

IN THE SUPREME COURT, STATE OF WYOMING

2012 WY 26

October Term, A.D. 2011

February 23, 2012

**BOARD OF PROFESSIONAL
RESPONSIBILITY, WYOMING
STATE BAR,**

Petitioner,

v.

JEFFERY C. METLER,

Respondent.

D-12-0003

ORDER OF PUBLIC CENSURE

[¶1] **This matter** came before the Court upon a “Report and Recommendation for Public Censure,” filed herein January 30, 2012 by the Board of Professional Responsibility for the Wyoming State Bar. The Court, after a careful review of the Board of Professional Responsibility’s Report and Recommendation and the file, finds that the Report and Recommendation should be approved, confirmed and adopted by the Court, and that Respondent Jeffery C. Metler should be publicly censured for his conduct, which is described in the attached Report and Recommendation. It is, therefore,

[¶2] **ADJUDGED AND ORDERED** that the Board of Professional Responsibility’s Report and Recommendation for Public Censure, which is attached hereto and incorporated herein, shall be, and the same hereby is, approved, confirmed, and adopted by this Court; and it is further

[¶3] **ADJUDGED AND ORDERED** that Jeffery C. Metler shall receive a public censure for his conduct, and he shall be publicly censured in a manner consistent with the recommended censure contained in the Report and Recommendation for Public; and it is further

[¶4] **ORDERED** that, pursuant to Section 26 of the Disciplinary Code for the Wyoming State Bar, Mr. Metler shall reimburse the Wyoming State Bar the amount of \$50.00, representing the administrative costs incurred in handling this matter, as well as pay the administrative fee of \$500.00. Mr. Metler shall pay the total amount of \$550.00 to the Clerk of the Board of Professional Responsibility on or before March 23, 2012; and it is further

[¶5] **ORDERED** that the Clerk of this Court shall docket this Order of Public Censure, along with the incorporated Report and Recommendation for Public Censure, as a matter coming regularly before this Court as a public record; and it is further

[¶6] **ORDERED** that, pursuant to Section 4(c) of the Disciplinary Code for the Wyoming State Bar, this Order of Public Censure, along with the incorporated Report and Recommendation for Public Censure, shall be published in the Wyoming Reporter and the Pacific Reporter; and it is further

[¶7] **ORDERED** that the Clerk of this Court cause a copy of the Order of Public Censure to be served upon Respondent Jeffery C. Metler.

[¶8] **DATED** this 23rd day of February, 2012.

BY THE COURT:

/s/

MARILYN S. KITE
Chief Justice

JAN 30 2012

BEFORE THE SUPREME COURT
STATE OF WYOMING

JUDY PACHECO, CLERK
Karla Micky
by DEPUTY

In the matter of
JEFFERY C. METLER,
WSB No. 7-4664,

Respondent.

) **D-12-0003**
)
) *WSB No. 2011-174*
)

REPORT AND RECOMMENDATION FOR PUBLIC CENSURE

The Board of Professional Responsibility makes the following Report and Recommendation, with its findings of fact, conclusions of law, and recommendation to the Supreme Court of Wyoming:

FINDINGS OF FACT

1. Respondent a licensed attorney in the State of Wyoming, Bar # 7-4664. Respondent has been licensed in Wyoming since 2010, and in Utah since 2004. Respondent's office is located in Provo, Utah

2. Following Respondent's admission to the Wyoming State Bar, his advertising agency purchased several ads in the Sweetwater County telephone directory, copies of which are attached hereto. Respondent approved the ads prior to their publication.

3. Respondent has agreed that the ads violate Rule 7.1(b) of the Wyoming Rules of Professional Conduct. All three ads are missing Respondent's office address, in violation of Rule 7.2(e). One of the ads is missing the disclaimer required by Rule 7.2(g). The other two ads have the required disclaimer, but in type size smaller than the smallest type size appearing in the ad, in violation of Rule 7.2(g). Finally, the ads violate Rule 7.4(d) with respect to claims of certification.

4. Respondent concedes that he negligently relied upon his advertising agency to comply with the Wyoming Rules of Professional Conduct in the placement of these ads. When the violations were brought to Respondent's attention by Bar Counsel, Respondent fired his advertising agency and has taken steps to see that neither these ads nor any others containing violations of the rules will be published.

5. Respondent is extremely embarrassed by this matter and has apologized for his actions. Respondent has promised to take steps in his practice to assure that nothing like this ever happens again.

6. Respondent has agreed to a public censure in this matter, and has stipulated to the issuance of a press release with the following language:

Utah attorney Jeffery C. Metler received a formal public censure by order of the Wyoming Supreme Court on _____, 2012. Mr. Metler purchased several advertisements in the Sweetwater County telephone directory which indicated that he was "recently seen in Forbes magazine as THE leading personal injury lawyer in the Central United States." The ads included an emblem indicating that Mr. Metler was "LEADING PROVIDERS - 2011 CERTIFIED - CENTRAL U.S."

The Wyoming Rules of Professional Conduct regulate the conduct of Wyoming attorneys and include specific rules applicable to lawyer advertising. Mr. Metler violated Rule 7.2(b), which prohibits lawyers from making a communication which is likely to create an unjustified expectation about results the lawyer can achieve. Mr. Metler also violated Rule 7.4(d), which prohibits a lawyer from claiming to be certified as a specialist in a particular field of law unless specific requirements have been met. Two of the ads violated the type size requirement for the disclaimer required by Rule 7.2(g), and the third was missing the disclaimer altogether. None of the ads contained Mr. Metler's office address, as required by Rule 7.2(e).

Mr. Metler stipulated to these facts and consented to this discipline. The Board of Professional Responsibility approved the stipulation, recommending that the Wyoming Supreme Court publicly censure Mr. Metler. After reviewing the report and recommendation, the Wyoming Supreme Court entered its order publicly censuring Mr. Metler and requiring him to pay the costs of the Wyoming State Bar for prosecuting this matter.

CONCLUSIONS OF LAW

7. Standard 2.5 of the ABA Standards for Imposing Lawyer Sanctions states, “Reprimand, also known as censure or public censure, is a form of public discipline which declares the conduct of the lawyer improper, but does not limit the lawyer’s right to practice.” The commentary to Standard 2.5 discusses the proper circumstances in which to impose a public censure as well as the rationale behind this form of discipline:

Publicity enhances the effect of the discipline and emphasizes the concern of the court with all lawyer misconduct, not only serious ethical violations. A reprimand is appropriate in cases where the lawyer’s conduct, although violating ethical standards, is not serious enough to warrant suspension or disbarment. * * * A reprimand serves the useful purpose of identifying lawyers who have violated ethical standards, and, if accompanied by a published opinion, educates members of the bar as to these standards.

8. Standard 3.0 provides, “In imposing a sanction after a finding of lawyer misconduct, a court should consider the following factors:”

- (a) the duty violated;
- (b) the lawyer’s mental state; and
- (c) the actual or potential injury caused by the lawyer’s misconduct; and
- (d) the existence of aggravating or mitigating factors.

9. Misconduct of the sort engaged in by Respondent, which essentially involves misleading communications about the lawyer or the lawyer’s services, is addressed in Section 7.0, “Violations of Duties Owed to the Profession.” Subsection 7.3 provides, “Reprimand [i.e., public censure] is generally appropriate when a lawyer negligently engages in conduct that is a violation of a duty owed to the profession and causes injury or potential injury to a client, the public, or the legal system.”

10. Section 9.1 of the ABA Standards for Imposing Lawyer Sanctions provides for consideration of aggravating and mitigating circumstances in deciding on an appropriate

sanction. Section 9.21 defines aggravating circumstances as “any consideration, or factors that may justify an increase in the degree of discipline to be imposed.” Section 9.31 defines mitigating circumstances as “any considerations, or factors that may justify a reduction in the degree of discipline to be imposed.”

11. The applicable aggravating factors are:

- i. Section 9.22(d)-multiple offenses. Several ads were placed, all with essentially the same defects, and violated multiple provisions of the Wyoming Rules of Professional Conduct.
- ii. Section 9.22(i)-substantial experience in the practice of law. Respondent was first admitted to practice in Utah in 2004.

12. Applicable mitigating factors are:

- i. Section 9.32(a)-absence of prior disciplinary record;
- ii. Section 9.32(b)-absence of dishonest or selfish motive;
- iii. Section 9.32(d)-timely good faith effort to rectify consequences of misconduct;
- iv. Section 9.32(e)-full and free disclosure to Bar Counsel and cooperative attitude toward proceedings; and
- v. Section 9.32(l)-remorse.

RECOMMENDATION

As an appropriate sanction for his violations of Rules 7.1(b), 7.2(e), 7.2(g) and 7.4(d) of the Wyoming Rules of Professional Conduct, the Board of Professional Responsibility recommends that Respondent: (1) receive a public censure; and (2) be ordered to pay the administrative fee in the amount of \$500.00 and administrative costs of \$50.00 within ten days of approval of the report and recommendation by the Wyoming Supreme Court.

ATTORNEY GUIDE

13

JEFFERY C. METLER

ATTORNEY AT LAW **MHM**

*Recently seen in Forbes Magazine® as
THE leading personal injury
attorney in the Central United States.*



PERSONAL INJURY

WHAT MAKES JEFF DIFFERENT?

- Only personal injury attorney in the Central United States to be featured in Forbes® Magazine.
- Removes the hassle associated with medical bills, lost wages and insurance company runaround
- Settles cases in 4-5 months instead of years
- Fights insurance companies in court more than the average attorney to receive fair compensation for victims
- Honest and frequent communication



1-855-JEFFLAW

WWW.METLERLAW.COM • 1-855-533-3529

A caring approach to personal injury • Se Habla Español

The Wyoming State Bar does not certify any lawyer as a specialist or expert. Anyone considering a lawyer should independently investigate the lawyer's credentials and ability, and not rely upon advertisements or self-proclaimed expertise.

ATTORNEY GUIDE



ATTORNEY GUIDE

21

Attorneys (Cont)

Stelling Law Office
44 S Franklin Av Pndl.....367-4486

STITH CLARK & ASSOCIATES
505 Broadway Rock Springs.....**382-5565**
(See Our Ad On Page 16)

STULKEN MICHAEL
189 N 1st W Green River.....**875-5872**

Sullivan Law Offices PC
2103 Evans Av Chyn.....800 325-6695

Toolson Stewart T atty
189 N 1st W Grn Rvr.....875-5188

Twichell William H Atty At Law
128 W Pine Pndl.....367-2414

Vehar Law Offices P C
912 Main Street Evnstrn.....789-5000

West L Galen 409 Broadway Suite A.....362-3300

Wood Law Office
9 W Magnolia St Pndl.....367-4301

Zebre Law Offices PC
1471 Dewar Dr Rock Springs.....382-4695

**-Accidents Personal Injury,
Property Damage**

BARNUM CHARLES LAW OFFICE
455 Broadway Rock Springs.....**382-7500**
(See Our Ad On Following Page)

THE SWEETWATER PAGES
The Better, Better, Better, Better Book!
1-800-433-4084

WIN A NEW CAR!



Brought To You By:



See Contest Information
On Page 6 Of The
Community Section Located
In The Front Of The Book.

Family Law • Criminal Defense • DUI
Contracts • Leases • Wills & Probate
382-5999
www.pinedalawoffice.com
1471 Dewar Dr., #143 • Rock Springs

THE LAW OFFICE OF
Bobby Pineda
ATTORNEY AT LAW

**LEMICH
LAW
CENTER**

George Lemich, P.C.
Jon Almone • Kari R. Moneyhun

Business, Corporation & Partnership
Wills • Trust • Estate & Tax Planning
Civil Litigation • Industrial Accidents • Real Estate

307-382-6600
Toll Free: 800-551-6604
Fax: 307-382-4989
205 C St.
Rock Springs, WY 82901

JEFFERY C. METLER
ATTORNEY AT LAW **MHM**



Recently seen in
Forbes Magazine
as THE leading
personal injury attorney
in the Central
United States.

PERSONAL INJURY

1-855-JEFFLAW

WWW.METLERLAW.COM • 1-855-533-3529

A caring approach to personal injury • Se Habla Español

WHAT MAKES JEFF DIFFERENT?

- Only personal injury attorney in the Central United States to be featured in *Forbes*® Magazine.
- Removes the hassle associated with medical bills, lost wages and insurance company runaround
- Settles cases in 4-5 months instead of years
- Fights insurance companies in court more than the average attorney to receive fair compensation for victims
- Honest and frequent communication



The Wyoming State Bar does not certify any lawyer as a specialist or expert. Anyone considering a lawyer should independently investigate the lawyer's credentials and ability, and not rely upon advertisements or self-proclaimed expertise.

ATTORNEY GUIDE

BACK OUTSIDE
COVER

JEFFERY C. METLER
ATTORNEY AT LAW **MHM**

Recently seen in Forbes Magazine® as
THE leading personal injury
attorney in the Central United States.



PERSONAL INJURY

WHAT MAKES JEFF DIFFERENT?

- Only personal injury attorney in the Central United States to be featured in Forbes® Magazine.
- Removes the hassle associated with medical bills, lost wages and insurance company runaround
- Settles cases in 4-5 months instead of years
- Fights insurance companies in court more than the average attorney to receive fair compensation for victims
- Honest and frequent communication



1-855-JEFFLAW

WWW.METLERLAW.COM • 1-855-533-3529

A caring approach to personal injury • Se Habla Español

The
SWEETWATER
Pages

PRESORTED
BOUND PRINTED MATTER
U.S. POSTAGE PAID
ROCK SPRINGS, WY
PERMIT NO. 16