

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

DARYLAINE G. HERNANDEZ,

Respondent.

Supreme Court Case
No. SC-

The Florida Bar File
No. 2019-30,051(9C)

CONDITIONAL GUILTY PLEA FOR CONSENT JUDGMENT

COMES NOW, the undersigned respondent, Darylaine G. Hernandez, and files this Conditional Guilty Plea pursuant to Rule 3-7.9 of the Rules Regulating The Florida Bar.

1. Respondent is, and at all times mentioned herein was, a member of The Florida Bar, subject to the jurisdiction of the Supreme Court of Florida.
2. Respondent is currently the subject of a Florida Bar disciplinary matter which has been assigned The Florida Bar File No. 2019-30,051(9C).
3. As to The Florida Bar File No. 2019-30,051(9C), there has been a finding of probable cause by the grievance committee.
4. Respondent is acting freely and voluntarily in this matter, and tenders this plea without fear or threat of coercion. Respondent is not represented by counsel in this matter.

5. The disciplinary measures to be imposed upon respondent are as follows:

A. Public reprimand to be administered by publication in the Southern Reporter;

B. Payment of the bar's disciplinary costs.

6. The following allegations provide the basis for respondent's guilty plea to be imposed in this matter:

A. Respondent represented an injured party in a personal injury matter.

B. The client was treated by two medical providers, Sanctuary Surgical & Anesthesia and Underwood Surgery Center.

C. The client and her prior legal counsel signed a Letter of Protection (LOP) with each of the medical providers.

D. Complainant's company later acquired the client's outstanding medical bills from Sanctuary Surgical & Anesthesia and Underwood Surgery Center and sent notice to the client's former counsel and to respondent, upon learning of the change in legal counsel.

E. Respondent did not sign a LOP with the health care providers, but respondent knew or should have known that her client and her prior

attorney had signed LOPs with the medical providers and that complainant's firm was claiming a portion of the settlement proceeds.

F. The client's matter settled at mediation, and following the client's expressed wishes, respondent disbursed the settlement proceeds from trust without paying complainant's company.

7. The following Rules Regulating The Florida Bar provide the basis for the discipline to be imposed in this matter: 3-4.3 [Misconduct and Minor Misconduct]; 4-8.4(d) [Misconduct]; 5-1.1(e) [Trust Accounts - Notice of Receipt of Trust Funds; Delivery; Accounting]; and, 5-1.1(f) [Trust Accounts - Disputed Ownership of Trust Funds].

8. In mitigation, respondent has no prior disciplinary history [Florida Standards for Imposing Lawyer Sanctions 9.32(a)]; she did not display a dishonest or selfish motive [9.32(b)]; respondent was cooperative and made full and free disclosure to the bar [9.32(e)]; she has a good reputation in the legal community [9.32(g)]; and, she has expressed remorse [9.32(l)]. In aggravation, respondent has substantial experience in the practice of law, admitted in 2004 [9.22(i)].

9. The Florida Bar has approved this proposed plea in the manner required by Rule 3-7.9.

10. If this plea is not finally approved by the Board of Governors of The Florida Bar and the Supreme Court of Florida, then it shall be of no effect and may

not be used by the parties in any way.

11. If this plea is approved, then respondent agrees to pay all reasonable costs associated with this case pursuant to Rule 3-7.6(q) in the amount of **\$1,653.50**. These costs are due within 30 days of the Court order. Respondent agrees that if the costs are not paid within 30 days of this Court's order becoming final, respondent shall pay interest on any unpaid costs at the statutory rate. Respondent further agrees not to attempt to discharge the obligation for payment of the bar's costs in any future proceedings, including but not limited to, a petition for bankruptcy. Respondent shall be deemed delinquent and ineligible to practice law pursuant to Rule 1-3.6 if the cost judgment is not satisfied within 30 days of the final Court order, unless deferred by the Board of Governors of The Florida Bar.

12. Respondent acknowledges the obligation to pay the costs of this proceeding and that payment is evidence of strict compliance with the conditions of any disciplinary order or agreement, and is also evidence of good faith and fiscal responsibility. Respondent understands that failure to pay the costs of this proceeding will reflect adversely on any other bar disciplinary matter in which respondent is involved.

13. This Conditional Guilty Plea for Consent Judgment fully complies with all requirements of the Rules Regulating The Florida Bar.

Dated this 27th day of August, 2019.



DARYLAINE G. HERNANDEZ

Respondent

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Dated this 27th day of August, 2019.



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