

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Petitioner,

v.

A. MARIE DELAPENA,

Respondent.

Supreme Court Case No.
SC

The Florida Bar File Nos.
2026-30,252(9A)(CES),
2026-30,108(9A), and
2025-30,513(9A)

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PETITION FOR EMERGENCY SUSPENSION

This petition of The Florida Bar (the bar) seeks emergency relief and requires the immediate attention of this Court under R. Regulating Fla. Bar 3-5.2. The bar seeks the emergency suspension of A. Marie Delapena, Attorney No. 1017765, from the practice of law in Florida based on facts that establish clearly and convincingly that A. Marie Delapena appears to be causing great public harm by misappropriating client funds as set forth in the affidavit of the bar's auditor and Certified Public Accountant Matthew D. Herdeker attached as Exhibit "A." The bar states as follows:

1. The bar's Executive Director authorized filing this Petition for Emergency Suspension.
2. A. Marie Delapena (respondent) is and, at all times relevant to this matter, was a member of The Florida Bar subject to the jurisdiction and

disciplinary rules of the Supreme Court of Florida.

3. Respondent is already suspended from the practice of law in Supreme Court Case Number SC2024-1812 dated July 9, 2025, pursuant to R. Regulating Fla. Bar 3-7.2, following a jury finding respondent guilty of 15 felony counts of Wire Fraud and 22 felony counts of Bank Fraud on June 20, 2025. However, respondent's current suspension has not strictly prohibited respondent's access to her trust account.

4. Respondent is currently the subject of bar disciplinary matters which have been assigned The Florida Bar File Nos. 2026-30,108(9A) and 2025-30,513(9A).

5. The bar's investigation of this matter indicates that respondent misappropriated client funds and made misrepresentations to the underlying tribunal, opposing counsel, her client, and the bar. Further, respondent is not in substantial compliance with the Rules Regulating Trust Accounts.

6. In three separate matters, respondent misappropriated client funds and used them for her own benefit. The funds were proceeds following the sale of her clients' marital properties that respondent was holding in her trust account.

The J.G.R. Proceeds

7. Respondent represented client “J.G.R.” in a dissolution of marriage case filed on January 11, 2023.

8. On or about May 17, 2023, J.G.R. and her spouse sold the marital home.

9. On May 19, 2023, the title company wired the proceeds of \$113,637.24 into respondent’s TD Bank trust account.

10. The proceeds were then depleted by multiple transfers to respondent’s operating accounts at TD Bank.

11. Respondent was the only signatory on the TD Bank trust account and the TD Bank operating accounts.

12. From the operating accounts, the J.G.R. proceeds were disbursed to recipients including a PayPal account in respondent’s name, Amex, Apple Cash, payroll, the IRS, Bluevine Capital, and OnDeck Capital. Some of the funds were also disbursed to the law firm Godbold, Downing, Bill & Rentz, P.A.

13. As of July 24, 2023, the balance in respondent’s trust account was only \$33.74.

14. Respondent then used a source of funds unrelated to the J.G.R. matter to pay the proceeds to J.G.R. and her spouse.

The J.R. Proceeds

15. Respondent represented client “J.R.” in a dissolution of marriage case filed on October 14, 2021. J.R.’s wife was “T.R.”

16. On or around December 29, 2023, J.R. and his spouse T.R. sold the marital home.

17. On December 29, 2023, the title company wired the proceeds of \$112,251.11 into respondent’s TD Bank trust account.

18. Beginning on the same day the wire was received, the proceeds were then depleted by multiple transfers to respondent’s operating account at TD Bank.

19. From the operating account, the J.R. proceeds were disbursed to recipients including a Zelle account in respondent’s name, a PayPal account in respondent’s name, Amex, Apple Cash, payroll, the IRS, and to a client unrelated to the J.R. matter. Some of the funds were also disbursed to the law firm Godbold, Downing, Bill & Rentz, P.A.

20. As of February 8, 2024, the balance in respondent’s trust account was only \$124.85.

21. On October 5, 2024, respondent filed a Joint Pre-Trial Statement on behalf of J.R. Respondent misrepresented that she currently held \$92,251.11 in trust. On October 5, 2024, the balance in respondent’s

trust account was only \$29.85.

22. On May 22, 2025, the court entered a Final Judgment of Dissolution of Marriage in the J.R. case. The order stated that respondent held \$87,251.11 as net proceeds from the sale of the marital home.

23. The court's order directed respondent to disburse \$45,423.27 of those proceeds to T.R. and \$41,827.84 to J.R. within seven business days from the date of the order. The balance in respondent's trust account on May 22, 2025, was only \$26.21.

24. On July 8, 2025, T.R.'s attorney, Kay-Ann P. Waite, filed a Motion for Order to Show Cause and a Motion for Attorney's Fees and Costs, alleging that respondent had not paid T.R. pursuant to the May 22, 2025 Final Judgment despite repeated requests for payment.

25. Included in the Motion for Attorney's Fees and Costs were several emails dated May 16, 2025 through June 22, 2025, from respondent and her office manager in which they provided Ms. Waite's office with various excuses for not disbursing the funds. They also repeatedly inquired as to whether the funds should be sent by cashier's check or by wire. The balance in respondent's trust account from May 16, 2025 through June 22, 2025, was never more than \$26.27.

26. Under the threat of a writ of bodily attachment for failure to

remit funds, on August 13, 2025, respondent finally used funds unrelated to the J.R. matter to purchase an official check in the amount of \$45,423.27 payable to the “Law Office of Kayann Waite.”

27. On August 20, 2025, the bar asked respondent to provide an explanation for the July 8, 2025 Motion for Order to Show Cause in the J.R. matter.

28. On August 25, 2025, respondent emailed the bar, explaining that she had been unable to disburse T.R.’s proceeds because Ms. Waite’s office provided incorrect wiring instructions, it was difficult for her to travel to a bank branch to obtain a certified check, and she had a stroke.

29. Respondent did not disclose that the balance in her trust account was only roughly \$26.00 from May 22, 2025 through August 11, 2025, nor did she disclose that she replenished the shortage in her trust account on August 12, 2025, with funds unrelated to the J.R. matter.

The G.H.J. Proceeds

30. Respondent represented client G.H.J. in a dissolution of marriage case filed on November 12, 2022.

31. On or around November 12, 2024, G.H.J. and his spouse sold the marital home.

32. On November 13, 2024, the title company wired the proceeds

of \$98,338.36 into respondent's TD Bank trust account.

33. Beginning on the same day the wire was received, the proceeds were then depleted by multiple transfers to respondent's other accounts at TD Bank.

34. From respondent's operating account, the G.H.J. proceeds were disbursed to recipients including a Zelle account in respondent's name, a PayPal account in respondent's name, a Wells Fargo account in respondent's name, Amex, and payroll.

35. The bar's auditor identified only one payment from respondent's operating account for the benefit of G.H.J.: a payment of \$8,861.00 to a brokerage account in his name on November 27, 2024.

36. As of January 17, 2025, the balance in respondent's trust account was only \$26.21.

37. On August 30, 2025, G.H.J. emailed the bar to report that respondent held \$86,606.00 of his family's money in her trust account and refused to release it despite repeated requests over several months.

38. With his email, G.H.J. included a copy of a March 2025 bank statement for respondent's TD Bank trust account, which he explained respondent provided to him. The bank statement purported to show a balance of \$137,358.50 as of March 31, 2025. The actual balance of

respondent's trust account on March 31, 2025, was only \$26.21.

General Allegations

39. On August 28, 2025, the bar asked respondent to provide monthly bank statements for her trust account for the period December 1, 2023, through August 13, 2025. Respondent failed to provide the bank statements.

40. Respondent improperly certified that she was in compliance with the trust account and property safekeeping rules when she paid her annual membership fees in June 2023, May 2024, and June 2025.

41. Respondent's conduct above violated the following Rules Regulating The Florida Bar:

A. 4-1.15 Safekeeping Property; Compliance with Trust Accounting Rules. A lawyer shall comply with The Florida Bar Rules Regulating Trust Accounts.

B. 4-8.4(c) Misconduct. A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.

C. 4-8.4(g) Misconduct. A lawyer shall not fail to respond, in writing, to any official inquiry by bar counsel or a disciplinary agency, as defined elsewhere in these rules, when bar counsel or the agency is conducting an investigation into the lawyer's conduct. A written

response shall be made: (1) within 15 days of the date of the initial written investigative inquiry by bar counsel, grievance committee, or board of governors; (2) within 10 days of the date of any follow-up written investigative inquiries by bar counsel, grievance committee, or board of governors.

D. 5-1.1(a)(1) Trust Accounts; Nature of Money or Property Entrusted to Attorney; Trust Account Required; Location of Trust Account; Commingling Prohibited. A lawyer must hold in trust, separate from the lawyer's own property, funds and property of clients or third persons that are in a lawyer's possession in connection with a representation. All funds, including advances for fees, costs, and expenses, must be kept in a separate federally insured bank, credit union, or savings and loan association account maintained in the state where the lawyer's office is situated or elsewhere with the consent of the client or third person and clearly labeled and designated as a trust account except: (A) A lawyer may maintain funds belonging to the lawyer in the lawyer's trust account in an amount no more than is reasonably sufficient to pay bank charges relating to the trust account; and (B) A lawyer may deposit the lawyer's own funds into trust to replenish a shortage in the lawyer's

trust account. Any deposits by the lawyer to cover trust account shortages must be no more than the amount of the trust account shortage, but may be less than the amount of the shortage. The lawyer must notify the bar's lawyer regulation department immediately of the shortage in the lawyer's trust account, the cause of the shortage, and the amount of the replenishment of the trust account by the lawyer.

E. 5-1.1(b) Trust Accounts; Application of Trust Funds or Property to Specific Purpose. Money or other property entrusted to a lawyer for a specific purpose, including advances for fees, costs, and expenses, is held in trust and must be applied only to that purpose. Money and other property of clients coming into the hands of a lawyer are not subject to counterclaim or setoff for attorney's fees, and a refusal to account for and deliver over the property on demand is conversion.

F. 5-1.1(e) Trust Accounts; Notice of Receipt of Trust Funds; Delivery; Accounting. On receiving funds or other property in which a client or third person has an interest, a lawyer must promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer must

promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, on request by the client or third person, must promptly render a full accounting regarding the property.

G. 5-1.2(b)(8) Trust Accounting Records and Procedures; Minimum Trust Accounting Records. Records may be maintained in their original format or stored in digital media, as long as the copies include all data contained in the original documents and may be produced when required. The following minimum trust accounting records must be maintained: all bank or savings and loan association statements for all trust accounts.

The above facts show that respondent has caused, or is likely to cause, immediate and serious harm to clients or the public and that immediate action must be taken for the protection of respondent's clients and the public. Therefore, under R. Regulating Fla. Bar 3-5.2, The Florida Bar respectfully requests this Court to issue an order suspending respondent from the practice of law until further order of this Court and ordering the respondent to:

A. Immediately:

- i. accept no new clients from the date of this Court's order of emergency suspension;
- ii. initiate no litigation on behalf of clients from the date of this Court's order of emergency suspension;
- iii. provide a copy of this Court's order of emergency suspension to all courts, tribunals, or adjudicative agencies before which respondent is counsel of record; all state, federal, or administrative bars of which respondent is a member; all clients; all co-counsel; and all opposing counsel, as required by Rule 3-5.1(h);
- iv. cease withdrawing or disbursing any money from any trust account or other financial institution account holding funds of clients or third parties in respondent's possession in connection with legal representation or funds of third parties in connection with respondent's service as a fiduciary including, but not limited to, personal representative, guardian, or trustee, until further order of this Court, a judicial referee appointed by this Court, or by order of the circuit court in an inventory attorney proceeding instituted under Rule 1-3.8;

- v. not transfer any ownership of any real or personal property purchased in whole or in part with funds of clients or third parties in connection with legal representation or with funds of third parties in connection with respondent's service as a fiduciary including, but not limited to, personal representative, guardian, or trustee, without approval of this Court, a judicial referee appointed by this Court, or by order of the circuit court in an inventory attorney proceeding instituted under Rule 1-3.8;
- vi. deposit any fees or other sums received in connection with the practice of law or employment as a personal representative, guardian, or trustee, by the respondent on or after the date of this Court's order of emergency suspension into a specified trust account from which withdrawal may only be made by order of this Court, a judicial referee appointed by this Court, or by order of the circuit court in an inventory attorney proceeding instituted under Rule 1-3.8;
- vii. provide a copy of this Court's order of emergency suspension to all banks and financial institutions where the respondent maintains any account holding funds of clients or third parties in respondent's possession in connection with representation or

funds of third parties in connection with respondent's service as a fiduciary including, but not limited to, personal representative, guardian, or trustee;

- viii. comply with, and provide all documents and testimony responsive to, a subpoena from the bar for trust account records and any related documents necessary for the bar to conduct a trust account audit;
- ix. authorize any referee appointed in these proceedings to determine entitlement to funds in any trust accounts frozen as a result of an order entered in this matter; and
- x. turn over to any successor the complete financial records of any estate, guardianship, or trust in which respondent served as a fiduciary on the successor's appointment;
- xi. cease holding out as a Florida Bar member or lawyer and eliminate all indicia of respondent's status as a Florida Bar member or lawyer on websites, social media, telephone listings, stationery, checks, business cards, office signs, email address, and any other indicia of respondent's status as a Florida Bar member or lawyer; and

B. Within 30 days from the date of this Court's order of emergency suspension:

- i. cease all practice of law in Florida;
- ii. withdraw from representation of all clients;
- iii. wind down all pending matters;
- iv. cease acting as a fiduciary, including, but not limited to, personal representative for any estate, guardian for any ward, and trustee for any trust;
- v. provide Staff Counsel with an affidavit listing all of the following that respondent notified of this Court's order of emergency suspension: all courts, tribunals, or adjudicative agencies of which respondent is a member; all state, federal, or administrative bars of which respondent is a member; all clients; all co-counsel; and all opposing counsel.
- vi. provide bar counsel in this case with an affidavit listing each bank or financial institution respondent provided with a copy of this Court's order of emergency suspension; and
- vii. notify bar counsel in this case of the receipt and location of any fees or other sums received in connection with the practice of law or in connection with respondent's service as a fiduciary,

including, but not limited to, personal representative, guardian, or trustee, received by respondent after issuance of this Court's order of emergency suspension.

42. Appoint a referee to preside over further proceedings and authorize that referee to determine entitlement to funds in any trust account(s) frozen as a result of an order entered in this matter.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that this Petition for Emergency Suspension has been filed via the Florida Courts E-Filing Portal with the Honorable John A. Tomasino, Clerk of the Supreme Court of Florida, with a copy provided via the portal to A. Marie Delapena, Respondent, at delapenalawfirm@gmail.com; and that a copy has been provided by United States Mail via certified mail No. 9589 0710 5270 0677 1186 47, return receipt requested to A. Marie Delapena, whose record bar address is P.O. Box 135184, Clermont, FL 34713-5184; and via email to Robert Camacho, Bar Counsel, rcamacho@floridabar.org, on this 29th day of January, 2026.



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NOTICE OF DESIGNATION OF PRIMARY EMAIL ADDRESS

Bar counsel in this matter is Robert Camacho, Bar Counsel, whose address, telephone number and primary email address are The Florida Bar, Orlando Branch Office, The Gateway Center, 1000 Legion Place, Suite 1625, Orlando, FL 32801, (407) 425-5424, and rcamacho@floridabar.org. Respondent need not address pleadings, correspondence, etc. in this matter to anyone other than bar counsel and to Patricia Ann Toro Savitz, Staff Counsel, The Florida Bar, 651 E. Jefferson Street, Tallahassee, FL 32399-2300, psavitz@floridabar.org.

NOTICE OF MANDATORY ELECTRONIC FILING

All parties must file all pleadings, motions, and notices in this matter electronically, with a copy to the referee, through the Florida Courts E-Filing Portal, www.myflcourtaaccess.com, under Rule Regulating The Florida Bar 3-7.6(h)(5)(A) and (B).

MANDATORY ANSWER NOTICE

RULE 3-5.2(a), OF THE RULES REGULATING THE FLORIDA BAR, PROVIDES THAT A RESPONDENT MUST ANSWER A COMPLAINT.