

FILED

MAY 18 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

IN THE SUPREME COURT OF THE STATE OF NEVADA

NONA TOBIN,
PETITIONER,

vs.

NEVADA COMMISSION ON
JUDICIAL DISCIPLINE;
THE OFFICE OF BAR COUNSEL
OF THE STATE BAR OF NEVADA.
RESPONDENTS.

SUPREME COURT CASE 84371

Related Supreme Court Cases 79295.
82094, 82234, 82294; Related 8th District
Court Cases Nos. A-15-720032-C (Dept.
31); A-16-730078-C (Dept. 31); A-19-
799890-C (Dept. 22); A-21-828840-C
(Dept. 8)

AMENDED PETITION FOR WRITS
OF MANDAMUS FOR THE
ENFORCEMENT OF THE NEVADA
JUDICIAL AND PROFESSIONAL
CODES OF CONDUCT

Comes now, Petitioner Nona Tobin, In Proper Person, to amend the petition
filed on March 15, 2022 (22-08150) to comply with the page limits of NRAP as
ordered (22-13147) on April 26, 2022. Citations to the 36-volume appendix filed
on March 15, 2022 in case 84371 remain unchanged.

I. JURISDICTIONAL AND ROUTING STATEMENT

NRAP 21(a) requires petitions for writs of mandamus or prohibition be filed
with the Supreme Court. This petition is presumptively retained by the Supreme
Court because it raises a question of judicial discipline (NRAP 17(a)(3), attorney
misconduct (NRAP 17(a)(4), involves questions of first impression, (NRAP
17(a)(11) and involves matters of statewide public importance. NRAP 17(a)(12).

II. ISSUE PRESENTED FOR REVIEW

Should the Supreme Court mandate the State Bar of Nevada and/or the
Nevada Commission on Judicial Discipline to investigate Petitioner's complaints
on their merits?

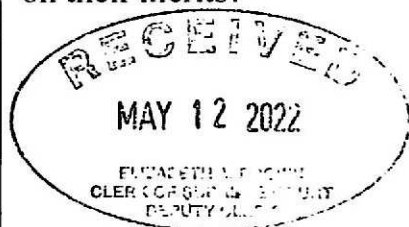


TABLE OF CONTENTS

| | | |
|------|--|---|
| I. | JURISDICTIONAL AND ROUTING STATEMENT | 1 |
| II. | ISSUE PRESENTED FOR REVIEW | 1 |
| III. | VERIFICATION BY PETITIONER | 2 |
| | A. Nevada Commission on Judicial Discipline (NCJD) Complaint | 3 |
| | B. Petitioner's complaints to the State Bar | 5 |
| | C. Petitioner's damages | 5 |
| IV. | POINTS AND AUTHORITIES | 6 |
| | D. A writ of mandamus is appropriate to compel a duty when "an adequate and speedy legal remedy" is otherwise unavailable. | 6 |
| | E. The State Bar of Nevada is required to investigate all complaints of professional misconduct according to Supreme Court Rules 98-123. | 6 |
| | F. The Nevada Commission on Judicial Discipline has a Constitutional mandate to enforce the Code of Judicial Conduct, but did not do so. | 8 |
| V. | CONCLUSION | 9 |

TABLE OF CASES, STATUTES AND OTHER AUTHORITIES

| | |
|--|-----------|
| NRAP 21(a) | 1 |
| NRAP 17(a)(3), | 1 |
| (NRAP 17(a)(4), | 1 |
| NRAP 17(a)(11) | 1 |
| NRAP 17(a)(12) | 1 |
| ABA 6.31(b). 5 | 5 |
| NRCP 11(b)(1-4); | 5 |
| NRPC 3.1, | 5 |
| NRPC 3.3, | 5 |
| NRPC 3.4, | 5 |
| NRPC 3.5(b), | 5 |
| NRPC 4.1, | 5 |
| NRPC 4.4, | 5 |
| NRPC 5.1, | 5 |
| NRPC 5.2, | 5 |
| NRPC 8.3, | 5 |
| NRPC 8.4. 5 | 5 |
| Popowitz v. Eighth Judicial Dist. Court of Nev., No. 58305, at *3 (Nev. Feb. 10, 2014) | 6 |
| O'Brien v. State Bar of Nev., 114 Nev. 71, 73, 952 P.2d 952, 953 (1998) | 6 |
| Int'l Game Tech., Inc. v. Second Judicial Dist. Court, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008) (| 6 |
| Supreme Court Rules 98-123. | 6 |
| Supreme Court Rule 76, | 7 |
| Supreme Court Rule 99, | 7 |
| Nevada State Constitution, Article 6, Section 20 | 8 |
| NRS 1.4655(2) | 9 |
| NRS 1.4657(1) | 9 |
| ABA Standards 6.11 and 6.31(b) for Imposing Lawyer Sanctions | 3, 7, & 8 |
| Supreme Court Rule 104(1)(a) | 7 & 8 |
| Supreme Court Rule 105. | 7 & 8 |

III. VERIFICATION BY PETITIONER

I, Nona Tobin, declare and state, under penalty of perjury of the laws of the State of Nevada, as follows. I have personal knowledge of the following matters and believe that the following assertions are true to the best of my knowledge and belief.

1. I am a 73-year-old resident Nevada citizen residing at 2664 Olivia Heights Ave., Henderson, Nevada 89052 for the last 18 years.

2. I filed this petition because I have been in litigation for six years over a wrongful 2014 HOA foreclosure, but my claims have never been heard on their merits, three district courts' orders have been issued without judicial scrutiny of verified evidence, and the administrative agencies with Constitutional and/or statutory authority to enforce judicial and attorney ethical standards have refused to investigate alleged violations of judicial and attorney ethical conduct.

3. Of immediate concern to this petition, my complaints to the Nevada Commission on Judicial Discipline (NCJD) and to the State Bar of Nevada were rejected by staff attorneys without investigation by the agencies that have Constitutional and/or statutory authority to enforce ethical standards.

4. On 3/4/21 Assistant Bar Counsel rejected complaints filed on 2/14/21 against Joseph Hong (NV Bar # 5995) and on 2/16/21 vs. Brittany Wood (NV Bar #7562) (4, TOBIN 280-459) without investigation or referral to the Ethics & Disciplinary Screening Panels stating:

"A review of the information provided indicates that your grievance involves allegations which should be addressed in the appropriate judicial settings.

The Office of Bar Counsel and the disciplinary boards of the State Bar are not substitutes for the court systems. Therefore, no further action shall be taken in this matter.

If a court makes written findings which clearly establish attorney misconduct, please re-submit that information for our reconsideration." (4, TOBIN 460)

1
2 5. On 3/16/22, Mr. Pattee sent three more rejection letters identical to the
3 3/4/21 letter quoted above to reject the verified complaints against Melanie
4 Morgan, Steven Scow, Wright, Finley, Zak LLP, and David Ochoa.

5 6. Previously, on 9/12/17, Assistant Bar Counsel Patrick J. Pattee rejected my
6 complaint filed on 9/3/17 (vs. Adam Clarkson (SBN 10003)) on the grounds that
7 my initial complaint did not meet the “clear and convincing” evidence standard)
8 (2, TOBIN 243-279);

9 7. Generally, my verified complaints to the State Bar alleged very serious
10 misconduct that according to ABA Standards could merit disbarment, e.g.,
11 opposing counsels violated their duty of candor to the court by disclosing false
12 evidence and/or concealing inculpatory evidence, recording false claims that
13 altered the parties’ standing, and misrepresenting material facts to the court.

14 8. These Bar complaints are supported by the verified evidence, in the
15 appendix to this petition:

16 9. vs. Melanie Morgan, Akerman LLP (2/23/22) (27, TOBIN 4045-4154);

17 10. vs. Wright, Finlay Zak LLP (3/1/22) (28, TOBIN 4155-4259);

18 11. vs. Steven Scow, Koch & Scow LLC (29, 30, and 31, TOBIN 4260-4603);

19 12. vs. David Ochoa, Lipson Neilson LLP (3/6/22) (32-34, TOBIN 4604-5046).

20 13. vs. Adam Clarkson, 9/4/17 Bar complaint 17-1198 (3, TOBIN 243-278);

21 14. vs. Joseph Hong, 2/14/21 Bar complaint 21-0181 (4, TOBIN 280-399);

22 15. vs. Brittany Wood, 2/16/21 Bar complaint 21-0187 (4, TOBIN 400-458).

23 **A. Nevada Commission on Judicial Discipline (NCJD) Complaint**

24 16. On 1/28/21, I filed a verified NCJD complaint to the against Joanna Kishner
25 (5-15, TOBIN 461-2120) for, inter alia, ex parte communications (NCJC 2.9) that
26 allowed opposing counsels to gain a substantive and tactical advantage that altered
27 the outcome of the A-15-720032-C proceedings in a manner that deprived me of
28

1 my property and my access to both the district courts and the courts of appeal as
2 an individual (case 79295 orders 19-37046, 19-37846, and 20-16346).

3 17. My 1/28/21 verified NCJD complaint against Judge Joanna Kishner alleged
4 serious violations of the Nevada Code of Judicial Conduct, *inter alia*, 1.1
5 (compliance with law – acted outside jurisdiction); 2.9 (4/23/19 *ex parte*
6 communications that resulted in the denial of my substantive rights and legal
7 remedies); 2.7 (responsibility to decide) failing to hear or decide my *pro se*
8 dispositive motions filed on 4/10/19, 4/12/19, 4/24/19, 6/17/19, 7/22/19, and
9 7/29/19; 2.6 (ensuring the right to be heard) excluding me from putting on a case
10 at the 6/5/19 quiet title trial, denying my rights under NRS 40.010, NRS 40.110,
11 and NRS 30.130; and not considering 620 pages of verified evidence (10-12
12 TOBIN 1285-1823) filed on 4/17/19, and for not considering my 500 pages of
13 verified declarations, including the authenticated Ombudsman's HOA notice of
14 sale compliance records filed on 5/23/19.

15 18. My NCJD complaint (5-15, TOBIN 461-2120) was supported by 1,659
16 pages of documentation, over half of which were dispositive motions and verified
17 evidence that were unfairly stricken unheard by Judge Kishner solely relying on
18 attorney misrepresentations.

19 19. On 5/11/21, Nevada Commission on Judicial Discipline (NCJD) Associate
20 General Counsel Dominika Batten administratively rejected my complaint
21 without referral to the NCJD for investigation on the merits on the grounds that it
22 was time-barred (NRS 1.4655(2) and inappropriate for the NCJD as the complaint
23 should be addressed on appeal (NRS 1.4653(5)(b));

24 20. On 5/21/21 (23, TOBIN 3531-3542), I submitted a request for
25 reconsideration on the grounds that my complaint was timely, the prejudice to me
26 was ongoing, and the judicial misconduct damaged the integrity of the entire
27 judiciary and civil court system.

21. On 5/25/21 denied my 5/21/21 request for reconsideration. (23, TOBIN 3529 -3943) on the grounds that no new evidence was provided to supplement the 1659 pages previously rejected without consideration.

22. Dominika Batten denied the request on 5/25/21 (23, TOBIN 3543) on the grounds that no new evidence had been submitted to supplement the 1,659 pages of documentation and analysis previously submitted (5 – 15, TOBIN 461-2120) that contained verifiable evidence that the prohibited ex parte communications gave an advantage to Jimijack and Nationstar that altered the outcome of the proceedings and fully obstructed a fair adjudication of my claims. (ABA 6.31(b).

B. Petitioner's complaints to the State Bar

23. In response to Mr. Pattee's 3/4/21 requirement, I filed counter-claims, cross-claims and petition for sanctions pursuant on 3/8/21 (21, TOBIN 3038-3168) into existing interpleader case A-21-828840-C, and on 3/22/21, I filed a third-party complaint vs. six attorneys (Joseph Hong, Melanie Morgan, Steven Scow, Brody Wight, David Ochoa, and Brittany Wood), including a petition for sanctions pursuant to NRCP 11(b)(1-4); NRPC 3.1, 3.3, 3.4,3.5(b), 4.1, 4.4, 5.1, 5.2, 8.3, 8.4. (22 - 23, TOBIN 3169-3441), but I was unsuccessful in getting the district court to hold an evidentiary hearing to support "written findings which clearly establish attorney misconduct".

C. Damages were caused by attorney misconduct and fraud on the court.

24. Courts have relied on the misrepresentations and false evidence presented by opposing counsels that has resulted in their profiting by their ill-gotten gains. This petition must be granted to provide Petitioner access to a legal remedy

\$790,000 current value of the wrongfully foreclosed house
\$220,000 lost rent 92 months x \$2,400
\$340,000 attorney fees and litigation costs NRS 18.010(2); EDCR 7.60
\$137,000 undistributed excess proceeds plus 92 months interest
\$1,487,000 actual and special damages (without punitive damages
pursuant to NRS 42.005 or NRS 207.470(1))

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

Dated this 12th day of May 2022



NONA TOBIN

IV. POINTS AND AUTHORITIES

D. A writ of mandamus is appropriate to compel a duty when "an adequate and speedy legal remedy" is unavailable.

Popowitz v. Eighth Judicial Dist. Court of Nev., No. 58305, at *3 (Nev. Feb. 10, 2014) ("A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station or to control an arbitrary or capricious exercise of discretion." *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008) (internal citations omitted).

But, extraordinary writ relief is unavailable when the petitioner has "an adequate and speedy legal remedy." *Int'l Game Tech.*, 124 Nev. at 197, 179 P.3d at 558 (2008); *see NRS 34.170*;"

O'Brien v. State Bar of Nev., 114 Nev. 71, 73, 952 P.2d 952, 953 (1998) (internal quotation marks omitted); *see also* SCR 76(1) (providing that "[t]he state bar is under the exclusive jurisdiction and control of the supreme court"). We therefore exercise our discretion to consider this petition for a writ of mandamus or prohibition."

26. The facts of this case show that "an adequate and speedy legal remedy" has been unavailable largely because Petitioner's substantive right to adjudication of claims by a fair and impartial tribunal and her individual appeal rights have been abridged by attorney misconduct.

27. Petitioner has been damaged by the lack of enforcement of the codes of professional and judicial conduct and does not have another legal remedy.

E. The State Bar of Nevada is required to investigate all complaints of professional misconduct according to Supreme Court Rules 98-123.

- 1 28. Pursuant to Supreme Court Rule 76,
2 "the State Bar of Nevada, a public corporation heretofore created by
3 statute, shall govern the legal profession in this state, subject to the
4 approval of the Supreme Court."
- 5 29. Pursuant to Rule 99, Nevada attorneys are
6 "subject to the exclusive disciplinary jurisdiction of the supreme court
7 and the disciplinary boards and hearing panels created by these rules."
- 8 30. Most important to this petition, Rule 104(1)(a) states:
9 "1. State bar counsel **shall (a) Investigate all matters involving**
10 **possible attorney misconduct** or incapacity called to bar counsel's
11 attention, whether by grievance or otherwise." (emphasis added)
- 12 31. Rule 105. Procedure on receipt of complaint 1. Investigation
13 (a) Investigation and screening panel review. **Investigations shall be**
14 **initiated and conducted by bar counsel or bar counsel's staff or other**
15 **investigative personnel at bar counsel's direction prior or pursuant to**
16 **the opening of a grievance file.** At the conclusion of an investigation of a
17 grievance file, bar counsel shall recommend in writing dismissal with or
18 without prejudice, referral to diversion or mentoring pursuant to Rule
19 105.5, a letter of caution, a letter of reprimand, or the filing of a written
20 complaint for formal proceedings. (emphasis added)
- 21 32. The ABA Standards 6.11 and 6.31(b) for Imposing Lawyer Sanctions state
22 that disbarment is the appropriate discipline, absent mitigating factors, for the
23 misconduct alleged.
24 6.11 Disbarment is generally appropriate when a lawyer, with the intent to
25 deceive the court, makes a false statement, submits a false document, or
26 improperly withholds material information, and causes serious or
27 potentially serious injury to a party, or causes a significant or potentially
28 significant adverse effect on the legal proceeding.
6.31 Disbarment is generally appropriate when a lawyer:
(b) makes an ex parte communication with a judge or juror with intent to
affect the outcome of the proceeding, and causes serious or potentially

1 serious injury to a party, or causes significant or potentially significant
2 interference with the outcome of the legal proceeding;

3 33. The Office of the Bar Counsel did not comply with Supreme Court Rule
4 104(1)(a) and Rule 105 and disregarded ABA Standards for Sanctioning Lawyers
5 when it administratively rejected Petitioner's complaints without investigation.

6 34. The Assistant Bar Counsel's ad hoc requirement for a victim to get a court
7 order with findings of attorney misconduct imposes, without legal authority, an
8 unreasonable burden on the victim.

9 35. My 3/8/21 and 3/22/21 claims, were filed, attempting to get such an order,
10 but they were dismissed with prejudice without the court holding an evidentiary
11 hearing. (21 -23, TOBIN 3038 – 3441)

12 36. The State Bar's website procedures state that the Bar Counsel will ask the
13 respondent attorney for a reply within 10 days, but even though Petitioner's
14 complaints explicitly alleged what Rules had been violated, they were rejected out
15 of hand in as little as five working days.

16 37. Further, the need exists to ascertain the extent to which attorney misconduct
17 mitigates the culpability of the judges who may have violated judicial rules
18 unintentionally on the good faith expectation that they could rely on attorneys as
19 officers of the court to be truthful.

20 **F. The Nevada Commission on Judicial Discipline has a Constitutional**
21 **mandate to enforce the Code of Judicial Conduct, but did not do so.**

22 38. The Nevada Commission on Judicial Discipline's role was created by the
23 public via a constitutional amendment in 1976 to enforce the Code of Judicial
24 Conduct and to assist the Supreme Court to ensure that the judiciary is competent
25 and uncorrupted. (Nevada State Constitution,, Article 6, Section 20).

26 39. NCJD failed to fulfill its mandate by the administrative rejection of my
27 complaint, supported by verified evidence, without investigation, by misapplying
28

1 the statute of limitations requirement (NRS 1.4655(2)) given that my 1/28/21
2 complaint was timely, as filed within three years of the 4/23/19 through 11/22/19
3 alleged violations of the Code of Judicial Conduct, and within one year of when
4 my appeal rights were totally gone as of the Supreme Court's 4/30/20 (SC order
5 20-16346) (3, TOBIN 231-232) rejection of my appeal of the 11/22/19 order (1,
6 TOBIN 094-104) that removed me as a party from A-15-720032-C.

7 40. The legal standard NCJD staff misapplied to administratively reject the
8 complaint by ignoring 1,659-pages of verified documentary evidence was:

9 "Pursuant to NRS 1.4657(1), the Commission reviews each complaint in
10 accordance with its procedural rules to determine whether it alleges
11 objectively verifiable evidence of judicial misconduct or incapacitation."

12 41. Communications between the Petitioner and the NCJD staff were provided
13 in appendix volume 23, TOBIN 3481 – 3543. The NCJD complaint itself is in
14 appendix volumes 5-15, TOBIN 461- 2120.

15 **V. CONCLUSION**

16 42. The Bar Counsel's overzealous gatekeeping has had a chilling effect on this
17 Court's ability to ensure compliance with the Rules of Professional Conduct.

18 43. Attorney misconduct obstructed justice, damaged the Petitioner, caused a
19 judge to unwittingly engage in prohibited ex parte communications, and rendered
20 it impossible for adverse claims to be fully and fairly litigated in this dispute.

21 44. Subsequent courts' inability to conceptualize that the first proceedings
22 weren't fair has prevented Petitioner's case from being heard on its merits in any
23 court.

24 45. If this petition is not granted, alleged ethical violations will be condoned by
25 default, and the Nevada Rules of Professional Conduct will continue to be
26 unenforced as if they didn't even exist.

1 46. Petitioner respectfully requests that the Court mandate the State Bar of
2 Nevada and the Nevada Commission on Judicial Discipline investigate
3 Petitioner's complaints on their merits per the statutory mandates.

4 Dated this 12th day of May 2022

5
6 

7 NONA TOBIN, AN INDIVIDUAL
8 2664 Olivia Heights Avenue
9 Henderson NV 89052
10 (702) 465-2199
11 nonatobin@gmail.com
12 *In Proper Person*
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Certificate of Compliance

1. I hereby certify that this PETITION FOR A WRIT OF MANDAMUS complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because his brief has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in Times New Roman 14-point font.
2. I further certify that this brief complies with the page- or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points or more, and contains 2,621 words.
3. Finally, I hereby certify that I have written this Petition, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose.
4. I further certify that this Petition complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e) (1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found.
5. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 12th day of May 2022,



Certificate of Electronic Service

Pursuant to NRAP 25(d), I certify that on this 12th day of May 2022, I served a true and correct copy of NONA TOBIN'S AMENDED PETITION FOR WRITS OF MANDATE as follows:


☐ by transmitting via email to

Supreme Court of Nevada, 201 South Carson St., Suite 201 Carson City NV 89701
C/O Rory Wunsch, Chief Deputy Clerk rwunsch@nvcourts.nv.gov

Nevada Commission on Judicial Discipline, P.O. Box 48, Carson City, Nevada
89702 C/O Judicial Information ncjdinfo@judicial.nv.gov

State Bar of Nevada, Office of the Bar Counsel, 3100 W. Charleston Blvd., Las Vegas NV 89102 C/O complaints@nvbar.org

☐ by serving via the Clark County Electronic Filing System and all parties listed in the Odyssey efileNV service contact list in case A-21-828840-C



NONA TOBIN