



FILED

STATE BAR OF NEVADA
SOUTHERN NEVADA DISCIPLINARY BOARD

NOV 16 2017

STATE BAR OF NEVADA

BY: 
OFFICE OF BAR COUNSEL

1 STATE BAR OF NEVADA,)
 2 Complainant,)
 3)
 4 vs.)
 5)
 6 ADAM S. KUTNER, ESQ.,)
 Nevada Bar No. 4310,)
 7 Respondent)

PUBLIC REPRIMAND

8 TO: Adam S. Kutner, Esq
 c/o Bailey Kennedy
 9 8984 Spanish Ridge Avenue
 Las Vegas, NV 89148-1302

10
 11 On Wednesday June 27, 2017, a Formal Hearing Panel of the Southern Nevada
 12 Disciplinary Board convened to determine whether certain actions by you violated the Rules of
 13 Professional Conduct (“RPC”).

14 **COUNT 1 / OBC15-0309**

15 In the first matter, you represented your clients in a personal injury matter after they were
 16 injured in a motor vehicle accident. When your clients came to your office they met with non-
 17 lawyer employees and signed retainer agreements without speaking to a lawyer regarding their
 18 claims.

19 Additionally, the retainer agreement contained the following provision:

20 “That I ... do hereby appoint, make and constitute ADAM S. KUTNER AND
 21 ASSOCIATES, of the City of Las Vegas, County of Clark, State of Nevada, to be
 22 my true and lawful attorney-in-fact, for me and in my name and on my behalf to
 23 receive and receipt for any and all sums of money, to deposit in their trust account
 any and all monies received by them, and generally to act for me in all matters
 including signing settlement releases pertaining to my claim...”

24 This provision purportedly allowed your office to sign settlement agreements for your
 25 clients without having consulted with them.

1 After signing the retainer agreements your clients made multiple attempts to contact you at
2 your office without success. Instead of speaking with an attorney, they continued to speak only
3 with non-lawyer employees.

4 Ultimately, one of your non-lawyer employees signed a settlement agreement using the
5 power of attorney. This agreement had not been discussed with your client. Thereafter, another
6 non-lawyer employee contacted your client to inform her that her case had settled.

7 When the client refused to accept the settlement, she was told, again by non-lawyer
8 employees, that there were no alternatives to accepting the agreement. When the client
9 complained to office staff she was once again allowed to speak only with non-lawyer employees.

10 As such, you violated RPC 1.2 (Scope of Representation and Allocation of Authority
11 Between Client and Lawyer), RPC 1.4 (Communication), RPC 5.3 (Responsibilities Regarding
12 Nonlawyer Assistants), RPC 5.5 (Unauthorized Practice of Law), and RPC 8.4 (Misconduct), and
13 you are hereby **REPRIMANDED**.

14 **COUNT 2 / OBC15-0604**

15 In this matter you agreed to represent your client after she slipped and fell while at a local
16 casino. As with the previous matter, this client did not meet with an attorney during the initial
17 consultation.

18 Ultimately, there was decision to withdraw from the matter. This decision was not
19 effectively communicated to your client and the client learned of the decision only when she was
20 reviewing her medical records.

21 As such, you violated RPC 1.4 (Communication), RPC 5.3 (Responsibilities Regarding
22 Nonlawyer Assistants), RPC 5.5 (Unauthorized Practice of Law), and RPC 8.4 (Misconduct), and
23 you are hereby **REPRIMANDED**.

COUNT 3 / OBC15-1291

1 In this matter you agreed to represent your client subsequent to a motor vehicle accident.
2 As with the other matters, the client did not meet with an attorney during the initial consultation.
3 At the time of retention, the client signed a power of attorney that purportedly allowed your office
4 to sign a settlement agreement without having consulted with the client.
5

6 In this matter your client discovered that your office had settled her case when she received
7 a letter indicating that your office submitted the hospital bill to Medicare for payment.
8 Specifically, when the client called your office it was only then that she was told that your firm
9 had negotiated her case. As with the other case, the release had been signed by one of your non-
10 lawyer employees and had not been discussed with the client.

11 After reading the settlement sheet, your client had concerns that not all of her medical bills
12 had been paid from the proceeds of the settlement and contacted your office. When she attempted
13 to speak with a lawyer from your office she was assisted only by non-lawyer employees.

14 To your credit, you later worked diligently with the client to resolve the situation. She
15 subsequently sent the State Bar a letter indicating that she wished to withdraw the grievance that
16 she filed against you. However, your actions in this matter constitute violations of RPC 1.2
17 (Scope of Representation and Allocation of Authority Between Client and Lawyer), RPC 1.4
18 (Communication), RPC 5.3 (Responsibilities Regarding Nonlawyer Assistants), RPC 5.5
19 (Unauthorized Practice of Law), RPC 8.1 (Bar Admission and Disciplinary Matters) and RPC 8.4
20 (Misconduct), and you are hereby **REPRIMANDED**.

COUNT 4 / OBC16-0041

21
22 In this matter your office again agreed to represent the client without having her meet with
23 an attorney, and used the power of attorney signed by the client to settle the matter without having
24 consulted with the client.
25

1 Based upon this conduct, you violated RPC 1.2 (Scope of Representation and Allocation of
2 Authority Between Client and Lawyer), RPC 1.4 (Communication), RPC 5.3 (Responsibilities
3 Regarding Nonlawyer Assistants), RPC 5.5 (Unauthorized Practice of Law), and RPC 8.4
4 (Misconduct), and you are hereby **REPRIMANDED**.

5 **COUNT 5 / OBC16-0613**

6 In this matter your client sought representation subsequent to a motor vehicle accident.
7 Your client signed the initial retention paperwork, and thereafter your office held the file for
8 several months while conducting an initial investigation and determining whether there was
9 insurance coverage.

10 Thereafter your office was contacted by the passenger of the other vehicle who was
11 involved in the accident and who subsequently retained your office. As such your office was then
12 representing both sides involved in the accident.

13 Several months later your office contacted your initial client and informed him that you
14 could not proceed with the representation due to a lack of insurance coverage. Thereafter, your
15 office transferred the matter for the other client to the law firm of Fassett & Cardozo, and a
16 complaint was filed in District Court against your original client.

17 On May 25, 2016, the State Bar sent your office a letter of investigation regarding this
18 matter. On June 9, 2016, Fassett & Cardozo moved to withdraw from the matter involving the
19 other client. This motion never mentioned the conflict of interest in the case, instead maintaining
20 that "an irreconcilable impasse" had occurred with the client, which necessitated the withdrawal.

21 ...

22 ...

23 ...

24 ...

25

1 Based upon this conduct, you violated RPC 1.7 (Conflict of Interest: Current Clients),
2 RPC 1.9 (Duties to Former Clients), and RPC 1.18 (Duties to Perspective Clients), and you are
3 hereby **REPRIMANDED**.

4 DATED this 15th day of November, 2017.

5 

6 Dan R. Waite Esq.,
7 Formal Hearing Panel Chair
8 Southern Nevada Disciplinary Board
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25