

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

ROBYN LYNN SZTYNDOR,

Respondent.

Supreme Court Case
No. SC21-979

The Florida Bar File Nos.
2017-50,854 (13C)
2018-50,346 (13C)
2018-50,631 (13C)
2018-50,703 (13C)

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 June 29, 2021, The Florida Bar filed its Complaint against respondent. On July 8, 2021, the Court issued a Notice to Appoint Referee in the Nineteenth Judicial Circuit. On July 9, 2021, the Honorable Edmond Alonzo was appointed as Referee. All of the aforementioned pleadings, responses thereto, exhibits received in evidence, 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. and Lindsey M. Guinand, Esq.

For Respondent: Scott K. Tozian, Esq., Henry M. Coxe, Esq., and J. David Bogenschutz, 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 Case. The facts as set forth in the Conditional Guilty Plea for Consent Judgment are deemed admitted and adopted as my findings of fact as stated below:

Count I: The Florida Bar File No. 2017-50,854 (13C): Respondent represented the defendant in the case of *State v. Blair Wright, Outreach housing*, Broward County Case No. 13- 15742CF10A. During the representation, Respondent sent emails to multiple different people involved in the litigation in which she made unprofessional and sarcastic remarks about opposing counsel and witnesses. Respondent's emails about opposing counsel referred to them as "out of control," and "overly hostile," among other things. Further, in emails with opposing counsel respondent stated that the depositions of two of the witnesses in the case were "going to be epic" and great "entertainment."

Count II: The Florida Bar File No. 2018-50,346 (13C): Respondent was defense counsel in the following cases: *Outreach Housing* (Broward County Case No. 08-CACE-49280); *Nationwide Pools* (Broward County Case No. 13-CACE-14854); and *Home Defense* (Palm Beach County Case No. 15-CA-005112). During the representation in these cases, Respondent made unprofessional and sarcastic remarks about opposing counsel and witnesses.

In addition, Respondent made unprofessional statements orally and in emails and court filings impugning the integrity of Circuit Court Judge Michael Gates and Circuit Court Judge Peter D. Blanc. Respondent filed a Judicial Qualifications Commission Complaint against Judge Gates and then publicly filed the complaint in the Outreach Housing case and the Nationwide Pools case, seeking Judge Gates' disqualification. Respondent repeatedly stated that Judge Gates "rubber stamped" 53 orders for the Office of the Attorney General. In Judge Blanc's order of

recusal, he noted that Respondent called his judicial assistant stating that she did not know if it was “just Judge Blanc’s confusion or his bad memory” regarding a procedural issue in the case, but that she was going to “take it up with the JQC” and would take her orders from the JQC from that point forward. Respondent recalls that she advised the judicial assistant that her client was going to complain to the JQC.

Count III: The Florida Bar File No. 2018-50,631 (13C): In *OAG v. Blair Wright and Outreach Housing, LLC*, Case No. 08-CACE- 49280, Mr. Clovis Nelson was a witness who had a claim against Outreach Housing. On the morning of a scheduled deposition, Mr. Nelson requested to reschedule the deposition in order to retain counsel. Respondent denied the request and sent text messages to Mr. Nelson stating she would seek a Certificate of Non-Appearance, as well as move to strike his claim if he failed to appear. Mr. Nelson appeared at the deposition, and stated again, on the record, that he wanted to hire independent counsel. Respondent objected to postponing the deposition and stated she would seek sanctions, contempt and move to strike his claim.

Count IV: The Florida Bar File No. 2018-50,703 (13C): Respondent represented the plaintiff in *Michael Bogdan v. Living Free Institute, LLC*, Case No. 17-CACE-016579, in Broward County. During this litigation, Respondent questioned opposing counsel’s veracity at a deposition. Further, Respondent made similar allegations against opposing counsel in email communications with the assigned Judge’s judicial assistant and in a motion filed with the court. Respondent’s conduct resulted in a burden on opposing counsel’s clients, and the clients fired opposing counsel.

III. RECOMMENDATIONS AS TO GUILT

I recommend that Respondent be found guilty of violating the following Rules Regulating The Florida Bar:

Count I: Rule 3-4.3 (Misconduct and minor misconduct); **Rule 4-4.4(a)** (Respect for rights of third persons); **Rule 4-8.4(a)** (Misconduct – violate or attempt to violate the Rules of Professional and Conduct); and **Rule 4-**

8.4(d) (Misconduct – engage in conduct in connection with the practice of law that is prejudicial to the administration of justice).

Count II: **Rule 3-4.3** (Misconduct and minor misconduct); **Rule 4-8.2(a)** (Judicial and legal officials – impugning qualifications and integrity of judges or other officers); **Rule 4-8.4(a)** (Misconduct – violate or attempt to violate the Rules of Professional and Conduct); and **Rule 4-8.4(d)** (Misconduct – engaging in conduct in connection with the practice of law that is prejudicial to the administration of justice).

Count III: **Rule 3-4.3** (Misconduct and minor misconduct); **Rule 4-4.4(a)** (Respect for rights of third persons); **Rule 4-8.4(a)** (Misconduct – violate or attempt to violate the Rules of Professional and Conduct); and **Rule 4-8.4(d)** (Misconduct – engaging in conduct in connection with the practice of law that is prejudicial to the administration of justice).

Count IV: **Rule 3-4.3** (Misconduct and Minor Misconduct); **Rule 4-4.4** (Respect for Rights of Third Persons); **Rule 4-8.4(a)** (Misconduct – violate or attempt to violate the Rules of Professional and Conduct); and **Rule 4-8.4(d)** (Misconduct – engage in conduct in connection with the practice of law that is prejudicial to the administration of justice).

Pursuant to the Conditional Guilty Plea for Consent Judgment, the following Rules Regulating the Florida Bar were dismissed by the bar:

Count I: **Rule 4-3.4** (Fairness to opposing party and counsel)

Count II: **4-3.3** (Candor toward the tribunal), **4-3.4** (Fairness to opposing party and counsel), **4-4.1** (Truthfulness in statements to others), and **4-4.4** (Respect for rights of third persons).

Count IV: **4-3.4** (Fairness to opposing party and counsel)

IV. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Florida Standards for Imposing Lawyer Discipline prior to recommending discipline:

Standard 7.1 Deceptive Conduct or Statements and Unreasonable or Improper Fees, states that: (c) Public Reprimand. Public reprimand is appropriate when a lawyer negligently engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

In mitigation, pursuant to Florida Standard for Imposing Lawyer Discipline, Rule 3.3(b), the following factors apply:

- (1) absence of a prior disciplinary record: Respondent was admitted to The Florida Bar in April 2011 and has been a member in good standing since that time. In her ten-and-a-half years of practicing law she has had no prior discipline. In addition, at the time of the filing of this consent judgment she has no other pending disciplinary matters.;
- (2) absence of a dishonest or selfish motive; and
- (3) personal or emotional problems.

Further, I also considered the following in mitigation, pursuant to Florida Standards for Imposing Lawyer Discipline 3.3(a):

In the cases referenced in Counts I, II and III, Respondent performed the overwhelming majority of the work on a *pro bono* basis and thus, Respondent donated substantial time and effort, in excess of thousands of hours of *pro bono* legal services over a 7-year period, advocating for these clients. *State v. Blair Wright, Outreach Housing*, Broward County Case No. 13-15742CF10A, was a particularly unique prosecution in which the defendant had been on pre-trial release for almost fourteen (14) years and the prosecution had rotated through approximately seven (7) prosecutors, which Respondent stated caused delay as the newly assigned attorneys reviewed the lengthy and complex case. The Wright criminal matter was related to a lawsuit brought by the Office of the Attorney General against Outreach Housing. Respondent stated she worked to clarify misapprehensions regarding the State's understanding of the case and was concerned that unfair delay would impact her client's right to meaningfully engage in the discovery process.

Respondent has also explained that one of the emails containing unprofessional comments was intended only for co-counsel and was inadvertently sent via “reply all” to other recipients. In other words, the email was sent in error to opposing counsel.

With regard to the Clovis Nelson complaint, Respondent alleges there is a discrepancy between the complainant’s allegations and Respondent’s telephone records. The statements made to Mr. Nelson, regarding his request to continue the deposition, were not sent with ill-intent. Respondent stated she intended to advise Mr. Nelson of the law and ramifications of failing to appear while he was under a valid subpoena and was concerned about delaying the litigation as the case was over a decade old.

Lastly, in the matter of *Office of the Attorney General v. Community Charity Advancement, Inc.*, there was a voluntary waiver of attorneys’ fees awarded to the Respondent in response to the trial court’s finding the Florida Attorney General breached a settlement agreement with the Respondent’s clients.

V. CASE LAW

I considered the following case law prior to recommending discipline:

Florida Bar v. Libow, 2021 WL 2376382 (Fla. June 10, 2021) (Unpublished Disposition), by Court order dated June 10, 2021, the Court publicly reprimanded Libow, referred him to FLA, Inc., and required his attendance at professionalism workshop. In the first matter, a judicial referral from the Fifteenth Judicial Circuit of Florida, Libow sent unprofessional communications to opposing counsel in two dissolution of marriage matters. When the presiding judge was alerted to these communications, she verbally warned him to refrain from said conduct. Libow then moved to disqualify the judge, making disparaging comments about the judge in his motion. In the second matter, Respondent engaged in vexatious litigation and unprofessional conduct in a suit against a client for fees owed. The client hired Libow’s former law partner to represent her. Libow and his former law partner had an acrimonious dissolution of their partnership. The court found that Respondent’s manner of litigation was vexatious and his conduct toward his former partner was

unprofessional. Based upon Respondent's conduct, the court ordered Respondent to pay nearly \$70,000.00 in attorney's fees. Rules violated: Oath of Admission to The Florida Bar, The Florida Bar Creed of Professionalism, 4- 8.2(a); 4-8.4(a); and 4-8.4(d).

Florida Bar v. Allen, 2021 WL 401950 (Fla. Feb. 4, 2021) (unpublished disposition), in three (3) separate Florida Bar files, the Respondent engaged in unprofessional, harassing, intimidating and aggressive behavior toward opposing counsel, opposing parties, and witnesses in court hearings, email communications and depositions. In one matter, the trial court had to intervene to set case management directives for both the Respondent and opposing counsel, based on their unprofessional behavior. In one matter, the trial court found that due to Respondent's unprofessional conduct, including disrespect to the trial court and trial court orders, as well as misconduct by his client, the court entered a judgment by default. For all of these matters, Allen was disciplined by public reprimand.

Florida Bar v. Udowychenko, 148 So. 3d 774 (Unpublished Disposition) (Fla. 2014), the Court approved the uncontested referee's report and publicly reprimanded Udowychenko. On three separate occasions in court, Udowychenko's behavior was inappropriate and disrespectful. In one instance he filed motions alleging fraud on the court. He also filed a recusal motion in court alleging potential collusion between a judge and co-counsel.

Florida Bar v. Stopa, 147 So. 3d 530 (Unpublished Disposition) (Fla. 2014), the Court approved the uncontested referee's report and publicly reprimanded Stopa and required his attendance at The Florida Bar's Ethics School. Stopa drafted a motion by oral dictation and did not revise or review it once it was typed. As a result, he failed to remove inappropriate language before it was filed with the court. In the motion, Stopa impugned the integrity of the judge.

Florida Bar v. Ray, 797 So. 2d 556 (Fla. 2001), Ray was publicly reprimanded for three letters written to the Chief Immigration Judge in Virginia questioning a judge's veracity, integrity, and fairness at a hearing involving Ray's client with reckless disregard as to truth or falsity of such

statements.

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. Public Reprimand to be administered by appearance before the Board of Governors, unless such appearance is excused by the President of The Florida Bar based upon medical justification; in such event Respondent shall still appear remotely;

B. Attendance at The Florida Bar's Professionalism Workshop within six (6) months of this Court's order accepting this Plea. Respondent shall be responsible for the \$750.00 fee associated with that program;

C. A two-year period of probation with the following conditions:

- i. Respondent will participate actively in the program offered by Florida Lawyers Assistance, Inc. (FLA, Inc.), by signing a rehabilitation contract with that organization within thirty (30) days of the order of the Supreme Court of Florida. Respondent's probation period will not begin until respondent has signed and returned her rehabilitation contract to FLA, Inc. If respondent is already under contract with FLA, Inc., then the two year of probation will run from the date of the Court's order. Respondent shall follow all recommendations by Florida Lawyers Assistance, Inc., during the entire probation period.
- ii. Respondent will pay a FLA, Inc. registration fee of \$250.00 and a probation monitoring fee of \$100.00 per month directly to FLA, Inc. during the period of probation.

iii. The Florida Bar will monitor respondent's compliance with her FLA, Inc. rehabilitation contract, including nonpayment of the monthly monitoring fees. Should respondent fail to pay FLA, Inc., respondent's failure to pay will be reported to the bar and the bar will follow up with regard to respondent's noncompliance, up to and including holding respondent in contempt for failure to pay the monthly monitoring fees.; and

D. Payment of the bar's costs in this matter.

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: April 12, 2011

Prior Discipline: None

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

I find the following costs set forth in The Florida Bar's Motion to Assess Costs and Statement of Costs filed in this cause were reasonably incurred by The Florida Bar and were not unnecessary, excessive, or improperly authenticated:

Court Reporters' Fees	\$1,081.50
Investigative Costs	\$72.50
Administrative Fee	\$1250.00

TOTAL	\$2,404.00
-------	------------

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 3 day of November , 2021.



Honorable Edmond Warren Alonzo III,
Referee

Original To:

Honorable John A. Tomasino, Clerk of the Supreme Court of Florida;
Supreme Court Building; 500 South Duval Street, Tallahassee, Florida,
32399-1927

Conformed Copies to:

Scott Kevork Tozian, Counsel for Respondent, 109 N. Brush St., Ste. 200,
Tampa, FL 33602-4116, stozian@smithtozian.com,
mrenke@smithtozian.com, email@smithtozian.com

Henry Matson Coxe, III, Counsel for Respondent, 101 E. Adams St.,
Jacksonville, FL 32202-3303, hmc@bedellfirm.com

J. David Bogenschutz, Counsel for Respondent, 633 SE 3rd Ave., Ste. 202,
Fort Lauderdale, FL 33301, david@bogenschutzpa.com

Katrina S. Brown, Bar Counsel, Lindsey M. Guinand, Bar Counsel, Tampa
Branch Office, 2002 N. Lois Ave., Suite 300, Tampa, Florida 33607-2386,
kschaffhouser@floridabar.org, lguinand@floridabar.org,
nstanley@floridabar.org, tampaoffice@floridabar.org

Patricia Ann Savitz, Staff Counsel, The Florida Bar, 651 E. Jefferson St.,
Tallahassee, FL 32399-2300, psavitz@floridabar.org