

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE: DISCIPLINE OF NANCY F.  
AVANZINO-CHAPMAN

No. 40729

FILED

FEB 21 2003

ORDER OF PUBLIC REPRIMAND

JANETTE M BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

On January 3, 2003, Bar Counsel for the State Bar of Nevada petitioned this court for the imposition of reciprocal discipline against attorney Nancy Avanzino-Chapman. Under SCR 114(3), bar counsel attached to the petition a certified copy of the Oregon order and stipulation for a public reprimand. On January 9, 2003, this court received a letter from Avanzino-Chapman, which requests a private reprimand in Nevada. The letter includes numerous attachments from the Oregon proceedings.<sup>1</sup> We have reviewed the petition, Oregon order and stipulation, and Avanzino-Chapman's letter and attachments, and we conclude that Avanzino-Chapman has not demonstrated that an exception to SCR 114's requirement of identical reciprocal discipline is warranted.<sup>2</sup>

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<sup>1</sup>We direct the clerk of this court to file the letter and attachments received on January 9, 2003.

<sup>2</sup>See SCR 114(4) (providing that an exception to identical discipline may be made if the attorney demonstrates, or this court determines on the face of the record that the established misconduct warrants substantially different discipline in Nevada).

The following facts are based upon the Oregon stipulation.

MARVIN LEWIS MATTER

On or about December 17, 1996, Avanzino-Chapman agreed to represent Marvin Lewis in a workers' compensation claim. Cigna, the insurance company that insured Lewis' employer, retained Bradley R. Scheminske as its counsel.

On December 17, 1996, Cigna partially denied Lewis' workers' compensation claim. A hearing on this denial was scheduled for March 28, 1997. Later, on February 12, 1997, Avanzino-Chapman filed, on Lewis' behalf, additional compensation claims with Cigna. Also on February 12, 1997, she requested that the March 28, 1997 hearing be continued so that Cigna would have time to act on Lewis' additional claims for compensation and so that all of Lewis' claims could be consolidated for hearing.

On or about April 3, 1997, Cigna sent Lewis a letter that directed him to undergo a medical examination on April 28, 1997. Avanzino-Chapman advised Lewis on his options regarding the medical examination, including not attending the examination. Before Avanzino-Chapman advised Lewis that he could refuse to attend the April 28, 1997 medical examination, she failed to adequately determine that he might be subject to sanctions for failing to attend.

Scheminske set Lewis' deposition for April 30, 1997. Before Scheminske had completed the deposition, Avanzino-Chapman ended the deposition and left with Lewis.

Because of Avanzino-Chapman's conduct with respect to the medical examination and deposition, Scheminske filed, on Cigna's behalf, a motion that requested the Workers' Compensation Division (WCD) to allow Cigna to suspend payment of workers' compensation benefits to Lewis. This request was based on Cigna's assertion that Lewis had failed to cooperate with its investigation of his claim. Scheminske also filed a motion requesting that a civil penalty be imposed against Avanzino-Chapman for her conduct at the deposition. On or about May 20, 1997, WCD's sanctions unit notified Avanzino-Chapman that it intended to grant Scheminske's motions absent documentation that Avanzino-Chapman's and Lewis' conduct was reasonable.

On or about May 21, 1997, and June 2, 1997, Avanzino-Chapman filed responses to Cigna's requests to suspend Lewis' benefits and for a civil penalty against her. In her May 21, 1997 response, Avanzino-Chapman represented to WCD's sanctions unit that Cigna had filed a motion to continue Lewis' March 28, 1997 hearing. Avanzino-Chapman corrected this representation in her June 2, 1997 response. In that response, however, Avanzino-Chapman represented that at the time she requested a continuance of the March 28, 1997 hearing, Scheminske's office had inquired of her office about a continuance as well. The representations were inaccurate, and Avanzino-Chapman failed to verify their accuracy before making them.

By letter dated May 27, 1997, Avanzino-Chapman represented to WCD that Cigna had scheduled Lewis for eight medical examinations, and that Lewis had attended four medical examinations. These

representations were inaccurate in the context of a workers' compensation proceeding, and Avanzino-Chapman recklessly failed to verify the basis for these representations.

A hearing on Cigna's motions for a civil penalty against Avanzino-Chapman was set for October 13, 1997. At the hearing, Avanzino-Chapman represented that: (1) someone in her office had spoken to an employee of Cigna, rather than to Scheminske's office, regarding the continuance she requested in her February 12, 1997 letter; and (2) that she had obtained an advisory opinion from the Oregon State Bar regarding whether the disciplinary rules permitted her to contact Cigna directly. These representations were inaccurate. Avanzino-Chapman failed to verify the accuracy of her statement regarding the continuance and was careless in characterizing the content of her communication with the Oregon State Bar.

Avanzino-Chapman admits that, by engaging in the conduct described above, she engaged in conduct prejudicial to the administration of justice in violation of Oregon Code of Professional Responsibility DR 1-102(A)(4) (conduct prejudicial to the administration of justice).

#### MARY CORDEIRO MATTER

Avanzino-Chapman represented Mary Cordeiro in a workers' compensation claim. CNA, the insurance company that insured Cordeiro's employer, was represented by Scheminske

On or about May 25, 1994, WCD issued a Determination Order closing Cordeiro's workers' compensation claim. On Cordeiro's behalf, Avanzino-Chapman requested that WCD reconsider this order.

WCD dismissed Avanzino-Chapman's request for reconsideration, and Avanzino-Chapman then requested a hearing. The hearing officer affirmed the dismissal, and Avanzino-Chapman appealed to the Workers' Compensation Board, which also affirmed the dismissal. Avanzino-Chapman then filed an appeal with the Oregon Court of Appeals, which affirmed the decision of the Workers' Compensation Board without opinion. Subsequently, Avanzino-Chapman filed a petition for review with the Oregon Supreme Court. The court denied this petition without opinion.

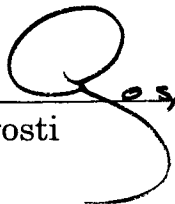
After the Supreme Court denied Avanzino-Chapman's petition for review, she requested, by letter dated July 25, 1997, that WCD reissue its May 25, 1994 Determination Order. In her letter, Avanzino-Chapman made the following representation: "This case has been to the Supreme Court of Oregon and it appears that the appeal language in this Determination Order was not properly set forth." The representation in the July 25, 1997 letter was awkwardly stated and ambiguous so that it could be read to mean that the Supreme Court had ruled that the language of the Determination Order regarding Cordeiro's appeal rights was not properly set forth. The Supreme Court had, in fact, declined to consider the case, and no court had ruled on the propriety of the Determination Order's language. Avanzino-Chapman carelessly failed to clarify the language she used in the July 25, 1997 letter.

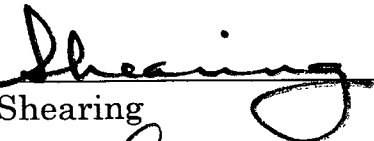
Avanzino-Chapman admits that, by engaging in the conduct described above, she engaged in conduct prejudicial to the administration

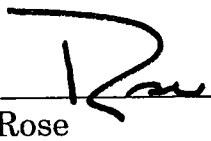
of justice in violation of Oregon Code of Professional Responsibility DR 1-102(A)(4) (conduct prejudicial to the administration of justice).

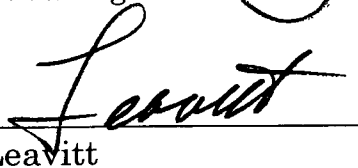
Based upon these stipulated facts, and Avanzino-Chapman's admission that she violated Oregon Code of Professional Responsibility DR 1-102(A)(4), we publicly reprimand Avanzino-Chapman. Her conduct violated SCR 203(4) (conduct prejudicial to the administration of justice).

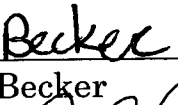
It is so ORDERED.

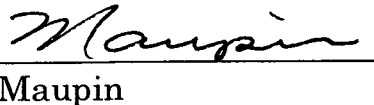
  
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Agosti

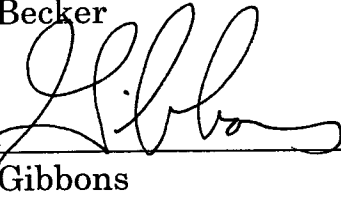
  
\_\_\_\_\_, J.  
Shearing

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Leavitt

  
\_\_\_\_\_, J.  
Becker

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Gibbons

cc: Howard M. Miller, Chair, Southern Nevada Disciplinary Board  
Rob W. Bare, Bar Counsel  
Allen W. Kimbrough, Executive Director  
Nancy F. Avanzino-Chapman  
Perry Thompson, U.S. Supreme Court Admissions Office