

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,  
Complainant,

v.

DAVID H. STOLLER,  
Respondent.

Supreme Court Case  
No. SC2024-1645

The Florida Bar File  
No. 2023-30,733(5A)

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**REPORT OF REFEREE ACCEPTING CONSENT JUDGMENT**

I. **SUMMARY OF PROCEEDINGS**

The undersigned was appointed as referee to conduct disciplinary proceedings under R. Regulating Fla. Bar 3-7.6 to preside over the proceedings in this case.

On November 20, 2024, The Florida Bar (the bar) filed its complaint against respondent. The Supreme Court of Florida entered an order on November 20, 2024, designating the Chief Judge of the Nineteenth Judicial Circuit of Florida to appoint a referee in this case. The Honorable Charles A. Schwab appointed the undersigned to serve as the referee.

Throughout these proceedings, the bar was represented by Ashley Taylor Morrison. Respondent was represented by Warren William Lindsey.

All of the pleadings, responses, exhibits received in evidence, and

this report constitute the record in this case and are filed with the Supreme Court of Florida.

## II. FINDINGS OF FACT

A. Jurisdictional Statement. Respondent is, and at all times mentioned during these proceedings was, a member of The Florida Bar, subject to the jurisdiction and Rules Regulating The Florida Bar adopted by the Supreme Court of Florida.

### B. Narrative Summary of Case.

1. While representing clients in immigration matters, respondent engaged in a pattern of lack of diligence, neglect, and failure to follow court orders and local rules, resulting in a case dismissal and multiple orders to show cause being issued to respondent.

2. On June 16, 2023, The Honorable Roy B. Dalton Jr., United States District Court Judge, entered an order in Dardan Shoshi v. Secretary, Department of Homeland Security; and Director, U.S. Citizenship and Immigration Services, Case No. 6:23-cv-156-RBD-EJK, United States District Court, Middle District of Florida,

Orlando Division, dismissing the case without prejudice and referring respondent to The Florida Bar.

3. While representing the plaintiff in Case No. 6:23-cv-156-RBD-EJK, respondent repeatedly failed to follow the court's orders and required procedures.

4. On February 2, 2023, and February 14, 2023, in Case No. 6:23cv-156-RBD-EJK, the court struck respondent's Certificate of Interested Persons for failing to use the required form.

5. In Case No. 6:23-cv-156-RBD-EJK, respondent also failed to file an opposition to defendants' motion to dismiss filed on May 10, 2023, even though respondent indicated in conferral that he opposed the motion.

6. On May 18, 2023, in Case No. 6:23-cv-156-RBD-EJK, the court issued an order notifying the parties that they had missed a deadline to file the Case Management Report and further ordering the parties to file a joint Case Management Report no later than June 2, 2023. Thereafter, respondent missed the extended deadline, which required the defendants to unilaterally file the Case Management Report.

7. Judge Dalton's order in Case No. 6:23-cv-156-RBD-EJK referenced several additional cases in which respondent engaged in a pattern of neglect and/or had orders to show cause entered against him, including: 1) Tincel v. Secretary, Department of Homeland Security, et al., Case No. 6:22-cv-01883-WWB-DCI; 2) Bah v. Secretary, Department of Homeland Security, et al., Case No. 6:22-cv-01470-PGB-EJK; 3) Santos v. Secretary, Department of Homeland Security, et al., Case No. 6:22-cv-01455-PGB-EJK; 4) Calderon Martinez, et al. v. Secretary, Department of Homeland Security, et al., Case No. 6:23-cv-00164-RBD-RMN; and 5) Kamara v. Acting Secretary, Department of Homeland Security, et al., Case No. 6:19-cv-02447-CEM-EJK.

8. In addition to the cases referenced in Judge Dalton's order, orders to show cause were issued to the parties in Reddish v. Secretary, Department of Homeland Security, et al., Case No. 6:23-cv-00446-PGB-RMN, and Kamel, et al. v. Secretary, Department of Homeland Security, et al., Case No. 6:23-cv-00379-PGB-LHP, due to the failure of respondent and opposing counsel to file the Case Management Report within the time required by the local rules.

9. Furthermore, in Martinez Gomez v. Acting Director, U.S. Citizenship and Immigration Services, et al., Case No. 6:21-cv-01129-CEM-EJK, plaintiff was ordered to show cause on or before March 29, 2023, as to why the case should not be dismissed as moot. In his response to the court's order to show cause, respondent agreed that the case should be dismissed as moot.

### III. RECOMMENDATIONS AS TO GUILT

Pursuant to the consent judgment, I recommend that respondent be found guilty of violating the following Rules Regulating The Florida Bar: 4-1.1 (Competence); 4-1.3 (Diligence); 4-3.2 (Expediting Litigation); 4-3.4(c) (Fairness to Opposing Party and Counsel); and 4-8.4(d) (Misconduct).

### IV. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

Before recommending discipline under R. Regulating Fla. Bar 3-7.6(m)(2)(D), I considered the following personal history of respondent:

Age: 54

Date admitted to the Bar: October 11, 1996

Prior Discipline: None

### V. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Florida Standards for Imposing Lawyer

Sanctions before recommending discipline:

4.4 Lack of Diligence

(c) Public reprimand is appropriate when a lawyer is negligent, does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.

6.2 Abuse of the Legal Process

(c) Public reprimand is appropriate when a lawyer negligently fails to comply with a court order or rule and causes injury or potential injury to a client or other party or causes interference or potential interference with a legal proceeding.

3.2(b) Aggravating Factors:

- (3) a pattern of misconduct;
- (9) substantial experience in the practice of law (admitted in 1996).

3.3(b) Mitigating Factors:

- (1) absence of a prior disciplinary record;
- (2) absence of a dishonest or selfish motive;
- (5) full and free disclosure to the bar or cooperative attitude toward the proceedings;
- (7) character or reputation; and

(12) remorse.

## VI. CASE LAW

I considered the following case law before recommending discipline:

The Florida Bar v. Ovincy, 388 So. 3d 738 (Fla. June 13, 2024), pursuant to a consent judgment, Ovincy received a public reprimand and was required to complete Ethics School and Professionalism Workshop. Ovincy neglected two separate immigration matters. In the first matter, the presiding immigration court judge issued a written decision ordering the removal of the client approximately fourteen months after the client's hearing. When Ovincy received a copy of the removal order, he failed to forward a copy of the decision to the client or timely notify the client of the order prior to the 30-day appeal period expiring. Subsequently, the client hired new counsel, and his motion for reconsideration and waiver of the order of removal was granted. In the second matter, after initially being responsive, Ovincy later did not respond to his client's requests for updates about her court case and the pending trial date. Due to Ovincy's inaction, the client hired new counsel to represent her in her immigration case. Ovincy had no prior discipline, and he presented additional mitigation.

The Florida Bar v. Rogers, 376 So. 3d 5 (Fla. Dec. 14, 2023),

pursuant to a consent judgment, Rogers received a public reprimand and was required to attend the Professionalism Workshop. Rogers represented a defendant regarding an appeal of the denial of the defendant's motion to suppress. Rogers failed to respond to several appellate court orders and failed to appear at the first order to show cause hearing due to health issues. He was ordered to contact and meet with the Thirteenth Judicial Circuit Local Professionalism Panel and to comply with all outstanding orders. Although Rogers believed he had complied with the previous orders, changes in the filing procedures made his attempts at compliance unsuccessful. Further, although he attempted to contact the Professionalism Panel by emailing the Chairs of the panel, he did so too late. By the time these contacts and requests had been made, the Professionalism Panel was unable to provide the Panel's informal services, due to the fact that the appellate court had entered an order noting Roger's delays and failures to comply and had referred the matter to The Florida Bar. In mitigation, Rogers had no prior disciplinary history, had no dishonest or selfish motive, suffered from personal or emotional problems, fully cooperated with the bar, was inexperienced in the appellate practice of law and was unaware of the changes in the filing procedures despite his

attempted, but unsuccessful, filing, enjoyed a good character or reputation, underwent interim rehabilitation, and was remorseful.

The Florida Bar v. Wenzel, 373 So. 3d 294 (Fla. Oct. 26, 2023), pursuant to a consent judgment, Wenzel received a public reprimand, a DDCS review, and attendance at the Professionalism Workshop. This matter was a referral from the Seventeenth Judicial Circuit's Professional Panel after receipt of a referral from a Broward County Circuit Judge. Wenzel was the managing attorney of a large personal injury firm's PIP department. In four separate cases, he did not comply with court orders to mediate within 105 days. The presiding judge issued show cause orders. In one case, a settlement was reached before the hearing on the show cause order. In the second case, the mediation was held the day before the hearing on the show cause order. In the third matter, the case was voluntarily dismissed, and Wenzel did not appear for the initial show cause hearing. When a second show cause hearing was held, Wenzel claimed excusable neglect, extenuating circumstances and that the court lacked jurisdiction to sanction him due to the voluntary dismissal. In the fourth case, Wenzel did not appear for mediation and a show cause order was issued. Wenzel had no prior discipline, and he presented additional

mitigation.

The Florida Bar v. Janousek, 375 So. 3d 211 (Fla. Nov. 30, 2023), pursuant to a consent judgment, Janousek was publicly reprimanded and required to participate with FLA, Inc. In one matter, Janousek, court appointed counsel, failed to communicate with his client resulting in the court ultimately appointing new counsel in the matter. In two other matters, Janousek was relieved of further responsibility in the matters when he failed to file pleadings as directed by the courts. He had no prior discipline.

The Florida Bar v. Smith, 2020 WL 6611054 (Fla. Nov. 12, 2020), pursuant to a consent judgment, the Court publicly reprimanded Smith and ordered completion of an office procedures and record-keeping analysis by and under the direction of The Florida Bar's Diversion/Discipline Consultation Service (DDCS). Smith failed to handle his clients' appeals competently and diligently resulting in the Fifth District Court of Appeal issuing orders sanctioning him. The court orders referenced a number of other Fifth District Court of Appeal cases where Smith was counsel of record and had missed deadlines imposed by the Florida Rules of Appellate Procedure and failed to respond to the court's orders to show cause. Smith had no prior discipline.

VII. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE IMPOSED

I recommend that respondent be found guilty of misconduct justifying disciplinary measures and be disciplined by:

A. Public reprimand, by appearance before the referee, within 30 days of the Court's approval of the consent judgment.

B. Respondent must attend Ethics School, in person where scheduled by the bar within six months of the order approving this consent judgment, and pay associated fees totaling \$750.00 before attendance.

C. Respondent must undergo an office procedures and record-keeping analysis by The Florida Bar's Diversion/Discipline Consultation Service. Respondent must contact Diversion/Discipline Consultation Service staff within 30 days from the date of the Supreme Court of Florida's order approving this consent judgment to schedule a review of respondent's law office procedures, equipment, staffing, business practices and trust accounting procedures and must participate in as many reviews and interviews the Diversion/Discipline Consultation Service requires. Respondent agrees to pay all fees of the Diversion/Discipline Consultation

Service, which are based on the size of the firm, totaling \$2,000.00.

Respondent must fully comply with and implement all of the Diversion/Discipline Consultation Service recommendations at respondent's sole expense. Diversion/Discipline Consultation Service staff will conduct a final review, which may involve an additional cost to respondent. This final review will confirm compliance with, and implementation of, the recommendations of Diversion/Discipline Consultation Service staff. The Diversion/Discipline Consultation Service staff will provide the Lawyer Regulation Department of The Florida Bar with status reports on its analysis and respondent's implementation of its recommendations.

D. Completion of episodes 1-7 of the Center for Professionalism's "Your Honor Series". These continuing legal education programs are in addition to the continuing legal education requirements for Florida Bar members under Chapter 6 of the Rules Regulating The Florida Bar. Should these courses no longer be offered, respondent agrees to take equivalent courses approved by The Florida Bar prior to registering for the courses. Within six months from the date of the Supreme Court of Florida's order approving this

consent judgment, respondent will submit an affidavit of completion of the continuing legal education programs to the Lawyer Regulation, Headquarters, 651 E. Jefferson Street, Tallahassee, Florida 32399.

E. Payment of the bar's disciplinary costs.

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

I find the following costs were reasonably incurred by The Florida

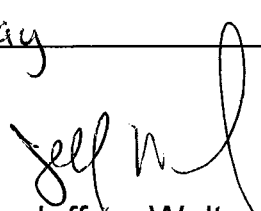
Bar:

Administrative Fee	\$1,250.00
Investigative Costs	\$971.88
Court Reporters' Fees	\$130.00

TOTAL:	\$2,351.88
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I recommend that the above costs be charged to respondent and that interest accrue at the statutory rate. If respondent does not satisfy the cost judgment within 30 days of the judgment becoming final, respondent will be delinquent and ineligible to practice law under R. Regulating Fla. Bar 1-3.6, unless otherwise deferred by the Board of Governors of The Florida Bar.

Dated this 7th day of May, 2025.

  
Hon. Jeffrey Walton Hendriks, Referee

Filed with the Supreme Court of Florida via the Florida Courts E-Filing Portal with copies served via the Portal to:

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