

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

vs.

ASHLEY ANN KRAPACS,

Respondent.

Supreme Court Case
NO. SC19-277

The Florida Bar File
Nos. 2018-50,829 (17I)FES;
2018-50, 851 (17I);
2019-50, 081 (17I)

**RESPONDENT/ATTORNEY ASHLEY A. KRAPAC'S
RESPONSE, ANSWER, and AFFIRMATIVE DEFENSES TO
FLORIDA BAR'S PETITION FOR EMERGENCY SUSPENSION**

COMES NOW, the Respondent, ASHLEY ANN KRAPACS (“Krapacs” and “Respondent”) by and through undersigned counsel and files this Response, Answer, and Affirmative Defenses to the Petitioner THE FLORIDA BAR’s (“Florida Bar” and “Petitioner”) Petition for Emergency Suspension dated February 20, 2019 (“Petition”) and states (the following paragraphs correspond to the numbered paragraphs of the Petition):

1. Unknown and therefore denied and strict proof is demanded thereof.
2. Admitted.
3. Admitted.

4. Admit that exhibits A and B to the Petition appear to be affidavits which the Bar relies upon.

5. Denied as phrased.

6. Unknown as to the Florida Bar's stated reason for filing the Petition; admitted that Bacchus filed an injunction which is now on appeal; admitted that exhibits C, D, and E are attached to Petition.

7. Denied as phrased.

8. Denied as phrased; moreover, Respondent cannot respond to the opinions expressed in this paragraph and those statements are denied. Respondent admits that litigation with Williams has been settled and that the injunction sought by Bacchus has been appealed.

9. Respondent admits that she is the author of the January 4, 2019 post, January 21, 2019 email, and January 23, 2019 letter; all other statements are denied as phrased.

10. Denied.

11. In response to the alleged "salient facts," Respondent denies that the following are the entirety of the salient facts; any portion of the following subsections not addressed are denied and, by acknowledging the attaching of exhibits, Respondent does not admit to relevance, authenticity, or contents:

a. Admitted;

- b. Admitted;
- c. Admitted;
- d. Admitted;
- e. Denied as phrased.
 - i. Admitted that Respondent wrote Exhibit G; the remainder is denied as phrased.
 - ii. Admitted that Respondent wrote Exhibit H; the remainder is denied as phrased.
 - iii. Admitted that Respondent wrote Exhibit I and that Exhibit J is a transcript (Respondent denies that the transcript is accurate); the remainder is denied as phrased.
 - iv. Admitted that Respondent wrote Exhibit K; the remainder is denied as phrased.
 - v. Admitted that Respondent wrote Exhibit L; the remainder is denied as phrased.
- f. Admitted that Exhibit E is a lawsuit filed against Respondent; otherwise, denied as phrased.
 - i. Admitted that Respondent made YouTube videos; Respondent acknowledges that Exhibit M appears to be a transcript of one video but cannot admit, at this time, the accuracy of the

transcription. The Bar’s summary and allegations are otherwise denied as phrased.

- ii. Admitted that Respondent wrote Exhibits N, O, P, Q, the cited portions of C, and R; the remainder of the allegations and footnote is denied as phrased.
- iii. Admitted that Respondent wrote Exhibit S; the remainder of “f” is denied as phrased.
- iv. Admitted that Respondent wrote Exhibit T; the remainder of “g” is denied as phrased.
- v. Admitted that Respondent wrote Exhibit U; the remainder of “h” is denied as phrased.
- vi. Admitted that Respondent wrote Exhibit V; the remainder of “i” is denied as phrased.
- vii. Admitted that Respondent wrote the cited portion of Exhibit C; the remainder of “j” is denied as phrased.

12. Admitted.

13. Admitted that Respondent wrote this email.

14. Denied as phrased.

15. Respondent disputes and denies the Bar’s entitlement to the claims sought in the WHEREFORE clause.

16. Respondent generally objects to the Exhibits as incomplete and denies, in their current state, that the Exhibits accurately reflect the statements and contexts.

17. Unless addressed herein, any other allegations are denied and strict proof is demanded thereof.

AFFIRMATIVE DEFENSES

1. Not Bar Violations – the Bar cannot establish, by clear and convincing evidence, that the quoted / cited statements violate the Rules Regulating the Florida Bar.

2. Freedom of Expression – Respondent has a state and constitutional right to freedom of expression, including but not limited to the right to express her observations and opinions (including about the quality and quantity of justice and conduct of others) as well as participate in civic and political “movements,” such as the “#MeToo Movement” and other causes advancing and protecting the rights of women and those subjected to sexual assault.

3. Freedom of Association – Respondent has a state and constitutional right to associate herself with persons and/or represent clients on a variety of issues, including but not limited to issues which advance Respondent’s beliefs as well as her civic and political interests.

4. Duty of Zealous Representation – Respondent is charged with zealously representing and defending her clients (including, her *pro se* representation).

5. Absence of Aggravating Factors – Respondent is not guilty of any of the aggravating factors which the referee is charged to consider and address.

6. Presence of Mitigating Factors – Respondent meets and is entitled to the benefit of all of the mitigating factors which the referee is charged to consider and address.

7. Conditions Precedent – The Bar has not complied with condition precedents prior to filing a Petition for Emergency Suspension and has not raised a claim which establishes grounds for “emergency” suspension, as evidenced, at least in part, by the absence of any lawyer being placed on emergency suspension in Florida purely based on social media posts, a form of pure speech which does not threaten great public harm.

8. Injury – any injury arising from or relating to the alleged acts or omissions are “little to no injury” based upon the definition in *Florida’s Standards for Imposing Lawyer Sanctions* (updated May 2015)(“Standards for Sanction”).

9. Mental State – Respondent denies that she had an adverse mental state as defined in the Standards for Sanctions; in addition and in the alternative, Respondent avers that, at most, she was negligent and/or her actions should be

excused and/or be addressed in a non-disciplinary method, including but not limited to mental health and therapy services.

10. Non-Emergent Nature of Allegations – Respondent is entitled to dissolution and/or vacating of the emergency suspension because the allegations do not warrant an emergency suspension.

11. Right to Supplement Affirmative Defenses – Respondent retains the right to amend, supplement, and add to these Affirmative Defenses.

Dated: March 18, 2019.

McDonald Hopkins LLC
Counsel for Respondent, Ashley Ann Krapacs

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 18, 2019, a true and correct copy of the foregoing served to the Clerk of Court and to all counsel of record via Florida e-Portal service as well as by email and to:

Randi Klayman Lazarus, Esq., Bar Counsel, The Florida Bar, Lakeview Plaza II, 1300 Concord Terrace, Suite 130, Sunrise, Florida 33323, (rlazarus@floridabar.org, mcasco@floridabar.org); and

Adria Quintela, Esq., Staff Counsel, The Florida Bar, 651 E. Jefferson Street, Tallahassee, Florida 32399 (aquintel@flabar.org).

By: Christopher B. Hopkin
Christopher B. Hopkins, Esq.