken Lyons III, Esq., Robert Fredericks, M.D., Emily Ann Heavrin, and Cory Oshita. Respondent also testified in the proceeding. The State Bar offered no additional witness testimony.

The Panel submits the following Findings of Fact, Conclusions of Law and Recommendation in a unanimous decision based upon the pleadings on file, the evidence presented, and testimony received.

FINDINGS OF FACT

1. Petitioner was licensed to practice law in the State of Nevada on April 29, 2009. See Transcript of the Proceedings, dated April 20, 2022, (“Transcript”), Exhibit A.

2. On September 22, 2016, the Nevada Supreme Court suspended Petitioner for three months for assisting another attorney in violating the rules of professional conduct regarding conflicts of interest, failing to diligently represent a client in a criminal matter, and overdrawing his IOLTA account. Transcript, Exhibit A.

3. Petitioner did not participate in the first disciplinary proceeding. *Id.*

4. On September 11, 2017, the Nevada Supreme Court suspended Petitioner for six-months-and-one-day for failing to adequately and/or timely represent one client, deposit the related retainer into an IOLTA, and return unearned fees when the representation was terminated. The suspension was to run consecutive with the prior suspension. *Id.*

5. Petitioner did not participate in the second disciplinary proceeding until the day of the hearing resulting in all allegations of the Complaint being deemed admitted and Petitioner only contesting the appropriate sanction for the misconduct. *Id.*

6. Petitioner's presentation of mitigating factors during the second disciplinary proceeding resulted in the Court conditioning Petitioner's reinstatement on obtaining a fitness-for-duty evaluation from a competent, licensed neurologist. *Id.*

7. On September 20, 2021, Petitioner filed a “SCR 116 Petition for Reinstatement Following Discipline and Suspension.” Transcript, Exhibit A.

1 8. Petitioner provided an opinion from Dr. Jonathan Artz, a licensed
2 neurologist, stating that there was no evidence of a neurological impediment. Transcript,
3 Exhibit 7.

4 9. Petitioner provided an opinion and testimony from Robert Fredericks, M.D.,
5 a licensed physician specializing in endocrinology. Dr. Fredericks testified that Petitioner
6 was responding well to his prescribed medications and, with the medical assistance, he
7 observed no reason that Petitioner should not be able to engage in the practice of law.
8 Transcript, 61:6-14, 62:8-64:11, and Exhibit 8.

9 10. Petitioner paid all costs of the prior disciplinary proceedings. Transcript,
10 Exhibit 6.

11 11. Petitioner attempted to participated in a fee dispute process with former
12 client Jeffrey Spencer, but Mr. Spencer had already received an award from the Client
13 Security Fund. Transcript, Exhibit 9-11.

14 12. Petitioner represented in the hearing that he was able, and intended to,
15 reimburse the Client Security Fund for the \$5,000 award to Mr. Spencer. Transcript at
16 79:12-80:1.

17 13. Petitioner reimbursed the \$5,000 to the Client Security Fund after the
18 conclusion of the Hearing.

19 14. Petitioner has worked as a ghost writer for other Reno attorneys while he has
20 been suspended. Transcript, 20:23-23:12 and Transcript 2, 12:6-13:19.

21 15. Petitioner has continued to stay informed on the law and his work product
22 shows an understanding of the particulars of practicing criminal law. *See generally*
23 Transcript, 23:17-24:9, 83:9-92:16, and Exhibit 14.

16. Petitioner showed remorse for the conduct that resulted in his suspensions and expressed insight into how to avoid similar situations in the future. *See* Transcript 2, 27:18-29:3, 32:18-33:18 and 37:19-38:8.

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 Petitioner and the subject matter of these proceedings pursuant to SCR 116.

2. Venue is proper in Washoe County, Nevada.

3. Petitioner's suspension periods have expired. Transcript, Exhibit A.

4. Petitioner's Reinstatement Hearing took place on April 20, 2022.

5. The Panel should recommend whether the attorney should be reinstated or if he failed to meet his burden of proof to justify reinstatement. *See* SCR 116.

6. Based upon the Petitioner's testimony and Exhibits 1-17, Petitioner has met the requirements for reinstatement pursuant to SCR 116. Transcript 2, 53:17-55:6.

RECOMMENDATION

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

1. After Petitioner reimburses the Client Security Fund, Petitioner should be reinstated with the following conditions:

a. Petitioner must remedy any administrative suspension and become current on his CLE requirements.

b. No later than the 90th day after reinstatement, Petitioner must complete no less than three CLE credits in Ethics and two CLE credits in practice management. Petitioner must report the completion of these particular CLE credits

1 directly to the Office of Bar Counsel and cannot rely on the MCLE department to
2 report them for him.

3 c. For two years after the date of reinstatement:

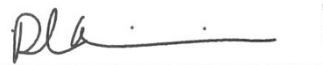
4 i. Petitioner is prohibited from solo practice and must be under the
5 supervision of another attorney;

6 ii. Petitioner must continue to meet with appropriate medical
7 providers and follow their recommendations; and

8 iii. Petitioner must report every 90 days to the Office of Bar Counsel
9 regarding his compliance with the first two conditions, including
10 (a) the name of his supervising attorney and (b) the name of his
11 medical providers, that he continues to undergo treatment, and
12 that he continues to be fit to practice law. The quarterly reports
13 must be counter-signed by the supervisor and medical provider.

14 2. Petitioner will pay hearing costs, which consists of the greater of \$2,500
15 pursuant to SCR 120(5) or the "hard costs" of the proceeding such as transcript expenses,
16 within 30 days of the Supreme Court's order on reinstatement. Transcript 2, 53:25-55:6
17 and 62:4-16.¹

18 DATED this 15 day of June, 2022.

19 

20 Richard Williamson (Jun 15, 2022 09:15 GMT+2)

21 Richard Williamson, Esq.
22 Hearing Panel Chair
23 Northern Nevada Disciplinary Panel

24
25 ¹ Prior to the hearing before this Panel, Petitioner submitted a \$1,000 deposit to be credited towards the costs of the proceeding.






Swafford Reinstatement: Proposed Findings of Fact, Conclusions of Law and Recommendation

Final Audit Report

2022-06-15

Created:	2022-06-14
By:	Kait Flocchini (Kaitf@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAA2ki76YOrK4rnl9KERrwTlyKKBwfzzFoU

"Swafford Reinstatement: Proposed Findings of Fact, Conclusions of Law and Recommendation" History

-  Document created by Kait Flocchini (Kaitf@nvbar.org)
2022-06-14 - 4:58:18 PM GMT
-  Document emailed to Richard Williamson (rich@nvlawyers.com) for signature
2022-06-14 - 4:58:58 PM GMT
-  Email viewed by Richard Williamson (rich@nvlawyers.com)
2022-06-15 - 7:06:35 AM GMT- IP address: 172.226.28.18
-  Document e-signed by Richard Williamson (rich@nvlawyers.com)
Signature Date: 2022-06-15 - 7:15:41 AM GMT - Time Source: server- IP address: 46.218.199.173
-  Agreement completed.
2022-06-15 - 7:15:41 AM GMT

CERTIFICATE OF SERVICE

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

1. William Swafford - swaffordw@gmail.com
2. Kait Flocchini – kaitf@nvbar.org
3. Rich Williamson - rich@nvlawyers.com

Dated this 15th day of June 2022.

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

Case No. SBN21-99129

STATE BAR OF NEVADA
NORTHERN NEVADA DISCIPLINARY BOARD

-o0o-

In Re REINSTATEMENT OF :
WILLIAM SWAFFORD, ESQ. :
:
Bar No. 11469 :
:
Petitioner. :
:
:

=====

REINSTATEMENT HEARING
BY AUDIOVISUAL VIDEOCONFERENCE
WEDNESDAY, APRIL 20, 2022
RENO, NEVADA

REPORTED BY:

ERIN T. FERRETTO, CCR #281
JOB NO. 841165

A P P E A R A N C E S

09:50AM
09:50AM

FOR THE PETITIONER:

WILLIAM SWAFFORD, ESQ.
In Pro Per
21385 Saddleback Road
Reno, Nevada 89521

FOR THE NEVADA STATE BAR:

R. KAIT FLOCCHINI, ESQ.
Assistant Bar Counsel
9456 Double R Boulevard, Suite B
Reno, Nevada 89521

STATE OF NEVADA BAR PANEL:

RICHARD WILLIAMSON, ESQ., Chair
BILL HANAGAMI, ESQ.
TIM MEADE

ALSO PRESENT:

LAURA PETERS

I N D E X

WITNESSES FOR THE PETITIONER: PAGE

SWAFFORD, William

Testimony by Mr. Swafford	12
Testimony by Mr. Swafford (Resumed)	28
Testimony by Mr. Swafford (Resumed)	65

LYON, Kenneth

Direct Examination by Mr. Swafford	17
Cross-Examination by Ms. Flocchini	26

FREDERICKS, M.D., Robert

Direct Examination by Mr. Swafford	58
Cross-Examination by Ms. Flocchini	62

HEAVRIN, Emily Ann

Direct Examination by Mr. Swafford	93
------------------------------------	----

EXHIBITS: IDENT EVID

State Bar Exhibits 1 - 17	7
Petitioner's Exhibit A	7

1 -o0o-

2 RENO, NEVADA, WEDNESDAY, APRIL 20TH, 2022, 9:00 A.M.

3 -o0o-

4

08:46AM

5

09:01AM

6

CHAIR WILLIAMSON: Let's go on the record. This

09:01AM

7

is the Reinstatement Hearing for William Swafford. We

09:01AM

8

have the petitioner, William Swafford, on, as -- we have

09:01AM

9

the petitioner, William Swafford, with us, as well as bar

09:01AM

10

counsel, Ms. Flocchini, and we also have present Laura

09:01AM

11

Peters from the bar, and then we have our panel.

09:01AM

12

MS. FLOCCHINI: If I may interrupt, I think we just

09:01AM

13

lost a panel member.

09:02AM

14

CHAIR WILLIAMSON: I just misspoke then. I mean

09:02AM

15

we had our panel. I'll clarify the record.

09:02AM

16

MS. FLOCCHINI: I apologize.

09:02AM

17

MR. MEADE: Sorry about that. I got disconnected.

09:02AM

18

CHAIR WILLIAMSON: No problem. No problem. That

09:02AM

19

was actually perfect timing. I was just going to ask our

09:02AM

20

panel members to introduce themselves.

09:02AM

21

So, Mr. Meade, we'll start with you.

09:02AM

22

MR. MEADE: My name is Timothy Meade. I'm the

09:02AM

23

layman panel member.

09:02AM

24

CHAIR WILLIAMSON: Perfect.

09:02AM

25

MR. HANAGAMI: Good morning. I'm William Hanagami

09:02AM 1 of Incline Village, Nevada.

09:02AM 2 CHAIR WILLIAMSON: And I am Rich Williamson and

09:02AM 3 I'll be serving as the chair for this panel.

09:02AM 4 Before we begin, I just wanted to confirm that the

09:02AM 5 panel received all of the exhibits that Ms. Peters

09:02AM 6 circulated yesterday.

09:02AM 7 MR. MEADE: Yes.

09:02AM 8 MR. HANAGAMI: Yes, I did.

09:03AM 9 CHAIR WILLIAMSON: Perfect.

09:03AM 10 And Ms. Flocchini and Mr. Swafford, have you had a

09:03AM 11 chance to review each other's proffered exhibits?

09:03AM 12 MS. FLOCCHINI: Yes, Chair.

09:03AM 13 MR. SWAFFORD: Yes.

09:03AM 14 CHAIR WILLIAMSON: Great. We can obviously go

09:03AM 15 through and admit them one by one as we proceed, but I

09:03AM 16 thought before we get started it may be expeditious to

09:03AM 17 check to see if there were any objections to anything in

09:03AM 18 particular or, alternatively, if there's too many

09:03AM 19 objections if we at least have any stipulations for any

09:03AM 20 of the exhibits.

09:03AM 21 MS. FLOCCHINI: The Bar stipulates to the

09:03AM 22 admission of Petitioner's Exhibits 1 through 17.

09:03AM 23 CHAIR WILLIAMSON: Mr. Swafford, do you stipulate

09:03AM 24 to the Bar's Exhibit A and all of the subexhibits

09:03AM 25 contained therein?

09:03AM 1 MR. SWAFFORD: Yes.

09:03AM 2 CHAIR WILLIAMSON: All right. Then all the
09:03AM 3 exhibits will be admitted and will hopefully speed things
09:03AM 4 along.

09:03AM 5
09:03AM 6 (Petitioner's Exhibits 1 through 17
09:03AM 7 were admitted.)

09:03AM 8 (State Bar Exhibit A was admitted.)

09:03AM 9 CHAIR WILLIAMSON: Unless there's nothing further
09:03AM 10 from either Mr. Flocchini or Mr. Swafford, I will -- I'll
09:04AM 11 turn it over to Mr. Swafford.

09:04AM 12 And I don't know, you're welcome -- each of you
09:04AM 13 are welcome to make an opening statement or,
09:04AM 14 alternatively, if you want to waive and get right into
09:04AM 15 the evidence, that's fine, too. I'll defer to you.

09:04AM 16 MR. SWAFFORD: I think I'll just get into
09:04AM 17 evidence.

09:04AM 18 Sorry, I'm speaking with the witness. One second.
09:04AM 19 Give me a little bit of --

09:04AM 20 First of all, thank you guys for being here today.
09:04AM 21 I know you guys are volunteering you time and I greatly
09:04AM 22 appreciate all you guys.

09:04AM 23 I'm sure you guys have reviewed my petition. I'm
09:04AM 24 here today seeking to be reinstated pursuant to Nevada
09:04AM 25 Supreme Court Rule 116. I'm going to establish the

09:04AM 1 criteria under Subsection (2) of Rule 116 by clear and
09:04AM 2 convincing evidence, and I anticipate presenting four
09:05AM 3 witnesses today.

09:05AM 4 One of the witnesses was actually the hardest to
09:05AM 5 schedule, Dr. Robert Fredericks, my endocrinologist. He
09:05AM 6 was actually just in the meeting waiting. That was that
09:05AM 7 phone call I just took. He's going to come back at
09:05AM 8 around 10:40, maybe a little bit later. He's meeting
09:05AM 9 patients so I'm kind of on his schedule. He'll testify
09:05AM 10 sometime between 10:40 and 1:00.

09:05AM 11 So I guess I'll just get right into -- and bear
09:05AM 12 with me, I've never presented a hearing like this. I'm
09:05AM 13 going to fumble a little bit. If you guys have any
09:05AM 14 questions or if I'm doing something incorrectly, you can
09:05AM 15 stop me at any time and ask.

09:05AM 16 So Nevada Supreme Court Rule 116, I have to state
09:06AM 17 by clear and convincing evidence the following: Full
09:06AM 18 compliance with the terms and conditions of all
09:06AM 19 disciplinary orders. I think I'm going to start with
09:06AM 20 that one. I'm going to go through the order that I went
09:06AM 21 through in my petition.

09:06AM 22 And I was suspended twice in a very short period
09:06AM 23 of time. There's two suspension orders. Both of the
09:06AM 24 suspension orders -- I'm going to give a little bit of
09:06AM 25 background --

09:06AM 1 CHAIR WILLIAMSON: Mr. Swafford, so I can -- sorry
09:06AM 2 to interrupt -- I just wanted to do a quick housekeeping
09:06AM 3 matter.

09:06AM 4 Are you more summarizing now what you anticipate
09:06AM 5 to be the testimony, or will you be putting in evidence
09:06AM 6 that you're speaking on now, in which case we want to
09:06AM 7 make sure we get you sworn.

09:06AM 8 MR. SWAFFORD: Let me just summarize what the
09:06AM 9 evidence is going to be first.

09:06AM 10 CHAIR WILLIAMSON: Sure.

09:06AM 11 MR. SWAFFORD: So the evidence that I'm going to
09:07AM 12 present today is going to show that I started a law
09:07AM 13 practice in Chicago -- or in Illinois in about 2011 -- or
09:07AM 14 2012. I had a whole bunch of circumstances in my life at
09:07AM 15 the time that just went wrong and it was a perfect storm
09:07AM 16 of negative events.

09:07AM 17 I have a brain injury. It's not to the brain
09:07AM 18 matter itself. It's to my pituitary gland. I'm going to
09:07AM 19 discuss that injury and the way it was affecting me at
09:07AM 20 the time. I was going through a lot of negative-like
09:07AM 21 circumstances. My father was dying of Alzheimer's, my
09:07AM 22 uncle was dying of cancer.

09:07AM 23 I'm going to talk about how both of these cases
09:07AM 24 resulted from a broken relationship I had with another
09:07AM 25 attorney. There was only two cases where I was actually

09:07AM 1 representing clients at the time, and I'm going to show
09:08AM 2 that that combination of events contributed to this. I'm
09:08AM 3 going to be showing -- I'm going to be arguing and trying
09:08AM 4 to convince you guys that you should recommend me for
09:08AM 5 reinstatement with certain conditions, and that the
09:08AM 6 events that caused me to violate those rules were a
09:08AM 7 one-in-a-lifetime situation, and I'll explain that.

09:08AM 8 I'm going to be having my endocrinologist,
09:08AM 9 Dr. Fredericks, testify about what he diagnosed me with
09:08AM 10 in approximately late 2015. Before that, I was
09:08AM 11 misdiagnosed and how it's been -- those treatments have
09:08AM 12 been truly effective.

09:08AM 13 I'm going to be presenting the testimony of Ken
09:09AM 14 Lyon. He is a lawyer that I do some work with. He --
09:09AM 15 for the last about six or seven years I've been working
09:09AM 16 with attorney David Houston. I'm actually sitting in his
09:09AM 17 old office right. Very unfortunate what happened to him.

09:09AM 18 I'm going to have his office manager and paralegal
09:09AM 19 testify as to -- you know, I'm going to be showing some
09:09AM 20 examples of work that I did, and she will be able to
09:09AM 21 testify that, in fact, I did that.

09:09AM 22 Ken Lyon took over his practice. I'm going to be
09:09AM 23 having Ken testify about work I did with him when he was
09:09AM 24 co-counsel with David Houston and verifying a lot of the
09:09AM 25 work I did.

09:09AM 1 Then I'm going to be having a lawyer, who is a
09:09AM 2 general partner in a family law firm in Chicago, who I've
09:09AM 3 know since before law school testify as to my character
09:09AM 4 and integrity.

09:09AM 5 Then I'll be making closing arguments. That's
09:09AM 6 what I'll be presenting today. And at this time I should
09:09AM 7 probably be sworn in.

09:10AM 8 CHAIR WILLIAMSON: Before we swear you in as a
09:10AM 9 witness, Ms. Flocchini, do you have an opening statement
09:10AM 10 you'd like to make?

09:10AM 11 MS. FLOCCHINI: Sure. I appreciate the
09:10AM 12 opportunity.

09:10AM 13 You know, the Bar -- the Bar has reviewed the
09:10AM 14 petition and the evidence that Mr. Swafford has
09:10AM 15 presented. I think that it's worth recognizing that the
09:10AM 16 Bar would concede that Mr. Swafford has satisfied
09:10AM 17 Subsection (e), which is the attorney has not engaged in
09:10AM 18 any other professional misconduct since suspension. We
09:10AM 19 don't know of any other alleged misconduct. We haven't
09:10AM 20 heard of any grievances along the way. I think that's
09:10AM 21 important.

09:10AM 22 That also there would be a satisfaction of
09:10AM 23 Subsection (b), SCR-116(b), that the attorney has neither
09:11AM 24 engaged in or attempted to engage in the unauthorized
09:11AM 25 practice of law during the period of suspension.

09:11AM 1 The Bar's position, it's a somewhat awkward
09:11AM 2 position to be in as a typical prosecutor, but in this
09:11AM 3 case our job is similar to a defender. Our position is
09:11AM 4 to make sure that the public is protected going forward
09:11AM 5 and the integrity of the profession is protected going
09:11AM 6 forward, and that Mr. Swafford bears the burden of
09:11AM 7 proving up all the other elements necessary for
09:11AM 8 reinstatement.

09:11AM 9 So we stand ready to hear the evidence, that's why
09:11AM 10 we've stipulated to all the exhibits Mr. Swafford
09:11AM 11 proffered. We think that they're relevant and should be
09:11AM 12 considered by the panel, and we'll just reserve some
09:11AM 13 cross-examination along the way. But the Bar has no
09:11AM 14 additional witnesses that will be presented on its behalf
09:12AM 15 and we have no additional exhibits. No other concerns
09:12AM 16 have been raised during the pendency of this
09:12AM 17 reinstatement period that we think needs to be brought to
09:12AM 18 the panel's attention.

09:12AM 19 So thank you for your time and your energy put
09:12AM 20 forward for this matter. We can't do it without you. So
09:12AM 21 thank you.

09:12AM 22 CHAIR WILLIAMSON: Thank you.

09:12AM 23 Okay. Then, with that, Mr. Swafford, if you're
09:12AM 24 going to be your first witness, we'll have you sworn in.
09:12AM 25 Before we start, I wanted to let you know that if

09:12AM 1 Dr. Fredericks becomes available while you're testifying
 09:12AM 2 and you'd prefer to kind of pause your testimony and let
 09:12AM 3 Dr. Fredericks then speak, by all means. We'll let you
 09:12AM 4 sort of control the flow of evidence and I appreciate you
 09:12AM 5 trying to juggle all these witnesses. Feel free to start
 09:12AM 6 so we can kind of maximize everyone's time. But if you
 09:12AM 7 need to stop one witness and start another, that's no
 09:12AM 8 problem. Just let us know.

09:12AM 9 MR. SWAFFORD: Okay. I'm going to be doing that,
 09:13AM 10 a little bit of juggling and testifying and presenting
 09:13AM 11 out of order, because I have my first witness Ken Lyon
 09:13AM 12 actually upstairs right now. He will need to testify
 09:13AM 13 within the next 15 minutes. So I'm going to give a
 09:13AM 14 little introduction and then I'm going to page him
 09:13AM 15 upstairs and get him on.

09:13AM 16 CHAIR WILLIAMSON: Sure. With that, let's go
 09:13AM 17 ahead and get you sworn.

09:13AM 18 (Witness sworn.)

09:13AM 19 CHAIR WILLIAMSON: Mr. Swafford, go ahead.

20

21 WILLIAM SWAFFORD

22

23 called as a witness on behalf of the Petitioner,
 24 having been duly sworn, testified as follows:

09:13AM 25

09:13AM 1 MR. SWAFFORD: Okay. So my name is William
09:13AM 2 Swafford. I'm the petitioner, and I'm representing
09:13AM 3 myself in proper person today. I'm going to give a short
09:13AM 4 background on myself.

09:13AM 5 I'm 40 years old. I was born in the area. I went
09:14AM 6 to high school -- actually kindergarten through fourth
09:14AM 7 grade in Virginia City. I started University of Nevada
09:14AM 8 in 1999. My undergrad degree is in economics and
09:14AM 9 business. I was a graduate teaching and research
09:14AM 10 assistant at the University of Nevada in the Economics
09:14AM 11 Department. I obtained my Master's Degree.

09:14AM 12 During that time, I was a teaching assistant for
09:14AM 13 Dr. Bill Eadington. He was, I would say, the number one
09:14AM 14 expert in the world on the economics of casino gambling.
09:14AM 15 He was the Director of the Institute for the Study of
09:14AM 16 Casino Gambling.

09:14AM 17 I wrote my Master's thesis. It's a published
09:14AM 18 thesis. It's entitled "Estimating the Economic Effects
09:14AM 19 of Legalized Casino Gambling on the Casino Floor." I
09:14AM 20 developed economic -- econometric models to estimate what
09:15AM 21 the -- what the over all economic effects when they
09:15AM 22 licensed -- when they legalized and licensed too many
09:15AM 23 resorts in Singapore.

09:15AM 24 I then received a scholarship to the Valparaiso
09:15AM 25 University, which has recently lost its accreditation,

09:15AM 1 unfortunately. I did a dual degree there. I have

09:15AM 2 another Master's Degree in International Policy.

09:15AM 3 During that time, I actually was blessed to

09:15AM 4 work -- I had an internship with an intellectual property

09:15AM 5 law firm in Hangzhou, China. I got to spend a summer in

09:15AM 6 Hangzhou working -- it sounds kind of ironic because

09:15AM 7 China steals so much intellectual property, but it was an

09:15AM 8 intellectual property firm.

09:15AM 9 Then I graduated from law school a little early.

09:15AM 10 It was December of 2008, which wasn't the best time to

09:15AM 11 graduate from a Tier 4 law school. And because of

09:16AM 12 that -- well, I don't know how this happened but I ended

09:16AM 13 up starting a law practice with Joey Gilbert and attorney

09:16AM 14 William Routsis.

09:16AM 15 I started working with Mr. Routsis because he was

09:16AM 16 working on a case. You guys probably heard about it. It

09:16AM 17 was a guy named Darren Mack. He was doing the

09:16AM 18 post-conviction. At that time it was an appeal, but all

09:16AM 19 the post-conviction work. He was a trial lawyer.

09:16AM 20 Couple of things I did when I was in -- when I was

09:16AM 21 actually still in law school, one of the things is I had

09:16AM 22 a great deal of experience in legal research already. I

09:16AM 23 was a pretty good writer. And I'd been working -- one of

09:16AM 24 my kind-of-family but best friend, grew up with him in

09:16AM 25 Virginia City, their family owned a casino -- small

09:16AM 1 casino on the -- almost all the way on the Arizona border
09:17AM 2 called the Searchlight Nugget. That's where Harry Reid
09:17AM 3 was from was Searchlight, Nevada. And his grandma, who
09:17AM 4 died when she was 95, was still running this casino the
09:17AM 5 same way she had been running it since the 60s and they
09:17AM 6 were not complying with any of the rules and they had to
09:17AM 7 grandfather her in. But I got some experience while
09:17AM 8 still in law school with regularity compliance, some
09:17AM 9 Federalism issues, and I was just a little bit more
09:17AM 10 experienced than some people just coming out of law
09:17AM 11 school.

09:17AM 12 And I started helping them with the research and
09:17AM 13 writing on this Darren Mack case, and that's going to tie
09:17AM 14 into some of my testimony later. But we started this
09:17AM 15 practice, by -- I got a lot of experience in about two
09:17AM 16 years. I ended up moving to Massachusetts. I passed the
09:17AM 17 Bar -- so I was licensed in Nevada, I passed the
09:17AM 18 February 2019 Bar Exam. I became licensed in
09:18AM 19 Massachusetts in 2011, in July. I became licensed in
09:18AM 20 Illinois a year later, 2012, in July. So I passed
09:18AM 21 three-bar exams.

09:18AM 22 Sorry. One sec.

09:18AM 23 When I moved to Illinois, which is the area where
09:18AM 24 I went to law school and lived with friends, I started a
09:18AM 25 criminal defense practice. You know what? And I'm going

09:18AM 1 to get back to this, but I think I better get -- try to

09:18AM 2 get Ken on here because he's got to do some work.

09:18AM 3 One sec.

09:18AM 4 Hey, Emily?

09:18AM 5 CHAIR WILLIAMSON: No problem. Do you want to

09:18AM 6 take a break and run up -- did you say he's upstairs?

09:18AM 7 MR. SWAFFORD: Do you mind if I do that? I can

09:19AM 8 run upstairs.

09:19AM 9 CHAIR WILLIAMSON: No problem. We'll go off the

09:19AM 10 record briefly.

09:19AM 11 MR. SWAFFORD: Okay. I'll be one minute.

09:19AM 12 (Off the record.)

09:20AM 13 CHAIR WILLIAMSON: We'll go back on -- we are

09:20AM 14 recording again. We'll officially go back on the record.

09:20AM 15 MR. SWAFFORD: Okay. So I was just saying --

09:20AM 16 MS. PETERS: Mr. Lyon just showed up.

09:20AM 17 MR. SWAFFORD: Okay. Never mind.

09:20AM 18 MS. PETERS: Do you want me to let him in?

09:20AM 19 MR. SWAFFORD: Yes.

09:20AM 20 CHAIR WILLIAMSON: Good morning, Mr. Lyon.

09:21AM 21 MR. LYON: Good morning.

09:21AM 22 CHAIR WILLIAMSON: Can you hear me okay?

09:21AM 23 MR. LYON: I can. Can you hear me okay?

09:21AM 24 CHAIR WILLIAMSON: I can, perfectly. Thank you.

09:21AM 25 My name is Rich Williamson. I'm going to have you

09:21AM 1 sworn in, if that's okay. Ms. Ferretto will administer
09:21AM 2 the oath.

09:21AM 3 MR. LYON: Okay.

09:21AM 4 (Witness sworn.)

09:21AM 5 CHAIR WILLIAMSON: Go ahead, Mr. Swafford.

6

7 KENNETH LYON, III

8

9 called as a witness on behalf of the Petitioner,
10 having been duly sworn, testified as follows:

11

12

13 +++ DIRECT EXAMINATION +++

14 BY MR. SWAFFORD:

09:21AM 14 Q Mr. Lyon, can you please state your name for the
09:21AM 15 record and spell your first and last name?

09:21AM 16 A Yes. It's Kenneth Lyon, III; first name is
09:21AM 17 K-E-N-N-E-T-H, last name is Lyon, L-Y-O-N.

09:21AM 18 Q Mr. Lyon, how long have you been a practicing
09:21AM 19 attorney?

09:21AM 20 A I practiced in Idaho starting in 1991, got my
09:21AM 21 license here in Nevada in 1999, so a little over
09:22AM 22 30 years.

09:22AM 23 Q What would you say, in general, is the nature of
09:22AM 24 your law practice?

09:22AM 25 A Well, before I took over Mr. Houston's practice,

09:22AM 1 it was a mix of both civil and criminal practice. I've
 09:22AM 2 done that throughout my career. More recently, it's just
 09:22AM 3 been focused more on the criminal practice.

09:22AM 4 Q And I'm going to have to ask you some questions
 09:22AM 5 that are a little difficult to ask, but I first -- you
 09:22AM 6 were co-counsel with Dave Houston on many cases that I
 09:22AM 7 worked on with you guys, which is what I'm trying to get
 09:22AM 8 into here. And the first case -- I'm going to have you
 09:22AM 9 explain some of the cases that we worked on.

09:22AM 10 The first case I ever worked with you guys on was
 09:22AM 11 the client was Brett Black. If I can just have you take
 09:23AM 12 a minute and explain what that case was about?

09:23AM 13 A Sure. So that was a homicide case that came out
 09:23AM 14 of Storey County. My involvement with it actually began
 09:23AM 15 before the criminal charges were filed and Dave's
 09:23AM 16 involvement was also before the criminal charges were
 09:23AM 17 filed. It actually started out as a contested probate
 09:23AM 18 matter because the victim's sister was challenging the
 09:23AM 19 client's --

09:23AM 20 (Witness Zoom connect interrupted.)

09:23AM 21 -- a criminal case. He was charged in Storey
 09:23AM 22 County with homicide, and we dealt with that case for
 09:23AM 23 quite a while. He ultimately ended up being found to be
 09:24AM 24 incompetent --

09:24AM 25 (Witness Zoom connect interrupted.)

09:24AM 1 CHAIR WILLIAMSON: Mr. Lyon, you're breaking up a
09:24AM 2 little bit, which is going to make it hard for the
09:24AM 3 transcription of this.

09:24AM 4 Mr. Swafford, you seem to have a more stable
09:24AM 5 internet connection. Do you think it might -- I don't
09:24AM 6 know what the physical confines of where you're sitting
09:24AM 7 are --

09:24AM 8 MR. SWAFFORD: Oh. Yeah.

09:24AM 9 CHAIR WILLIAMSON: -- I don't know if the two of
09:24AM 10 you can --

09:24AM 11 MR. SWAFFORD: I can ask him to come down here.

09:24AM 12 CHAIR WILLIAMSON: That might be easier.

09:24AM 13 MR. SWAFFORD: Okay.

09:24AM 14 CHAIR WILLIAMSON: All right. We'll take a brief
09:24AM 15 break.

09:24AM 16 (Off the record.)

09:26AM 17 CHAIR WILLIAMSON: We'll go back on.

09:26AM 18 THE WITNESS: I apologize for that. I'm not sure
09:26AM 19 what happened. I just got kick out of the Zoom room.

09:26AM 20 CHAIR WILLIAMSON: That's how it goes sometimes.
09:26AM 21 No problem.

09:26AM 22 THE WITNESS: I'm not sure where I Zoomed out as
09:26AM 23 far as my response goes.

09:26AM 24 CHAIR WILLIAMSON: The last I heard was this case
09:26AM 25 you worked on together started as a probate action and

09:26AM 1 then it kind of -- we kind of started getting broken up
09:26AM 2 after that.

09:26AM 3 BY MR. SWAFFORD:

09:26AM 4 **Q So I going just going to ask you, Ken, briefly to**
09:26AM 5 **discuss what the Brett Black case was.**

09:26AM 6 A It started out as a probate matter. David had
09:26AM 7 called me in on it more of an emergency proceeding
09:26AM 8 because the victim's sister had started proceedings to
09:26AM 9 have our client removed as the trustee in the case. This
09:27AM 10 was before he had been charged with the homicide, and so
09:27AM 11 there was approximately about a year's worth of
09:27AM 12 litigation concerning the probate matters.

09:27AM 13 He was eventually charged with homicide up in
09:27AM 14 Storey County. We then proceeded to move -- you know,
09:27AM 15 that was the bulk of the case was the criminal defense
09:27AM 16 posture in challenging those charges. He ultimately was
09:27AM 17 found incompetent because he ended up having Alzheimer's
09:27AM 18 and he was put into Lake's Crossing, been there for the
09:27AM 19 past couple of years. He actually just passed away a
09:27AM 20 little bit over a month ago, so that case is now
09:27AM 21 finalized. But that was a very long, drawn out, very
09:27AM 22 complicated case battling on many fronts on the case.

09:27AM 23 **Q So the reason I was asking that, that was the**
09:27AM 24 **first case I had ever worked on with you and Dave, and**
09:28AM 25 **over the years -- I'm sorry. I think what I'd like, Ken,**

09:28AM 1 is to have you just explain the nature of the research
09:28AM 2 that I would do for you and Dave over the years and what
09:28AM 3 was valuable about it.

09:28AM 4 A Sure. So, you know, in the Brett Black case, one
09:28AM 5 of the -- one of the first issues that I remember Will
09:28AM 6 working on, it involved a fairly unique legal issue
09:28AM 7 involving the exhumation of the victim's body. She had
09:28AM 8 been buried in -- she was a veteran, if I recall right --
09:28AM 9 or her husband was but she had ended up being buried in a
09:28AM 10 military -- at a military graveyard in California, and
09:28AM 11 the prosecutor was moving to have her body exhumed
09:29AM 12 because there had been evidence lost along the way and
09:29AM 13 the belief was that it may have been placed with her when
09:29AM 14 she was buried. I know Will worked on that issue.

09:29AM 15 The body was eventually exhumed through -- the VA
09:29AM 16 got through that, but Will helped structure the argument
09:29AM 17 for us to go with -- I guess to challenge the VA's
09:29AM 18 position on that.

09:29AM 19 Thereafter, I know David used him quite a bit on a
09:29AM 20 lot of our joint cases. I don't have necessarily a list
09:29AM 21 of those cases. It's been -- it's been several over the
09:29AM 22 past four or five years. I know Will did a lot of work
09:29AM 23 for us on what we called the Little Valley Fire case.
09:29AM 24 Dave and I, we were -- we represented about -- I think it
09:29AM 25 was 11 households where their houses, properties got

09:30AM 1 damaged following a controlled burn down in Washoe
09:30AM 2 Valley. There were three groups of plaintiffs, so there
09:30AM 3 were three groups of plaintiffs' lawyers that were
09:30AM 4 proceeding with the litigation, proceeded in a joint
09:30AM 5 manner, but Dave and I specifically represented about
09:30AM 6 12 -- 11 or 12 households, and Will did a lot of research
09:30AM 7 for us on that.

09:30AM 8 One of the primary issues was an inverse
09:30AM 9 condemnation claim and how that may apply to the facts of
09:30AM 10 our case. I know Nevada law, there were -- there was
09:30AM 11 outstanding Nevada law concerning flooding cases but it
09:30AM 12 really had not been utilized much in fire cases, and I
09:30AM 13 know Will did a lot of research help with that, as well
09:31AM 14 as there were a lot of immunity -- governmental immunity
09:31AM 15 issues that were in play given that it was the State of
09:31AM 16 Nevada that prescribed the burn that got out of control.

09:31AM 17 My role at one point with the plaintiffs' team was
09:31AM 18 to brief out and argue a lot of the immunity issues and
09:31AM 19 motion practice, and I -- Will's research on that was
09:31AM 20 very valuable to me and helped me to structure my
09:31AM 21 arguments on that case.

09:31AM 22 I'm trying to -- I know Dave would bring him in,
09:31AM 23 like if there were issues like jury instructions on a
09:31AM 24 case that we were expected to go to trial or if there
09:31AM 25 were suppression issues and other things that we were

09:31AM 1 dealing with, Dave would often have Will come in and at
09:32AM 2 least structure the research and structure an argument
09:32AM 3 that we could then use later on for purposes of either
09:32AM 4 motion practice or for trial.

09:32AM 5 Since I've been involved in taking over Dave's
09:32AM 6 practice, you know, Will had been doing some research
09:32AM 7 work for Dave at the time that he passed. I've been able
09:32AM 8 to follow-up with that and there's a lot of cases where
09:32AM 9 Will's actually briefed out and had drafted motions for
09:32AM 10 suppression, other things involving traffic stops. If
09:32AM 11 it's a drug case or DUI case especially, Dave used him a
09:32AM 12 lot in that fashion.

09:32AM 13 **Q Given what you've seen with respect to the work**
09:32AM 14 **that I've done over the last few years, would you say**
09:32AM 15 **that I have kept up on Nevada law and have a competent**
09:32AM 16 **understanding of Nevada law?**

09:32AM 17 A Yeah. I think the issues -- I mean, Will is
09:33AM 18 certainly able to identify the issues that are presented
09:33AM 19 to him. I know one of the things that Dave liked about
09:33AM 20 having Will do research is that he would often take a
09:33AM 21 fresh look at the issues and come up with, you know --
09:33AM 22 come up with issues, arguments that were not necessarily
09:33AM 23 on the radar at the time the project was sort of brought
09:33AM 24 to him. So I know that Dave really appreciated that,
09:33AM 25 that overview that Will would often provide.

09:33AM 1 And he's done a variety of issues. So these are
09:33AM 2 really case specific, case -- you know, very specific
09:33AM 3 issues dealing with the case, but things like the DUI
09:33AM 4 cases, the search and seizure, those get into a broader
09:34AM 5 concept -- require a broader understanding of the law,
09:34AM 6 require, you know, that the research be up to date. So
09:34AM 7 in that regard, I would agree that Will has been keeping
09:34AM 8 up to speed with at least those issues that have been
09:34AM 9 researched out.

09:34AM 10 Q And I've discussed this before with you, but
09:34AM 11 before Dave died, he was going to testify today that he
09:34AM 12 would have been willing to supervise my work if that had
09:34AM 13 been a condition of me being reinstated. At first you
09:34AM 14 told me you didn't have the time to do that, but then we
09:34AM 15 discussed that with respect to some of the appellate
09:34AM 16 cases and post-conviction cases and some other cases that
09:34AM 17 you would be willing.

09:34AM 18 Can you just kind of tell them what we discussed?

09:34AM 19 A Sure. So stepping into the role to help wind down
09:35AM 20 Dave's practice, which has been very challenging,
09:35AM 21 there's -- I'm also the trustee of his estate, so I'm
09:35AM 22 wearing many hats right now. And when I talked with Will
09:35AM 23 about this, you know, as far as being a supervising
09:35AM 24 attorney in an overall capacity, I don't have the
09:35AM 25 resources right now or the time or the capacity to do

09:35AM 1 that. But I am more than willing to overview and
09:35AM 2 supervise his work when it comes to these issues in
09:35AM 3 post-conviction relief that he's been helping Dave with.
09:35AM 4 And there's several files that he was working on with
09:35AM 5 Dave at the time of his -- at the time of Dave's death
09:35AM 6 and I would be willing to supervise Will, kind of guide
09:35AM 7 that work through to its final progression, the same as
09:35AM 8 Dave would have done if Dave were here. The only thing I
09:36AM 9 can't do is just offer on more broader responsibility to
09:36AM 10 supervise Will in a broader capacity.

09:36AM 11 **Q And couple of brief final questions, Ken. In your**
09:36AM 12 **time that you've known Mr. Swafford to be -- would you**
09:36AM 13 **say that he has integrity and honesty?**

09:36AM 14 A Yes. You know, I've known Will personally now --
09:36AM 15 I don't know how long, probably over five years. Will
09:36AM 16 has always been, you know, someone that you can sit down,
09:36AM 17 you can talk with him about the issues. He's going to be
09:36AM 18 very straight forward and candid with what comes next.
09:36AM 19 Oftentimes in legal research, you know, we don't know
09:36AM 20 what we're necessarily going to end up with as far as
09:37AM 21 arguments that can be -- that are, you know -- that can
09:37AM 22 be made or arguments that just aren't going to be
09:37AM 23 supported with the case law, and so that -- in that
09:37AM 24 respect, I've dealt a lot with Will, and if the argument
09:37AM 25 isn't there, he recognizes that. He's not trying to push

09:37AM 1 through something that he knows is going to be frivolous
 09:37AM 2 or unsupported. Even though the research may take him to
 09:37AM 3 those areas, he's able to pull himself back, and I do
 09:37AM 4 think that that's important. Because when we're dealing
 09:37AM 5 with the courts and dealing with clients, you know, part
 09:37AM 6 of -- you know, it's easy to make an argument that may
 09:37AM 7 not hold up, but that's not part of our job. Our job is
 09:37AM 8 to make sure we have, you know, support, either factually
 09:37AM 9 or legally, for the arguments that we're making. And at
 09:37AM 10 least to that extent, Will is always on record with that.

09:38AM 11 MR. SWAFFORD: I don't think I have any more
 09:38AM 12 questions for you, Ken. Thank you for testifying.

09:38AM 13 THE WITNESS: Okay.

09:38AM 14 MR. SWAFFORD: Kait might have some questions for
 09:38AM 15 you.

09:38AM 16 CHAIR WILLIAMSON: Ms. Flocchini?

09:38AM 17 MS. FLOCCHINI: Yes. Thank you.

09:38AM 18

09:38AM 19 +++ CROSS-EXAMINATION +++

09:38AM 20 BY MS. FLOCCHINI:

09:38AM 21 Q Good morning, Mr. Lyon.

09:38AM 22 A Good morning.

09:38AM 23 Q I have a couple of questions.

09:38AM 24 Has Mr. Swafford discussed with you the
 09:38AM 25 circumstances that led to him being suspended?

09:38AM 1 A He has not. And I do have a conflict when it
09:38AM 2 comes to that because my wife was a part of that
09:38AM 3 proceeding. I have read the final -- I don't know if
09:38AM 4 it's the final -- I've read findings of fact and the
09:38AM 5 suspension order, I believe. But I purposely -- and I
09:38AM 6 told Will, you know -- there is so far that I can go with
09:38AM 7 this. It's mainly dealing with the work that I've been
09:39AM 8 involved with.

09:39AM 9 I was not involved with those initial proceedings,
09:39AM 10 nor have I really discussed that or gone into that
09:39AM 11 because of my wife's involvement.

09:39AM 12 Q Okay. Fair enough. Thank you.

09:39AM 13 As someone who has worked with Mr. Swafford or,
09:39AM 14 you know, witnessed Mr. Swafford working mostly with
09:39AM 15 Mr. Houston along the way, do you have any concerns about
09:39AM 16 Mr. Swafford if he was allowed to return to the full
09:39AM 17 practice of law?

09:39AM 18 A The only concern I would have is that I do
09:39AM 19 think -- you know, it's tough starting out on you own and
09:39AM 20 so, you know -- and I know Dave was very -- you know, he
09:39AM 21 liked Will, he liked his work. He was more than willing
09:39AM 22 to jump on and act in that supervisory role.
09:40AM 23 Unfortunately, I'm just not able to do that. I think
09:40AM 24 that -- you know, that would be very helpful to
09:40AM 25 Mr. Swafford, to have that level of supervision. I kind

09:40AM 1 of think that for any new attorney.

09:40AM 2 I had the privilege of practicing with my father
 09:40AM 3 who supervised and kind of guided me through those first
 09:40AM 4 years. When I got here to Reno, Dave acted in that
 09:40AM 5 capacity to some extent for me. So, you know, I wouldn't
 09:40AM 6 necessarily call it a concern but I think that would
 09:40AM 7 greatly benefit him to have someone that he can talk to,
 09:40AM 8 you know, on a day-to-day basis as necessary, help him to
 09:40AM 9 get reestablished with his practice.

09:40AM 10 MS. FLOCCHINI: Okay. Thank you. I appreciate
 09:40AM 11 you taking the time.

09:40AM 12 THE WITNESS: Sure.

09:40AM 13 CHAIR WILLIAMSON: Mr. Swafford, any redirect?

09:41AM 14 MR. SWAFFORD: No, not at all.

09:41AM 15 CHAIR WILLIAMSON: Okay. All right. Mr. Lyon,
 09:41AM 16 thank you so much for your time this morning.

09:41AM 17 THE WITNESS: Thank you.

09:41AM 18 CHAIR WILLIAMSON: Okay. Mr. Swafford, would you
 09:41AM 19 like to either call your next witness or resume
 09:41AM 20 testifying yourself.

09:41AM 21 MR. SWAFFORD: I think I'm going to resume -- I'm
 09:41AM 22 going to go back to kind of with my background. Let me
 09:41AM 23 just look at where I was at first.

09:41AM 24 So I was saying that I passed the Illinois Bar.
 09:41AM 25 It would have been in July of 2012. And I started a

09:41AM 1 practice -- a criminal defense practice, a civil practice
09:41AM 2 in downtown Chicago. I rented an office. It was called
09:42AM 3 The West Loop. I don't know if anyone is familiar with
09:42AM 4 Chicago. We got a really good deal with my friend that
09:42AM 5 I've been friends with since before law school. He's a
09:42AM 6 partner of a family law firm now in Chicago, but at the
09:42AM 7 time we were just renting office space together.

09:42AM 8 And I -- all my clients were derived from online.
09:42AM 9 I had to advertise. I had -- like I said, I have an
09:42AM 10 undergrad degree in E Business. I was actually building
09:42AM 11 my own website. And I was doing pretty well. I was
09:42AM 12 spending quite a lot of money, though, getting those
09:42AM 13 leads, the pay-per-click -- I guess the cost-per-click
09:42AM 14 advertising, and at some point -- well, first of all,
09:42AM 15 after a few months of losing money every month, obviously
09:42AM 16 just starting a new practice, it takes a while to start
09:43AM 17 covering your costs, I was covering my costs pretty
09:43AM 18 quickly. Probably about six months I realized I was
09:43AM 19 actually going to make it, but I was working way too
09:43AM 20 much.

09:43AM 21 And then something happened where I had been
09:43AM 22 experiencing more and more anxiety, and not just the kind
09:43AM 23 of anxiety that comes from, Oh, I just started a new
09:43AM 24 practice, I'm working my butt off, this is very difficult
09:43AM 25 kind of anxiety, but real, Oh, my God, I need to do

09:43AM 1 laundry and freaking out about it. Just day-to-day
09:43AM 2 tasks, just simple little things would really affect me.

09:43AM 3 And I started having really bad stomach issues,
09:43AM 4 really nauseated all the time, vomiting all the time,
09:43AM 5 very -- I'm a person that is not -- I've never been a
09:43AM 6 good sleeper in my life, that's nothing unusual for me,
09:43AM 7 but way harder time sleeping, falling asleep.

09:44AM 8 I have Attention Deficit Disorder, but it got
09:44AM 9 extreme. And I was going to doctors and they were
09:44AM 10 sending me to psychiatrists. I'd seen a couple of
09:44AM 11 psychiatrists, and over -- during this time I had a
09:44AM 12 couple of panic attacks. I don't know if any of you guys
09:44AM 13 have ever had a panic attack, but you're thinking you're
09:44AM 14 having a heart attack.

09:44AM 15 I was sitting in my office working on a case, and
09:44AM 16 I thought I was having a heart attack. I called 9-1-1
09:44AM 17 and I ended up in the -- they kept me like 40 hours. I
09:44AM 18 think they were trying to make sure you're not suicidal,
09:44AM 19 and, you know, they gave me a bunch of like Valium,
09:44AM 20 Xanax, stuff like that, to calm me down. But that
09:44AM 21 happened to me twice in a period that wasn't -- maybe a
09:44AM 22 four- or five-month period, and I decided to quit
09:44AM 23 practicing law at that time.

09:44AM 24 I finished all the cases that I had. I had two
09:45AM 25 other master's degrees, like I said, and I said, you

09:45AM 1 know, I've always kind of been interested in doing some
09:45AM 2 other things and I started looking into other jobs. And
09:45AM 3 the injury -- I'm going to have Dr. Fredericks testify
09:45AM 4 here later today about that. The reason that was
09:45AM 5 happening to me, initially I had been diagnosed with
09:45AM 6 bipolar disorder and that's kind of a weird thing to get
09:45AM 7 diagnosed with when you're 30, 31, because it's
09:45AM 8 biological. That's something you're born with. That's
09:45AM 9 something I probably would have known about much before
09:45AM 10 then.

09:45AM 11 And I was taking -- for bipolar disorder -- you
09:45AM 12 know, I'm not a doctor, I can't really explain the way
09:45AM 13 that these drugs work, but I was talking Seroquel,
09:45AM 14 something called Lamictal. They were giving me standard
09:45AM 15 drugs for anxiety like Xanax and Valium and things like
09:45AM 16 that. The Seroquel and Lamictal kind of messed with me.
09:46AM 17 The one made me pack on 70 pounds. I'm a big guy. I
09:46AM 18 probably weigh about 260, 265, but probably I was up to
09:46AM 19 300, 310, when I was taking Seroquel. And the
09:46AM 20 combination of this having, I'd say, a misdiagnosed
09:46AM 21 disease like that, taking the wrong medicine that was
09:46AM 22 kind of messing with my body, and just the stresses at
09:46AM 23 the time of starting a practice, in a new city, you know,
09:46AM 24 going through my savings, I was living with my
09:46AM 25 girlfriend, obviously that was creating conflict. We had

09:46AM 1 a bathroom and a shower at our office and I was pretty
09:46AM 2 much living there a lot, and that's creating conflict.

09:46AM 3 And I'm -- let me backtrack. Let me write down
09:47AM 4 where I was at real quick because I don't want to forget.

09:47AM 5 I want to tell you how I got this brain injury so
09:47AM 6 you understand a little bit. As my doctor is going to
09:47AM 7 testify today and I have some actual other evidence, too,
09:47AM 8 that I submitted with my petition that's in the exhibits
09:47AM 9 that I'll discuss, but the problem is my pituitary gland
09:47AM 10 is damaged. It's not producing the right balance of
09:47AM 11 hormones and whatever hypopituitarism is, however that
09:47AM 12 can affect my behavior, but the reason I got that is I
09:47AM 13 was actually -- there was a flag football accident. That
09:47AM 14 sounds ridiculous, but you don't have helmets on when
09:47AM 15 you're playing flag football. And I was going for a pass
09:47AM 16 and someone else was going for an interception. We were
09:47AM 17 running full speed and hit heads, and I shattered my
09:47AM 18 skull in five places.

09:47AM 19 The right side of my face was completely rebuilt
09:48AM 20 sometimes when I go to the dentist, I crack up because
09:48AM 21 they'll take my X-rays and you can see all kinds of
09:48AM 22 screws and all kinds of little implements back in there.
09:48AM 23 And they -- the plastic surgeon went in through my mouth.
09:48AM 24 I did have a pretty bad cut at the time, so I got hit
09:48AM 25 good. My eyebrow kind of covers it up. But they went in

09:48AM 1 through my mouth, through the roof of my mouth and
09:48AM 2 rebuilt my face. My whole face is numb. It's really
09:48AM 3 hard to get used to. And, anyway, so that's the cause.

09:48AM 4 That happened in my -- when I was still in law
09:48AM 5 school. And now if that happened, they will say, hey,
09:48AM 6 you shattered your skull in five places, you need to look
09:48AM 7 out for post-concussive symptoms. This is how you treat
09:48AM 8 this. If you have these symptoms, you need to do -- at
09:48AM 9 that time, this was in two thousand -- I think the injury
09:48AM 10 happened in late 2007, late 2008, but at that time, they
09:49AM 11 didn't tell you any of that. I think that brain injury,
09:49AM 12 just the whole medicine on that and research and science
09:49AM 13 has advanced a lot since then, because at the time they
09:49AM 14 didn't tell me one thing about it.

09:49AM 15 And I know that I was not doing what I should have
09:49AM 16 been doing because the first thing I did after my surgery
09:49AM 17 is start studying for my law school finals. I was out of
09:49AM 18 class for maybe three weeks, and then I'm busting my ass
09:49AM 19 doing that. Then soon after I graduated from law school,
09:49AM 20 I'm studying for -- taking those BARBRI courses and
09:49AM 21 studying for that all the time then. So the first thing
09:49AM 22 I do when I get licensed is start a law practice. I'm in
09:49AM 23 way over my head.

09:49AM 24 I'm -- so everything I did along the way was
09:49AM 25 horrible for an undiagnosed brain injury, and eventually

09:49AM 1 it just caught up with me. And the time -- I'm
09:50AM 2 thirsty -- the time that it started really catching up
09:50AM 3 with me first was -- I'd been noticing it. Even when I
09:50AM 4 was working with Mr. Routsis in Reno, I'd been noticing
09:50AM 5 more depression, harder to sleep, more anxiety, a lot
09:50AM 6 more nausea -- more nauseous. And one thing is my
09:50AM 7 fingers, I don't know if you can tell, my pinky finger is
09:50AM 8 all kinds of crooked and sideways. My nerves are a
09:50AM 9 little screwed up. My other hand is not as bad, but I do
09:50AM 10 have some physical manifestations from that brain injury.

09:50AM 11 Anyway, it started -- kind of started having
09:50AM 12 symptoms and when I'm in Chicago and I'm working on my
09:50AM 13 law practice and I'm working on my client's cases, and
09:50AM 14 the hard thing about starting a solo practice when you're
09:51AM 15 completely on you own is the business aspect of it. I
09:51AM 16 learned trying to get clients, the marketing takes a lot
09:51AM 17 more time than working on you cases. So to do both, I
09:51AM 18 was working way too much. And when I started combining
09:51AM 19 it with these stressors, it got bad.

09:51AM 20 What made it worse was my father, his name is
09:51AM 21 Harold Swafford, he was a Nevada lawyer who did mainly
09:51AM 22 mining and water rights, he had a law firm with -- that
09:51AM 23 Reed High School is name after, I think -- Judge Reed,
09:51AM 24 and he eventually became the District Attorney in Storey
09:51AM 25 County. But he started having real bad -- his mom and

09:51AM 1 sister died of Alzheimer's, so I had a pretty good idea
09:51AM 2 what was going on. He was 42, he was older at this time,
09:51AM 3 and he built the house that my family grew up in Virginia
09:52AM 4 City Highlands. At the time, we didn't have any
09:52AM 5 neighbors. At the time, they kind of wanted to be out
09:52AM 6 there by themselves. The way he built it was built for a
09:52AM 7 strong man, and he never really repaired anything over
09:52AM 8 the years.

09:52AM 9 The house was falling apart, and my mom and dad's
09:52AM 10 finances were separate, so my mom is having a real hard
09:52AM 11 time with him. He's getting a little crazy and we knew
09:52AM 12 he was getting dementia, so during that time I started
09:52AM 13 flying back to Reno. I'd be in Reno for about three
09:52AM 14 weeks, then I'd fly back to Chicago and then a month
09:52AM 15 later, so I'm starting to go back and forth.

09:52AM 16 We finally got him diagnosed. I actually took him
09:52AM 17 in to the doctor. It was sad, I don't know if you guys
09:52AM 18 are familiar with the kind of tests they do when they're
09:52AM 19 trying to diagnose someone with dementia/Alzheimer's but
09:52AM 20 it's pretty simple. It's like draw a line from 1 to 8, 2
09:53AM 21 to 3, B to C, and things like that, and he couldn't do
09:53AM 22 any of it. It was pretty obvious what was going on.

09:53AM 23 At the same time -- I have a real small family --
09:53AM 24 me, my mom, my dad and my uncle -- it's my mom's -- and
09:53AM 25 then my brother. At that same time, my uncle got

09:53AM 1 diagnosed with bladder cancer. So he went in. It spread
09:53AM 2 to his muscles and prostate -- I think the prostate is
09:53AM 3 not that big a deal, but other parts of his body. He
09:53AM 4 got -- he ended up with -- what is it called -- a
09:53AM 5 colostomy bag. And he was a person that was obese and
09:53AM 6 out of shape to begin with, could barely move around, so
09:53AM 7 he ended up having to move back into my family's home in
09:53AM 8 the Virginia City Highlands. We had to do some additions
09:53AM 9 onto the house. I had to oversee that.

09:53AM 10 My mom is still a teacher. She still works.
09:53AM 11 She's 20 years younger than my dad was. She couldn't
09:54AM 12 quit her job. My brother is a pharmacist. His wife is a
09:54AM 13 pharmacist. They have two kids. So I was really the
09:54AM 14 only one in a position to really help my family.

09:54AM 15 So at the time, on top of everything else I just
09:54AM 16 told you about, I was going through that. You know, and
09:54AM 17 this Alzheimer's progressed and my dad would do things
09:54AM 18 like -- he would -- he was a pretty smart guy. He had
09:54AM 19 keys hidden all over the place for his vehicles. He
09:54AM 20 probably had four cars. He wasn't supposed to drive but
09:54AM 21 he would find one. He ended up getting in a head-on
09:54AM 22 collision with a semi-truck one day. He had to get cut
09:54AM 23 out of his car. He could barely move. So I'm dealing
09:54AM 24 with things like that. He would drive, going down the
09:54AM 25 wrong way, he got pulled over. The police would think he

09:54AM 1 was under the influence and they would arrest him. I'd
09:54AM 2 have to go deal with it, things like that all the time.
09:54AM 3 I mean, it was ridiculous. So I'm going through all that
09:54AM 4 stuff.

09:55AM 5 Then I -- so I wrapped up my cases, like I
09:55AM 6 explained, in Chicago. I still pay my rent for my office
09:55AM 7 every month. I'm just not taking any new cases. I had
09:55AM 8 not spoken with Mr. Routsis. Mr. Routsis and I had done
09:55AM 9 some really good work together, William Routsis, when I
09:55AM 10 was working with him in Reno. We had -- we had won some
09:55AM 11 big trials, and not always -- what I mean won, they were
09:55AM 12 murder cases that resulted in hung juries where they
09:55AM 13 would have to retry them, and eventually they end up
09:55AM 14 getting deals where they got time served. Just really,
09:55AM 15 really good work together.

09:55AM 16 And he -- we hadn't spoken since I moved to
09:55AM 17 Massachusetts and had moved to Chicago. And his dad had
09:56AM 18 recently died. His dad had died about a year-and-a-half
09:56AM 19 before that. He had taken some time off work and he
09:56AM 20 started kind of over again in a practice out of his own
09:56AM 21 house in Reno. And he just asked me if I wanted to start
09:56AM 22 writing for him again. And by writing, I mean the basic
09:56AM 23 work I had always done for Mr. Routsis. He would have a
09:56AM 24 case, you know, a drug case or something with search and
09:56AM 25 seizure, since he was a criminal defense lawyer. He

09:56AM 1 would email me the file. At that time there was no
09:56AM 2 Dropbox or anything like that. Or sometimes he would
09:56AM 3 send it by mail even. Kind of old school. I would
09:56AM 4 review it and I would see if there was any issues not
09:56AM 5 only search and seizures. I'm someone that the way I
09:56AM 6 approach law is kind of from a federalism aspect and I'm
09:56AM 7 always looking at where the power lies, who has the power
09:57AM 8 here. I'll find ways to get it dismissed or arguments
09:57AM 9 that the statute is unconstitutional or the regulations
09:57AM 10 are, you know, improper in some way, or there are
09:57AM 11 jurisdiction issues. I come up with some pretty good
09:57AM 12 jurisdiction defenses, and he -- I would do that. I
09:57AM 13 write a memo out of the issues, and then he would say,
09:57AM 14 "Yeah, I like this idea. Turn that into these motions."
09:57AM 15 I would do that for him.

09:57AM 16 So I started doing that work for him again, and I
09:57AM 17 had probably about six or seven cases going with him, but
09:57AM 18 the case that everything kind of always came back to was
09:57AM 19 that Darren Mack case. And at the time, it was in --
09:58AM 20 that case had gone through state appeals, it had gone
09:58AM 21 through federal habeas corpus, post-conviction habeas
09:58AM 22 corpus. It had gone through state habeas corpus and it
09:58AM 23 was still alive in state. They filed successive
09:58AM 24 petitions and we filed those successive petitions,
09:58AM 25 there's always all kinds of arguments to dismiss, you

09:58AM 1 know, there's all these different elements. And it was
09:58AM 2 still alive and he kind of needed my help keeping it
09:58AM 3 alive, keeping it in court, having the arguments heard on
09:58AM 4 the merits, and that's where I was spending a lot of my
09:58AM 5 time when I started working with him again. I would be
09:58AM 6 working on the other cases but I was always working on
09:58AM 7 that case.

09:58AM 8 Now I'm going to get -- I'm going to -- like I
09:58AM 9 said, some of my testimony and presentation of evidence
09:58AM 10 is circular and I'm going to kind of circle back here.
09:58AM 11 But I was explaining all the anxiety I was having, where
09:59AM 12 at some point Mr. Routsis and my relationship started
09:59AM 13 breaking down severely, and it started breaking down over
09:59AM 14 that case, that Mack case. I had written a 65-page -- if
09:59AM 15 you can imagine -- reply to a -- to an answer -- so, in
09:59AM 16 other words, a writ of habeas corpus -- a successive
09:59AM 17 petition for writ of habeas corpus with memorandum of
09:59AM 18 points and authorities. The State filed an opposition
09:59AM 19 that it should be dismissed without being heard on the
09:59AM 20 merits, and I was asked to do the reply to that. And I
09:59AM 21 spent so much time on this.

09:59AM 22 I'm going to show you guys examples of the work I
09:59AM 23 do. I'm someone that does, I think, pretty good work. I
09:59AM 24 do a lot of research. I think things through. Dave
09:59AM 25 Houston liked what I did. And I finished -- I had a

10:00AM 1 final thought that I thought he was going to like it. He
 10:00AM 2 didn't like it. He wanted me to rewrite it. He wanted
 10:00AM 3 to focus on issues that I knew were important to him but
 10:00AM 4 were not relevant to the issue that the State had brought
 10:00AM 5 up in their motion to dismiss, and we kind of battled
 10:00AM 6 back and forth.

10:00AM 7 I ended up rewriting this thing eight times, maybe
 10:00AM 8 ten times, and it took so much more of my time than I was
 10:00AM 9 paid for or that was reasonable, in my opinion -- I think
 10:00AM 10 probably anyone's opinion. It was just completely
 10:00AM 11 unreasonable. And at some point, I gave up. I said,
 10:00AM 12 "I'm not doing anymore. Done." And that's when things
 10:00AM 13 went really south. A lot of emails, you know, just real
 10:00AM 14 negative, telling me he wanted all his money back in
 10:01AM 15 other cases I'd done for him. And I'm going to kind of
 10:01AM 16 go over some of these things with you guys.

10:01AM 17 But our relationship got to the point where -- I'm
 10:01AM 18 going to -- sorry this is so circular -- but I ended up
 10:01AM 19 having two cases I was doing with William, Mr. Routsis,
 10:01AM 20 where I not only was working as his analyst or his
 10:01AM 21 ghostwriter, but I was actually representing clients in
 10:01AM 22 those cases. Those are the only two cases, after I
 10:01AM 23 decided not to represent clients anymore for the time
 10:01AM 24 being, why I ended up representing clients. And those
 10:01AM 25 were both of the cases that I ended up getting in trouble

10:01AM 1 on.

10:01AM 2 At the point where I realized that I was getting
10:01AM 3 in some trouble potentially with the Bar on the first
10:01AM 4 case due to my relationship souring with Mr. Routsis, I
10:01AM 5 quit working on the second case. I quit talking to him.
10:02AM 6 I haven't talked to him since. And the reason I'm going
10:02AM 7 to bring this up is it is -- for two reasons, but one is
10:02AM 8 that that started happening, I was telling you about all
10:02AM 9 the anxiety I had before, that sent me to a level of, you
10:02AM 10 know, whatever was wrong with me, I had yet -- I had
10:02AM 11 still not been properly diagnosed and treated. Just with
10:02AM 12 my family, with the illnesses, things that were wrong
10:02AM 13 with me, every other reason I said, combined with that, I
10:02AM 14 just -- I just had -- I couldn't handle it.

10:02AM 15 So I'm going to -- that's just a background and
10:02AM 16 I'm going to get back into those things, but with that in
10:02AM 17 mind, I'm going to get back to my petition and I'm going
10:02AM 18 to get back -- give me one second here. I have to show
10:03AM 19 by clear and convincing evidence full compliance with the
10:03AM 20 terms and conditions of all prior disciplinary orders,
10:03AM 21 and that is Supreme Court Rule 116 subsection (2)(a).

10:03AM 22 And so I'm going to first look at -- if I -- let
10:03AM 23 me find my -- quick question. The exhibits that were
10:03AM 24 admitted, since the entire pack of my exhibits were
10:03AM 25 admitted, I don't have to go through each one

10:03AM 1 individually?

10:03AM 2 CHAIR WILLIAMSON: No. They are part of the
10:03AM 3 record. Obviously -- I won't speak for the other panel
10:03AM 4 members, but I can tell you from my perspective to
10:03AM 5 completely digest 800 pages of exhibits, I might not be
10:03AM 6 able to get it all in my head effectively. So if there's
10:03AM 7 something important to you, I encourage you to really
10:03AM 8 stress that to us. However, they are all technically in
10:03AM 9 the record.

10:04AM 10 MR. SWAFFORD: Okay. Okay. So for -- there's
10:04AM 11 obviously two orders -- two suspension orders -- and I'm
10:04AM 12 trying to look at the index real quick. Here it is.

10:04AM 13 So it would be the -- pages one through five, and
10:04AM 14 then pages six through nine are the first two -- it would
10:04AM 15 be exhibits -- I actually marked those as 1 and 2. I
10:04AM 16 think they're still marked as 1 and 2, and those were the
10:04AM 17 suspension orders. So I'm going to start with the first
10:04AM 18 suspension order that was case -- that was in -- the
10:04AM 19 Supreme Court Case number was 707200. I think it would
10:04AM 20 be beneficial now -- I'm going to give a little more
10:04AM 21 background. I'm trying to think if I should explain the
10:04AM 22 background for each one of these cases. I think for
10:04AM 23 purposes -- I'm going to explain some background on these
10:05AM 24 two cases before I get into this. I'm sorry I'm all over
10:05AM 25 the place here. It's kind of hard to be linear.

10:05AM 1 The first case here, I'm going to call it the
10:05AM 2 Pardo case. It involved the representation of a client
10:05AM 3 named Eugene Pardo. What happened -- brief background on
10:05AM 4 that case -- Eugene had a brother. His brother was --
10:05AM 5 they were driving a vehicle together that was stopped by
10:05AM 6 the police. The vehicle ended up being searched. This
10:05AM 7 is before recreational marijuana became legal. They had
10:05AM 8 a little more than an ounce. I can't remember exactly
10:05AM 9 what they had but a bag of marijuana in the backpack.
10:05AM 10 They were both charged with felonies.

10:05AM 11 Mr. -- I happened to be in Reno. This was in
10:05AM 12 May -- I think it was May 14th when we met with them. I
10:05AM 13 was in Reno, and Mr. Routsis asked me to come to his home
10:06AM 14 office, where these brothers came over and they explained
10:06AM 15 the circumstances of their case. And Mr. Routsis, right
10:06AM 16 from the start, thought it would be an effective defense
10:06AM 17 here if one of the brothers, who had minimal previous
10:06AM 18 convictions or had a much lighter record than his
10:06AM 19 brother, would take the blame for it, get the case
10:06AM 20 dismissed against the other brother. This brother could
10:06AM 21 then apply for a diversion program, you know, when you're
10:06AM 22 going to be sentenced, there's all kinds of alternative
10:06AM 23 courts. There's Veterans Court, Drug Court. And what
10:06AM 24 you do is before sentencing, if you qualify under the
10:06AM 25 statute, you file a petition. And if the petition is

10:06AM 1 granted, at the time sentence is suspended and you enter
10:06AM 2 the Drug Court or the alternative court and you comply
10:06AM 3 all the conditions of the alternative court, when you're
10:07AM 4 done, the conviction is either dismissed or it's lowered.
10:07AM 5 Say, it was going to be a felony, you only get a
10:07AM 6 misdemeanor. That's kind of how that works. So the plan
10:07AM 7 was to file a petition to get him evaluated and file a
10:07AM 8 petition for Drug Diversion Court.

10:07AM 9 We were going to think about it. They didn't have
10:07AM 10 any money at the time. I had to fly back to Chicago. So
10:07AM 11 Mr. Routsis asked me if why I would sign a blank letter
10:07AM 12 of representation for him, and if they came back later
10:07AM 13 and paid and wanted us to represent them, he could file
10:07AM 14 that on my behalf on one of the brothers. The findings
10:07AM 15 of fact -- I'm just going to direct -- if you go to --
10:07AM 16 I'm going to forecast forward now. That's how the case
10:08AM 17 started.

10:08AM 18 How it ended for me wasn't as pleasant. If you go
10:08AM 19 to the forth exhibit there, it's Exhibit 1 -- my petition
10:08AM 20 is Exhibit 1. The fourth thing in there is the
10:08AM 21 Disciplinary Board's Findings of Fact. I believe it
10:08AM 22 starts at 66. You'll see there the Findings of Fact and
10:08AM 23 Conclusions of Law after the hearing.

10:08AM 24 By the way, regrettably, at both -- in connection
10:08AM 25 with both of these disciplinary hearings and order of

10:08AM 1 suspension, I did not participate. I was going through
10:08AM 2 all of those problems, and I was having a hard time, and
10:09AM 3 I did not communicate with the Bar. I didn't
10:09AM 4 participate. I had default orders -- I guess you could
10:09AM 5 say orders of default against me in both cases where, as
10:09AM 6 a consequence -- I think it's Supreme Court Rule 105, I
10:09AM 7 could be wrong about that -- but the factual allegations
10:09AM 8 will be admitted.

10:09AM 9 So the Findings of Fact here, these are -- these
10:09AM 10 fall on entry of default. And just, you know, looking
10:09AM 11 through -- I'm just going to kind of -- you know, I'm not
10:09AM 12 going to try to summarize this myself, I'm just going to
10:09AM 13 say exactly what these findings of fact were -- was that
10:09AM 14 on May of 2014, this is on page -- I have it as page 68,
10:09AM 15 but it's the third page of the Findings of Facts,
10:09AM 16 beginning at paragraph 9, for the record -- in about May
10:10AM 17 of 2014, I was visiting family in Nevada. In May of
10:10AM 18 2014, Gene Pardo and his brother contacted attorney
10:10AM 19 William Routsis after they were arrested for a drug
10:10AM 20 offense.

10:10AM 21 Routsis involved -- responding in the matter to
10:10AM 22 avoid a conflict of interest between the two brothers. I
10:10AM 23 signed a blank letter of -- blank authorization of
10:10AM 24 counsel from Mr. Routsis to complete if the Pardo
10:10AM 25 brothers decided to retain us. I then returned to

10:10AM 1 Chicago. Routsis represented the respondent, that if the
10:10AM 2 Pardo brothers did retain them, he would charge a flat
10:10AM 3 fee and split it with me 50/50. Thereafter, the brothers
10:10AM 4 did retain Routsis.

10:10AM 5 On June 12, the blank form that I signed was filed
10:10AM 6 by Mr. Routsis with the court. Mr. -- on August 13,
10:10AM 7 Mr. Routsis had sent the client a letter letting him know
10:11AM 8 there was a mandatory settlement conference, so his
10:11AM 9 office was communicating with the client.

10:11AM 10 The respondent was not informed of representation
10:11AM 11 until September 8 when he was notified of the mandatory
10:11AM 12 settlement conference. Routsis intended to meet with
10:11AM 13 both clients and prepare. So in the Findings of Fact, it
10:11AM 14 seemed to -- three months later I learned that I was
10:11AM 15 representing him. That representation has been filed --
10:11AM 16 sorry, my computer is delayed. It says on November 11,
10:11AM 17 2014, Routsis told respondent that he had Pardo handled,
10:11AM 18 he had a deal worked out for both brothers. He needed to
10:11AM 19 speak with his client, who was taking full responsibility
10:11AM 20 for the drugs and his brother is having all the charges
10:12AM 21 dismissed. I'm going to -- you guys can go through that
10:12AM 22 more if you want. You get the gist of it.

10:12AM 23 When my relationship with Mr. Routsis broke
10:12AM 24 down -- really quick -- I ended up going to -- I was
10:12AM 25 ordered to attend the arraignment. The arraignment is

10:12AM 1 where you client pleads guilty. And he paid for me to
10:12AM 2 fly out, and I did the arraignment. And when we walked
10:12AM 3 out, Mr. Routsis is with me when we walked out of the
10:12AM 4 arraignment, he had the -- he was arranging for Mr. --
10:12AM 5 the client at that time to get an evaluation done so that
10:12AM 6 he could enter the diversion program, and he informed me
10:12AM 7 that since the judge had not specifically ordered me to
10:12AM 8 attend that sentencing, that he could just do the
10:12AM 9 appearance for me. That way, he wouldn't have to pay for
10:12AM 10 me to fly out again, etcetera.

10:12AM 11 After our relationship crumbled and I did not
10:13AM 12 attend the sentencing hearing -- and I'm going to
10:13AM 13 actually talk about this a little more -- I have -- as
10:13AM 14 part of the record, I submitted the transcript of that
10:13AM 15 sentencing hearing, as well as emails between me and
10:13AM 16 Mr. Routsis. But he informed the judge that I had in
10:13AM 17 fact abandoned my client. That he was stepping in
10:13AM 18 because he didn't want to see the client harmed. That
10:13AM 19 because I abandoned my client, that he went and had the
10:13AM 20 evaluation done, and pretty much I had just abandoned the
10:13AM 21 client and he was saving the day.

10:13AM 22 And when I received the initial Bar complaint
10:13AM 23 against me, I can't remember if it was in the mail or
10:13AM 24 email from -- based on -- it was Judge Scott Freeman --
10:13AM 25 based on his complaints and from the transcript of that

10:13AM 1 hearing, that was the point when I realized that
 10:13AM 2 Mr. Routsis -- I believed, I didn't realize -- I
 10:13AM 3 believed -- what was that? Sorry. My computer -- I
 10:14AM 4 don't know if you guys can hear that -- I believe that he
 10:14AM 5 was just trying to harm me at that point. He was trying
 10:14AM 6 to get me in trouble with the Bar, and I quit talking to
 10:14AM 7 him. I quit. We'll talk about the other case that I got
 10:14AM 8 in trouble on, but I quit working on that case as well at
 10:14AM 9 that point.

10:14AM 10 Going back to the showing that I complied with all
 10:14AM 11 the conditions of the suspension order in that case, the
 10:14AM 12 first -- I'm just going -- I'm kind of reading from my
 10:14AM 13 petition -- the first disciplinary order filed in Case
 10:14AM 14 No. 70200 mandated a suspension of six months and
 10:14AM 15 one day, and it ordered me to pay \$500 to the State Bar
 10:14AM 16 for staff and counsel salaries, plus the actual cost of
 10:15AM 17 the disciplinary hearing, mailing expenses, within
 10:15AM 18 30 days. These costs amounted to \$467 for transcription
 10:15AM 19 preparation costs, and \$74.14 mailing expenses, and the
 10:15AM 20 bill for both cases I attached at, I believe, the fifth
 10:15AM 21 exhibit -- I keep saying "exhibit," it's Petitioner's
 10:15AM 22 Exhibit 1, so I'm just going to say 1 -- 1, 2, 3 --

10:15AM 23 CHAIR WILLIAMSON: I think it is marked as
 10:15AM 24 Exhibit 5. The index just shows which volume it's in.

10:15AM 25 MR. SWAFFORD: Okay.

10:15AM 1 CHAIR WILLIAMSON: I believe it's page 79 of my
10:15AM 2 PDF, which is marked page 77 in the bottom right corner.

10:15AM 3 MR. SWAFFORD: I have -- a little different what I
10:15AM 4 was just -- I have page 90 through 98. What was yours?

10:16AM 5 CHAIR WILLIAMSON: Well, so the Findings of Fact
10:16AM 6 and Conclusions of Law --

10:16AM 7 MR. SWAFFORD: I thought it was bill of costs.

10:16AM 8 CHAIR WILLIAMSON: -- is Exhibit 5.

10:16AM 9 MR. SWAFFORD: Okay. So your bill of costs would
10:16AM 10 be the next thing, right, number six.

10:16AM 11 CHAIR WILLIAMSON: The bill of costs, correct, is
10:16AM 12 Exhibit 6, which is page 90 --

10:16AM 13 MR. SWAFFORD: Okay. Great.

10:16AM 14 CHAIR WILLIAMSON: -- it's the ninety-second page
10:16AM 15 of the attachment of PDF. The index is two pages long.

10:16AM 16 CHAIR WILLIAMSON: So I'm going to direct you guys
10:16AM 17 to that, what you just mentioned there, and it shows --
10:16AM 18 what that exhibit is going to show is -- are the -- the
10:16AM 19 total bill of costs for both cases, and my text showing
10:16AM 20 that I paid everything in both cases. So with respect
10:16AM 21 to -- I'm still on the first order of suspension -- I
10:17AM 22 complied with everything that's in there because that was
10:17AM 23 the only condition there was.

10:17AM 24 Moving on to the next suspension order, this would
10:17AM 25 be in Nevada Supreme Court Case 71844, I'm going to

10:17AM 1 designate that for purposes of clarification the Spencer
10:17AM 2 case, because the client was Jeffrey Spencer. This one
10:17AM 3 is going to be a little more involved. There was a few
10:17AM 4 more conditions on this one.

10:17AM 5 Like I said a minute ago, and I'm going to clarify
10:17AM 6 this with my presentation of evidence, but both of these
10:17AM 7 cases resulted from my -- at least in part, from my
10:17AM 8 breakdown in my professional relationship with
10:17AM 9 Mr. Routsis. In case -- in the Pardo case, at the time
10:18AM 10 that I -- that I -- of sentencing, which would have been
10:18AM 11 in September of -- no, no, no, no -- I'll have to get the
10:18AM 12 date when I look through this, but that sentencing
10:18AM 13 hearing -- and I didn't attend it, I had also quit --
10:18AM 14 quit speaking with either Mr. Routsis or the client in
10:18AM 15 this Spencer case at that same time. So the same events
10:18AM 16 led -- not just the same events but all my other
10:18AM 17 conditions that I was talking about previously, kind of
10:18AM 18 led up to where I quit talking to Mr. Routsis and then
10:18AM 19 both of these -- both of these matters, the complaints
10:18AM 20 were filed against me pretty close together, and they
10:18AM 21 related to the same conduct.

10:18AM 22 So in this case, the second order of suspension,
10:18AM 23 once again, I was suspended for six months and one day
10:19AM 24 beginning on September 11, 2017. And so obviously right
10:19AM 25 now on both my suspensions the time clearly has been

10:19AM 1 served. It's been a long time. I have not engaged in
10:19AM 2 the practice of law, and any misconduct or unauthorized
10:19AM 3 practice of law. And the order -- the suspension order
10:19AM 4 in Case No. 71844, which is attached at the Part 2, pages
10:19AM 5 six through nine of petitioner's exhibit -- exhibits or
10:19AM 6 my exhibits, I don't know if you consider that yours --
10:19AM 7 said I was required to pay the costs of the proceeding,
10:19AM 8 including \$2,500, within 30 days. And at that time I
10:19AM 9 actually -- that was a ton of money for me. I didn't
10:20AM 10 have any steady income or work. They allowed me to pay
10:20AM 11 it in three parts, and I think I ended up actually -- I
10:20AM 12 can't remember exactly how I paid it, but you can see as
10:20AM 13 part of the bill of costs, pages 90 to 98, a letter -- or
10:20AM 14 an email I received from -- I don't know how you
10:20AM 15 pronounce her last name, but Jana Chafee -- discussing
10:20AM 16 with me the payment plan, and the checks that I used to
10:20AM 17 pay and I covered all the costs in this case as well. I
10:20AM 18 paid everything on time.

10:20AM 19 So aside from making those payments in time, I had
10:20AM 20 two conditions that were -- that were conditions of being
10:20AM 21 reinstated, and the first one was actually a condition of
10:21AM 22 filing my petition. The second one was a condition of
10:21AM 23 reinstatement, and I needed to get a fitness for duty
10:21AM 24 evaluation, and that pertained to my head injury that I
10:21AM 25 had testified to. So really briefly, as another

10:21AM 1 background, I defaulted on both of these things. I did
10:21AM 2 not -- I regret immensely not participating or
10:21AM 3 challenging evidence against me or assisting the Bar with
10:21AM 4 its investigation. And I -- I -- sorry, I've just kind
10:21AM 5 of lost where I was at.

10:21AM 6 So I had default entered in both cases. The only
10:21AM 7 hearing I participated, which I would call it the
10:21AM 8 punishment phase hearing -- not -- punishment is the
10:21AM 9 wrong word because it's not supposed to be punishment --
10:21AM 10 the sanction phase hearing for the second case I actually
10:22AM 11 participated in. I believe that was on October 5th of
10:22AM 12 2016. And the transcript for that -- October 10, 2016 --
10:22AM 13 and the transcript for that hearing was actually attached
10:22AM 14 at Part 3 of the formal -- of my exhibits between pages
10:22AM 15 10 and 65.

10:22AM 16 And the fitness for duty evaluation, at that
10:22AM 17 hearing I provided some testimony, as I did today,
10:22AM 18 regarding my brain injury and some things that were going
10:22AM 19 on my in life and how those ended up -- those were some
10:22AM 20 mitigating factors when they determined what my sanction
10:22AM 21 should be and they -- the fitness for duty evaluation was
10:22AM 22 a condition. Before applying for reinstatement, Swafford
10:22AM 23 must obtain a fitness duty of evaluation from a
10:23AM 24 competent, licensed neurologist. And up until that
10:23AM 25 point, like I said, first I was -- when I was in Chicago

10:23AM 1 I'd been misdiagnosed by a psychiatrist and doctors with
10:23AM 2 bipolar disorder. I've not gotten any better, probably
10:23AM 3 gotten worse from taking the wrong medication. In Reno,
10:23AM 4 I finally got to Dr. Fredericks, who will testify later
10:23AM 5 today, and what he did to figure out -- you know, he has
10:23AM 6 more experience dealing with this kind of issue, but I'm
10:23AM 7 going to really mispronounce it but I think it was called
10:23AM 8 arginine, something like arginine. And I went into the
10:23AM 9 infusion center with the cancer patients at Saint Mary's
10:23AM 10 and they spent about -- I was there pretty much all day
10:23AM 11 but it just goes into my body and then they keep doing
10:24AM 12 blood draws. And what they were trying to do was to see
10:24AM 13 if what they were putting into me triggered a stimulation
10:24AM 14 of growth hormone, because that is the -- what your
10:24AM 15 pituitary gland would be producing, and mine wasn't
10:24AM 16 stimulating. So he realized that I had the pituitary
10:24AM 17 gland issue there and started treating it.

10:24AM 18 So, anyway, I had not ever actually seen a
10:24AM 19 neurologist but because that was the specific, you know,
10:24AM 20 condition, I did. I scheduled an appointment with a
10:24AM 21 neurologist. His name was Jon Artz -- Jonathan Artz, I
10:24AM 22 think is how you pronounce it -- and he's with Renown
10:24AM 23 Hospital, Neurology. And I spoke with him. I not only
10:24AM 24 spoke with him about me needing to get evaluated for this
10:25AM 25 purpose but I'd been having a lot of migraines at the

10:25AM 1 time, too. I do a lot of -- a lot of the work that I
10:25AM 2 would do for Mr. Houston, just a lot of research, sitting
10:25AM 3 in front of the computer, writing a lot, I have headaches
10:25AM 4 a lot. I actually spoke with him about that as well.

10:25AM 5 Anyway, he did a brain scan, an MRI. I'm actually
10:25AM 6 going to go to pages 99 through 103, and what this is
10:25AM 7 going to be is it's going to be, first, after he did that
10:25AM 8 brain scan, he wrote this report. He talks about how --
10:25AM 9 that the MRI looks good, there's nothing --

10:26AM 10 Oh. By the way, the way that I obtained these
10:26AM 11 records was MyChart. I don't know if any of you guys use
10:26AM 12 Renown and they have the communication system online
10:26AM 13 where you can communicate with your doctor, so these were
10:26AM 14 obtained MyChart.

10:26AM 15 But it says, you know, my MRI looked good, there's
10:26AM 16 nothing suggesting a disorder with the brain itself. In
10:26AM 17 other words, Dr. Fredericks, an endocrinologist, looking
10:26AM 18 at the gland, the pituitary gland, he is actually
10:26AM 19 studying the brain matter itself, he says somewhere in
10:26AM 20 this, it was kind of interesting, he's saying -- oh,
10:26AM 21 yeah, findings, the study was mildly defrayed by a motion
10:26AM 22 artifact, which is probably some of the metal in my face,
10:26AM 23 but looking at the brain itself, he writes something that
10:26AM 24 I don't understand here but that I don't have any --
10:26AM 25 anything wrong with the brain matter itself to suggest a

10:27AM 1 seizure disorder.

10:27AM 2 I then asked him if he could write -- I wrote him
10:27AM 3 this letter here, you could see, I was telling him how I
10:27AM 4 needed -- I needed a letter for the Bar -- I asked him to
10:27AM 5 actually address it to the Bar as -- and I told him as a
10:27AM 6 fitness for duty evaluation, explaining that I was not
10:27AM 7 limited by my injuries and should be able to practice
10:27AM 8 law. He -- kind of hard, I've noticed, to get doctors to
10:27AM 9 do this kind of thing unless you have a real good
10:27AM 10 relationship with him. I had only seen this guy one time
10:27AM 11 or two times, and although his response is pretty short,
10:27AM 12 you can see it at page 103, he just says:

10:27AM 13 Read test result question. Will,
10:27AM 14 there's nothing on your brain MRI from
10:27AM 15 May 4th, 2021, that is abnormal. I do
10:28AM 16 not have any reason or neurological
10:28AM 17 evidence at this point to suggest that
10:28AM 18 you cannot practice law at this time.
10:28AM 19 Having migraine headaches should not
10:28AM 20 preclude you from practicing law.

10:28AM 21 I thought, Well, that might not be exactly what
10:28AM 22 the Bar wants, that's as much as I could get out of him.
10:28AM 23 So I asked my general practitioner, who I see more often
10:28AM 24 than anyone else, if he could write me a letter as to the
10:28AM 25 same, and his response is at page 104. I'm just going to

10:28AM 1 briefly read it because it's so short. Once again,
 10:28AM 2 communicated through MyChart communication system.
 10:28AM 3 Sorry, I'm so thirsty. I have to keep getting
 10:28AM 4 drinks.

10:28AM 5 He says:

10:28AM 6 Mr. Swafford has been in my care since
 10:28AM 7 February 11, 2019. I have seen him every
 10:28AM 8 three months over the past two plus
 10:28AM 9 years. I have witnessed firsthand his
 10:29AM 10 conditions of anxiety and depression and
 10:29AM 11 ADHD improved significantly with the help
 10:29AM 12 of medication and personal growth. I
 10:29AM 13 feel he should have due process in the
 10:29AM 14 State Bar of Nevada and have his attorney
 10:29AM 15 license reinstated. If you have any
 10:29AM 16 questions or concerns, please don't
 10:29AM 17 hesitate to call.

10:29AM 18 Like I said, I was -- I wanted more testimony
 10:29AM 19 because neither one of these guys really understand the
 10:29AM 20 specifics of my -- the type of brain injury that I have.
 10:29AM 21 So that's why when you started this morning you saw
 10:29AM 22 Dr. Fredericks was in the waiting queue, and I called his
 10:29AM 23 assistant, that's why I was on the phone initially, that
 10:29AM 24 I have an appointment scheduled today at 10:30. Now,
 10:29AM 25 with this doctor, 10:30 could mean 2:00, and at some

10:30AM 1 point --

10:30AM 2 MS. FLOCCHINI: If I may interrupt, Mr. Swafford,
10:30AM 3 I just wanted to, for the record, acknowledge that the
10:30AM 4 correspondence and the letter from Dr. Artz is Exhibit 7,
10:30AM 5 marked as your Exhibit 7. And then also the letter from
10:30AM 6 Dr. Weiss is marked as Exhibit 8.

10:30AM 7 I also believe that Dr. Fredericks is logged into
10:30AM 8 the waiting room, although maybe with a patient currently
10:30AM 9 and anticipates testifying at 10:40. So I thought if
10:30AM 10 this is a good time, it might be a good time to take 10
10:30AM 11 minutes, let our court reporter rest for a second, and
10:30AM 12 then we can come back right at 10:40 and Dr. Fredericks
10:30AM 13 should be ready to testify and we can switch to that.

10:30AM 14 I'm just suggesting that as a procedure.

10:30AM 15 CHAIR WILLIAMSON: Do you have any objection to
10:30AM 16 that, Mr. Swafford?

10:30AM 17 MR. SWAFFORD: I love that procedure.

10:30AM 18 CHAIR WILLIAMSON: Okay. All right. Sounds good.

10:30AM 19 Let's go ahead and take a break, and come back at
10:30AM 20 10:40 and hopefully hear from Dr. Fredericks.

10:31AM 21 (Off the record.)

10:40AM 22 CHAIRMAN WILLIAMSON: Hi. Dr. Fredericks?

10:40AM 23 DR. FREDERICKS: I have to press Continue here to
10:40AM 24 get this off your face. There we go.

10:41AM 25 CHAIR WILLIAMSON: All right. Great. Thank you

10:41AM

1 for joining us.

10:41AM

2 My name is Richard Williamson. And Ms. Ferretto,

10:41AM

3 our court reporter, is going to ask you to be sworn in as

10:41AM

4 a witness. Then Mr. Swafford will have some questions

10:41AM

5 for you.

10:41AM

6 DR. FREDERICKS: Okay.

10:41AM

7 (Witness sworn.)

10:41AM

8 CHAIR WILLIAMSON: Go ahead, Mr. Swafford.

9

10

ROBERT FREDERICKS, M.D.

11

12

called as a witness on behalf of the Petitioner,
having been duly sworn, testified as follows:

13

14

10:41AM

15

+++ DIRECT EXAMINATION +++

10:41AM

16

BY MR. SWAFFORD:

10:41AM

17

Q Thank you for being here today, Dr. Fredericks.

10:41AM

18

Greatly appreciated.

10:41AM

19

Can I start by having you state and spell your

10:41AM

20

name for the record?

10:41AM

21

A Robert Fredericks; R-O-B-E-R-T,

10:41AM

22

F-R-E-D-E-R-I-C-K-S.

10:41AM

23

Q How long have you been practicing as a doctor for?

10:41AM

24

A I received an M.D. in 1975.

10:42AM

25

Q And have you been in the field of endocrinology

10:42AM 1 that entire time?

10:42AM 2 A No. I completed my endocrinology training in
10:42AM 3 1980.

10:42AM 4 Q Okay. And I just met with you last week and I
10:42AM 5 discussed some of the things I'd like you to testify
10:42AM 6 about today, but what I just was explaining before you
10:42AM 7 joined the hearing was that when I was living in Chicago,
10:42AM 8 a few months before I had seen you, I had spent about a
10:42AM 9 year, maybe a year-and-a-half being treated for bipolar
10:42AM 10 disorder, giving the symptoms of anxiety and depression
10:42AM 11 and insomnia, etcetera, that I had spoken with my
10:42AM 12 psychiatrist and doctors about. And when I started
10:42AM 13 seeing you, you believed that I had different conditions
10:42AM 14 and I would just kind of like you to testify about what
10:43AM 15 you diagnosed me with and how that diagnosis came to be,
10:43AM 16 as well as how, in your opinion, that could relate to
10:43AM 17 some of the behavioral issues that I've been
10:43AM 18 experiencing.

10:43AM 19 A Yes. In reviewing your notes just earlier here,
10:43AM 20 and at that time you related a history of having had a
10:43AM 21 severe head trauma. I believe it was in a football
10:43AM 22 pick-up type game --

10:43AM 23 Q It was.

10:43AM 24 A -- you had very serious after-effects and came to
10:43AM 25 the conclusion that you might have the findings that we

10:43AM 1 see in traumatic post-brain injury, or TBI. And we have
 10:43AM 2 seen and there have been reports that could be treated
 10:43AM 3 with growth hormone successfully.

10:43AM 4 So we evaluated your growth hormone axis and found
 10:43AM 5 that you did have suppressed growth hormone, which is
 10:44AM 6 often the case in that instance. We also look at the
 10:44AM 7 role of the testosterone, which can also be suppressed
 10:44AM 8 from the hypothalamic pituitary axis, and we were looking
 10:44AM 9 at this on a background of having ADHD diagnosis as a
 10:44AM 10 child and thought those two could be interactive.

10:44AM 11 So we initiated growth hormone, testosterone and
 10:44AM 12 HCG as a stimulant to the testosterone that comes from
 10:44AM 13 the pituitary as a treatment of that condition and
 10:44AM 14 observed marked improvement in your ability to function
 10:44AM 15 and metabolic parameters.

10:44AM 16 **Q Do you believe that me having had been diagnosed**
 10:44AM 17 **with bipolar disorder and taking -- it was Seroquel and**
 10:44AM 18 **Lamictal, could those have affected my behavior and made**
 10:44AM 19 **my symptoms -- like, how might have that affected me?**

10:44AM 20 A Well, that's much harder to determine how somebody
 10:45AM 21 is going to respond to an intervention if it's not the
 10:45AM 22 appropriate intervention to the condition they have.
 10:45AM 23 You're going to see a wide variety of responses where
 10:45AM 24 everybody is going to be different.

10:45AM 25 I certainly think that it's -- you want to be

10:45AM 1 treated for the condition you actually have, and I
 10:45AM 2 strongly believe that you have a post-head injury
 10:45AM 3 concussive syndrome that governs your ability to
 10:45AM 4 function. And that when that's treated, you do better;
 10:45AM 5 whereas, those other drugs are not treating that.

10:45AM 6 **Q In your opinion, does my medical condition that**
 10:45AM 7 **you explained limit me from having a normal life where I**
 10:45AM 8 **could -- where I could participate in normal activities?**

10:45AM 9 A No, I doesn't limit it. This is how -- just like
 10:45AM 10 treating any other health condition, if you can find the
 10:45AM 11 thing that helps to resolve or ameliorate the findings,
 10:46AM 12 then that allows you to function appropriately. That's
 10:46AM 13 the goal of using treatment in an appropriate way to
 10:46AM 14 resolve the condition.

10:46AM 15 MR. SWAFFORD: I think Dr. Fredericks just
 10:46AM 16 explained everything I needed. That was very short and I
 10:46AM 17 don't think I need anything else from you, I'm going to
 10:46AM 18 rest my questioning of him.

10:46AM 19 Does anyone else have any questions?

10:46AM 20 CHAIR WILLIAMSON: Ms. Flocchini?

10:46AM 21 MS. FLOCCHINI: Yes.

10:46AM 22 / / / /

10:46AM 23 / / / /

10:46AM 24 / / / /

25

10:46AM

1 +++ CROSS-EXAMINATION +++

10:46AM

2 BY MS. FLOCCHINI:

10:46AM

3 Q Dr. Fredericks, my name is Kait Flocchini. I'm

10:46AM

4 the Assistant Bar Counsel for this State Bar, and so I

10:46AM

5 have a few follow-up questions. Thank you for taking the

10:46AM

6 time to participate in this process.

10:46AM

7 A Okay.

10:46AM

8 Q Are Mr. Swafford's symptoms of the conditions that

10:46AM

9 you identified resolved or sufficiently mitigated at this

10:46AM

10 time?

10:46AM

11 A I believe so.

10:46AM

12 Q Does that require ongoing medication?

10:47AM

13 A Yes.

10:47AM

14 Q And do you anticipate that in order for

10:47AM

15 Mr. Swafford to continue taking the medication he would

10:47AM

16 need to continue to see you on some sort of maintenance

10:47AM

17 basis?

10:47AM

18 A We would want to follow up. The whole ability to

10:47AM

19 treat traumatic brain injury is something that is in its

10:47AM

20 infancy, that we've been working on for years, and we're

10:47AM

21 learning this as we go.

10:47AM

22 Q Okay. And do you have any concerns -- how long

10:47AM

23 have you been treating Mr. Swafford for the traumatic

10:47AM

24 brain injury?

10:47AM

25 A I'll have to look at my notes to see when he was

10:47AM 1 first seen. I first saw him on October 26, 2015, and I
 10:48AM 2 was immediately suspicious that be he might have problems
 10:48AM 3 related to that history of severe head trauma, to explain
 10:48AM 4 what he had previously been evaluated.

10:48AM 5 Q So it's been about six-and-a-half years, and
 10:48AM 6 during that time have you -- has Mr. Swafford
 10:48AM 7 consistently met with you in order to work on finding
 10:48AM 8 ways in which to mitigate the symptoms and the conditions
 10:48AM 9 that you've identified?

10:48AM 10 A Well, initially -- well, COVID -- even during
 10:48AM 11 COVID, he was seen 1/15/20, which would really be before
 10:48AM 12 COVID was recognized in the United States. We did see
 10:48AM 13 him again in February of '21, which is maybe a little bit
 10:48AM 14 longer than I would like but I think that was COVID
 10:48AM 15 delay. More often than once a year since then. So a
 10:49AM 16 little bit delayed by COVID but reasonable considering
 10:49AM 17 the times.

10:49AM 18 Q Okay. Thank you. And at this point,
 10:49AM 19 Mr. Fredericks, do you have any concerns about
 10:49AM 20 Mr. Swafford's condition affecting his ability to
 10:49AM 21 practice law?

10:49AM 22 A No. I think it's enhanced. There's other people
 10:49AM 23 whose conditions would be of concern to me.

10:49AM 24 Q Does Mr. Swafford's condition, as it is now with
 10:49AM 25 the medications and the way that it's been treated, do

10:49AM 1 you have any concerns with Mr. Swafford's abilities to

10:49AM 2 focus on work?

10:49AM 3 A No more than I would have for anyone else.

10:49AM 4 Q Okay. Do you have any concerns with

10:49AM 5 Mr. Swafford's ability to deal with stressors because of

10:49AM 6 his condition at its present state?

10:50AM 7 A No more than I would have with anybody else.

10:50AM 8 Q Okay. And would you have any concerns with

10:50AM 9 Mr. Swafford's ability to perform work in a timely

10:50AM 10 fashion?

10:50AM 11 A No more than anybody else.

10:50AM 12 Q Great.

10:50AM 13 MS. FLOCCHINI: Thank you, Mr. Fredericks --

10:50AM 14 Dr. Fredericks -- pardon me -- for your time and your

10:50AM 15 participation in our process.

10:50AM 16 THE WITNESS: Okay. Thank you.

10:50AM 17 CHAIR WILLIAMSON: And do any of the panel members

10:50AM 18 have any questions for Dr. Fredericks?

10:50AM 19 MR. HANAGAMI: I do not.

10:50AM 20 CHAIR WILLIAMSON: Okay.

10:50AM 21 MR. MEADE: I do not either.

10:50AM 22 CHAIR WILLIAMSON: Okay. Mr. Swafford, any

10:50AM 23 redirect?

10:50AM 24 MR. SWAFFORD: No redirect.

10:50AM 25 CHAIR WILLIAMSON: Okay. All right.

10:50AM 1 Dr. Fredericks, thank you so much for your time

10:50AM 2 this morning, and we wish you a good day.

10:50AM 3 MR. SWAFFORD: Thank you, Dr. Fredericks.

10:50AM 4 CHAIR WILLIAMSON: Mr. Swafford, would you like to

10:51AM 5 resume yourself or do you have another witness who you'd

10:51AM 6 like to call at this time?

10:51AM 7 MR. SWAFFORD: I'm going to resume. I'm going to

10:51AM 8 be -- I'm going to be testifying for a while now.

10:51AM 9 CHAIR WILLIAMSON: Go ahead.

10:51AM 10 MR. SWAFFORD: You guys might get sick of me.

10:51AM 11 Okay. I was just talking about -- I was

10:51AM 12 talking -- so I had seen -- we were talking about the

10:51AM 13 fitness for duty evaluation requirement, and I brought --

10:51AM 14 well, there was supposed to be a licensed neurologist.

10:51AM 15 So I got everything I could get from Dr. Artz and, like I

10:51AM 16 said, I felt it might not be exactly what you guys were

10:51AM 17 looking for. She definitely could not answer the

10:51AM 18 questions that you just asked.

10:51AM 19 So I asked -- I asked my primary care physician,

10:51AM 20 and it was kind of interesting. He actually told me that

10:51AM 21 anyone associated with -- I was lucky Dr. Fredericks is

10:52AM 22 not associated with Renown, kind of sucks for my

10:52AM 23 insurance purposes because I'm a Hometown Health, I guess

10:52AM 24 their physicians are not allowed to testify in these

10:52AM 25 hearings unless they're subpoenaed or there are certain

10:52AM 1 requirements, so I was having problems getting them
10:52AM 2 anyway. They were very reluctant to even send those
10:52AM 3 letters.

10:52AM 4 And so then I asked Dr. Fredericks.
10:52AM 5 Dr. Fredericks had more information anyway because he's
10:52AM 6 the one that's been treating me. Just from a personal
10:52AM 7 point of view, he's been doing a great job. I was as bad
10:52AM 8 as I could get when I first started seeing him. I know a
10:52AM 9 lot of it had to do with the fact I was going through so
10:52AM 10 many issues in my life.

10:52AM 11 I am a very family oriented person. When I was
10:52AM 12 losing my dad and my uncle at the same time and dealing
10:52AM 13 with all those problems, it was difficult. I was -- I
10:52AM 14 had an awesome girlfriend that I lived with in Chicago,
10:53AM 15 not just her was awesome but I probably gained those 60
10:53AM 16 to 80 pounds because her parents owned Italian
10:53AM 17 restaurants and I always had amazing food in my frig, and
10:53AM 18 I had to end that and I moved back to Reno to help take
10:53AM 19 care of my family and -- I kind of lost my -- what I was
10:53AM 20 talking about -- but I had all these issues. I was doing
10:53AM 21 horrible.

10:53AM 22 The problems and Mr. Routsis, he was someone I
10:53AM 23 worked with ever since I started -- the day -- the day
10:53AM 24 that I found out I became a licensed attorney, we
10:53AM 25 organized Routsis, Gilbert, Swafford, so I've been

10:53AM 1 working with them and had a great -- when our
10:53AM 2 relationship broke down and I started having bar
10:53AM 3 complaints against me on top of everything else, I
10:53AM 4 just -- I had a really bad time at that point in my life.

10:54AM 5 And I went and saw Dr. Fredericks, and it took a
10:54AM 6 while to get some of those medications because, one,
10:54AM 7 something I've been learning about our health care system
10:54AM 8 is that -- I don't want to go off on too much of a rant
10:54AM 9 here, but insurance is based on risk mitigation and
10:54AM 10 managing -- I don't want to say managing -- almost
10:54AM 11 managing failure, and they're not always interested in
10:54AM 12 actual biology and sometimes a doctor will prescribe a
10:54AM 13 medicine and they are, "We're not paying for that.
10:54AM 14 That's ridiculous." But what the doctor was actually
10:54AM 15 doing is to help you get better and the medicines that he
10:54AM 16 prescribed were hit-and-miss whether I could get my
10:54AM 17 insurance to cover a lot of them, which was very
10:54AM 18 expensive for me. But ever since I've been seeing him,
10:54AM 19 I've been getting a lot better.

10:54AM 20 The improvement was -- it was -- at first it
10:54AM 21 was -- it was great. I mean, I noticed it so much after
10:55AM 22 I started taking some of the hormones, that I was
10:55AM 23 getting huge improvement. Then the improvement kind of
10:55AM 24 slowed and went gradual. To tell you the truth, at this
10:55AM 25 exact moment in my life I'm not doing some of those

10:55AM 1 hormones because I'm -- I'm getting them in a month or
10:55AM 2 two. It's a little bit hard for me. This is -- I have a
10:55AM 3 lot of anxiety right now. I haven't been given them
10:55AM 4 because of insurance issues. Sorry, I got sidetracked.

10:55AM 5 Okay. So I think that covers all of the issues
10:55AM 6 for the condition of my fitness for duty evaluation.
10:55AM 7 Like I said, I got everything I could get from the
10:55AM 8 neurologist and I supplemented it with the information
10:55AM 9 that you just heard.

10:55AM 10 So the next condition of the -- of the first --
10:56AM 11 I'm sorry -- the second order of suspension was filed in
10:56AM 12 Case No. 71844, you're talking about Exhibit 2 here. The
10:56AM 13 second condition was that I had to participate in
10:56AM 14 E-dispute proceedings with Mr. Spencer. So let me -- I'm
10:56AM 15 going to give a little background on this case just like
10:56AM 16 I did on the last case before I started.

10:56AM 17 I had been working with Mr. Routsis again, as I
10:56AM 18 explained, and Mr. Routsis was starting his business
10:56AM 19 again. He's kind of starting over from scratch out of
10:56AM 20 his home. I not only was helping him with his cases but
10:56AM 21 I was actually building his website and writing content
10:56AM 22 for him. I was doing some of his business -- I was
10:56AM 23 marketing for him as well, so he was using me pretty
10:56AM 24 exclusive extensively trying the build his practice.

10:57AM 25 And he knew that I was having -- I quit taking

10:57AM 1 cases in Chicago. I quit looking for new clients. I
10:57AM 2 quit advertising. I was thinking about getting out of
10:57AM 3 law in general, and he had me working on that Darren Mack
10:57AM 4 case for rewriting -- I'm talking it was a 65-page
10:57AM 5 finished document, and I'm rewriting it all the time.
10:57AM 6 It's taking all my time, and I don't have any money
10:57AM 7 coming in.

10:57AM 8 And he had a case where he had a client who lived
10:57AM 9 up in Tahoe, who got into a bitter dispute with his
10:57AM 10 neighbors that started about a fence. The guy was
10:57AM 11 probably -- I'm guessing -- probably a quarter-million
10:57AM 12 dollar fence that went around an entire area of property
10:57AM 13 up in Tahoe and I think he had to move the fence like a
10:57AM 14 couple of inches back. It was horribly expensive. He
10:58AM 15 got into a huge fight with his neighbor. And it turned
10:58AM 16 into one neighbor, then it started with other neighbors.

10:58AM 17 Well, it led to the point where he was charged
10:58AM 18 with elder abuse. What it is, is it's pretty much a
10:58AM 19 felony -- it's a felony and it's pretty much -- it's a
10:58AM 20 pattern. You have to show -- it's kind of like stalking
10:58AM 21 and harassment only it deals with a senior citizen and
10:58AM 22 that it deals with one of the -- I think one of the three
10:58AM 23 elements -- one of the three in the pattern -- the
10:58AM 24 pattern has to be three instances, and one of them
10:58AM 25 actually has to be a threat of physical injury or actual

10:58AM 1 physical injury, and he actually tackled this guy one
10:58AM 2 night in the snow, kind of an interesting story, but then
10:58AM 3 he -- then there was two other instances and they charged
10:58AM 4 him with felony elder abuse statute, and he went to
10:59AM 5 trial. Mr. Routsis represented him, and he got him an
10:59AM 6 acquittal -- I think it was a pretty extensive -- it was
10:59AM 7 like a 10-day trial and he got him an acquittal.

10:59AM 8 After the trial, he's -- people were not happy and
10:59AM 9 they wanted to sue everyone. They wanted to sue the
10:59AM 10 judge. They wanted to sue the lawyers. They wanted to
10:59AM 11 sue every witness. They wanted to sue anyone that could
10:59AM 12 be sued. And Mr. Routsis was pretty -- kind of pretty --
10:59AM 13 I'd say he thought that the prosecution was not -- it was
10:59AM 14 pretty deceptive in their case but he thought some of the
10:59AM 15 witnesses actually probably did us some civil liability.
10:59AM 16 He proved during the criminal trial that some of the --
10:59AM 17 some of the witnesses had just plain out lied, and he
10:59AM 18 wanted to sue those witnesses based on that.

10:59AM 19 Well -- let me make sure I have that -- so I had
11:00AM 20 previously -- one of the first things that I did when I
11:00AM 21 started working with Mr. Routsis and Mr. -- and Joey
11:00AM 22 Gilbert was I worked on a -- I worked on a civil case --
11:00AM 23 well, Joey Gilbert was a boxer and he had been suspended.
11:00AM 24 It was reported to the Nevada Athletic Commission that he
11:00AM 25 failed some drug tests in relation to a title fight, and

11:00AM 1 I assisted him with some of the legal work in that case.

11:00AM 2 At one point, he was suing the Nevada Athletic

11:00AM 3 Commission and Quest Laboratories for civil conspiracy

11:00AM 4 for defamation, and I can't remember what some the other

11:00AM 5 causes of actions were. But I actually wrote up for an

11:00AM 6 attorney named Mark Wray, and this is why I really got

11:01AM 7 started with doing some of my work for other lawyers as a

11:01AM 8 researcher and writer, I wrote a lot of the oppositions

11:01AM 9 to the motions to dismiss and actually keeping every

11:01AM 10 single cause of action in court. Eventually the case got

11:01AM 11 dismissed, but the reason I'm bringing that up is I

11:01AM 12 learned a lot about defamation, privileges, absolute

11:01AM 13 privileges, qualified privileges. You know, when you're

11:01AM 14 -- when that case dealt with a state administrative

11:01AM 15 agency, the Nevada Athletic Commission, so I learned when

11:01AM 16 some of these statements by agents of the commission or

11:01AM 17 when Quest Laboratories made reports to the commission,

11:01AM 18 exactly what kind of privileges that were going to be

11:01AM 19 raised as defenses.

11:01AM 20 And I knew right at the start of this that this

11:01AM 21 was going to be an extremely difficult case because even

11:01AM 22 if these people lied and got him not only charged but

11:02AM 23 brought to trial along the way, that when you make

11:02AM 24 statements in police reports, when you -- they were

11:02AM 25 making statements to -- to planning commissions, they

11:02AM 1 were making statements -- and I knew that there was just
11:02AM 2 going to be a whole ton of absolute privileges. I knew
11:02AM 3 it was going to be really difficult to find an avenue to
11:02AM 4 frame it correctly, and I -- I spoke with them about
11:02AM 5 that.

11:02AM 6 Anyway, I ended up being paid \$35,000, and it
11:02AM 7 was -- it was -- Mr. Routsis was paid -- we were paid
11:02AM 8 \$25,000. He was going to do the trial and I was going to
11:02AM 9 do everything -- I was going to do all the -- figure out
11:02AM 10 the causes of action, pretty much the same kind of work
11:02AM 11 that I do for Ken, for Dave Houston, but this was before
11:03AM 12 that.

11:03AM 13 And, anyway, to kind of jump forward in time,
11:03AM 14 when -- in that Pardo case -- which, by the way, the
11:03AM 15 Pardo case, I got on that case in May 2014 and I started
11:03AM 16 this Spencer case in September of 2014, so both of the
11:03AM 17 cases I was punished for and those are the only two cases
11:03AM 18 I had clients in. I got on both cases right about the
11:03AM 19 same time period, and I got into both cases at the
11:03AM 20 request of Mr. Routsis.

11:03AM 21 At the time, we were trying to help each other. I
11:03AM 22 felt I was trying to help him more than he was trying to
11:03AM 23 help me in hindsight, but they -- when I quit -- in that
11:03AM 24 Pardo case, after there was that transcript that I saw
11:04AM 25 from June of -- I forget that -- in June -- must have

11:04AM 1 been 2015 -- June of 2015 when he went to that sentencing
11:04AM 2 hearing on Pardo and told the judge that he was -- he was
11:04AM 3 going to be a hero and step in because I had abandoned my
11:04AM 4 client and I got a bar complaint against me, I quit
11:04AM 5 talking to him. That's when I quit this case.

11:04AM 6 So I had -- I had worked on this case the same way
11:04AM 7 in Spencer that I worked on any case I do that's complex.
11:04AM 8 I try to identify and review all of the transcripts. In
11:04AM 9 this case, there was a criminal case before it so there
11:04AM 10 was all kinds of transcripts, and I spent a lot of time
11:04AM 11 reviewing those. I identified the issues. I identified
11:05AM 12 causes of action. I researched those causes of action.
11:05AM 13 I spent, in my opinion, a great deal of time and I think
11:05AM 14 the work I did was very valuable.

11:05AM 15 So one of the conditions of this second suspension
11:05AM 16 order was I had to participate in fee dispute
11:05AM 17 proceedings. Like I said, the order -- the disciplinary
11:05AM 18 case against me before the State Bar I defaulted in,
11:05AM 19 unfortunately. Very regrettably I did not communicate
11:05AM 20 with the Bar. I did not respond to complaints against
11:05AM 21 me. There was an entry of default order, and all the
11:05AM 22 factual allegations were deemed admitted.

11:05AM 23 And I -- after I started treating my injuries
11:05AM 24 correctly, after I started kind of getting my issues with
11:06AM 25 my family a little more under control and started looking

11:06AM 1 at some of these things, I really wished I would have
11:06AM 2 responded, but I did go to that punishment hearing, like
11:06AM 3 I said, and to me the arbitration was a good thing. To
11:06AM 4 me, it was the first chance that I would have to really
11:06AM 5 dispute any of this in either case, and I was really
11:06AM 6 looking forward to it.

11:06AM 7 The hearing that I went to, Mr. Spencer was at
11:06AM 8 that hearing. It was October 5th or 10th, but October of
11:06AM 9 2016, and they told me that he would -- he could initiate
11:06AM 10 an arbitration proceeding and we could have a hearing on
11:06AM 11 what I would have to pay back to him, etcetera. He ended
11:06AM 12 up not filing anything until like -- he filed his first
11:07AM 13 fee dispute application for arbitration on October 1st,
11:07AM 14 2019, so we're talking pretty much four years after that
11:07AM 15 hearing, and after my suspension ended time-wise. It
11:07AM 16 still took him another two-and-a-half -- or about two
11:07AM 17 years -- or two-and-a-half -- let's see, two years after,
11:07AM 18 you know, so technically had I wanted -- to participate
11:07AM 19 in a fee dispute arbitration initiated by Spencer was an
11:07AM 20 actually condition precedent to filing my petition for
11:07AM 21 reinstatement. So he could have -- had I wanted to file
11:07AM 22 it before then, I wouldn't have been able to and I was
11:07AM 23 kind of discouraged by that. I don't know why he waited
11:07AM 24 so long. But I did find out -- I looked into it and I
11:08AM 25 realized that he actually did file a -- I guess we call

11:08AM 1 it a petition, it was an application for arbitration and
11:08AM 2 I didn't respond to that. I didn't know about it at
11:08AM 3 first. And I contacted -- let me see where in the
11:08AM 4 exhibits I have that -- oh. This would be Exhibit --
11:08AM 5 sorry, I have to count. Let me count correctly because I
11:08AM 6 don't have them labeled.

11:08AM 7 I'm just going to tell you about some exhibits
11:08AM 8 real quick. Exhibit 9 that I have would be client,
11:08AM 9 Jeffrey Spencer. He was the client there. His
11:08AM 10 application for reimbursement with his exhibits to the
11:08AM 11 client security fund. And then all of my emails would be
11:08AM 12 the next exhibit, would be Exhibit 10. And not just mine
11:08AM 13 but all email correspondence between me and -- involving
11:08AM 14 those proceedings with Cathy Britz, Theresa Freeman and
11:09AM 15 Kirk Brennen. I don't know how to explain what those
11:09AM 16 communications were.

11:09AM 17 So on August 30th of 2020, I emailed the State Bar
11:09AM 18 Client Protection Coordinator Cathy Britz and informed
11:09AM 19 her that I've been notified of Mr. Spencer's attempt to
11:09AM 20 initiate fee dispute arbitration proceedings ten months
11:09AM 21 earlier, and explained to her that I had a desire to
11:09AM 22 participate. And she forwarded my email to Ms. Theresa
11:09AM 23 Freeman, who responded to my email about two weeks later
11:09AM 24 on September 3rd. And if you want to look, I put these
11:09AM 25 emails -- all the email communications in chronological

11:10AM 1 order in that exhibit, which would be beginning at pages
11:10AM 2 139 and 148. And she explained in her email back to me
11:10AM 3 that Mr. Spencer filed a claim with the Client Security
11:10AM 4 Fund on January 16, 2020, and that his case file, which
11:10AM 5 would have been CSF20-004, had been assigned to an
11:10AM 6 investigator named Kirk Brennan. I think he's a lawyer
11:10AM 7 out of Las Vegas, but I'm not exactly sure. He was
11:10AM 8 investigating the claims that Mr. Spencer asserted in his
11:10AM 9 application.

11:10AM 10 And the claim was initially scheduled for review
11:10AM 11 by the committee in April 2020, but due to the COVID
11:10AM 12 pandemic, which was kind of around April 2020 that was
11:10AM 13 right when everything was shut down, really shut down,
11:11AM 14 they moved it, let's see, to December of that year. So
11:11AM 15 they postponed it and he gave me until September 18,
11:11AM 16 2020. So I think after that discussion I had about ten
11:11AM 17 days to file anything I wanted to file in response to his
11:11AM 18 allegations in his application. I went back and found as
11:11AM 19 much work as I could.

11:11AM 20 Now, when the Spencers first gave me -- not
11:11AM 21 first -- the evidence, a lot of it was hard copy. They
11:11AM 22 had all kinds of transcripts from hearings. He was a --
11:11AM 23 part of the allegations was he was a snowplow driver and
11:11AM 24 he had allegedly -- this was one of the allegations that
11:11AM 25 we were claiming was false -- he had allegedly tried to

11:11AM 1 use his snowplow to kind of drive through the side and
11:12AM 2 use it in a way where the snow would fly up and hit this
11:12AM 3 elderly man, and people testified at this planning
11:12AM 4 commission that he did that and that he committed
11:12AM 5 felonies against this old man. And they had all of
11:12AM 6 these -- just a lot of paper evidence, so I had all that.
11:12AM 7 And then I had a lot of -- these people have
11:12AM 8 cameras everywhere, and I had all kinds of videos,
11:12AM 9 digital videos, and I had a lot of -- a lot of digital
11:12AM 10 evidence. I had a lot of evidence, and I found as much
11:12AM 11 as of it as I could. You have to recognize that I had
11:12AM 12 been moving back and forth from Reno to Chicago. I
11:12AM 13 packed up my office and went home. I'm dealing with all
11:12AM 14 this stuff. And, again, this is, you know -- I don't
11:12AM 15 know, four years later and, unfortunately, this is
11:12AM 16 something I regret, I did not remember -- could not find
11:12AM 17 at the time all the evidence. But I found everything
11:12AM 18 that I could in those ten days and I wrote a response to
11:13AM 19 Mr. Brennan, who was the investigator, and what I was
11:13AM 20 showing was just -- I'm going to summarize what the
11:13AM 21 Spencers' allegations were against me, was that I took
11:13AM 22 their money, I didn't do any work, that the money was
11:13AM 23 supposed to be for travel expenses for me to travel back
11:13AM 24 and forth from Chicago to Nevada to assist with trial and
11:13AM 25 assist with hearings, and I didn't do anything but file

11:13AM 1 an error ridden complaint where I didn't sue the right
11:13AM 2 people. After that they had to hire another lawyer, and
11:13AM 3 that lawyer ended up having to do all the work that I
11:13AM 4 didn't do.

11:13AM 5 So what I was trying to show was that, you know, I
11:13AM 6 spent months researching all the issues, identifying
11:14AM 7 possible causes of action, identifying privileges that
11:14AM 8 surrounded them, researching law to overcome those
11:14AM 9 privileges and, interestingly, I -- I think -- I'll
11:14AM 10 mention it right now, the -- their case ended up getting
11:14AM 11 dismissed, all these causes of action, based on the same
11:14AM 12 privileges that I knew were going to be a problem from
11:14AM 13 the outset, the qualified privileges and the absolute
11:14AM 14 privileges, and their attorneys ended up filing an appeal
11:14AM 15 where all the causes of action were based on all the
11:14AM 16 initial research that I did, and actually things that I
11:14AM 17 sent to Mr. Routsis and spoke to Mr. Routsis about, they
11:14AM 18 were -- I don't know. I guess, if they don't think I
11:14AM 19 knew what I was talking about or whatever, but the -- you
11:14AM 20 know, they were saying, well, his late, you know,
11:14AM 21 response caused us to miss a statute of limitations on
11:15AM 22 defamation.

11:15AM 23 Well, that appeal shows that the defamation case
11:15AM 24 is still alive and it shows -- it just all -- I'm trying
11:15AM 25 to -- when I responded to the -- to the Client Security

11:15AM 1 Fund application, I wrote out all these issues. I
11:15AM 2 explained to him work that I did, why I did it, etcetera,
11:15AM 3 and that response is attached at I guess it would be
11:15AM 4 Exhibit 11. And that was my response to Mr. Spencer's
11:15AM 5 Client Security Fund Application for Reimbursement, and
11:15AM 6 they ended up deciding -- I -- they concluded that -- I
11:15AM 7 guess the words would be they approved his Client
11:15AM 8 Security Fund Application for \$5,000 and I sent some
11:15AM 9 emails asking if I could get some findings of fact or any
11:16AM 10 findings in response, and they let me know that they
11:16AM 11 don't do that. They review it and there are no findings.
11:16AM 12 Now, one thing -- issue I wanted to get to is that
11:16AM 13 initially, the same day I actually filed the petition, I
11:16AM 14 sent a check for \$5,000 to the Client Security Fund. And
11:16AM 15 at that time I had about \$5,300 in my account and I was
11:16AM 16 watching -- I was trying to be real careful, and they
11:16AM 17 held it for some reason, for about a month-and-a-half
11:16AM 18 before they tried to cash it, and when they did cash it,
11:16AM 19 it bounced, and to this day I still have not been able to
11:16AM 20 pay that \$5,000, which is a -- I wanted to talk about
11:16AM 21 that real quick, that was -- if you look at the order,
11:16AM 22 that is a condition of reinstatement. They didn't make
11:16AM 23 that a specific condition of filing my petition, and I
11:17AM 24 would ask if I can make that payment still to be
11:17AM 25 reinstated. I actually have one now. I wanted to pay it

11:17AM 1 in the last two weeks but I just got so, so, so busy.

11:17AM 2 And on page 200 -- if you look at page -- what is

11:17AM 3 it -- transcript -- Exhibit 3, it's the transcript of the

11:17AM 4 formal hearing, which is on pages 10 to 65, and I believe

11:17AM 5 it's on -- let me tell you the exact page here -- it's a

11:17AM 6 different page number. I could find the exact page, but

11:17AM 7 they -- in the findings -- or not the findings -- in the

11:18AM 8 transcript, when the committee -- or the panel decided

11:18AM 9 that I needed to participate in the -- in a fee dispute

11:18AM 10 proceeding with the client, if he initiated one, that I

11:18AM 11 would have to abide by their rules but that wouldn't --

11:18AM 12 paying it off in full would be not be a condition of me

11:18AM 13 being reinstated. I would still have to do it but I

11:18AM 14 could be reinstated before it's paid in full. And that

11:18AM 15 is in the -- in these --

11:18AM 16 I can't find it, the pages right now. Can I take

11:18AM 17 two minutes and find it?

11:18AM 18 CHAIR WILLIAMSON: Sure. Of course.

11:18AM 19 MS. FLOCCHINI: If I may, I believe that it's on

11:18AM 20 page 40 of the exhibit. Since it's a condensed

11:18AM 21 transcript, I believe that the testimony is on page 120.

11:19AM 22 MR. SWAFFORD: So page -- oh, yeah, that's the

11:19AM 23 exact page I'm looking at, too. Why am I not seeing it?

11:19AM 24 Oh, yeah. So, yeah. If you look at page 40 the

11:19AM 25 exact transcript -- you have an amazing memory -- page

11:19AM 1 120, Chairman Hahn says, "Is that accurate, Mr. Stovall?"

11:19AM 2 He says, "Yes. I'll make one addition, that his
11:19AM 3 readmission not be conditioned on payment of any
11:19AM 4 restitution, if any."

11:19AM 5 Then Chairman Hahn says, "Agreed, that's what we
11:19AM 6 discussed. Is that accurate, Mr. Meade?"

11:19AM 7 And then Mr. Meade says, "Yes."

11:19AM 8 So if you guys -- which I hope you do end up
11:19AM 9 recommending that I am reinstated, I can definitely have
11:19AM 10 this paid off. I actually have the money right now. You
11:19AM 11 know, one thing, we need to talk about that. When David
11:19AM 12 Houston died, I spent the last -- I'm going to need to
11:20AM 13 talk about this anyway -- in the last year, most of my
11:20AM 14 work with Dave Houston was two kinds of cases. They were
11:20AM 15 on DUI cases and sometimes I hate saying it because
11:20AM 16 everyone gets, you know, but sex trafficking cases, and
11:20AM 17 the -- the work that was being done was, one, on the DUI
11:20AM 18 cases, they were -- during COVID, they quit giving breath
11:20AM 19 tests when they offer you whether you want a breath test
11:20AM 20 or a blood test. In my opinion, I thought that was kind
11:20AM 21 of a dishonest thing, but they blamed it on COVID and
11:20AM 22 said that the officers would say you have to get a blood
11:20AM 23 test.

11:20AM 24 We spent -- it was very -- I came up with some
11:20AM 25 very, very novel arguments about why that's

11:20AM 1 unconstitutional, actually, it's a violation of the
11:21AM 2 Separation of Powers Doctrine and the Nevada Constitution
11:21AM 3 under the Fourteen Amendment and under the Fourth
11:21AM 4 Amendment. And these cases were -- they spent so -- they
11:21AM 5 took so much time and I -- I would get paid when I was
11:21AM 6 done usually with Dave, and I was not -- long story
11:21AM 7 short, I just got paid on these recently.

11:21AM 8 The same thing with the sex trafficking issues,
11:21AM 9 there were some really complex, very complex issues, and
11:21AM 10 I just hadn't -- after Dave died, I was owed a lot of
11:21AM 11 money, and it took me a long time for everything to go
11:21AM 12 through probate and I just honestly didn't have the
11:21AM 13 money. Once that check bounced over the last year, I
11:21AM 14 needed every \$2 I could put together.

11:22AM 15 So I'm going to -- that's going to conclude that
11:22AM 16 section about me complying with all of the conditions of
11:22AM 17 the suspension orders by clear and convincing evidence,
11:22AM 18 which I think I just did. Let me go back and see what I
11:22AM 19 should address next. Give me one minute.

11:22AM 20 MS. FLOCCHINI: We've been going for almost an
11:22AM 21 hour, perhaps now might be a good time for another
11:22AM 22 10-minute break.

11:22AM 23 CHAIR WILLIAMSON: Okay. Let's go off the record
11:22AM 24 and we can come back at approximately 11:30, a little
11:22AM 25 over 11:30.

11:22AM 1 (Off the record.)

11:31AM 2 CHAIR WILLIAMSON: Mr. Swafford, go right ahead

11:32AM 3 and continue.

11:32AM 4 You're on mute.

11:32AM 5 MR. SWAFFORD: Can you hear me?

11:32AM 6 CHAIR WILLIAMSON: Got you.

11:32AM 7 MR. SWAFFORD: I'm just going to sign the rest of

11:32AM 8 it.

11:32AM 9 Okay. I'm now going to go to the factor that I

11:32AM 10 kept informed about recent developments in the law and

11:32AM 11 competent to practice, and that would be subsection

11:32AM 12 (g) -- or (g) of 1162 under the Supreme Court Rules, and

11:32AM 13 to establish this factor, this is why I included -- it's

11:33AM 14 probably kind of unconventional -- I included a lot of

11:33AM 15 the -- not a lot of it but some of the work to show

11:33AM 16 examples of what I had done for Mr. Houston over the

11:33AM 17 previous two years. And as I had Mr. Lyon testify today,

11:33AM 18 a lot of the work -- most of the work I do is criminal,

11:33AM 19 90 percent of it.

11:33AM 20 From time to time, they'll have a civil matter

11:33AM 21 like that Little Valley Fire case, where they'll have an

11:33AM 22 issue -- usually it's a pretty complex issue or they

11:33AM 23 wouldn't ask me to do -- and I have to look into the law,

11:33AM 24 I have to research, I have to keep -- especially as is

11:33AM 25 the case with areas of law under criminal law that are --

11:33AM 1 that have a shared component of criminal, civil and
11:34AM 2 administrative, like DUI law, because you're doing --
11:34AM 3 when an officer makes a traffic stop and administers
11:34AM 4 field sobriety tests, makes an arrest and suspends a
11:34AM 5 driver's license, he's not only acting as an agent of the
11:34AM 6 law enforcement agency that he's with, but he's acting as
11:34AM 7 an agent of the DMV, too. He's wearing two hats, and in
11:34AM 8 those cases you have, you know, your license suspension
11:34AM 9 or loss, etcetera, and that is a -- you have your
11:34AM 10 administrative and civil aspect to the case in addition
11:34AM 11 to the criminal. So a lot of these cases -- civil
11:34AM 12 forfeiture, the same -- a lot of these cases you have
11:34AM 13 civil forfeiture, and I have to keep up on civil
11:34AM 14 procedure and I have to -- especially with DUIs, I keep
11:34AM 15 up on changes in the -- I'll really follow the
11:35AM 16 legislative history. I've read more legislative history
11:35AM 17 in this state of DUI laws than maybe anyone ever. I'm
11:35AM 18 going to make that claim, and if anyone wants to
11:35AM 19 challenge it, I could probably compete with anybody
11:35AM 20 there.

11:35AM 21 I read a lot of DUI manuals, the ones that you
11:35AM 22 order from like Westlaw and BARBRI that are six volumes
11:35AM 23 and they're about this fat and no one in their right mind
11:35AM 24 would read them, I've read every word of every one of
11:35AM 25 them. I don't know why I do that, but I do. And over

11:35AM 1 the last few years, one of the -- one of the -- after I
11:35AM 2 testify to this, I'm actually going to follow the litmus
11:35AM 3 briefly -- Emily, she's upstairs, she's Dave's office
11:35AM 4 manager and paralegal, and now she's doing the same thing
11:36AM 5 for Ken for years, and I'm just going to have her verify
11:36AM 6 that some of the things I'm saying today are true.

11:36AM 7 Because if I heard someone else say these things, I maybe
11:36AM 8 not even believe it.

11:36AM 9 But one of the things that was -- in one of my
11:36AM 10 exhibits -- let's see, it would be Exhibit -- I think
11:36AM 11 it's Exhibit 14, but it's pages 184 to 188 -- I'm going
11:36AM 12 to go through my -- and this makes me a little bit upset
11:36AM 13 to look at, but this was a letter that Mr. Houston wrote
11:36AM 14 on my behalf for you guys in support of me being
11:36AM 15 reinstated. And I'm -- I guess I don't have to read this
11:37AM 16 letter into the evidence, it's already in the evidence,
11:37AM 17 but I'd like to discuss it.

11:37AM 18 And what he's really saying here is he's giving me
11:37AM 19 a little history of when we started working together,
11:37AM 20 which Ken kind of explained. It would have been on that
11:37AM 21 case, the client's was name Brett Black. It was actually
11:37AM 22 in Storey County where I grew up, and it was actually
11:37AM 23 pretty close to where my parents live. The guy fell down
11:37AM 24 the stairs. They ruled it an accidental death. And then
11:37AM 25 years later they charged him with murder, and I started

11:37AM 1 working with them in that case.

11:37AM 2 And the first case that he'd ever seen me work on
11:37AM 3 and the reason that he asked me to work with him in the
11:37AM 4 first place was because he was co-counsel for the
11:37AM 5 defendant who was charged back in -- I'd say about 2012
11:38AM 6 when marijuana laws, especially in California and they
11:38AM 7 were getting that way in Nevada, there was a lot of gray
11:38AM 8 area. You could grow marijuana, you could sell the
11:38AM 9 leaves, you could sell the buds, you could do it all
11:38AM 10 pretty much legally, but one thing that they were getting
11:38AM 11 people on was people would throw the leaves away and they
11:38AM 12 figured out that from the leaves you can extract oil.
11:38AM 13 When you see hash oil, which is worth a fortune, you
11:38AM 14 extract that from the leaves, not the buds. So people
11:38AM 15 stopped throwing those away.

11:38AM 16 And what they were doing is they were using butane
11:38AM 17 gas, butane gas extraction to extract the THC oil from
11:38AM 18 the leaves that they used to throw away, and there were
11:38AM 19 houses being set up all over California and sometimes
11:38AM 20 they would be getting way out of hand, these houses were
11:38AM 21 exploding because they had so much butane, and --

11:39AM 22 Anyway, they had some clients -- William Routsis,
11:39AM 23 the attorney that I talked about before -- his brother
11:39AM 24 John Routsis, who is also a lawyer and I also did work
11:39AM 25 for him. I was doing this for the firm, and his client

11:39AM 1 was charged with -- they were using the meth
11:39AM 2 manufacturing statutes that were meant for -- to go after
11:39AM 3 people that were -- that were extracting THC oil from
11:39AM 4 leaves, and it was pretty unfair, all these attorneys
11:39AM 5 were trying to challenge these arguments based on
11:39AM 6 statutory construction, based on default, based on all
11:39AM 7 kinds of stuff.

11:39AM 8 I ended up doing something real nice for these
11:39AM 9 guys, because butane -- in California, the marijuana
11:39AM 10 leaves were a legally possessed item, and if you were
11:39AM 11 using butane to convert that into a food item, they were
11:39AM 12 using the oil to cook with, make brownies or cookies, and
11:40AM 13 also in a salad, under federal law, butane is a federally
11:40AM 14 regulated food additive. They use it in chicken nuggets
11:40AM 15 and stuff like that.

11:40AM 16 So I made an argument under a supremacy clause
11:40AM 17 argument that they couldn't punish this under the meth
11:40AM 18 manufacturing statutes because it was deemed regulated
11:40AM 19 under a federal law as a food additive. And they ended
11:40AM 20 -- this was a successful argument, and ever since then
11:40AM 21 Dave pretty much approached me immediately wanting me to
11:40AM 22 work with him, and I did. I would be an idiot not to.
11:40AM 23 And he discusses in this letter when he says, you know, I
11:40AM 24 identified and organized arguments pre-trial, motions to
11:40AM 25 suppress and dismiss charges based on federal preemption

11:40AM 1 and supremacy clause, so that's what he was talking
11:40AM 2 about. He discusses how I -- how I, you know, am able to
11:41AM 3 identify issues a lot of other attorneys can't see, and
11:41AM 4 he would have me work on his cases from Nevada and
11:41AM 5 California and federal landscape, of course, and he gives
11:41AM 6 two examples.

11:41AM 7 During the time that I've been working with
11:41AM 8 Mr. Houston, I have -- he started giving me his appellate
11:41AM 9 cases to look at in some of the clients that wanted
11:41AM 10 post-conviction relief, and Dave was really happy with me
11:41AM 11 because I actually helped him win three in a row. He
11:41AM 12 talks about two of these cases here. These are published
11:41AM 13 cases you can look up in Nevada. One of them is Wood v.
11:41AM 14 State. And I identified the appellate issues in that
11:41AM 15 case, and wrote them out for him and he filed them. And
11:41AM 16 I wrote the appellate briefs for Dave, and we got his
11:41AM 17 conviction actually overturned.

11:42AM 18 Then we -- there was -- this is another case,
11:42AM 19 State v. Gresham, that is mentioned in this letter. He
11:42AM 20 was a -- he was sentenced to life with a habitual
11:42AM 21 criminal, and I identified five rounds in a habeas
11:42AM 22 petition and we were successful there, too. His
11:42AM 23 conviction was overturned. So Dave was pretty happy
11:42AM 24 about that. It's not an easy -- they don't hand those
11:42AM 25 out, the court, those kind of victories.

11:42AM 1 He talks about how, you know, he would have me
11:42AM 2 work. I was able to work on administrative, civil and
11:42AM 3 criminal cases, and to do the kind of work that -- I was
11:42AM 4 busy. I was working all the time. He gave me more work
11:42AM 5 than I could handle. And it's sad, because obviously his
11:42AM 6 death is tragic but he wanted me -- he wanted me to get
11:42AM 7 re-licensed. And when I got re-licensed, he was going to
11:43AM 8 have me start -- he was covering cases all over Nevada,
11:43AM 9 California. He wanted me to start handling some of his
11:43AM 10 appearances in Fallon and anywhere where you had to
11:43AM 11 drive. He figured, since I'm a small town guy, played
11:43AM 12 sports, goes to all these places and I kind of know where
11:43AM 13 they're at, he was going to have me start doing that for
11:43AM 14 him, and have me start handling his post-conviction cases
11:43AM 15 and appellate cases. I really worked hard for that while
11:43AM 16 I was suspended and I had a pretty good thing going. And
11:43AM 17 it's very tragic what happened and I have to figure
11:43AM 18 something else out now, but I would just kind of like to,
11:43AM 19 you know, discuss this letter first.

11:43AM 20 He signs it at the end. I'm going to have Emily
11:43AM 21 testify. She actually was there when he signed that.
11:43AM 22 She's going to testify to that here in a little bit.

11:44AM 23 I wanted to show some of the other work that I've
11:44AM 24 done more recently, and that's why -- I discussed in
11:44AM 25 that -- in that motion that I filed for a supplement to

11:44AM 1 the disclosures. I discuss in pretty great detail work
11:44AM 2 that I did -- maybe work that I'm most proud of even
11:44AM 3 though it didn't end up in a -- in an order being filed
11:44AM 4 by the Supreme Court vacating the prior administrative
11:44AM 5 order.

11:44AM 6 I worked on issues, I researched issues in a
11:44AM 7 judicial disciplinary hearing, and I think you guys could
11:44AM 8 have seen in that motion that I filed I wrote -- I'm
11:44AM 9 going to have Emily verify this -- I wrote all the
11:44AM 10 initial motions to dismiss. I came up with the arguments
11:44AM 11 under the First Amendment under the Due Process Clause.
11:45AM 12 I've looked at the procedures that the Judicial
11:45AM 13 Disciplinary Proceedings Committee was using. I saw
11:45AM 14 flaws in them. I wrote arguments challenging them.
11:45AM 15 Other judges that were representing -- other attorneys
11:45AM 16 that were representing judges in other cases, not just
11:45AM 17 copied my arguments, they filed them as exhibits to their
11:45AM 18 arguments. And then they ended up appealing them, too,
11:45AM 19 so the appellate court, the Supreme Court almost I would
11:45AM 20 say got bogged down with these arguments that I thought
11:45AM 21 of.

11:45AM 22 And I submitted that just to show you that I've
11:45AM 23 been staying up on the law, that I am competent, that I
11:45AM 24 do have, I would say, a pretty wide range of legal
11:45AM 25 competence.

11:45AM 1 The same thing. I'm not going to spend too much
11:45AM 2 time on that, but I attached as exhibits -- it would have
11:46AM 3 been Exhibit 16 on pages 253 through 301, another case
11:46AM 4 I'm really proud of, I guess you're probably getting
11:46AM 5 tired of hearing that, but huge suppression order that we
11:46AM 6 -- kind of in that motion to supplement, I cited some of
11:46AM 7 the news articles about it. I think it was one of the
11:46AM 8 largest drug busts ever in Nevada, it was something like
11:46AM 9 400 pounds of cocaine and meth found in a semi-truck.
11:46AM 10 They were driving from -- where were they going -- going
11:46AM 11 from Mexico to Canada -- or was it the other way around?
11:46AM 12 They were going kind of like on back roads, their
11:46AM 13 semi-truck got stopped, and the police ended up finding
11:46AM 14 all these. And I wrote the -- I identified the issues.
11:47AM 15 I wrote the motion to suppress, and I was successful in
11:47AM 16 federal court. You can see the arguments that I wrote
11:47AM 17 there.

11:47AM 18 The exhibit right before would have been
11:47AM 19 Exhibit -- or pages 189 to 252, Ken testified about that.
11:47AM 20 Those were memos that I wrote in the -- in connection
11:47AM 21 with the Little Valley Fire lawsuit. There's an email
11:47AM 22 that did not get in with this but it was in with my
11:47AM 23 initial -- when I filed my petition, I had this as an
11:47AM 24 exhibit to my petition, and the memo started out with an
11:47AM 25 email that Dave actually sent me.

11:47AM 1 And what the gist of the email was, you know, we
11:47AM 2 have these clients and here's what happened. This fire
11:47AM 3 destroyed all these multi-million dollar homes in Washoe
11:47AM 4 Valley and there are statutory damage caps, and I think
11:48AM 5 there was 150 -- 100,000, 150,000 and trying to get
11:48AM 6 around that, can you think of any issues? And I -- I
11:48AM 7 showed him how I believed that inverse condemnation was
11:48AM 8 applicable to the -- to the controlled burn situation
11:48AM 9 based on the relevant factors. It ended up being an
11:48AM 10 interesting issue. You see the memo that I wrote there
11:48AM 11 on that.

11:48AM 12 And I think I'm going to conclude there for
11:48AM 13 that -- for this part of -- for that factor, for showing
11:48AM 14 that I've -- that I've I kept current on the law during
11:48AM 15 my period of suspension, and that I have -- let me see --
11:48AM 16 yeah, that I'm competent to practice.

11:48AM 17 I'm going to call Emily. If you would give me a
11:48AM 18 minute, I'm going to go grab her. I'm going to call her
11:49AM 19 just for verifying a lot of the things that I testified
11:49AM 20 to.

11:49AM 21 CHAIR WILLIAMSON: Sure. Go ahead. I was
11:49AM 22 planning to break at approximately 12:15-ish for lunch.

11:49AM 23 MR. SWAFFORD: Why don't I grab her?

11:49AM 24 CHAIR WILLIAMSON: I don't know. I don't know how
11:49AM 25 long you anticipate her testimony, but --

11:49AM 1 MR. SWAFFORD: Not long.

11:49AM 2 CHAIR WILLIAMSON: I think based on the other

11:49AM 3 witnesses, probably couldn't be more than 30 minutes.

11:49AM 4 MR. SWAFFORD: I'm going to grab her real quick.

11:49AM 5 CHAIR WILLIAMSON: Let's take a break.

11:49AM 6 (Off the record.)

11:55AM 7 CHAIR WILLIAMSON: Going back on the record in the

11:55AM 8 Reinstatement Hearing for William Swafford.

11:55AM 9 Ma'am, if I could have you look at the court

11:55AM 10 reporter, Ms. Ferretto, and she'll swear you in.

11:55AM 11 (Witness sworn.)

11:55AM 12 CHAIR WILLIAMSON: Go ahead, Mr. Swafford.

13

14 EMILY ANN HEAVRIN

15

16 called as a witness on behalf of the Petitioner,

17 having been duly sworn, testified as follows:

18

11:55AM 19 +++ DIRECT EXAMINATION +++

11:55AM 20 BY MR. SWAFFORD:

11:55AM 21 Q Emily, can you state your name for the record, and

11:55AM 22 spell your first and last name?

11:55AM 23 A Yes. Emily Ann Heavrin; E-M-I-L-Y, A-N-N,

11:55AM 24 H-E-A-V, as in Victor, R as in Robert, I-N, as in Nancy.

11:55AM 25 Q Can you explain what your current position is?

11:55AM 1 A So I have worked for David for about 11-and-a-half
 11:56AM 2 years. I started as a paralegal. I became lead
 11:56AM 3 paralegal after about two years. And about three years
 11:56AM 4 into working for Dave I became his business manager as
 11:56AM 5 well as --

11:56AM 6 (Witness Zoom connection unstable.)

11:56AM 7 CHAIR WILLIAMSON: Mr. Swafford, are you still
 11:56AM 8 there? I think you may have frozen.

11:56AM 9 All right. Let's -- I guess just at least go off
 11:56AM 10 the record for a moment until we sort out what is going
 11:56AM 11 on.

11:56AM 12 (Off the record.)

12:04PM 13 (Mr. Swafford unable to reconnect; lunch
 14 recess taken.)

15 * * * * *

16
 17
 18
 19
 20
 21
 22
 23
 24
 25

1 STATE OF NEVADA)
2 COUNTY OF WASHOE) ss.

3

4 I, ERIN T. FERRETTO, an Official Reporter
5 of the Second Judicial District Court of the State of
6 Nevada, in and for the County of Washoe, DO HEREBY
7 CERTIFY:

8 That I was present for the above-entitled
9 hearing by audiovisual teleconference on WEDNESDAY, APRIL
10 20TH, 2022, and took verbatim stenotype notes of the
11 proceedings had upon the matter captioned within, and
12 thereafter transcribed them into typewriting as herein
13 appears;

14 That the foregoing transcript is a full,
15 true and correct transcription of my stenotype notes of
16 said proceedings.

17 That I am not related to or employed by any
18 parties or attorneys herein, nor financially interested
19 in the outcome of these proceedings.

20

21 DATED: This 6th day of June, 2022.

22

23 /s/ Erin T. Ferretto

24 ERIN T. FERRETTO, CCR #281

25

1 HEALTH INFORMATION PRIVACY & SECURITY: CAUTIONARY NOTICE

2 Litigation Services is committed to compliance with applicable federal

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

4 protection and security of patient health information. Notice is

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

6 proceedings, and transcript exhibits, may contain patient health

7 information that is protected from unauthorized access, use and

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

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

10 electronic database maintenance and access, storage, distribution/

11 dissemination and communication) of transcripts/exhibits containing

12 patient information be performed in compliance with Privacy Laws.

13 No transcript or exhibit containing protected patient health

14 information may be further disclosed except as permitted by Privacy

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

16 attorneys, and their HIPAA Business Associates and Subcontractors will

17 make every reasonable effort to protect and secure patient health

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

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

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

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

22 recommended that your office review its policies regarding sharing of

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

24 disclosure - for compliance with Privacy Laws.

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

1 SBN21-99129

2

3

STATE BAR OF NEVADA

4

NORTHERN NEVADA DISCIPLINARY BOARD

5

---o0o---

6

7

8 In Re REINSTATEMENT OF

9 WILLIAM SWAFFORD, ESQ.

10

11

Bar No. 11469

12

Petitioner.

13

14

15

16

REINSTATEMENT HEARING VIA AUDIOVISUAL TRANSMISSION

17

APRIL 20, 2022 - P.M. SESSION

18

WASHOE COUNTY, NEVADA

19

20

21

22

23

24 Reported by:

JULIE ANN KERNAN, CCR #427, RPR

25

Job No. 872760

1 APPEARANCES

2 For Nevada State Bar: R. Kait Flocchini
3 Assistant Bar Counsel
4 Nevada Bar No. 9861
5 9456 Double R Blvd.
6 Suite B
7 Reno, Nevada 89521

8 The Chairman: ROBERTSON JOHNSON MILLER
9 WILLIAMSON
10 Attorneys at Law
11 By: Rich Williamson, Esq.
12 50 West Liberty Street
13 Suite 680
14 Reno, Nevada 89501

15 Board Members: Tim Meade
16 Bill Anagami

17 Also present: Laura

18

19

20

21

22

23

24

25

1	I N D E X	
2	EXAMINATION	PAGE
3	WITNESS: CORY OSHITA	
4	By Mr. Swafford	5
5	By Ms. Flocchini	7
6	WITNESS: EMILY ANN HEAVRIN	
7	By Mr. Swafford	10
8	By Ms. Flocchini	18
9	WITNESS: WILLIAM SWAFFORD	
10	Mr. Swafford	20
11	By Ms. Flocchini	30
12	By Chairman Williamson	34
13		
14	EXHIBITS:	
15	(None offered.)	
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 PURSUANT TO NOTICE AND STIPULATION, and
2 on Wednesday, the 20th day of April, 2022, at the hour of
3 1:15 p.m. of said day, via audiovideo transmission, before
4 me, Julie Ann Kernan, a notary public, remotely reported
5 the afternoon session of the Reinstatement Hearing.

6 ---o0o---

7
8 CHAIRMAN WILLIAMSON: We are back on the record
9 in the reinstatement hearing of William Swafford.

10 Mr. Swafford, do you want to recall Ms. Heavrin
11 at this point?

12 MR. SWAFFORD: No, I have a -- I'm going to have
13 an attorney testify who has a hearing in a little bit.
14 He's in the waiting room right now, so, I may -- and it --
15 my final two witnesses I'm going to present are going to be
16 very brief as well.

17 CHAIRMAN WILLIAMSON: Okay. Go ahead and call
18 your next witness.

19 MR. SWAFFORD: All right. I think he's in the
20 waiting room. His name's Cory Oshita. O-s-h-i-t-a.

21 MR. OSHITA: Hello.

22 CHAIRMAN WILLIAMSON: Okay. Hi, Mr. Oshita.
23 Thank you for joining. My name is Rich Williamson. May I
24 have you look at Ms. Kernan and she will administer the
25 oath.

1 REPORTER: Raise your right hand, please?

2 CORY OSHITA,

3 called as a witness herein, being

4 Duly sworn, was examined and

5 testified as follows:

6 REPORTER: Thank you.

7 CHAIRMAN WILLIAMSON: Go ahead, Mr. Swafford.

8 DIRECT EXAMINATION

9 BY MR. SWAFFORD:

10 Q Mr. Oshita, can you please state your name and
11 spell it for the record?

12 A Sure. It's first name is Cory, C-o-r-y. Last
13 name is Oshita, O-s-h-i-t-a.

14 Q All right, Cory. Thank you for being here
15 today. I'm just going to have some brief questions for
16 you.

17 I testified earlier about starting our running
18 office of renting office space in Chicago in the west loop
19 and I explained that another attorney represented that with
20 me and this is him. This is Cory Oshita.

21 He's in -- can you first just explain the nature
22 of your practice and how long you have been licensed?

23 A Sure. So I have been licensed in the state of
24 Illinois since 2008, and I started off as a general
25 practitioner practicing family law, bankruptcy, and

1 criminal defense. I then started my own office in 2010, in
2 2010, and practicing the same areas of law.

3 Q And Mr. Oshita, I actually testified about some
4 of the problems medically I had, personally I had while we
5 were renting office space together. And you were able to
6 observe me, we shared an employee, and we were in the same
7 office together and, you know, we were friends a long time.
8 Can you just explain what you observed with my behavior, my
9 health conditions, et cetera?

10 A Sure. Shortly after we rented -- we started
11 renting office space and hiring a receptionist, I noticed
12 Mr. Swafford's physical health deteriorating and also, you
13 know, it was affecting -- it was affecting his -- it
14 appeared to be affecting maybe his mental health and his
15 anxiety and ability to -- to concentrate. I know he had
16 several physical injuries that were kind of debilitating
17 and holding him back and, you know, kind of exasperating
18 everything, everything else.

19 Q And Cory, how long have you known me for?

20 A I have know Mr. Swafford since -- since my first
21 year, our first year of law school, so that was 2005.
22 2005. So that's, I mean, 17, 17 years. And I'm proud to
23 have known him then and he was one of the best things that
24 came out of Valparaiso Law School in my eyes.

25 Q And as a lawyer, would you say that I have a --

1 a -- hold on a sec. Drawing a blank right here. Would you
2 testify as to my honesty and integrity?

3 A Absolutely. Absolutely. You know, I've known
4 him both in a personal and a professional capacity and
5 while, you know, we all have our faults, honesty and
6 integrity was never one of Mr. Swafford's faults. He is
7 all the things that ever been with but honesty and
8 integrity were not -- he was always very honest with me, we
9 had business dealing together, you know, with respect to
10 running the office space. He was always very, you know,
11 honest to with his word and on time and settled bills and
12 things like that, you know, appropriately, so yeah, I trust
13 him very much both personally and professionally.

14 MR. SWAFFORD: Cory, Mr. Oshita, I think that's
15 all the questions I have. I'm going to want opposing bar
16 counsel, ask you some questions.

17 THE WITNESS: Sure.

18 MR. SWAFFORD: I've had enough of you.

19 CHAIRMAN WILLIAMSON: Ms. Flocchini?

20 MS. FLOCCHINI: Yes, thank you.

21 EXAMINATION

22 BY MS. FLOCCHINI:

23 Q Thank you for taking the time, Mr. Oshita. When
24 did you last practice with Mr. Swafford?

25 A So this was -- the last time I practiced with

1 him was probably -- oh, jeez. Years have flown by, but I
2 guess maybe it was 2012 or '11, somewhere -- somewhere
3 thereabout.

4 Q Okay. So it's been the better part of a decade
5 since you were practicing together.

6 A Yes. Yes.

7 Q And have you had an occasion to see any of the
8 Mr. Swafford's work as a research writer since you were
9 practicing together?

10 A Yes, I have. You know, I've seen some, you
11 know, some samples of writing, and just through -- you
12 know, if I can expound on that I think that's where he
13 really excelled was in his research and his research and
14 his writing, you know, that's where he could kind of really
15 access and separate himself from the rest of the attorneys.
16 He did really -- better researcher and a writer than I was.
17 I was good at litigation and client management and things
18 like that, but when it comes to research and writing, Mr.
19 Swafford, you know, did an excellent job in everything that
20 I've seen.

21 Q Okay. And have you -- are you still in regular
22 communication with Mr. Swafford?

23 A Not every day. Not every-day communication,
24 but, you know, we talk to each other, you know, send
25 messages on Facebook. I don't get to talk to him as much

1 as I was, like, ever since he's moved back to Nevada, you
2 know, I'm still here in Chicago and I joined a law firm as
3 a partner so I've been super busy, had a bunch of kids. I
4 don't talk to any of my friends as much as I'd like more,
5 but I do miss, I do miss talking to him. Conversations
6 were always good.

7 MS. FLOCCHINI: Okay. Okay. Those were all the
8 questions that I had. Thank you for taking the time, Mr.
9 Oshita.

10 THE WITNESS: Absolutely, you know, if there's
11 anything else I can do to help the cause I am absolutely
12 willing to do that. If I have to write letters or anything
13 like that or any other information I could provide, I'd be
14 absolutely willing to do that.

15 CHAIRMAN WILLIAMSON: Do any another panel
16 members have any questions?

17 MR. ANAGAMI: I do not.

18 THE COURT: Okay. Mr. Swafford, any redirect?
19 You're on mute.

20 MR. SWAFFORD: No redirect.

21 CHAIRMAN WILLIAMSON: Okay. Mr. Oshita, thank
22 you so much for your time. You are excused.

23 THE WITNESS: Thank you very. Thank you very
24 much. Have a good day.

25 CHAIRMAN WILLIAMSON: You, too.

1 THE WITNESS: Bye.

2 CHAIRMAN WILLIAMSON: Okay. Mr. Swafford, did
3 you want to call someone else?

4 MR. SWAFFORD: I'm gonna go get Emily again.

5 CHAIRMAN WILLIAMSON: Okay. Sounds good.

6 MR. SWAFFORD: Give me two minutes.

7 CHAIRMAN WILLIAMSON: No problem. Just take a
8 brief break while he's getting the next witness.

9 (Short break.)

10 CHAIRMAN WILLIAMSON: We will go back on the
11 record, okay, and Ms. Heavrin, you understand you're still
12 under oath?

13 THE WITNESS: I do.

14 CHAIRMAN WILLIAMSON: Okay. Go ahead and
15 proceed, Mr. Swafford.

16 MR. SWAFFORD: Okay.

17 CONTINUATION OF DIRECT EXAMINATION

18 BY MR. SWAFFORD:

19 Q So I think I just questioned Emily about her --
20 her experience working with Mr. Houston. I'm going to have
21 her just restate that.

22 A So I worked for Dave for about 11 and a half
23 years. I started out as a paralegal. So after about two
24 years I became his lead paralegal. And about a year, year
25 and a half after that I became his business manager so I

1 handle all of the business management hiring, firing,
2 dealing with people that we -- experts we hire, witnesses,
3 et cetera, all of our employees, and I still do the lead
4 paralegal work.

5 **Q And when I communicated with Mr. Houston you**
6 **were often times reading those emails. Why was that?**

7 A So Dave, actually, for lack of better terms was
8 computer illiterate, and I actually went through all of his
9 emails for him, and that was from day one. He never
10 printed -- he had me print every email. He never went on
11 the computer. He -- if he responded he would dictate it on
12 a Dictaphone. It was typed out, we would look at it, okay
13 it, and then he would have me send it from his email. And
14 that was from day one.

15 **Q And so for that reason you were pretty good at**
16 **communications in the work that Dave was requesting you to**
17 **do and that he was doing in response?**

18 A Absolutely. And he actually expected me to know
19 what every email said, read it, and be able to tell him in
20 the Cliff Notes version what it said if he didn't have
21 time. And so I was required to read every email. So I did
22 know what was said and what was received on both ends.

23 **Q So when I first started working with Dave I was**
24 **going through some medical and personal issues. And he**
25 **would have a difficult time communicating with me**

1 sometimes, and you guys would actually send people up to my
2 house. Can you kind of just kind of explain that and how
3 that was over the years?

4 A Do you mind if I just --

5 Q Yeah.

6 A Okay. Sorry. So Will started working for us
7 about January of 2000 -- sorry, I made some notes, I
8 apologize. Let me get them. About January, 2015. And we
9 had a very difficult case we were working on and Dave had
10 read a motion that Will had done, I don't know how long
11 before it was. And was, like, this guy is brilliant. I
12 have to talk to him. And we had just lost our research
13 attorney at the time who was Mr. Thompson, Don Thompson.
14 And he retired. So Dave was kind of looking for somebody
15 and he read this motion and said I just -- I want to have
16 an interview, I want to talk to this guy. Will was still
17 in Chicago, based out of Chicago at the time. He was in
18 the midst of moving -- as I understand it, in the midst of
19 moving back to Reno, Storey County to be with his father
20 and his uncle. And he had been dealing with some of his
21 own medical issues and so he was winding his practice down
22 in Chicago to be here full time, and Dave met with him,
23 spoke with him when he was in Reno, one of those times, and
24 he was, like, I want to give him a chance I really like
25 him, like his ideas, he thinks outside of the box. He goes

1 if it doesn't work out in the future, that's fine, but I
2 want to give it a try.

3 So, actually, the first case we did with him, and
4 I apologize because I can not remember the individual's
5 first name, but the last name is Uppell. And that was in
6 January of 2015. And Will submitted a memo to Dave in
7 February of 2015, and from that point forward Dave said
8 this is my guy. I -- you know, he does what I do. He is
9 like-minded, he'll tell me if certain legal issues are not
10 there. And if there are things that he can link that
11 sometimes is gray area in the law, he goes he's able to
12 connect it in the way I like to litigate. He goes I'll
13 work with him moving forward and it was history ever since.
14 We've had over -- actually counted it today. We've had
15 over 300 cases that we've had Will do research on from
16 2015, actually, up and to last week, even though Dave
17 passed in December, I'm sure you know that he worked with
18 Ken Lyon who has taken over the estate, and has continued
19 to use Will. So there were sometimes when he was not doing
20 well so actually -- it wasn't right off the cuff when he
21 was moving his life, he was stressed out, he was right
22 there with us 2015, 2016. It was late 2017 that he just
23 his -- my understanding again his uncle his cancer. His
24 dad had severe dimension. I actually knew his dad. I was
25 born and raised in here and my uncle was also an attorney

1 here. And it was very, very hard on Will, plus he had his
2 own medical issues that -- as I understood it.

3 And we actually had sent a couple of employees up
4 to check on him because his phone was disconnected. And
5 what we came to find is that his dad would kind of take the
6 phone chord the way it was hooked up and pull it out of the
7 wall, and so it wasn't disconnected but we couldn't get a
8 hold of him. And Will would just stop in the office and
9 say hey, I haven't heard from you in a while, what -- you
10 know, and we're going well, we're glad we finally got a
11 hold of you and saw you. And he would get right back on
12 it. But he was very up front with Dave about from the jump
13 when he was still in Chicago, he was dealing with his own
14 medical issues and the reasons that he was moving back
15 here. And because Will was so special and Will was
16 like-minded and he was very up front with Dave, he was --
17 that's my guy, I don't care if he needs to take a couple
18 weeks off as long as he's communicating with us. So it
19 became a system where Will would say I'm doing well and
20 then he'd go I need a break, I need a break for two or
21 three weeks. And Dave would say that's fine with me and we
22 would send him the deadlines via email, and just go from
23 there.

24 We saw huge turn around. And this is my
25 understanding, I could be wrong, I believe that both his

1 dad and his uncle passed in the past probably two years
2 now, we haven't had -- like Will's breaks are becoming less
3 and less. He's communicative more than ever. He is being
4 able to -- in my opinion, he was tied down to the house
5 with his responsibility with his medical issues, his uncle
6 and his dad. Now that that has gone I've seen a huge turn
7 in him. We can get a hold of him, he's amped up the amount
8 of cases he's worked on. And quite frankly, would love to
9 continue working with him, you know, for the indefinite
10 future, so.

11 Q Thanks, Emily. And then with the -- I asked
12 Dave when I was getting ready for the Hearing Dave wrote me
13 a letter, and I discussed that letter in my testimony
14 earlier. I just want to verify that -- are you aware that
15 Dave wrote that and signed it?

16 A I am. So Will had approached Dave, actually,
17 much -- when this was all going on and when he first was
18 suspended, explained the situation, and Dave said whatever
19 you need, but you need to get yourself on track. So when
20 the time came, and we've been working with Will the entire
21 time he was suspended, he did research, would get it to
22 Dave, Dave would draft these motions, and he's file them
23 under his name, his bar number, David's, I mean, and when
24 the time came, Dave dictated him, I believe it was a four
25 or five-page letter, proofread it, sent it to Will to make

1 sure that it was all accurate and that he wasn't misstating
2 himself. Will sent it back to us and said I believe all of
3 this to be accurate. Dave had me finalize the letter,
4 after he approved of it, like, in handwriting, um, and I
5 watched him sign it. I took it to him on the linen paper,
6 to his desk, watched him sign it, I scanned it back in, and
7 then sent it off. I believe we sent it to Will, but it may
8 have actually been the whole committee, I'm not positive.

9 Q And then there's two cases I discussed with the
10 bar on -- I discussed in this hearing earlier. And those
11 cases were the Judge Weller disciplinary matter and then
12 the -- Abdul Majeed suppression case?

13 A Yes.

14 Q And you don't have to go on in -- you know, with
15 details on all these, but are you aware that Dave asked me
16 to work on those cases, think of issues, and that I wrote
17 the motions petitions, appeals et cetera, for Dave, did
18 what he wanted to do from there?

19 A Actually, extensively. Judge -- Judge Weller
20 came to us with the Judicial Disciplining issue. David and
21 John Arrascada were co-counsel on that case. Both of them
22 asked Will to do legal research, legal writing on different
23 issues that they saw with it based upon what they were
24 receiving and our layman's terms for that would be
25 discovery. Will would write legal memorandums for him.

1 And even John Arrascada, who is now our Public Defender in
2 Washoe County, was this is amazing. It's a great jumping
3 point. He gets his research and he just gives us the days
4 for us to be able to be able to write these responses. And
5 a judicial is not the same, it's not all pleading which,
6 obviously, I think you would all know. But he came out --
7 up with outside of the box ideas and I believe as everybody
8 all -- well, maybe you don't. But Judge Weller was still
9 able to be a judge. He came out with a great result, and a
10 lot of that was based off of the work and the research that
11 Will provided because, quite frankly, John was actually
12 transitioning into the PD's office at the time, and Dave
13 has 600ish active clients at all times. He loved to
14 litigate. He wanted someone to provide the research for
15 him to be able to articulate that. And that's why he
16 appreciated Will and how to work on all those cases and
17 seeing with Abdul Majeed.

18 You've got case law, and another set of case law
19 with a certain sort of facts, which you've got this whole
20 gray area that between -- that doesn't necessarily match
21 with your fact pattern and connect them. And that's what
22 Dave loved about Will is he was able to find different
23 districts or different jurisdiction or case law where it
24 had been ruled on previously to present something new to
25 our district and be able to say this has been done before

1 and that is why we continued to work with Will. And Dave
2 thought he was brilliant.

3 Q MR. SWAFFORD: That was everything that I
4 have for you. And I'm going to allow opposing counsel to
5 ask you question now.

6 CHAIRMAN WILLIAMSON: Ms. Flocchini?

7 EXAMINATION

8 BY MS. FLOCCHINI:

9 Q Thank you, Chair. Ms. Heavrin, and I hesitate
10 just because I'm not sure I'm pronouncing it properly, but
11 Heavrin.

12 A It's Heavrin.

13 Q Thank you. Yes. Ms. Heavrin, you have observed
14 Mr. Swafford in his capacity as a research writer and
15 applying a lot of facts for a number of years. Right?

16 A Since 2015. And I have been with Dave since
17 2012, so the entire time he worked with him.

18 Q Okay. And do you have an opinion as to Mr.
19 Swafford's honesty?

20 A I have never known him to be anything but honest
21 and I would trust him with any information he provided.

22 Q Okay. And do you have an opinion on Mr.
23 Swafford's integrity and ability to abide by the ethical
24 rules?

25 A I do not. He has been honest with us. When he

1 says I need a break, I -- I need a couple mental health
2 days here, and he is very honest about it all the way
3 through so absolutely not, I have no concerns about that.

4 Q And in your experience would you -- would you
5 have any concerns about Mr. Swafford's ability to focus
6 appropriately on behalf of a client if he's allowed to
7 return to the practice of law?

8 A Absolutely not. He actually hyperfocuses in my
9 experience one at a time and prioritizes it by dates and
10 deadlines, so.

11 Q And that sort of anticipated my follow-up
12 question but I'll ask anyway. In -- from based on your
13 experience if Mr. Swafford was allowed to return to the
14 practice of law, would you have any concerns with respect
15 to his ability to timely represent clients?

16 A I apologize because I might choke up a little
17 bit here because I was with Dave for a very long time. But
18 my answer would be absolutely not. And the intention was
19 for Will to come work in this office. It was kind of an
20 empty office, and Dave was -- so looked forward to that.
21 And he was -- you could see the change in him. They would
22 talk almost every other day pretty much from, like, June up
23 until mid November. He had Will on a lot of cases and he
24 was even planning on having Will, if this all worked out,
25 argue some of his own motions finally and it -- he was very

1 excited for him. And I have no doubt he would do great and
2 be able to do it and that was Dave's intention.

3 MS. FLOCCHINI: Okay. Thank you for taking the
4 time, earlier and now.

5 THE WITNESS: Thank you.

6 MR. SWAFFORD: Thank you, Emily.

7 THE WITNESS: No problem.

8 CHAIRMAN WILLIAMSON: Any panel members have any
9 questions for Ms. Heavrin?

10 THE WITNESS: Oh, I apologize.

11 MR. ANAGAMI: No, no additional questions.

12 MR. MEAD: I have no additional questions.

13 CHAIRMAN WILLIAMSON: Okay. Perfect. No, we've
14 got no additional questions for Mr. Swafford. Did you have
15 any redirect?

16 MR. SWAFFORD: No redirect.

17 CHAIRMAN WILLIAMSON: Okay. You're excused.
18 Thank you very much.

19 THE WITNESS: I appreciate your time. Thank you.

20 MR. SWAFFORD: Emily, thank you so much.

21 CHAIRMAN WILLIAMSON: Okay. All right, Mr.
22 Swafford, would you like to resume or did you have another
23 witness you wanted to call?

24 MR. SWAFFORD: I'm going to have no more
25 witnesses on the day but I'm going to resume.

1 I'm going to go back -- let's see. I'm trying to
2 think where I left off. I was going over cases that I work
3 on for the purpose of showing that I -- I'm competent and
4 have kept -- have kept up on the law. I'm just going to
5 briefly mention -- I don't really want to spend too much
6 time going over them.

7 The lawyer, one of the lawyers that I worked when
8 I first started practicing law, I wouldn't -- I wouldn't
9 say I actually practiced law with him but Joey Gilbert. He
10 -- during the Pandemic when -- when -- very early on, when
11 everything was closed, he -- he had aspirations to run for
12 governor and he talked to me about it a little bit. And he
13 wanted me -- he's very against the -- all of the governors
14 emergency regulations. I think he challenged every single
15 one of them. And he -- I think he got sick of the whole,
16 like, those challenges and came to me at one point and he
17 wanted me to write some legal arguments for him on and it I
18 could see some possible avenues that no one else had
19 thought about to challenge some of the those emergency
20 regulations.

21 And I attached what I did. I think I wrote a
22 little book on how to do it, and it -- none of these
23 arguments ever got tested in court so I don't know how good
24 they are, but I'm just gonna mention that they are in the
25 very last -- the very last section of this exhibit, at page

1 302 to page 358, and not really gonna say anything else
2 about that.

3 Oh, except for I'll just say the basis of my
4 arguments. They didn't challenge, you know, like I said, I
5 don't know how good these arguments are, but they've been
6 challenged mainly under the due process laws that are - you
7 know look at strict scrutiny. A lot of the universities
8 where vaccines have been challenged, and a lot these
9 challenges have been analyzed under strict scrutiny, most
10 courts found that these governors' emergency directives did
11 satisfy strict scrutiny so I got completely away from there
12 and I made arguments that under -- a lot of arguments I
13 made are that regulations -- if I'm trying to challenge a
14 regulation are that they violated the state constitution's
15 separation of power doctrine. Nevada's got one of the only
16 codifications of separation of powers doctrine in the state
17 constitution, so I think I'll probably have about 60 pages
18 arguments on why they violate the state, you know, the
19 separation of powers clause of the state constitution. And
20 that also really shows that, you know, I've stayed pretty
21 updated on Nevada law given that's a very recent area of
22 law in Nevada.

23 I'm going to move -- God, my computer's making a
24 lot of noise. I'm going to move past that. So that was --
25 let me go back to under -- under Supreme Court Rules 116,

1 Subsection 2, that was -- that was (g), that I kept
 2 informed of recent developments incompetent to practice. I
 3 went over a full compliance, the terms and conditions. I
 4 can't remember -- I think -- Ms. Flocchini sent you
 5 stipulated to Section B, correct? Neither engage or
 6 attempt to engage unauthorized practice of law?

7 MS. FLOCCHINI: That's correct.

8 MR. SWAFFORD: Okay.

9 MS. FLOCCHINI: The Bar stipulate that both B and
 10 E?

11 MR. SWAFFORD: Okay.

12 MS. FLOCCHINI: All right. We have no evidence
 13 of any violation of those two and we would stipulate that
 14 they have been satisfied.

15 MR. SWAFFORD: Okay.

16 MS. FLOCCHINI: We stipulate.

17 MR. SWAFFORD: Then with respect to c, I had my
 18 doctor, my endocrinologist, Dr. Robert Fredericks, had him
 19 testify that he doesn't believe that my disability
 20 infirmity is likely to get in the way of my ability to
 21 effectively practice law.

22 Now, D, I mean, I really wrote this in my -- in
 23 my petition, but I regret everything. I regret, you know
 24 -- obviously there is reasons I feel that contributed to
 25 the actions I violated these rules but, you know, I'm

1 highly regretful, I've learned a ton from this. I'm
2 embarrassed, I hate being here right now. I'm extremely
3 nervous, you know, I haven't -- I don't sleep good. I --
4 you know, if I look up -- if I go to Google and type in
5 William Swafford, lawyer, the first five things that come
6 up are gonna come up are suspension orders, you know, and
7 that I've violated these rules and it's embarrassing and
8 it's gonna continue to plague me for a while and -- and,
9 you know, something I never want to happen again.

10 I believe I'm a good lawyer. I think, you know,
11 other good lawyers think I'm a good lawyer, you know.
12 Something -- in something that -- it is kind of
13 interesting, Mr. Williamson, I researched you a little bit
14 before this and I realize we're probably about the same
15 age. And I looked at that sometimes and I see how this
16 thing with you distinguished you are and sitting here
17 trying to get relicensed and it's kind of -- I don't know,
18 it just sad to me, I guess, embarrassing. Makes me -- you
19 know, something I never want to happen again. But I -- I
20 definitely take full responsibility for everything that
21 happened.

22 I do wish that I would have -- you know,
23 obviously I have reasons that I could not communicate, that
24 I could not communicate with the bar when these proceedings
25 were going on. I just -- I couldn't do it. I -- I had

1 just something wrong mentally where I was so upset and
2 depressed and disturbed and stressed, and everything just
3 kept kind of snowballing and I really, really wish that I
4 had it in me at the time to just address all this, it would
5 have saved me a lot of problems. And that's something that
6 will never happen again.

7 You know, I was gonna go into more detail about
8 some of the cases I did, about some of my history with
9 William Routsis, Mr. Routsis and myself, but I don't really
10 see at this point any need to do that and, you know, I
11 think that I've satisfied every burden that I have to
12 satisfy.

13 The one thing, like I said, I wish that that
14 check wouldn't have bounced when I wrote that 5,000 dollar
15 check to the security fund, but I do have the funds again
16 right now if you're willing to, you know, put a condition
17 on my reinstatement, I will pay that, you know, as soon as
18 possible.

19 Ken Lyon testified that he'd be willing to act in
20 a supervisory role, you know, he doesn't -- and I don't
21 plan on doing this any way, I don't plan on trying to --
22 trying to represent any clients or take any cases, I just
23 plan on trying to do work that he gives me. And, you know,
24 I was talking to him, he's kind of upset that I said so by
25 doing this because he's getting bogged down, he has all

1 these cases that he took over from Dave, he has his own
2 cases, he's getting new cases. I actually spent the last
3 legal work I did before I really started preparing for this
4 is a -- a habeas petition that I worked on hard for about
5 five weeks. I see some avenues for relief that it's a case
6 -- its weird because this guy -- I guess all post
7 conviction cases are hard, but he does have grounds where I
8 think I can get his conviction overturned, and I'm gonna
9 get back to working on that. I'm gonna work a lot of cases
10 like that. Like I showed you from Mr. Houston, so I -- one
11 sec.

12 Dave told me the only writ of habeas corpus he
13 not ever won in his 30-year career is the one I did for
14 him, and those things are difficult to win and it seemed
15 like when you win one, word gets out, you know, amongst
16 other prisoners, and after that, Dave told me that he was
17 getting tons of calls for business. He's being selective,
18 and most of those clients don't have money but Dave was --
19 you know, he redid it on his website. He started
20 advertising more for post conviction and appellate work and
21 like Emily just said, Dave planned on having me relicense
22 and, you know, it's a real bad break for me. I think I had
23 something pretty amazing, like I said, Mr. Williamson, I'm
24 pretty envious that we're close in age here, you're so far
25 ahead of me in your career and I -- you know, things like

1 that and I look at what I almost had gone, you know, I like
2 to do criminal defense. I was in a real good position to,
3 you know, someone that's actually suspended, is gonna come
4 out of that working for probably, you know, the best
5 criminal defense lawyer in the whole state. And, you know,
6 bad breaks happen. But -- I almost just forgot where I was
7 going with that. Um. But Ken -- Ken, you know, he's
8 willing to supervise me doing those kind of cases for him.

9 Sorry. What I was thinking is Dave started
10 getting more and more calls about -- about that after some
11 of the success that I had on the post conviction and
12 appellate work, and some of that Dave -- so Ken -- sorry,
13 Ken took over this office, still have the same phone
14 number, still has all that same stuff so, you know, he's
15 got a lot of those cases coming in that he wants me to help
16 with so I -- you know, I do have work that -- that will be
17 there for me that I can be supervised on.

18 The -- I realize, you know, you guys are gonna
19 wonder well, how can we assure that, you know, something
20 like this those cases you were working on never happen
21 again. There's a lot of things that I did wrong that I
22 will never do again. First of all, I would never ever sign
23 a blank letter of representation form no matter what I was
24 told. I'll never take that risk again.

25 I would never be in another state trying to work

1 on a case with a lawyer in another state where the duties
2 and obligations are well defined, you know, you're just
3 kind of relying on past practice, we worked together and
4 this how we did it together, we'll probably just do it this
5 way again. I'm gonna -- and for contracts I need to
6 specifically define all of my duties, roles, obligations
7 client's rights. Need to be way better about getting
8 everything in writing and recordkeeping.

9 I have learned a lot from Dave, you know, after
10 -- after I was punished in this case for, you know, went
11 through this, David give me his whole file and how to pay
12 real close attention. I wouldn't just look at the, you
13 know, the police reports and all that kind of stuff. I'd
14 flip over the business side of the section and see how --
15 you know, what records he was keeping, how he was
16 communicating, what language he was using in his contracts,
17 all that stuff. And I have copies of all that. I paid
18 real close attention.

19 You can tell that from, you know, Dave -- not
20 Dave but Ken and, you know, Emily, sometimes it's not the
21 attorneys who could help you the most, it's the people like
22 Emily who have been an office manager and a paralegal for,
23 you know, 13, 14 years in a law firm or working for a good
24 attorney who have all that information to share and, you
25 know, she's always gonna be there for me and it's not in

1 her -- there's five or six other employees here that are
2 very helpful with me. I have access. But I've learned a
3 great deal about that.

4 And in all honesty, you know, this was just a
5 very rare tornado of circumstances that just all hit at the
6 same time. Before I ended up moving -- the reason I moved
7 to Chicago, or I was able to move to Chicago when I started
8 that practice with William and Doiat, we did have one case
9 that lawyers dream about where -- where, you know, it
10 sounds sad to say this but, you know, a man was run over by
11 a waste management truck and when that all shook out I had
12 enough money to move to Chicago and start a law practice
13 right downtown in the city. And I burned through all that,
14 you know, it didn't work out but I'm glad I tried. I'd
15 probably kick myself for the rest of my life if I didn't
16 try it.

17 And, you know, just the way that my head injury
18 turned into more problems, the fact that I even got that
19 head -- when I got that head injury I was -- I was knocked
20 out, I was bleeding, I got up and just walked to the
21 hospital. No one -- I don't have any memories of that, but
22 everything I did was not the right way I should have done
23 it. Worse ever right when I graduated in December, so --
24 so I ended up starting a practice I never would have
25 started otherwise with -- with Joey Gilbert and William

1 Routsis. You know, when things started going wrong for me
 2 in Chicago, I started working with William, I was working
 3 on my Darren Mack case. You know, William got extremely
 4 mad at me because of just -- really just him not
 5 understanding the law, and him wanting to do it a different
 6 way and -- and, you know, things spiraled out of control.
 7 He ended -- I ended up getting a complaint from the bar
 8 where I saw a transcript about things he said to a judge
 9 that made me think that he was trying to harm me. Made all
 10 my problems 20 times as bad. My dad gets Alzheimer's, my
 11 uncle gets cancer, those spiraled all other kinds of
 12 problems and, you know, unfortunately it was just a -- a
 13 real bad time for me, and I'd be very, very, very stressed
 14 if anything -- I don't think someone ever goes through
 15 something like that twice in life, but I think I'm gonna --
 16 I think I'm gonna stop there.

17 CHAIRMAN WILLIAMSON: Okay. Ms. Flocchini,
 18 cross?

19 MS. FLOCCHINI: Yes, thank you.

20 EXAMINATION

21 BY MS. FLOCCHINI:

22 Q I just have a few questions because we -- we've
 23 received a lot of testimony from a lot of credible
 24 witnesses and I just want make sure that we cover a couple
 25 of basis.

1 **Mr. Swafford, did you do any work for William**
 2 **Routsis after the Spencer case?**

3 A Zero. But to be honest, he recently contacted
 4 me because on that case is still alive, he contacted me
 5 through his son, Jory, who I'm actually friends with. And
 6 told me -- he told me that if I did not -- there was
 7 deadline. I was about to go to Los Angeles and visit some
 8 friends and he told me that this was my last straw, and
 9 that -- and that -- you know what I mean? And I said no.
 10 But no, he has contacted me and asked me to help on the
 11 Knatt case, which is very interesting to me, but no.

12 Q **Do you have any intention of working with Mr.**
 13 **Routsis again?**

14 A No, I would never do anything with Mr. Routsis
 15 again. I might work with his brother if his brother asked
 16 me, I like him, but.

17 Q **Okay. Fair enough. You indicated that your**
 18 **intentions for practice right now would be to continue**
 19 **doing primarily research and writing for other criminal**
 20 **defense attorneys. Is that accurate?**

21 A Yeah, you know what? I did -- just last week I
 22 got a call from a lawyer, I have no idea who he is, that
 23 heard of me, he wanted me to start writing motions for him
 24 and I think -- I think that a lot of people, not a lot, I
 25 don't think many people at all know about me but some do,

1 you know, and now that Dave passed away and I'm slowly
 2 starting to get some calls. I don't want to, you know,
 3 grow too big too fast but I could, you know, I think I am
 4 in a rare situation where I could probably make a pretty
 5 good living just doing what I'm doing, but I, you know,
 6 eventually would like to start taking some of my own cases,
 7 DUIs, some drug cases, but mostly appellate practice. I
 8 think there's a lot of lawyers -- in a criminal defense
 9 case your technically still the lawyer even after a
 10 conviction and -- and, you know, if your client wants to
 11 file an appeal, most criminal defense lawyers don't know
 12 how to do it or they're too busy and, you know, I think I
 13 could make a good living doing that.

14 **Q You indicated earlier that there's kind of a**
 15 **tornado of circumstances that -- that precipitated the**
 16 **suspensions that we're dealing with now. Right?**

17 **A Uh-hum.**

18 **Q You know, life happens to lots of people. How**
 19 **-- what would you tell this panel regarding how you would**
 20 **deal with stressors, maybe not all of those stresses at**
 21 **once but stressors going forward in the future? How will**
 22 **you ensure that, you know, clients don't slip through the**
 23 **cracks again?**

24 **A Well, that's a -- let me answer that one by**
 25 **saying there was two clients and -- and, you know, I had**

1 already decided that I wasn't very healthy, and I'd already
 2 decided to quit taking clients. And I let, you know, Mr.
 3 Routsis talk to -- those are the only two cases I was
 4 representing clients in. And I think on top of everything
 5 else with my medical issues, there was the fact that our --
 6 or the way that our relationship broke down I, you know,
 7 contributed to a lot of action that I ended up getting
 8 punished on, it wasn't just, you know, my medical
 9 conditions caused me to stress and that caused this.

10 But with respect to the medical issues, I don't
 11 know. I think that I know what my limitations are. I'm 40
 12 years old now. I spent the last ten years dealing with
 13 this. I think I'm just in general a lot better at managing
 14 life. I don't know -- I think if I have in to guess I
 15 think the last time you saw me probably looked 40 or 50
 16 pounds bigger, you know, I just -- I think I'm just -- I
 17 just have a lot more under control now. I don't ever
 18 foresee seeing something like that happening ever again.

19 MS. FLOCCHINI: Okay. I think those are all of
 20 the questions that I wanted to make sure we put forward
 21 before the panel. And so I appreciate -- I appreciate you
 22 answering the questions. Thank you.

23 CHAIRMAN WILLIAMSON: Do either of the other
 24 panel members have any questions for Mr. Swafford?

25 MR. ANAGAMI: I have none.

1 CHAIRMAN WILLIAMSON: Okay.

2 MR. MEADE: I have none.

3 CHAIRMAN WILLIAMSON: Okay. Mr. Swafford, I've
4 got actually just a couple actually while I've got you if
5 that's okay?

6 MR. SWAFFORD: Yeah, sure.

7 EXAMINATION

8 BY CHAIRMAN WILLIAMSON:

9 Q I think -- I guess first off we discussed, you
10 know, sort of working, at least initially working with Mr.
11 Lyon going forward. You know, I gathered from his
12 testimony that he's got -- you know, that he feels like he
13 can't supervise you generally but only in cases in which
14 you'd be working on together.

15 A Right.

16 Q So I guess do you foresee limiting yourself to
17 only working with Mr. Lyon for a period of time or how will
18 -- you mentioned you would like to start taking your own
19 cases after a while. I guess where will you go for, you
20 know, just for guidance, for supervision and, you know, all
21 of us lawyers have somebody bouncing ideas off of and have
22 kind of a sounding board so do you have any other
23 resources, in other people that you can rely on to do that?

24 A Yeah, there's an attorney right here in this
25 office named Paul Wolfe who's a criminal lawyer. I do have

1 John Routsis who's William Routsis' brother. I have my
2 dad's old law partner, Jack Hoffman. He's probably been a
3 lawyer here, getting close to retirement, he's got to be in
4 his about 70's. A couple old guys that were around my dad.
5 I have people in Chicago, quite a few lawyers that --
6 lawyer you just heard from, he's a partner at a pretty good
7 law firm.

8 I had just -- I have quite a few resources. Um.
9 In Chicago I probably have more, but -- which is ironic
10 since I'm from here, but if I just have general questions,
11 if I have concerns, anything, even though, you know, Ken
12 could not supervise everything I do he's always gonna be
13 there for me to -- I just actually -- sold my car recently
14 and I felt like the insurance company's kind of low-balling
15 me and I don't really have experience with that and just
16 yesterday he spent, you know, almost -- I asked him brief
17 questions, he gave me about an hour answer, and I always --
18 I think I have a very good support system to tell you the
19 truth.

20 Q Okay. So if -- I guess your ideal situation,
21 you spoke about it a little bit on your own and a little
22 bit in response to Ms. Flocchini, but if ideally you could
23 construct your practice over the next two years, I guess
24 what type of cases would you be working on and what would
25 your role in those cases be?

1 A Well, let me give you maybe a three-part answer
2 on that.

3 Q Go ahead.

4 A Number one, if I -- if I'm just constructing my
5 own practice, my cases would probably consist of the
6 following. They would probably be based on a lot of
7 appellate and post conviction cases, and if I could I would
8 make that 100 percent of my practice. I see there's
9 probably a chance that that could happen. I'm very good at
10 DUIs. I would say DUI cases I'm confident from start to
11 finish on a DUI case. I'm going to tell a kind of case
12 that I haven't a big opportunity on but I don't know if
13 it's gonna end up happening. I have a very good
14 understanding of federalism. And I have friends and family
15 on various Indian reservations around the state, and that
16 on tribal council. And I get calls all the time, mainly
17 right now up on the McDermott reservation, one of my real
18 good friends, they're trying to build -- what's the --
19 what's the -- is it lithium? The kind of mines that, you
20 know, they're -- there's -- I think other than Afghanistan,
21 there's the biggest concentration in that whole area.
22 Thacker Pass is an area up in that -- that is pretty sacred
23 to the Northern Paiutes and Shoshones, and they want to
24 keep -- you can imagine how many legal issues would come
25 out of this, but they want to keep that mining out of

1 there. There's issues like that that -- that I been
2 getting a lot of questions and emails about, and I can't do
3 anything about it, but if I wanted to, I could definitely
4 end up with those kind of cases.

5 Um. I would like to work on some civil rights
6 cases. A lot of the issues I do in criminal defense, I --
7 you know, I worked for Dave and he didn't ask me to do
8 simple things. He asked me to do things when it was
9 complex or, you know, and a lot of times those issues, a
10 lot of times maybe in a pretrial habeas which is after the
11 preliminary hearing or grand jury you're arguing that they
12 error when they determine there was probable cause. And a
13 lot of times the issues that you're coming out with there
14 can be used in a various civil rights cases, civil
15 forfeiture, I think I have some arguments to get currency
16 that's been seized and forfeited six years ago or back for
17 some people if that ever became an issue. Things like
18 that.

19 Now, I would want to start off very slowly. If I
20 was taking my own cases I would only want DUIs. I would
21 want cases with no legal issues straight factual disputes,
22 things like domestic battery cases like that. Appellate
23 work. Appellate work also is very little -- a lot of the
24 cases are only electrifying, a lot of times there's no
25 hearings at all in appellate case, or sometimes anyway,

1 especially in criminal.

2 Now, I'm not a hundred percent, like I said, and
3 Emily was just talking about I had a real nice thing set up
4 with Dave Houston. And now that he's dead, you know, I
5 might not even want to set up my own practice. I want to
6 go try to work at a firm. I think I've talked to some
7 people at some firms that are interested in me. Okay. And
8 then I don't know if I answered your question.

9 Q I think yeah, certainly on the subject matter.
10 And I think a little bit in terms of your role so it sounds
11 like DUIs or maybe domestic battery, some of those cases
12 you might first chair, but like the post conviction work it
13 sounds like you -- post conviction you might be doing in
14 conjunction with whoever was trial counsel.

15 A Yeah, right.

16 Q Right?

17 A Right.

18 Q And then and I guess the civil rights, is that
19 trial also?

20 A I would with whoever was trial counsel, yes.

21 Q No, I think that answers it, but. So it sounds
22 like your -- other than initially working on the cases that
23 you had with Mr. Houston that Mr. Lyon is now handling, no
24 set plan, I guess, going forward in terms of who you'd be
25 working with, where you'd be working, that kind of thing.

1 A Exactly, I have no plan.

2 Q Okay.

3 A I need to get a plan.

4 Q And then not a big thing but just curious. When
5 you were discussing keeping up on the law I know you did a
6 lot of research. Have you taken any CLE courses or
7 anything in the last --

8 A No, not much. I -- when this started happening
9 and I was getting suspended I didn't file anything. I got
10 administratively suspended as well for CLE. And I went and
11 I talked to -- I can't remember his name, he was in the
12 northern office here, he handled CLE. He gave me a list of
13 everything I need to do and how much it could cost to get
14 that administrative suspension taken off. And I would be
15 willing to -- I have not -- I've done some because I knew
16 that I was -- at one point in my head I was thinking, you
17 know, I -- the amount of CLE cases I do need to take is
18 somewhere around 20 credits but I was thinking it was,
19 like, a hundred so I did sign up for two different -- you
20 know how you can sign up on line where you pay like \$200
21 and you can take all those classes? I signed up for that
22 two different times and would take various courses over the
23 last few years. But I never filed any with the bar or
24 anything like that, no, I did not.

25 Q Okay. And then you mentioned today the check

1 that bounced, that was -- that was for the Spencer client
2 security fund?

3 A Yeah.

4 Q And you said you've got that, you could pay that
5 --

6 A Uh-hum.

7 Q -- as a condition?

8 A I can pay it all, tonight after the hearing.

9 Q And then --

10 A In fact, I already have the check written.

11 Q Okay, good. Well, don't let me stop you, you
12 know. Yeah. So I think then the only other thing that you
13 -- that Ms. Flocchini touched on a little bit but I guess I
14 want to follow up on. You mentioned you don't think that,
15 you know, you're hoping that you got things under control
16 now that kind of tornado of that circumstances shouldn't
17 hopefully not happen to you again. But I guess if it --
18 you mentioned in your -- in your testimony that kind of
19 mentally when things were gone sideways you just could not
20 communicate. And so I guess do you have any ideas or
21 suggestions for the panel on kind of what type of a system
22 or controls you could have in place that if -- again, if
23 you're going through a tough time, hopefully it's nothing
24 close to what you suffered already, but if you find
25 yourself going through a tough time, what's there to

1 protect clients or co-counsel that may need to get a hold
2 of you?

3 A I don't know really how to answer that, you
4 know. What I was thinking there might be some periods
5 where say I did get in a situation like where I'd say when
6 I have those panic attacks and I had to go under
7 observation and then -- and then, you know, I actually have
8 another thing I didn't even discuss, I rolled that
9 diverticulitis for sometimes. I was hospitalized within
10 the last year for that. And I -- I would almost need
11 someone else, whether it's some like memory who just
12 testified or some kind of employee who could, you know, who
13 like have helped me, I have never had enough help and I
14 don't know if there's technology. I don't know. I might
15 need even some recommendations there. But when I am in
16 that kind of situation and it needs to be communicated to,
17 whether it would be client or court or whatever. That
18 there's gonna have to be a pause, there's gotta have to be
19 a little delay, I'm gonna need X, Y and Z done, I mean, I
20 don't know. Maybe more assistants somehow, that's my best
21 answer for that.

22 Q Okay. And then so then on that so you're
23 currently physically working in the office that was David
24 Houston's office.

25 A Yeah, yeah, but I'm mostly working out of my

1 house. But I do work here sometimes, too.

2 Q Okay. And as part of Mr. Lyon kind of wrapping
3 up Mr. Houston's estate, I guess how long is that practice,
4 those employees, Emily, the other people that are there,
5 Mr. Lyon included, I mean, how long, I guess, will that
6 network or that firm be in place do you think?

7 A Ken fired his old employees and hired all these,
8 so this office is staying intact.

9 Q Got it. Okay.

10 A Ken's in charge now instead of Dave.

11 CHAIRMAN WILLIAMSON: Okay. Okay. That's all
12 I've got, I guess. So do you now -- do you have any
13 redirect of yourself based on either Ms. Flocchini's
14 questions or any of my questions?

15 MR. SWAFFORD: I don't have anything additional
16 to add that would be of definite value so I do not.

17 CHAIRMAN WILLIAMSON: Okay. And Ms. Flocchini,
18 based on any of the questions asked do you have anything
19 else?

20 MS. FLOCCHINI: Thank you. I don't have any
21 further questions. I would like to sort of make a closing
22 statement.

23 CHAIRMAN WILLIAMSON: Absolutely. Yeah.
24 Absolutely. So Mr. Swafford, you know, I guess since this
25 is a reinstatement hearing I'll let you -- obviously start

1 with closing argument and then if you want to reserve some
2 time for rebuttal, please feel free. And then I'll let Ms.
3 Flocchini do her --

4 MR. SWAFFORD: Okay.

5 CHAIRMAN WILLIAMSON: -- closing. So go ahead
6 would be -- and I guess before we do that, I just -- I
7 think I understand but I just want to confirm. So evidence
8 is closed, no more witnesses, everyone's happy to rest on
9 the evidence as it is?

10 MR. SWAFFORD: Yes.

11 CHAIRMAN WILLIAMSON: Okay. Ms. Flocchini?

12 MS. FLOCCHINI: Yes. Thank you.

13 CHAIRMAN WILLIAMSON: Perfect. Okay. Great.
14 Well, then Mr. Swafford, let's go ahead and proceed with
15 your closing argument.

16 MR. SWAFFORD: So I'm going to keep this brief.
17 You know, under Rule 116, which is the standard that
18 applies for today, Subsection 2, they're going to -- I have
19 to show by clear and convincing evidence the following:
20 And first was the full compliance of the terms and
21 conditions of all disciplinary orders. There were two
22 disciplinary orders in this case. They were cases tracked
23 together. They were filed pretty close in time. The first
24 order, all it had was that I had to pay all of the costs
25 and fees of the hearing. I presented evidence that -- that

1 I -- I wrote checks paying for -- timely paying for
2 everything I was supposed to pay for.

3 And the second case same thing, it was little
4 more expensive in that case so need more time and I had to
5 make more payments that was okay that showed an email
6 okaying that. I clearly showed that all of those -- that
7 that condition was met.

8 The second condition and the second case was that
9 I had to participate in an arbitration, the arbitration
10 hearing, and I showed you evidence from the client security
11 fund emails that when -- when there's a fee dispute or were
12 whether fees were ordered and they're no longer in a trust
13 account, which mine weren't, then they are properly
14 referred to the client's security fund.

15 I had a hearing before the client security fund,
16 I submitted all evidence even though, you know, it was
17 little late. And it was a little late and it was still
18 timely, and he considered everything and the client was
19 asking for \$35,000 he alleged I stole. I submitted
20 contrary evidence. They decided I should pay back \$5,000.
21 They made that payment. I'm paying them back, you know.

22 And just really quick, obviously, the standard
23 is, you know, clear and convincing evidence of the
24 following criteria or not based on sufficient reasons you
25 nonetheless be reinstated. I think I prepared -- I think I

1 have met both standards with respect to that.

2 Number -- Criteria B which is the attorney has
3 not engaged or attempted to engage in unauthorized practice
4 of law during the suspension period.

5 And Section E, which would be attorney is not
6 engaged in any other professional misconduct since
7 suspension. Those were stipulated to that there was no
8 evidence that I had done either.

9 Section C, you heard from my doctor, Dr.
10 Fredericks, my endocrinologist. He testified, you saw
11 evidence, you saw letters written, report written by a
12 neurologist who I saw when I was ordered to as a condition
13 of reinstatement, I saw a neurologist, you know, he --- he
14 did a brain scan, he wrote that there's nothing based on
15 his -- his observation and -- and -- and, you know, looking
16 at my -- my brain scans that would prevent me from being an
17 attorney.

18 You saw letters from Dr. Weiss who testified that
19 I think he's been seeing me and he's noticed that my -- my
20 anxiety, my depression, my ability -- my hard time focusing
21 ADHD that those are all improved with medication and life
22 changes. He was actually my doctor, my uncle's doctor,
23 too, so he was able to understand it after those deaths
24 that I was able to improve considerably.

25 And Dr. Fredericks testified about, you know,

1 that I do suffer from hypopituitarism, couple other things
2 related to a damaged pituitary gland, and that his opinion
3 based on treatments I've gotten better and I'm not limited
4 in my ability to practice.

5 I, obviously, recognize the wrongfulness and
6 seriousness of what happened. I understand the rules of
7 professional conduct a lot better now. I -- I don't know
8 if -- if you guys can look at records of this, but if you
9 think it's today the MPRE, if you can, look at my score on
10 that, take a look at it. I think I might have scored in
11 the higher than one percentile. The -- the -- what where
12 was I just at? The, um, so any physical -- so the second
13 condition that I have a -- that I have a letter or a --
14 what was that called, the letter where the neurologist --
15 fitness for duty evaluation, I was just discussing that,
16 both Criteria C, which is any mental disability or
17 infirmity existing at the time of the suspension has been
18 removed, that that testimony from those doctors satisfied
19 that criteria and the criteria before it.

20 Obviously, I understand the wrongfulness and
21 seriousness of the situation. I regret everything that
22 happened, even things, you know, that were -- I felt
23 someone had done something wrong with me like the other
24 attorney I feel wrong for even causing that to happen.

25 I wish none of this would have happened. I was

1 close to that person, we were friends, we started our
2 practice together, we won cases together. You know, I'll
3 always love that person deep down and I'm sad that any of
4 this happened, you know, notwithstanding the conduct for --
5 that was disciplined I have the requisite honesty and
6 integrity. I think every single witness I had testified
7 except my doctor testified to my honesty, integrity, think
8 that I have great character and that I should be practicing
9 law.

10 And I have stayed informed about the law in
11 recent developments and I think that a lot of the -- the
12 case law that I've shown you are -- or the cases that I've
13 worked on during the time I been suspended show that I do
14 have a -- probably a better than normal understanding of
15 the law and, especially Nevada law. And I -- I'm pretty
16 confident that I have satisfied every one of these criteria
17 but clear and convincing evidence, and I ask you to please
18 recommend that I be reinstated and, you know, any
19 conditions that you think I should be -- be attached to my
20 reinstatement recommendations, feel free. I'll do anything
21 you guys want me to do. And I'm gonna rest right there.

22 CHAIRMAN WILLIAMSON: Ms. Flocchini.

23 MS. FLOCCHINI: Thank you, panel, for taking the
24 time to hear this matter at, you know, the role of a panel
25 in hearing a reinstatement petition is similar to that in a

1 discipline hearing. Our job collectively as the State Bar
2 is to ensure that the public is protected and the integrity
3 of the profession is upheld.

4 And so for that I defer to your decision with
5 respect to whether or not Mr. Swafford should be
6 reinstated. I recognize the Bar has no question as to the
7 credibility of the evidence that's been presented today.
8 We don't question that it is credible and that it is
9 exactly as Mr. Swafford has argued it represents.

10 I want to reference Supreme Court Rule 116.
11 Sometimes my role in these things is just to help give you
12 information about the rules, since I do this more often
13 than -- than panel members.

14 The rule of Professional Conduct 1.16, Subsection
15 5 talks about a decision on reinstatement and conditions
16 that a panel -- a panel may represent or the Supreme Court
17 may impose. And one of those, importantly, is -- is that
18 reinstatement shall be conditioned upon payment of the
19 costs of the proceeding, restitution to parties injured,
20 and that includes the client security fund.

21 And so Mr. Swafford has represented that he has
22 full intentions to pay that debt to the security fund, but
23 I will reference to you in addition that this particular
24 Supreme Court Rule requires that that be a condition if
25 this panel recommends reinstatement.

1 In addition, I think that it's important to
2 recognize that the rule provides that if attorney has been
3 continuously suspended for five years or more, at the time
4 the petition for reinstatement is filed, that successful
5 completion of the examination for admission to practice is
6 a mandatory condition for reinstatement.

7 And I draw your attention to that because I want
8 to affirmatively state to the panel that Mr. Swafford filed
9 his petition less than five years after he was suspended.
10 It was two days less, but I want the panel to be aware that
11 it was less than the five years that requires a mandatory
12 taking of the Bar. So, you know, just in case there were
13 issues with that I want to make sure that we deal with that
14 up front.

15 I would like to suggest, again, because we see
16 these more often than each individual panel, some potential
17 conditions if the panel deems it appropriate to recommend
18 reinstatement. I think those conditions should include
19 something to the effect of a period of two to three years
20 with -- with conditions applied, those being perhaps a
21 prohibition on practicing alone or being a sole
22 practitioner during that time period. Also independently
23 requiring a mentor, whether that be someone that Mr.
24 Swafford is practicing with or otherwise. And that that
25 mentor communicate with Mr. Swafford monthly, at least

1 monthly to review his case management, his -- you know, his
2 mental health, you know, how he's coping with the practice
3 of law.

4 I think also it would be important to require
5 continued attendance at appointments with medical
6 providers. At this point that would include Dr.
7 Fredericks, or as otherwise directed, I think, would be
8 reasonable.

9 And then finally to ensure compliance, I think it
10 would be important to require quarterly reporting, that the
11 conditions were being satisfied.

12 And my experience has taught me that it's good to
13 require the attorney to prepare the quarterly report and
14 that it be countersigned by a medical and mental provider.
15 So it's not as onerous of a requirement on a mentor, it's
16 something that Mr. Swafford has to proactively prepare, get
17 countersigned, and then submit to the Bar. And that those
18 reporting would be to the Bar Counsel.

19 Finally, I do think that it's important that this
20 panel make some recommendation with respect to either CLE
21 or Mr. Swafford referenced his -- his outstanding score,
22 the first time he took the MPRE. Perhaps taking THE MPRE
23 again. Mr. Swafford has demonstrated that he's competent
24 in the areas of law that he's been engaged in and that
25 those are the areas of law he would like to continue

1 engaging in practice. But, you know, coming in back into
2 the practice and perhaps being able to represent clients
3 directly, the Bar would recommend some sort of ethics
4 directive; either CLEs directed toward that, or the MPRE is
5 straight forward and directed towards ensuring that someone
6 is well acquainted again with the ethics rules of
7 representing clients and practicing law.

8 So those are our recommendations for the panel's
9 consideration and I guess Mr. Swafford's consideration
10 perhaps. And otherwise, we thank you for your time and I'm
11 available to answer any questions, if the panel has them.

12 CHAIRMAN WILLIAMSON: Ms. Flocchini's been spared
13 a lot of questions since does the panel have any questions
14 for bar counsel.

15 MR. ANAGAMI: I do not.

16 MR. MEADE: I do not.

17 CHAIRMAN WILLIAMSON: Okay. I don't have any
18 questions, so thank you. Mr. Swafford, would you like to
19 offer a rebuttal closing?

20 MR. SWAFFORD: I have no rebuttal to that. Those
21 all sounded reasonable. I'm leaving it up to you guys,
22 whatever you guys decide.

23 CHAIRMAN WILLIAMSON: Okay. All right. Well,
24 thank you. Thank you both for a professional presentation
25 today. I know it's always difficult juggling witnesses and

1 things, particularly electronically, so really thank you.
2 And panel included and, of course, Ms. Peters, and both Ms.
3 Ferretto and Ms. Kernan, so I appreciate everybody working
4 together today.

5 With that we'll close the hearing. And if I can
6 ask Ms. Peters to work her magic and put the panel members
7 into a break-out room, that would be good.

8 And again, these are always a little challenging
9 electronically. I don't know if we're going to recess for
10 ten minutes or if we're going to be caucusing for, you
11 know, late into the night. So I don't know what Mr.
12 Swafford and Ms. Flocchini and Ms. Kernan and Laura, what
13 you all prefer in terms of staying on the zoom. Or I'm
14 also fine if we break out. I can sort of send a group
15 email as well and let everyone know we're ready to join
16 either, whatever works.

17 MS. FLOCCHINI: From my perspective it's just as
18 simple for me to turn off the microphone and the video.
19 And when I hear you come back, then I know I need to be
20 back. If you'd like to afford, you know, we could afford
21 our court reporter a break, then we could perhaps say that
22 we won't come back any sooner than, you know, 20 minutes.

23 CHAIRMAN WILLIAMSON: Yeah. My guess is we're
24 going probably at least until 3:00. If for some reason
25 we're done sooner, obviously, everyone can just, you know,

1 come back at 3:00. My guess is we'll want at least that
2 long, but that always seem to work. I know that's what I
3 did at lunch it just turn my microphone and turn off my
4 camera and, again, we'll be in a break-out room anyway, you
5 don't need to plug your ears or anything, so.

6 So if everyone's good with that, why don't you
7 plan on at least check back in at 3:00, we may still be
8 conferring, but at least that will get us started.

9 And while we go to a break-out room but then Dale
10 and Tim, if we want to take five minutes to go get a glass
11 of water or whatever, then kind of continue on from there.

12 MS. FLOCCHINI: Thank you.

13 CHAIRMAN WILLIAMSON: Thank you.

14 (Break until the panel returns.)

15 CHAIRMAN WILLIAMSON: Okay. We are back on the
16 record in the reinstatement hearing of William Swafford.

17 The panel has carefully considered all of the
18 documentary evidence admitted in the record as well as the
19 testimony of all the witnesses and the respective arguments
20 of counsel. We've also carefully reviewed the provisions
21 of Supreme Court Rule 116.

22 And the panel did find unanimously that Mr.
23 Swafford has satisfied the requirements of SCR 116,
24 Subsection 2, and should be reinstated subject to certain
25 conditions. Those conditions include the following:

1 First, payment of the \$5,000 to the client's
2 security fund. Second, and, you know, perhaps this needs
3 to happen concurrently with reinstatement, but Mr. Swafford
4 needs to clear the administrative suspension for CLE and
5 get completely current on his CLE credits. As part of
6 that, if not already required to get current on the CLE
7 requirements, Mr. Swafford must ensure that he takes at
8 least three ethics, three hours of ethics CLE, and at least
9 two hours of CLE on law practice management related topics.

10 In addition, for a period of two years, Mr.
11 Swafford will be prohibited from engaging in solo practice
12 and, instead, must work under the supervision of another
13 lawyer.

14 He must have -- continue his medical
15 appointments, including with his endocrinologist or, you
16 know, with an endocrinologist, and provide quarterly
17 reporting to the Bar. And as part of that quarterly
18 reporting, Mr. Swafford would prepare it, confirm he's
19 still working with a supervising attorney, confirm he is
20 continuing with his medical appointments, and it would need
21 to be cosigned by the supervising attorney, and also his --
22 his doctor or endocrinologist. So I realize he may not
23 continue to see his endocrinologist quarterly, but the
24 endocrinologist does need to periodically confirm that Mr.
25 Swafford is still undergoing treatment and care, and that

1 he is still fit to practice. And again, that the quarterly
2 reporting period in the prohibition against solo practice,
3 all of that would continue for a two-year period.

4 And upon successful completion of that two-year
5 period, again, then Mr. Swafford can proceed with whatever
6 practice that he chooses.

7 Members of the panel, did I state that accurately
8 and did I miss anything?

9 MR. MEADE: You are correct.

10 CHAIRMAN WILLIAMSON: Okay.

11 MR. ANAGAMI: You are correct.

12 CHAIRMAN WILLIAMSON: Okay. Mr. Swafford, Ms.
13 Flocchini do either of you have any questions?

14 MS. FLOCCHINI: I don't have -- so I have two
15 questions because I imagine that you would like me to
16 prepare an order.

17 CHAIRMAN WILLIAMSON: I was hoping someone would.
18 Again, you know, I realize in a disciplinary cases it's
19 usually you. I hate to burden you so it's fine if, you
20 know, whichever -- yes, I'm hoping someone. will.

21 MS. FLOCCHINI: Yes, part of the gig. No
22 problem. The first question I have is whether or not there
23 was any particular testimony or evidence that the panel
24 would like to draw attention to in the recommendation to
25 the Supreme Court?

1 CHAIRMAN WILLIAMSON: Yeah. Good question. I
2 think I have -- I have to admit I don't think any testimony
3 in particular, to be honest with you. I mean, I think
4 really the -- only speaking for myself, every single
5 witness testified to Mr. Swafford's honesty and integrity.
6 I think the panel found him very, very credible and found
7 Mr. Swafford very credible, and very heartfelt and -- and
8 we also understand and I think appreciate that Mr.
9 Swafford, I think, had a clear plan, had a good plan to get
10 back on practice that included working under David Houston.
11 And, obviously, through no fault of his own, that's no
12 longer possible so we realize a period of time will need to
13 transpire for Mr. Swafford to get some of this in order.
14 Whether that's supervising attorney's going to be Mr. Lyon
15 or someone else, we will defer to Mr. Swafford. But
16 hopefully, knowing this is the panel's recommendation, he
17 can spend the time when this is waiting for Supreme Court
18 Review to sort of put those -- put those pieces together.
19 And again, I think the other -- I think again,
20 the panel also found Dr. Fredericks' testimony to be
21 important and valuable in really confirming because I don't
22 think there was much concern or dispute really over any of
23 the subsections of SCR 116.2, other than a concern or an
24 inability to assess Subsection C. And so Dr. Fredericks'
25 testimony, as well as I know I -- I personally reviewed the

1 -- I think it was the physician's assistant, Weiss, the
2 letter that was in the file, I think, so that corroborated
3 medical testimony, at least for me did confirm that
4 Subsection C has been satisfied. And that, actually, is
5 why the panel required the ongoing -- not just ongoing
6 medical care but specifically requiring an endocrinologist
7 to confirm that -- that, you know, the medical hurdles that
8 were causing the -- causing the failure to communicate and
9 the anxiety before stable route, so. Anyway, that's what I
10 found persuasive and important. And again, the panel, the
11 other panel members are welcome to interject if I missed
12 anything. Hearing none.

13 MS. FLOCCHINI: Okay. The next question, and
14 actually thought of another one but it's okay. It will be
15 -- it's gonna be good. With respect to this CLE, did the
16 panel have a time frame by which they would like the CLE to
17 be completed?

18 CHAIRMAN WILLIAMSON: I had a question about this
19 because I -- this is a -- I think, I'm not sure, can he
20 lift the administrative suspension until before he is
21 reinstated, is that even a possibility?

22 MS. FLOCCHINI: I believe so. I believe that
23 they're independent and that you satisfied the -- the
24 requirements for lifting the administrative suspension by,
25 you know, submitting the CLE and paying whatever fines or

1 fees are associated with it. So I don't think that they're
2 conditioned upon each other. He can satisfaction that
3 independently, and if he's able to provider to the Supreme
4 Court's consideration.

5 CHAIRMAN WILLIAMSON: Yeah. Well, in that case,
6 I really think a period of three months, three months
7 following reinstatement, that knowing there would really be
8 no reason between now and, say, the Supreme Court Order,
9 you know, assuming it's an order of affirmance, that could
10 be lifted even prior to reinstatement, but certainly then
11 allowing three months post reinstatement should provide
12 sufficient time. Mr. Anagami or Mr. Meade, do either of
13 you have a different view of that?

14 A MR. ANAGAMI: I concur.

15 MR. MEADE: No.

16 CHAIRMAN WILLIAMSON: Three months post
17 reinstatement to satisfy.

18 MS. FLOCCHINI: Thank you. Do you want to put a
19 time frame on the 5,000 to client security fund? I know
20 Mr. Swafford has represented he can do it now. That would
21 be great for it to be done before he even gets to the
22 court, but I think having a deadline is useful, so.

23 CHAIRMAN WILLIAMSON: Agree, yeah. I think as
24 you rightfully pointed out under 116.5, it is a condition
25 of reinstatement and which I read that to mean it really

1 has to be done in order for the reinstatement to be become
2 effective.

3 So, again, whether it's done today, tomorrow,
4 next week or, you know, even within a month, I don't know
5 how quickly the Supreme Court is gonna rule, but I would
6 encourage Mr. Swafford to do it -- do it promptly. And
7 again, I think that has to be made before the reinstatement
8 is effective.

9 MS. FLOCCHINI: Okay. And for what it's worth, I
10 would submit that the Bar would stipulate if it was done
11 prior to the recommendation in this matter being filed and,
12 you know, to go up on the record, that we would stipulate
13 to including it in the recommendation that that condition
14 had been satisfied if it happened within, you know, the
15 next -- because we'll prepare this recommendation and so
16 it's probably in the next two weeks.

17 CHAIRMAN WILLIAMSON: Okay. Yeah. I see Mr.
18 Swafford nodding that seems like a good idea I think it
19 sounds like in his interests the Supreme Court might like
20 to see that box checked before it even arrives.

21 MS. FLOCCHINI: Okay. And then finally, although
22 I do these more often than panel members, I don't do them
23 as much as I do discipline cases and I believe that I'm
24 flipping in my book to SCR 120, SCR 120, Subsection 5
25 provides for an administrative cost associated with

1 reinstatement, which includes a cost of the \$2,500, and the
2 cost of the proceedings, you know, the hard costs of this
3 proceeding be paid by the respondent. We recognize that
4 Mr. Swafford has made the \$1,000 deposit that was required
5 by SCR 116, and that would be credited to him, but we would
6 -- I think that it's a requirement, but I just want to make
7 sure that everybody's on board and understands that
8 requirement and that that should be part of the
9 recommendation.

10 CHAIRMAN WILLIAMSON: Yeah. I'm looking at SCR
11 116 Section 5, I looked at 116, 4 or 3, I think, and I
12 thought we were covered because I saw the thousand dollar
13 check in there, and here we go I missed something. So I
14 apologize, but yes. No, I think it is required under 120
15 Subsection 5. It's -- so there would be a 1500 dollar
16 balance still owing on that assessment.

17 MS. FLOCCHINI: And then whatever the cost of the
18 proceedings are.

19 MR. SWAFFORD: Yes.

20 CHAIRMAN WILLIAMSON: How I read this
21 administrative cost is it shall be assessed in any amount
22 not less than 2500? Oh, and the attorney shall be required
23 to pay all costs previously assessed. The way I'm looking
24 at it is tell me if the costs, if they exceed 2500? And I
25 think it is the greater of 2500 or the actual cost so yeah,

1 you may have to wait until Sunshine's bill comes in or
2 whatever to be able to assess that value. The way I'm
3 reading 125 is the greater of the two, I think.

4 MS. FLOCCHINI: Okay. And I appreciate that
5 interpretation. The Bar would actually the hard costs
6 plus the 2500, and I will allow the panel to make their
7 recommendation in this case.

8 CHAIRMAN WILLIAMSON: All right. Let's see. Let
9 me start with this just so we can short circuit it. Mr.
10 Swafford, do you have any objection to the 2500 plus the
11 hard costs? Sorry, you're on mute. You're still on mute,
12 I think.

13 MR. SWAFFORD: I really don't have any objection.
14 I think that I paid a lot of costs already. I'd like to
15 keep my costs at zero, if possible, but gotta do what I
16 gotta do.

17 CHAIRMAN WILLIAMSON: Ms. Flocchini, do you have
18 an estimate on what the cost may be?

19 MS. FLOCCHINI: I don't. It's the cost of a
20 transcript and I would estimate, my best estimate somewhere
21 in the thousand dollar range. As we're talking I can refer
22 back to SCR 120, Subsection 1 also, that talks about the
23 costs in addition to the administrative fee.

24 CHAIRMAN WILLIAMSON: I'm doing it on the fly and
25 so please forgive me. I'm going to invite the board to

1 submit a cost bill and include -- again, be sure to include
2 all reporter's fees, investigation fees, witness expenses,
3 service costs, publication costs, and any other fees that
4 the Bar incurs, and include that in the cost bill. But I
5 -- because I think it -- it's difficult but see, I think,
6 like, for instance, Subsection 3 is really talking about an
7 additional fee in the case of discipline. I guess reading
8 1 and 5, the Supreme Court can, of course, overrule me,
9 they are the ultimate authority, but I'm going to say by
10 all means include all costs and fees that are encompassed
11 within 120, but then it would actually be payment of
12 whichever is higher, either that full amount if it's 2600
13 or 2800, or if it's 1700, then it just be payment of 2500,
14 so I think it is whichever is higher. I may be reading
15 that wrong in which case I invite the Supreme Court to
16 overrule me.

17 MS. FLOCCHINI: I understand the decision and
18 will reflect that in the recommendation that we prepare.

19 CHAIRMAN WILLIAMSON: Perfect. Thank you so
20 much.

21 MS. FLOCCHINI: Thank you. And so those were all
22 questions that I had. Thank you.

23 CHAIRMAN WILLIAMSON: Okay. No, those are
24 helpful. As always, I forget something so I really
25 appreciate it when you keep me on the rail, as much as you

1 can, so. Mr. Swafford, any questions?

2 You do such a good job putting yourself on mute
3 so it's no problem.

4 MR. SWAFFORD: One thing.

5 CHAIRMAN WILLIAMSON: Oh. It then kicked back
6 on. It's sort of automatic or something.

7 MR. SWAFFORD: Okay. When my fingers are too
8 fast. When you were saying 3 CL ethics were you talking
9 about three credits or three classes?

10 CHAIRMAN WILLIAMSON: Three -- yes, sorry. Three
11 hours, hour credit --

12 MR. SWAFFORD: Yeah.

13 CHAIRMAN WILLIAMSON: -- usually overlap, you
14 could take a one three-hour class, however you want to
15 satisfy that but -- so yeah, three hour credits --

16 MR. SWAFFORD: Got you.

17 CHAIRMAN WILLIAMSON: -- on ethics and two hour
18 credits on law and --

19 MR. SWAFFORD: Really quick. He gave me the
20 report, I have it in my email of what I need to take to get
21 that suspension taken away. If -- I think there's, like,
22 six ethics credits on there, is this in addition to that?

23 CHAIRMAN WILLIAMSON: No. Not knowing what's on
24 that report we just --

25 MR. SWAFFORD: Okay.

1 CHAIRMAN WILLIAMSON: -- whatever it takes -- if
2 there's only two ethics credits on there, you need to take
3 three.

4 MR. SWAFFORD: I got you.

5 CHAIRMAN WILLIAMSON: If there's six ethics
6 credits that you're required to take to get reinstated,
7 then just --

8 MR. SWAFFORD: Yeah, I'm pretty firm with six.

9 CHAIRMAN WILLIAMSON: Yeah. We assumed there was
10 some component of ethics since there always is, but we just
11 wanted to make sure at least three were dedicated to
12 ethics, at least two were dedicated to price management.
13 Those are not always clearly delineated, you know, opposed
14 substance abuse ethics, those usually fall just under
15 general, general credits. But, you know, we -- again,
16 having -- I think having established your honesty and
17 integrity, you know, we'll rely on you to review the ethics
18 credits, and that would be part of your quarterly report as
19 well to show that was satisfied.

20 MR. SWAFFORD: All right. Thank you. I don't
21 have any questions.

22 CHAIRMAN WILLIAMSON: Okay. Okay. Right. Well,
23 then, with nothing else, again, I want to thank both the
24 panel members, thank the Bar, Madam Court Reporter and Mr.
25 Swafford for everyone working together today. I'm glad --

1 we were afraid we gonna have three days and we got it in
2 less than one so I appreciate that we got it done, so with
3 the power outage besides. So thank you all.

4 And Mr. Swafford, good luck and I hope everyone
5 has a good day.

6 MS. FLOCCHINI: Thank you very much.

7 MR. SWAFFORD: Thank you, everyone.

8 MS. FLOCCHINI: Thank you.

9 (Hearing concludes at 3:21 p.m.)

10 ---o0o---

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 STATE OF NEVADA)

2 COUNTY OF WASHOE)

3 I, JULIE ANN KERNAN, a notary public in and
4 for the County of Washoe, State of Nevada, do hereby
5 certify:

6 That on Wednesday, the 20th day of April,
7 2022, at the hour of 1:15 p.m. of said day, via audiovisual
8 transmission, remotely appeared all parties, for the
9 aforementioned hearing.

10 That said hearing was taken in verbatim
11 stenotype notes by me, a Certified Court Reporter, and
12 thereafter transcribed into typewriting as herein appears;

13 That the foregoing transcript, consisting of
14 pages numbered 1 through 65, is a full, true and correct
15 transcript of my said stenotype notes of said hearing to
16 the best of my knowledge, skill and ability.

17

18 DATED: At Reno, Nevada, this 10th day of June, 2022.

19

20



21

JULIE ANN KERNAN, CCR #427

22

23

24

25

1 HEALTH INFORMATION PRIVACY & SECURITY: CAUTIONARY NOTICE

2 Litigation Services is committed to compliance with applicable federal

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

4 protection and security of patient health information. Notice is

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

6 proceedings, and transcript exhibits, may contain patient health

7 information that is protected from unauthorized access, use and

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

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

10 electronic database maintenance and access, storage, distribution/

11 dissemination and communication) of transcripts/exhibits containing

12 patient information be performed in compliance with Privacy Laws.

13 No transcript or exhibit containing protected patient health

14 information may be further disclosed except as permitted by Privacy

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

16 attorneys, and their HIPAA Business Associates and Subcontractors will

17 make every reasonable effort to protect and secure patient health

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

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

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

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

22 recommended that your office review its policies regarding sharing of

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

24 disclosure - for compliance with Privacy Laws.

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