

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

BRYON R. AVEN,

Respondent.

Supreme Court Case  
No. SC-

The Florida Bar File  
No. 2019-30,108(18A)

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**COMPLAINT**

The Florida Bar, complainant, files this Complaint against Bryon R. Aven, respondent, pursuant to the Rules Regulating The Florida Bar and alleges:

1. Respondent is and was at all times mentioned herein a member of The Florida Bar, admitted on April 17, 2008, and is subject to the jurisdiction of the Supreme Court of Florida.
2. Respondent practiced law in Marion County, Florida, at all times material.
3. The Eighteenth Judicial Circuit Grievance Committee "A" found probable cause to file this complaint pursuant to Rule 3-7.4 of the Rules Regulating The Florida Bar, and this complaint has been approved by the presiding member of that committee.

4. Respondent ran for Marion County Court Judge in the August 28, 2018 primary election, running against incumbent Judge Robert E. Landt.

5. Respondent's campaign violated sections of Canon 7 of the Florida Code of Judicial Conduct, which would also constitute violations of the Rules Regulating The Florida Bar.

6. During the course of his judicial campaign, respondent attempted to impugn Judge Landt's integrity and repeatedly gave the impression that respondent is biased in favor of state prosecutors and law enforcement.

7. For example, respondent made the following statements on his campaign website:

A motion to suppress is filed when a defendant seeks a judge to order that evidence obtained by law enforcement be found inadmissible. Granting a motion to suppress requires the court to find that law enforcement violated the rights of the defendant. Generally, law enforcement officers do an excellent job of following the law and respecting the rights of the defendant. The majority of all motions to suppress are denied.

Robert Landt has presided over 23 contested hearings involving motions to suppress. In 14 of the 23 hearings where he has ruled, he has found that law enforcement officers have violated the rights of the defendant, excluding the State from using critical evidence against the defendant. These are the same officers that appear in every other court in Marion County.

8. On his campaign website, respondent explicitly asserted that Judge Landt had the "Fewest Sentences Appealed by Defendants" and the "Most State

Appeals.”

9. Therefore, respondent again implied that Judge Landt was too lenient and that respondent, if elected, would impose harsher sentences.

10. On his campaign website under the heading “Most State Appeals,” respondent made the following statement before listing links to state appeals against Judge Landt: “From January 2013 to present, the State Attorney’s Office has appealed the decisions of Marion County Court Judges a total of 12 times. Robert Landt has been appealed by the State ten times.”

11. On his campaign website under the heading “Fewest Sentences Appealed by Defendants,” respondent made the following statement: “Defendant’s generally appeal a judgment and sentence because of the findings made by the court of the sanctions imposed. The harsher a judge sentences defendants, the more defendants will appeal.”

12. Following the above statement under the heading “Fewest Sentences Appealed by Defendants,” respondent also presented a list comparing the lesser number of times Judge Landt’s decisions were appealed by criminal defendants to the greater number of times that defendants appealed the decisions of other Marion County judges.

13. Overall, the statements on respondent’s campaign website attempted to mislead voters about the proper role a judge plays in our justice system and the

integrity of his judicial opponent.

14. Canon 7A(3)(a) of the Florida Code of Judicial Conduct states that a candidate for judicial office “shall be faithful to the law and maintain professional competence in it, and shall not be swayed by partisan interests, public clamor, or fear of criticism.”

15. Canon 7A(3)(b) of the Florida Code of Judicial Conduct states that a candidate for judicial office “shall maintain the dignity appropriate to judicial office and act in a manner consistent with the impartiality, integrity, and independence of the judiciary, and shall encourage members of the candidate's family to adhere to the same standards of political conduct in support of the candidate as apply to the candidate.”

16. Canon 7A(3)(e)(i) of the Florida Code of Judicial Conduct states that a candidate for judicial office “shall not with respect to parties or classes of parties, cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office.”

17. Canon 7A(3)(e)(ii) of the Florida Code of Judicial Conduct states that a candidate for judicial office “shall not knowingly misrepresent the identity, qualifications, present position or other fact concerning the candidate or an opponent.”

18. By reason of the foregoing, respondent has violated the following Rules Regulating The Florida Bar:

a. 3-4.3 Misconduct and Minor Misconduct. The standards of professional conduct required of members of the bar are not limited to the observance of rules and avoidance of prohibited acts, and the enumeration of certain categories of misconduct as constituting grounds for discipline are not all-inclusive nor is the failure to specify any particular act of misconduct be construed as tolerance of the act of misconduct. The commission by a lawyer of any act that is unlawful or contrary to honesty and justice may constitute a cause for discipline whether the act is committed in the course of the lawyer's relations as a lawyer or otherwise, whether committed within Florida or outside the state of Florida, and whether the act is a felony or a misdemeanor.

b. 4-8.2(a) Impugning Qualifications and Integrity of Judges or Other Officers. A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, mediator, arbitrator, adjudicatory officer, public legal officer, juror or member of the venire, or candidate for election or appointment to judicial or legal office.

c. 4-8.2(b) Candidates for Judicial Office; Code of Judicial

Conduct Applies. A lawyer who is a candidate for judicial office shall comply with the applicable provisions of Florida's Code of Judicial Conduct.

WHEREFORE, The Florida Bar prays respondent will be appropriately disciplined in accordance with the provisions of the Rules Regulating The Florida Bar as amended.

Respectfully submitted,



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## **CERTIFICATE OF SERVICE**

I certify that this document has been e-filed with the Honorable John A. Tomasino, Clerk of the Supreme Court of Florida, using the e-filing portal and that a copy has been furnished by United States Mail via certified mail No. 7017 1070 0000 4774 4108, return receipt requested to Counsel for Respondent, Scott Kevork Tozian, whose record bar address is Smith, Tozian, Daniel & Davis, P.A., 109 N. Brush Street, Suite 200, Tampa, Florida 33602-4116, and via email at [stozian@smithtozian.com](mailto:stozian@smithtozian.com); and to Laura N. Gryb, Bar Counsel, The Florida Bar, 1000 Legion Place, Suite 1625, Orlando, Florida 32801-1050, via email at [lgryb@floridabar.org](mailto:lgryb@floridabar.org), [orlandooffice@floridabar.org](mailto:orlandooffice@floridabar.org), on this 6<sup>th</sup> day of November, 2019.



PATRICIA ANN TORO SAVITZ  
Staff Counsel

**NOTICE OF TRIAL COUNSEL AND DESIGNATION OF PRIMARY  
EMAIL ADDRESS**

PLEASE TAKE NOTICE that the trial counsel in this matter is Laura N. Gryb, Bar Counsel, whose address, telephone number and primary email address are The Florida Bar, 1000 Legion Place, Suite 1625, Orlando, Florida 32801-1050, (407) 425-5424 and [lgryb@floridabar.org](mailto:lgryb@floridabar.org) and [orlandooffice@floridabar.org](mailto:orlandooffice@floridabar.org). Respondent need not address pleadings, correspondence, etc. in this matter to anyone other than trial counsel and to Staff Counsel, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399, [psavitz@floridabar.org](mailto:psavitz@floridabar.org).

**MANDATORY ANSWER NOTICE**

RULE 3-7.6(h)(2), RULES REGULATING THE FLORIDA BAR,  
PROVIDES THAT A RESPONDENT SHALL ANSWER A COMPLAINT.