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IN THE SUPERIOR COURT
FOR THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

IN RE THE MATTER OF: **SHELLI LATRICE NEAL,** **Respondent**	**CIVIL CASE NO. 23-0243** **DISCIPLINARY PROCEEDING** **ORDER FINDING THAT THE REQUESTED ATTORNEY FEES UNREASONABLE AS IT FAILS TO COMPLY WITH RULE 1.5 OF THE MODEL RULES OF PROFESSIONAL CONDUCT AND THERE ARE NO EQUITABLE JUSTIFICATIONS TO EXCEED THE CAP LIMIT**

I. INTRODUCTION

On April 1, 2025, the parties appeared at a hearing held in Courtroom 220A on the Prosecuting Counsel's *Ex Parte* Motion for Approval to Exceed Fee Cap and for Partial Payment. The Respondent was present through her counsel, Attorney Michael Dotts ("Dotts"), and Prosecuting Counsel, Attorney Jose S.P. Mafnas Jr. ("Mafnas"), was present as the movant.

II. BACKGROUND AND FACTUAL FINDINGS

1. In September 2016, Mafnas was employed as a researcher for the Supreme Court of Guam.
2. In December 2016, Mafnas was licensed to practice law in California.
3. In May 2017, Mafnas was licensed to practice law in Guam.
4. In October 2017, Mafnas was licensed to practice law in the CNMI. Mafnas' CNMI Bar Association License Number is F0509.

5. In October 2017, Mafnas joined the Law Offices of Stephen Nutting in the CNMI where Mafnas charged a rate of $180.00 per hour for legal services.
6. In March 2019, Mafnas began employment at the CNMI Office of the Attorney General.
7. In December 2021, Mafnas started employment as in-house counsel for Triple J group of companies, a company located in the CNMI and other locations.
8. Mafnas is currently in good standing with the three jurisdictions he is licensed to practice law, the CNMI, Guam, and California, and not subject to any disciplinary investigations or prosecution.
9. On September 29, 2023, Mafnas was appointed by Chief Justice Alexandro Castro to be the prosecuting counsel in this disciplinary proceeding *In Re The Matter of Shelli Latrice Neal*, Civil Case No.23-0243. Shelli Latrice Neal ("Neal") is an attorney licensed to practice in the CNMI.
10. Mafnas accepted the appointment at the rate of $75.00 per hour pursuant to Administrative Order 2012 ADM 0005 RULE and Judicial Council Resolution 2012-01.
11. Under Judicial Council resolution 2012-01, the maximum allowable fees is $4,000 (for felonies). Fees over $4000 are permitted with prior approval from the Court.
12. Mafnas performed an investigation of the allegations by interviewing the complainant, Henry Liang ("Liang"), a former client of Neal, and requesting certain documents, such as bank statements, text messages, emails, tax receipts, and other documents to verify the allegations against Neal.
13. Mafnas performed legal research to develop the causes of action that would be supported by the factual allegations incorporated in the complaint.
14. On November 17, 2023, Mafnas filed a disciplinary complaint against Neal in the Superior Court for the Commonwealth of the Northern Mariana Islands as required by Rule 12 of the Rules of Attorney Discipline and Procedure:

a. First Cause of Action: Violation of Rule 1.3 - Part I – The Liang Case, the complaint alleges that Neal violated Model Rules of Professional Conduct ("MRPC") 1.3, which states "[a] lawyer shall act with reasonable diligence and promptness in representing a client," by providing deficient research, failing to file opposition to motions when expected, and letting Liang's case remain dormant for a year.

b. First Cause of Action: Violation of Rule 1.3 – Part II – Rental Funds, the Complaint alleges that Neal violated MRPC 1.3 by failing to provide accounting invoices to Liang after his request.

c. First Cause of Action: Violation of Rule 1.3 – Part III – Real Estate Tax, the Complaint alleges that Neal violated MRPC 1.3 by failing to pay her client's real estate tax as agreed upon after Liang forwarded Neal $4,775, subjecting Liang to a late fee, and by failing to provide Liang with a receipt showing payment.

d. Second Cause of Action: Violation of Rule 1.15 – Part I – Real Estate Tax, the Complaint alleges Neal violated MRPC 1.15 "Safekeeping Property," that directs lawyers to hold client property separately from the lawyer's own property, when Neal comingled Liang's real estate tax money with her personal funds.

e. Second Cause of Action: Violation of Rule 1.15 – Part II – Rental Funds, the Complaint alleges Neal violated MRPC 1.15 when she failed to notify Liang when she received Liang's rental monies, and failed to provide Liang with an accounting, or return the money to Liang upon request.

f. Third Cause of Action: Violation of Rule 1.4 – Communications, the Complaint alleges Neal violated MRPC 1.4 that states "[a] lawyer shall keep the client reasonably informed about the status of the matter" by failing to communicate effectively with Liang about the real estate tax payments.

g. Fourth Cause of Action: Violation of Rule 1.1 - the Complaint alleges Neal violated MRPC 1.1 which states "[a] lawyer shall provide competent representation to a client," by failing to competently represent Liang, ultimately resulting in Liang seeking a new lawyer to resolve his case.

h. Fifth Cause of Action: Violation of Rule 8.4, the Complaint alleges Neal violated MRPC 8.4, which defines professional misconduct, by failing to safeguard and return client property, failing to communicate with Liang, taking unauthorized deductions from Liang, and by failing to remedy any of the above when notified of the complaint made by Liang against Neal.

15. On December 20, 2023, Dotts entered his appearance on behalf of Neal and filed an Answer to the Disciplinary Complaint.

16. Mafnas attended three hearings – (1) a brief status conference hearing on January 16, 2024, (2) a brief status conference hearing on September 17, 2024, and (3) a hearing on Neal's Motion to Dismiss on December 23, 2024.

    a. After the December 23, 2024 Motion to Dismiss Hearing, the Court took the matter under advisement and Ordered the counsels to submit Proposed Orders.

17. On February 19, 2025, Mafnas submitted the first billing invoice and Court Appointed Counsel Billing Form to the Judiciary's Accounting Office (Exhibit A - Billing from September 2023 to January 2025).

18. Mafnas' billing invoice indicated that he spent a total of 85 hours working on *In Re the Matter of Shelli Latrice Neal.* Eighty-five hours of work at a rate of $75 an hour amounts to $6,375.

    a. Mafnas conducted a two and half-hour deposition of Attorney Sean Frink, an officer of the CNMI Bar Association.

    b. Mafnas reviewed 478 pages of discovery.

c. Mafnas was present at the December 23, 2024 Motion Hearing that lasted two and half hours. Dotts was also counsel in another disciplinary case in *In the Matter of Robert Jr. Harrison Myers*,[1] CV 23-0161. As both Neal's case and Myers' case raised the same issues in their Motion to Dismiss, all counsels agreed to hold both Motion hearings simultaneously.

d. Other hours worked on the case includes time for research, drafting and editing, preparing, and communicating with opposing counsel. Mafnas' bill before exceeding the cap limit indicates 53 total hours on November 22, 2024.

e. Mafnas kept track of his billable hours but failed to be cognizant of the $4,000 cap limit.

f. There were no emergency or extra ordinary circumstances that prevented Mafnas from seeking and obtaining court approval prior to exceeding the $4,000 cap limit.

g. Mafnas did not file a written request to exceed the cap limit of $4,000 until February 19, 2025, after which he had already accrued a total of 85 hours.

19. On February 25, 2025, the Court set an evidentiary hearing on April 1, 2025 on Mafnas' request to exceed the cap limit of $4,000.

20. On March 18, 2025, Mafnas filed a Supplemental Brief to *Ex Parte* Motion.

21. On March 25, 2025, Neal filed her Respondent's Opposition to Appointed Prosecutor's *Ex Parte* Motion to Exceed Maximum Allowable Fees and for Interim Partial Payment.[2]

22. On March 31, 2025, Mafnas filed Appointed Counsel's Reply Brief.

[1] Attorneys Cong Nie and Joseph Horey were the prosecuting counsels in *In the Matter of Robert Jr. Harrison Myers.*

[2] Mafnas argued that Neal should not be a party to his *Ex Parte* Motion regarding his billing and payment. Dotts stated that Neal does have an interest in Mafnas' billing and payment because the Court could order Neal to pay for the cost of the disciplinary action if Neal violated the Model Rules of Professional Conduct.

a. During the April 1, 2025 Motion Hearing, Mafnas stated that there were no emergency or extraordinary circumstances that prevented Mafnas from seeking and obtaining court approval prior to exceeding the $4,000 cap limit.

23. On April 14, 2025, the Court issued its Order Dismissing the Disciplinary Complaint as the CNMI Bar Association Disciplinary Committee are Not Duly Elected Members, Therefore the Disciplinary Committee Members Lack Authority to Investigate or Act on Disciplinary Complaints.

III. LEGAL STANDARD

Rule 80 of Indigent Representation is controlling here. Rule 80(j)(2) states that "[i]f counsel reasonably believes that it is necessary to exceed the maximum allowable fees, he or she must seek prior written approval of the court in an *ex parte* motion." Resolution 2012-01 increased fees for private attorneys who were appointed to represent indigent persons pursuant to Rule 80(e)(1). On October 1, 2012, the NMI Judiciary approved a rate of $75.00 per hour. This rate was capped at $4,000 for felonies, and $2,000 for misdemeanors.

In *In re Estate of Malite* the Supreme Court stated the procedure for determining attorney's fees: "First, the court must determine whether the requested fees are reasonable by considering similar fee agreements in the local legal community and relevant Model Rule of Professional Conduct ("MRPC") 1.5 factors. Second, the court must determine the appropriate fee award. If the requested fees are deemed reasonable, they may be awarded. If the requested fees are deemed unreasonable, the court must determine the appropriate remedy." 2016 MP 20 ¶ 17 (citing *In re Malite*, 2010 MP 20, ¶ 45).

The American Bar Association Model Rules of Professional Conduct 1.5(a) states:

> A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following: (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly; (2) the likelihood, if

> apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer; (3) the fee customarily charged in the locality for similar legal services; (4) the amount involved and the results obtained; (5) the time limitations imposed by the client or by the circumstances; (6) the nature and length of the professional relationship with the client; (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and (8) whether the fee is fixed or contingent.

IV. ANALYSIS

A. Mafnas' Fees of $6,375

In *In re Estate of Malite* the Supreme Court stated the procedure for determining attorney's fees begins by (1) determining whether the requested fees are reasonable by considering similar fee agreements in the local legal community and relevant MRPC 1.5 factors, and then (2) determine the appropriate fee award, where reasonable fees can be awarded in the amount requested, and unreasonable fees can be adjusted as needed. 2010 MP 20, ¶ 45.

The Court begins the two-step analysis put forth in *In re Estate of Malite,* by first considering each of the MRPC Rule 1.5 factors:

1. Time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly.

The first factor the Court considers is the amount of time and labor the attorney took to perform the necessary legal services in relation to the difficulty and skill level required in the case. Mafnas argues that this disciplinary case can be characterized as a complex litigation as grounds to justify the hours Mafnas has billed. *See Atom's Co., Ltd. v. Mallari,* SC 15-0237, (NMI Super. Ct. Jun. 7, 2018) (Written Decision Following Evidentiary Hearing Awarding Costs in the Amount of $55.00 and Attorneys' Fees in the Amount of $187.50) (where the Court determined that a small claims case did not justify a "premier rate used for complex litigation" at pg. 9).

Complex litigation involves civil cases with multiple parties, high stakes, and intricate legal or factual issues that require intensive judicial management. Complex litigation often

involves large sums of money, numerous documents, complex expert testimony, and a variety of legal and procedural challenges. The United States District Court of the Northern Mariana Islands describes complex litigation in its Court Rules as:

i. Legal Issues: Numerous, complicated, and possibly unique

ii. Required Discovery: Extensive

iii. Number of Real Parties in Interest: More than five (5)

iv. Number of Fact Witnesses: More than ten (10)

v. Number of Expert Witnesses: More than three (3)

vi. Likely Trial Days: More than ten (10)

vii. Suitability for Alternative Dispute Resolution: Moderate

viii. Character and Nature of Damage Claims: Usually requiring expert testimony.

D. N. Mar. I Local Rule 16.1.

The Court is not bound by the United States District Court for the NMI's local rules, but the definition of complex litigation is instructive here. This disciplinary case only involves one respondent. Even considering the Prosecuting Counsel as an opposing party, that still makes it a two-party litigation and does not lend itself to the level of a numerous, complicated, and unique legal action. It is unknown if the case had gone to trial how many witnesses would be called, but the Court can presume Liang, a former client of Neal could have relevant testimony. Perhaps Liang's tenant that allegedly gave Neal the rental payments could also be called as a witness, even a bank employee to attest to relevant bank statements. Neal could testify as well. Even with an additional witness or two, there are few people who would be called that would provide relevant testimony to the allegations in the disciplinary complaint. It is unlikely this case would require expert testimony, or an extended trial time past 10 days. More relevant to Mafnas' *ex parte* motion for payment, this case never even reach trial or appeal.

The disciplinary complaint alleges that Neal did not remit $4,575 to pay for Liang's tax obligations, Neal improperly took $200, and Neal failed to communicate with her client. Even considering the amount of $4,575 for the CNMI real estate tax and $200 taken without authorization for a grand total of $4,775 it still does not amount to the level of substantial financial stakes. In the CNMI, the amount of $4,775 in a civil litigation would be treated as a small claims case.

Though disciplinary cases are generally on an expedited timeline, it was the Prosecuting Counsel Mafnas who requested additional time to conduct discovery and deposition. There were no major motions filed to resolve discovery issues. A deposition of Attorney Sean Frink, an officer of the CNMI Bar Association, lasted two and half hours according to Mafnas' billing and did not concern complex factual, legal issues, or procedures. Furthermore, two brief status conference hearings and a two and half hour motion hearing falls short of complex litigation exceeding more than ten trial days. This disciplinary case did not require intensive judicial management or involve multi-district litigation. The Court finds that this disciplinary proceeding does not rise to the level of complex litigation.

This factor weighs against awarding Mafnas his requested fees.

2. The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer.

The second factor the Court must consider is whether Mafnas, by accepting this case was precluded from other work - if this was apparent to the Client.

Here, Mafnas is employed full-time as in-house counsel for Triple J, one of the larger corporations doing business in the CNMI as well as other locations. Attorneys licensed to practice in the CNMI are subject to Court-appointed cases, unless a conflict exist that would preclude appointment. Mafnas voluntarily took the appointment to prosecute the disciplinary case. Mafnas reported working on this case in his evenings and weekend outside of his work

hours with Triple J. Mafnas did not articulate any other work precluded by taking on the disciplinary case.

This factor weighs against awarding Mafnas his requested fees.

3. The fee customarily charged in the locality for similar legal services

The third factor the Court considers is the comparative fee customarily charged in the same area for legal work. In this case, Mafnas is bound to the hourly rate of $75.00 for his work pursuant to Rule 80 of Indigent Representation and Resolution 2012-01. Since the $75 per hour rate is required by Rule 80, it is per se reasonable. The $75 per hour rate cannot be increased, as it is established by court rules applicable to all court appointed counsels. Mafnas is paid the same rate as any CNMI licensed attorney who is appointed by the Court.

This factor is neutral in deciding to award Mafnas his requested fees.

4. The amount involved and the result obtained

The fourth factor the Court considers is the amount of damages involved and the outcome of the case. Generally, when considering this factor, the Court looks to the amount of requested attorney fees in relation to the amount of monetary compensation won or other benefits for the client.

Here, the focus of the disciplinary complaint concerns allegations of violations of the MRPC. Neal, after filing her Answer to the Disciplinary Complaint, then filed a Motion to Dismiss. The Court granted Neal's Motion to Dismiss. Ultimately, this case was dismissed because the disciplinary committee that referred the matter for prosecution was not properly elected and thus lack the authority to investigate and act on disciplinary cases. Although Mafnas is not responsible for the procedural defects that lead to the dismissal of the case, Mafnas was still unable to fully prosecute the case. The case never reached trial or appeal stage.

As the dismissal of the case was based on defective procedural grounds prior to Mafnas' appointment as prosecuting counsel, this factor is neutral in deciding to award Mafnas his requested fees.

5. The time limitations imposed by the Client or the circumstances

The fifth factor the Court considers is whether there were any time limitations due to the needs of the Client or the surrounding circumstances. Mafnas argues that delays in the case were due to scheduling conflicts among the parties, neither party argues that there was a time limitation at issue in this case. Notwithstanding that disciplinary cases generally are on an expedited timeline, the parties' request for additional time was granted. Mafnas was not under time pressures and restrictive deadlines.

This factor weighs against awarding Mafnas his requested fees.

6. The nature and length of the professional relationship with the client

The sixth factor the Court considers is the length of the professional relationship between the attorney and the client. Generally, a longer relationship weighs in favor of finding higher fees reasonable. Here, Mafnas was appointed as prosecuting counsel in this case by Chief Justice Alexandro Castro, and Mafnas accepted the appointment in 2023. However, this factor has little to do in a case where the prosecuting counsel is appointed by the Court, and the hourly rate and maximum fee cap is already set by court rules, and where a retainer is not required.

This factor is neutral in deciding to award Mafnas his requested fees.

7. The experience, reputation, and ability of the lawyer or lawyers performing the services

The seventh factor the Court considers is the reputation, experience, and skill level of the attorney -- where more experience weighs in favor of finding higher fees reasonable. Mafnas reports he has been a licensed attorney in at least one state since 2016 and licensed to

practice law in the CNMI in 2017. Mafnas has experience doing legal research, has been in court for hearings, has worked as an attorney for the government as well as with a private law firm. Though Mafnas has been a licensed attorney since 2016, he fails to fully articulate what part of his reputation, experience, or skill level justifies higher attorney's fees. Although the Court recognizes that Mafnas is in good-standing as an attorney in the jurisdictions that he is licensed to practice law, maintaining good standing is what all attorneys should do. This in itself is not extra ordinary but rather at a minimum of what is required of attorneys.

Mafnas fails to support his contention that he alone has (or perhaps only a very small number of attorneys in the CNMI) the experience, reputation, and ability to handle this case, Mafnas fails to submit support such as declarations of other attorneys indicating that the complexity of the case could only be handled by Mafnas based on his experience, reputation, and ability.

This factor weighs against awarding Mafnas his requested fees.

8. Whether the fee is fixed or contingent.

The eighth and last factor the Court considers is whether the fee is fixed or contingent. In this case, the fee is fixed. The hourly rate of $75 and the maximum cap of $4,000 is fixed by Rule 80 of Indigent Representation and Resolution 2012-01. Mafnas provides a timesheet where he tracks his hours pursuant to the set hourly rate of $75 up to the $4,000.00 and beyond the cap.

This case does not involve contingent fees. The rates and cap on attorney fees are set by Rule 80 of Indigent Representation and Resolution 2012-01. The Court recognizes that Mafnas kept track of the legal work he did, the hours he worked, and the hourly rate all consistent with his obligation to maintain a record, as he should. And because Mafnas was keeping track of the hours he worked on the case it begs the question, why Mafnas did not seek the Court's approval prior to exceeding the cap. Mafnas admitted that there were no

emergency or other extra ordinary circumstances that prevented him from seeking Court written approval prior to exceeding the cap.

This factor weighs against awarding Mafnas his requested fees.

B. The reasonableness of the fees

The second part of *In re Estate of Malite* analysis requires the court to determine reasonableness of fees. The analysis of the MRPC 1.5 factors above weighs against granting the whole $6,375 in attorney's fees. The case and legal issues are not complex, the case never went to trial or appeal, no monetary compensation recovered, the hourly rate and cap are fixed by court rules.

In determining reasonableness of Mafnas' fees, the Court also considers the requirement to obtain prior written approval to exceed fees of $4,000. Rule 80(j)(2) of Indigent Representation states "[i]f counsel reasonably believes that it is necessary to exceed the maximum allowable fees, he or she must seek prior written approval of the court in an *ex parte* motion". Rule 80(j)(2) exists to avoid the inequitable situation, where appointed counsel risks nonpayment for work already performed where the Court chooses to deny the request.

Mafnas failed to follow Rule 80(j)(2) to obtain Court prior written approval. There is no dispute that Mafnas did not seek approval from the Court *prior* to exceeding the fee cap. Furthermore, Mafnas admits that there were no emergency or extra ordinary circumstances that would justify or excuse his failure to seek Court approval prior to exceeding the cap limit. Mafnas' request to exceed the $4,000 cap limit is untimely and is exactly the situation Rule 80(j)(2) was intended to prevent.

*In the Matter of Joseph Aldan Arriol*a, (Civil Case No. 10-0210) (Disciplinary Case No. 2007-01) the Court found attorney Arriola violated MRPC 1.3, 1.4, and 8.4 by not diligently representing his client, failing to keep his client reasonably informed, and return a retainer fee to his client after request. The attorney disciplined in *Arriola* had prior to been disbarred from

the CNMI was ordered that he send notices of his disbarment to his clients, return $1,000 to a client, and pay prosecuting counsel's reasonable attorney's fees – subject to a 9% post-judgment interest rate. In *Arriola*, the Prosecuting Counsel charged $1,557.44 for 6.4 hours of work.

In Re: Ramon K. Quichocho, (Civil Action No. 14-0176) (Disciplinary Case No. 2013-008) the Court found that attorney Quichocho violated MRPC 8.2 and the NMI Code of Judicial Conduct by alleging that a prior court order was decided based on racial prejudice and not legal analysis, and filing a bad faith taxpayer suit in an effort to harass and disqualify a Judge presiding over litigation that the attorney was a party to. The Court issued a public reprimand against the attorney, after determining that the attorney was already disbarred and could not be suspended. In *Quichocho*, the Prosecuting Counsel requested a final fee of $2,712.50 for 15.5 hours of work.

The Court is cognizant that some facts in *Arriola* and *Quichocho* are different from this case. The Court cites *Arriola* and *Quichocho* for the proposition that those disciplinary cases were not complex litigation and did not require legal work to exceed the cap.

The Court has broad discretion to grant fees, and equity requires that the fees be granted for legal services that have already been rendered. *See In re Estate of Malite*, 2010 MP 20 ¶ 44 (Where the Court held that "[b]ecause attorney fee awards are reviewed for an abuse of discretion, trial courts have a "wide latitude" in awarding fees.)". However, Mafnas filed an untimely *ex parte* motion, and given his admission to the California, Guam and CNMI bar, employment experience as an attorney in government and a private law firm, Mafnas is required to read, be familiar with, and follow Rule 80 as appointed counsel. More importantly, Mafnas admits that there were no emergency or extra ordinary circumstances that would justify or excuse his failure to seek Court approval prior to exceeding the cap limit. For these

reasons, Mafnas' argument that equity requires the fees in excess of $4,000 be paid is unpersuasive and the Court determines that the fees in excess of $4,000 are unreasonable.

Furthermore, the Court finds that Mafnas' billing as a whole is unreasonable as it fails to comply with the factors of MRPC Rule 1.5 and a reasonableness analysis pursuant to *In re Estate of Malite* 2016 MP 20 (citing *In re Malite*, 2010 MP 20).

V. CONCLUSION

THE COURT FINDS THAT:

(1) Mafnas was obligated by Rule 80 of Indigent Representation and Resolution 2012-01 to request permission from the Court prior to exceeding the fee cap. Mafnas failed to provide any equitable or other discretionary grounds for the Court to approve the request to exceed the $4,000 cap limit.

(2) Mafnas' attorney fees of $6,375 as a whole is unreasonable as it fails to comply with the Model Rules of Professional Conduct Rule 1.5 factors and *In re Estate of Malite* 2016 MP 20 ¶ 17 (citing *In re Malite*, 2010 MP 20).

THEREFORE, Attorney Jose S.P. Mafnas Jr. is Ordered to review and resubmit his attorney billing consistent with this Order and the Model Rules of Professional Conduct Rule 1.5 factors, *In re Estate of Malite* 2016 MP 20 ¶ 17 (citing *In re Malite*, 2010 MP 20) and Rule 80 of Indigent Representation and Resolution 2012-01.

SO ORDERED this 23rd day of October 2025.

/s/
JOSEPH N. CAMACHO, Associate Judge