

IN THE SUPREME COURT OF FLORIDA
(Before a Grievance Committee)

THE FLORIDA BAR,

Complainant,

TFB File No. 2016-30,035 (18B)

v.

DANIEL S. CIENER,

Respondent.

ADMISSION OF MINOR MISCONDUCT PURSUANT TO RULE 3-5.1

Respondent says:

1. I am aware that Rule 3-5.1 reads, in part, as follows:

If the respondent admits guilt of minor misconduct and the committee concurs, the grievance committee shall file its report recommending an admonishment, the manner of administration, the taxing of costs, and an assessment or administrative fee in the amount of \$1,250.00 against the respondent. The respondent may not condition the admission of minor misconduct on the method of administration of the admonishment or upon nonpayment of costs incurred in the proceedings. The report recommending an admonishment shall be forwarded to staff counsel for review and the designated reviewer for approval. If the report is thereafter approved, it shall then be served on the respondent by bar counsel and shall become final.

2. Pursuant to Rule 3-5.1, I tender this admission of minor misconduct in the above-referenced case.

3. If this admission is accepted by the committee and the committee report is approved by The Florida Bar, this admission shall be in full force and effect, and I shall pay any costs incurred in the proceeding including a \$1,250.00 administrative cost.

4. If this admission is accepted by the committee and the committee report is approved by The Florida Bar, I understand that I will be required to attend the Professionalism Workshop within 6 months of the committee's acceptance of the minor misconduct. I also

understand that I will responsible for the cost of the Professionalism Workshop, which is \$750.00, and must be paid prior to attendance.

5. I am aware that the Board of Governors of The Florida Bar may order me to appear before it for administration of an admonishment.

6. If this admission is not accepted by the committee or an admonishment is not approved, this tendered admission will be null and void, and no part of the admission may be used as evidence bearing upon the complaint.

7. The following statement of particulars sets forth the minor misconduct and the rule violations which are hereby admitted:

- a. On April 2, 2015, I was representing a criminal defendant client in a post-conviction relief matter and sought a continuance of the evidentiary hearing on the day of the hearing. I called my co-counsel to testify that a scheduling error caused co-counsel and I to be unprepared to go forward on the motion that day.
- b. The court denied my motion and provided me with one hour to prepare for the hearing. After one hour, I renewed my request to continue the hearing. The court denied my request.
- c. I moved to recuse the judge and asked for time to prepare a written motion. After receiving the written motion, the judge denied it finding it legally insufficient.
- d. The court ultimately continued the matter and asked co-counsel and I to approach the lectern where the judge admonished us on the record and advised

that he was debating whether he had an ethical responsibility to report co-counsel and I to The Florida Bar.

- e. At the time, I felt that the court was treating me and my client unfairly and I responded to the court that my co-counsel and I would have to debate whether we had an ethical responsibility to report the judge to the Judicial Qualifications Commission.
- f. The judge interpreted my statements to be a threat of filing a grievance with the Judicial Qualifications Commission if the judge reported me to The Florida Bar. The judge later recused himself from my client's case.
- g. I was caught off guard by the encounter with the court and certainly never intended to threaten the court. I am truly sorry that this happened.
- h. By virtue of the foregoing, I have violated Rules 3-4.3, 4-1.3, 4-3.5(a), 4-3.5(c), and 4-8.4(d).

8. I hereby acknowledge that this document is tendered freely, voluntarily and without fear, threat or coercion.

Dated this 16th day of February, 2016.



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