

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
C. ANDREW WARINER.

No. 51085

FILED

APR 10 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER IMPOSING RECIPROCAL DISCIPLINE

This is a petition under SCR 114 to reciprocally discipline attorney C. Andrew Wariner, based on his public reprimand in Utah. Wariner has not responded to the petition.¹

Wariner appears to reside in Utah and was publicly reprimanded by the Ethics and Discipline Committee of the Utah Supreme Court on December 13, 2007, for violating the equivalent of RPC 1.2(a) (scope of representation), RPC 1.3 (diligence), RPC 1.4 (communication), RPC 4.1 (truthfulness in statement to others), RPC 8.4(a) (misconduct: violating professional conduct rules), RPC 8.4(c) (misconduct: conduct involving deceit, misrepresentation, dishonesty, or fraud), and RPC 8.4(d) (misconduct: conduct prejudicial to the administration of justice).

According to the findings, conclusion, and recommendation by the Utah Supreme Court's Ethics and Discipline Committee's screening panel, Wariner agreed to represent a client in a personal injury matter. He did not communicate to her the need for medical release

¹See SCR 114(3) (providing an attorney fifteen days to file a response to a reciprocal discipline petition).

authorizations. He then accepted a settlement on her behalf without consulting with or informing her. He falsely advised the arbitrator that the client had approved the settlement, and he falsely advised the opposing party and counsel that he could not reach his client. Based on this misconduct, the Utah Supreme Court's Ethics and Discipline Committee imposed a public reprimand.

SCR 114(4) provides that this court shall impose identical reciprocal discipline unless the attorney demonstrates or this court determines that one of four exceptions applies:

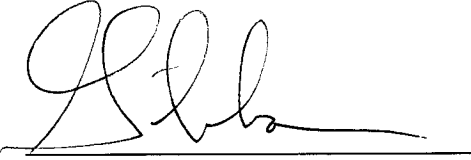
- (a) The procedure in the other jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
- (b) There was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that the court could not, consistent with its duty, accept the decision of the other jurisdiction as fairly reached;
- (c) The misconduct established warrants substantially different discipline in this state; or
- (d) The misconduct established does not constitute misconduct under any Nevada Rule of Professional Conduct.

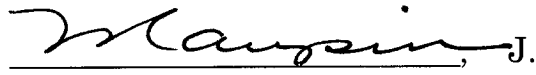
Discipline elsewhere is res judicata, as SCR 114(5) also provides, "[i]n all other respects, a final adjudication in another jurisdiction that an attorney has been guilty of misconduct conclusively establishes the misconduct for the purposes of a disciplinary proceeding in this state."²

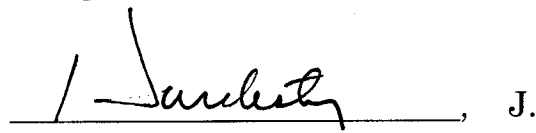
²SCR 114(1) requires attorneys licensed in this state to inform Nevada bar counsel if they are subjected to professional disciplinary action in another jurisdiction. Wariner kept Nevada bar counsel informed throughout the Utah proceedings.

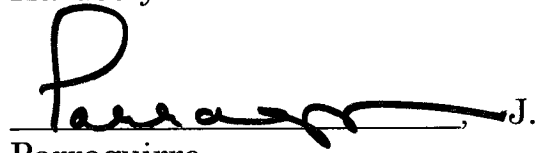
Wariner has not demonstrated that any of the SCR 114(4) exceptions apply. Consequently, we grant the petition. Wariner is hereby publicly reprimanded for his ethical violations in Utah.³

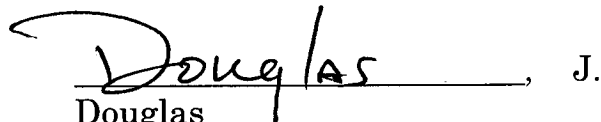
It is so ORDERED.

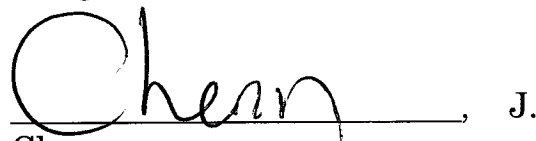

_____, C.J.
Gibbons

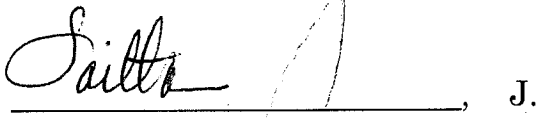

_____, J.
Maupin


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas


_____, J.
Cherry


_____, J.
Saitta

³See Matter of Discipline of Peirce, 122 Nev. 77, 128 P.3d 443 (2006) (imposing reciprocal discipline for misconduct penalized by the United States Patent and Trademark Office).

cc: Rob W. Bare, Bar Counsel
Kimberly K. Farmer, Executive Director
C. Andrew Wariner