

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

CRYSTAL LYNN TURNER
SEBAGO,

Respondent.

Supreme Court Case
No. SC15-2190

The Florida Bar File
Nos. 2014-10,250 (6C)
2014-11,027 (6C)
2014-11,101 (6C)
2015-10,226 (6C)

REPORT OF REFEREE ACCEPTING CONSENT JUDGMENT

I. **SUMMARY OF PROCEEDINGS**

Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to Rule 3-7.6, Rules of Discipline, the following proceedings occurred:

On December 1, 2015, The Florida Bar filed its Complaint against Respondent. The parties tendered a Conditional Guilty Plea for Consent Judgment prior to a final hearing being held. All of the aforementioned pleadings, responses thereto, notices, motions, orders, transcripts, exhibits, and this Report constitute the record in this case and are forwarded to the Supreme Court of Florida.

The following attorneys appeared as counsel for the parties:

For The Florida Bar: Katrina S. Brown, Esq.

For Respondent: John A. Weiss, Esq.

II. FINDINGS OF FACT

A. Jurisdictional Statement. Respondent is, and at all times mentioned during this investigation was, a member of The Florida Bar, subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

B. Narrative Summary of Cases. Pursuant to the Conditional Guilty Plea for Consent Judgment, the Referee finds the following facts:

In The Florida Bar File No. 2014-10,250 (6C), Respondent represented a client in a personal injury case in the Pinellas County Circuit Court. During the trial, the judge admonished Respondent for disobeying a court order not to discuss anything about the pre-trial litigation process and the defendant's denial of liability. The jury returned a verdict in favor of Respondent's client, the plaintiff. Thereafter, the court granted the defendant's motion for new trial. The judge entered an Order of Civil Contempt against Respondent. Respondent appealed the contempt finding to the Second DCA. The judge's ruling was upheld on appeal. To purge contempt, Respondent was required to attend the Practicing with Professionalism course and 20 hours of CLE courses, five hours of which had to be ethics credits on Civil Trial Practice. Respondent attended the courses.

In The Florida Bar File No. 2014-11,027 (6C), Respondent represented a client in a quantum meruit lien dispute case in Hillsborough County Circuit Court. Opposing counsel alleged that Respondent was unprofessional and uncivil during an attempted deposition of Respondent's client. While opposing counsel was questioning the client, Respondent showed her client an inappropriate image on her cell phone and was disruptive. Respondent also called opposing counsel a liar on the record in front of her client and stated, "It's very sad what a plaintiff's attorney like yourself will do for money." Respondent regrets and apologizes for her conduct.

In The Florida Bar File No. 2014-11,101 (6C), Respondent represented the plaintiff in a personal injury case in Pinellas County Circuit Court. The court ordered the parties to attend arbitration. At the scheduled arbitration, the defendant

did not appear on time as he had a conflict. Respondent refused to wait for the defendant to appear. The arbitrator, a senior judge, reported to the court that Respondent refused to participate at the court-ordered arbitration. Respondent filed a motion and an amended motion for an order to show cause why the defendant should not be held in contempt of court for failing to appear at the arbitration. Respondent's first motion contained incorrect statements. The court took testimony regarding what occurred at the arbitration. At the hearing, Respondent stated that the arbitrator made things up in an order. The court found that Respondent had not participated in the arbitration and denied Respondent's motion and awarded attorney's fees and costs to opposing counsel.

In The Florida Bar File No. 2015-10,226 (6C), Respondent represented the plaintiff in a civil case in Pinellas County Circuit Court. Respondent filed a notice of conflict early on in the case but did not set the notice for hearing. On the day before the scheduled pre-trial conference, Respondent learned at a docket call on another case that that case was proceeding to trial. Respondent attempted to reschedule the conference or be allowed to appear by phone as she would be in trial on this other case. Respondent's request to appear by phone at the pretrial conference was denied. Respondent failed to appear at the pre-trial conference. Respondent also missed several discovery deadlines. The court found that Respondent violated the court's order setting trial and pre-trial conference along with the court's order requiring Respondent to respond to various trial discovery requests. Respondent filed a motion to continue the trial on the Friday before trial was set to begin on Monday. On the morning of trial, the court denied Respondent's motion to continue. Because Respondent's client was not prepared to go to trial and Respondent's expert witness was also not available, Respondent and her client elected to not proceed with the trial. The court dismissed Respondent's client's case and entered judgment in favor of the defendant.

III. RECOMMENDATIONS AS TO GUILT

I recommend that the Conditional Guilty Plea for Consent Judgment be accepted and that Respondent be found guilty of violating the following Rules Regulating The Florida Bar: **Rule 3-4.3** (Misconduct and Minor Misconduct); **Rule 4-1.3** (Diligence); **Rule 4-3.4** (Fairness to Opposing Party and Counsel); and

Rule 4-8.4(d) (Misconduct: A lawyer shall not engage in conduct in connection with the practice of law that is prejudicial to the administration of justice).

IV. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Standards prior to recommending discipline:

6.2 Abuse of the Legal Process

6.22 Suspension is appropriate when a lawyer knowingly violates a court order or rule, and causes injury or potential injury to a client or a party, or causes interference or potential interference with a legal proceeding.

7.0 Violations of Other Duties Owed as a Professional

7.2 Suspension is appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as professional and causes injury or potential injury to a client, the public, or the legal system.

9.22 Aggravating Factor(s)

Respondent engaged in misconduct subsequent to attending the “Practicing with Professionalism” course mandated as a result of Respondent being held in contempt by a circuit court judge.

9.32 Mitigating Factors

- (a) absence of a prior disciplinary record;
- (f) inexperience in the practice of law; and
- (k) imposition of other penalties or sanctions.

V. CASE LAW

I considered the following case law prior to recommending discipline:

In *Florida Bar v. Mitchell*, 46 So. 3d 1003 (Fla. 2010) (Unpublished Table Citation), pursuant to a consent judgment, Mitchell received a ten-day suspension, and was ordered to attend the Bar’s anger management workshop, largely as a result of his unprofessional conduct toward opposing counsel. The Bar initiated three (3) matters with the Court. The first matter involved Mitchell’s disparaging conduct toward opposing counsel, which included engaging in disparaging email exchanges, hostile verbal exchange during a deposition, and disparaging remarks

about opposing counsel in a pleading. The second matter again involved Mitchell engaging in disparaging emails with his landlord in a dispute, and for failing to pay for a court reporter's deposition transcript fee. Mitchell further falsely stated to the Bar that he did not order the transcript. The third matter similarly involved Mitchell's unprofessional and hostile conduct toward opposing counsel during a deposition, and his subsequent disparaging remarks about opposing counsel during a court hearing. In mitigation, Mitchell did not have a prior disciplinary record. In aggravation, Mitchell exhibited a pattern of misconduct, committed multiple offenses, and refused to acknowledge the wrongful nature of his conduct.

In *Florida Bar v. Cohen*, 157 So. 3d 283 (Fla. 2015), the Supreme Court of Florida concluded that a public reprimand and a ten-day suspension were warranted for an attorney, Cohen, whose conduct included: filing a motion for continuance of a hearing without indicating whether the State agreed to the continuance; without submitting a copy of the motion directly to the trial court; without setting the continuance motion for hearing; failing to attend the hearing; and failing to make any effort to contact the trial court to explain his absence. The Court found that Cohen violated Rule 4-1.3 which requires attorneys to act with reasonable diligence and, Rule 4-8.4(d) which prohibits attorneys from engaging in conduct prejudicial to the administration of justice.

VI. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

Pursuant to the Conditional Guilty Plea for Consent Judgment, I recommend that Respondent be found guilty of misconduct justifying disciplinary measures, and that she be disciplined by:

- A. 20-day suspension from the practice of law.
- B. Attendance at Ethics School and Professionalism Workshop within six (6) months of acceptance of this conditional guilty plea for consent judgment. Respondent will pay the \$1,000.00 fee associated with attendance at these programs.
- C. Payment of The Florida Bar's costs in these matters.

VII. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

Prior to recommending discipline pursuant to Rule 3-7.6(m)(1)(D), I considered the following personal history of Respondent, to wit:

Age: 36

Date admitted to the Bar: October 5, 2007

Prior Discipline: None

VIII. STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD BE TAXED

I find the costs set forth in The Florida Bar's Motion to Assess Costs and Statement of Costs filed in this cause were reasonably incurred and were not unnecessary, excessive, or improperly authenticated. I further find that Respondent stipulated to the payment of such costs incurred by The Florida Bar by signing the Conditional Guilty Plea for Consent Judgment.

Administrative Costs pursuant to Rule 3-7.6(q)(1)(I)	\$1,250.00
Investigative Costs	\$500.36
TOTAL	\$1,750.36

It is recommended that such costs be charged to Respondent and that interest at the statutory rate shall accrue and that should such cost judgment not be satisfied within thirty days of said judgment becoming final, Respondent shall be deemed

delinquent and ineligible to practice law, pursuant to R. Regulating Fla. Bar 1-3.6, unless otherwise deferred by the Board of Governors of The Florida Bar.

Dated this _____ day of _____, 2016.

ORIGINAL SIGNED
CONFORMED COPY

MAY 23 2016

RICHARD A. WEIS
COUNTY JUDGE

Richard Arlen Weis, Referee

Original in Word format submitted through the Supreme Court of Florida's email address to e-file@flcourts.org; and mailed to the following address, along with the Referee's original file: Clerk of the Supreme Court of Florida; Supreme Court Building; 500 South Duval Street, Tallahassee, Florida, 32399-1927

Conformed Copies of this Report of Referee Only To:

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