

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

TODD J. HERMAN,

Respondent.

Supreme Court Case
No. 2025-0228

The Florida Bar File Nos.
2023-50,232(17E)
2023-50,323(17E)
2023-50,384(17E)
2023-50,456(17E)

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REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS

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

On February 17, 2025, The Florida Bar (the bar) filed its complaint against respondent in these proceedings. The Supreme Court of Florida entered an order on February 19, 2025 designating the Chief Judge of the Fifteenth Judicial Circuit of Florida to appoint a referee in this case. On February 20, 2025, The Honorable Glenn D. Kelley, Chief Judge of the Fifteenth Judicial Circuit appointed the undersigned to serve as the referee.

The bar sent a copy of the formal complaint by certified mail to Respondent to his record bar mailing address 1 E. Broward Blvd., Ste. 700, Fort Lauderdale, FL 33301-1876. The bar also sent respondent a copy of

the formal complaint by certified mail to 2450 SW 81st Avenue, Bldg. 6, Apt. 408, Davie, FL 33324. On February 21, 2025, respondent signed the certified mail receipt which signified that he received delivery of the formal complaint that was sent to his attention at 2450 SW 81st Avenue, Bldg. 6, Apt. 408, Davie, FL 33324. Respondent failed to file an *Answer* to the bar's Complaint as mandated by R. Regulating Fla. Bar 3-7.6(h)(2).

On March 21, 2025, the bar filed a Motion for Default which was noticed for a hearing before the undersigned referee on April 23, 2025 via Zoom.¹ Respondent did not appear at the April 23, 2025, Motion for Default hearing. Bar counsel appeared at the Motion for Default hearing. On April 30, 2025, the undersigned referee issued an order granting the bar's Motion for Default.

Thereafter, the final hearing on sanctions was scheduled for June 3, 2025. In addition to filing the notice of the final hearing on sanctions in the Florida Courts E-filing Portal, the bar mailed a copy of the notice to respondent's record bar mailing address 1 E. Broward Blvd., Ste. 700, Fort Lauderdale, FL 33301-1876²; to respondent at 2450 SW 81st Avenue, Bldg.

¹ A copy of the signed certified mail receipt for the delivery of the formal complaint was attached as Exhibit 1 to the bar's Motion for Default.

² The bar informed the referee that some of the correspondence sent to respondent's record bar mailing address 1 E. Broward Blvd, Ste 700, Fort Lauderdale, FL 33301-1876 has been returned as undeliverable and correspondence sent to respondent's record email address therman@toddhermanlaw.com has also been returned as undeliverable.

6, Apt. 408, Davie, FL 33324; and the bar also posted a copy of the notice for final hearing on sanctions on the apartment door of 2450 SW 81st Avenue, Bldg. 6, Apt. 408, Davie, FL 33324 on May 29, 2025. Respondent did not appear at the June 3, 2025 sanctions hearing. Bar counsel appeared at the sanctions hearing. The following exhibits were entered into evidence during the sanctions hearing: The Florida Bar's Exhibits 1 and 3.³

Throughout these proceedings, the bar was represented by Joi L. Pearsall. Respondent has not filed any pleadings in *The Florida Bar v. Todd J. Herman*, Case No. SC 2025-0228 and respondent failed to make a single appearance during these proceedings.

All items properly filed including pleadings, recorded testimony (if transcribed), exhibits in evidence, and the report of referee constitute the record in this case and are filed with the Supreme Court of Florida.

II. FINDINGS OF FACT

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.

³ The Florida Bar's Exhibits 1-10 were filed on February 17, 2025 as part of the bar's formal complaint.

Narrative Summary Of Case. An order of default was entered in this case on April 30, 2025; thus, the following allegations in the bar's complaint were deemed admitted upon the entry of the order of default.

COUNT I

The Florida Bar File No. 2023-50,456(17E)

1. Respondent's law firm, The Law Office of Todd J. Herman, P.A., was located in Broward County, FL.
2. Respondent was hired by Jennifer McGonigal (hereinafter referred to as "McGonigal") for legal representation in a personal injury matter related to a March 15, 2017 motor vehicle accident.
3. In February 2021, McGonigal signed an *Authority to Represent* agreement with respondent's law firm, Todd J. Herman, P.A., wherein respondent was employed on a contingency basis.
4. On or about March 12, 2021, respondent filed a civil lawsuit on behalf of his client McGonigal in Miami-Dade County, FL, in the matter of *Jennifer McGonigal, Plaintiff v. Angel Lopez, Defendant*, Case No. 2021-0006084-CA-01.
5. On or about December 28, 2021, in the matter of *McGonigal v. Lopez*, for consideration of \$25,000.00, McGonigal signed a *Release* of claims against the defendant in *McGonigal v. Lopez*.

6. On or about January 7, 2022, in *McGonigal v. Lopez*, respondent signed a *Stipulation for Final Order of Dismissal*, with prejudice and thereafter, the court entered a *Final Order of Dismissal*.

7. Respondent did not transfer to McGonigal any of the settlement proceeds that were remitted to him on behalf of McGonigal in the matter of *McGonigal v. Lopez*.

8. On or about March 16, 2022, State Farm Mutual Automobile Insurance Company issued a check for \$14,300.00 pay to the order of Todd J. Herman P.A. Trust Account fbo (for the benefit of) respondent's client McGonigal in connection with the March 15, 2017, motor vehicle accident.⁴ A copy of the March 16, 2022 check is attached hereto and incorporated herein as The Florida Bar's Exhibit 2.

9. On or about March 25, 2022, the \$14,300.00 check that State Farm Insurance Company remitted to the Todd J. Herman, P.A. Trust Account for the benefit of McGonigal was endorsed and cashed.

10. Respondent did not transfer to McGonigal any of the proceeds from that the \$14,300.00 check that State Farm Insurance Company

⁴ The insured listed by State Farm Mutual Automobile Insurance Company on the \$14,300.00 check it issued to respondent's trust account for the benefit of McGonigal (The Florida Bar's Exhibit 2) is Pamela Seabrook.

remitted to the Todd J. Herman, P.A. Trust Account for the benefit of McGonigal.

11. After he received the settlement proceeds into his trust account, respondent failed to provide McGonigal with sufficient information to enable her to make informed decisions about her case and the settlement proceeds, in that respondent did not provide McGonigal with a closing statement.

12. Respondent failed to reasonably respond to McGonigal's requests for information about her case, including accounting for all the settlement proceeds he received on her behalf.

13. Respondent failed to respond to the bar's official letters of inquiry dated February 16, 2023, March 17, 2023, and April 12, 2023, concerning the bar grievance that McGonigal filed against respondent, The Florida Bar File No. 2023-50,456(17E).

14. On August 11, 2023, The Florida Bar filed a Petition for Contempt and Order to Show Cause with the Florida Supreme Court, after respondent was found by the grievance committee to be in willful non-compliance for failing to respond to official inquiries of the bar.

15. On August 11, 2023, in Case No. SC2023-1117, the Florida Supreme Court issued an order to show cause requiring respondent to respond by August 28, 2023.

16. Respondent failed to respond to the Florida Supreme Court's August 11, 2023, order to show cause.

17. On October 6, 2023, the Florida Supreme Court found respondent in contempt, and suspended him until such time as he responds to the bar's investigative inquiries and until further order of the Florida Supreme Court. A copy of the October 6, 2023 Order is attached hereto and incorporated herein as The Florida Bar's Exhibit 3.⁵

18. Respondent's conduct as described above violated the following Rules Regulating The Florida Bar:

- (a) 3-4.3 (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

⁵ Order dated October 6, 2023, *The Florida Bar v. Todd J. Herman*, Case No. SC2023-1117. Respondent's suspension became effective thirty days from the October 6, 2023 court order.

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) 4-1.4(a) (A lawyer shall (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in terminology, is required by these rules; (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished; (3) keep the client reasonably informed about the status of the matter; (4) promptly comply with reasonable requests for information; and (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows or reasonably should know that the client expects assistance not permitted by the Rules of Professional Conduct or other law.)

- (c) 4-1.4(b) (A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.)
- (d) 4-1.5(f) (As to contingent fees: (1) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by subdivision (f)(3) or by law. A contingent fee agreement must be in writing and must state the method by which the fee is to be determined, including the percentage or percentages that will accrue to the lawyer in the event of settlement, trial, or appeal. The agreement must also state the costs to be deducted from the recovery and whether those costs are to be deducted before or after the contingent fee is calculated. On conclusion of a contingent fee matter, the lawyer must provide the client with a written statement describing the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination. This written statement must include an itemization of costs, fees of each lawyer or law firm

participating in the fee, and payments to third parties to be paid from the recovery.)

- (e) 4-8.4(a) (A lawyer shall not: (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;)

COUNT II

The Florida Bar File No. 2023-50,384(17E)

19. Respondent's law firm, The Law Office of Todd J. Herman, P.A., was located in Broward County, FL.

20. Respondent was hired by Rebecca Liland (hereinafter referred to as "Liland") for legal representation in a personal injury matter in connection with two motor vehicle accidents that occurred on or about October 22, 2019.

21. On or about June 23, 2021, GEICO General Insurance Company issued check no. N602381375 for \$50,000.00 pay to the order of Todd J. Herman PA Trust Account fbo (for the benefit of) respondent's client Liland in connection with the October 22, 2019 motor vehicle accident. A copy of check no. N602381375 is attached hereto and incorporated herein as The Florida Bar's Exhibit 4.

22. On or about July 7, 2021, check no. N602381375 in the amount of \$50,000.00 was endorsed for deposit to the Todd J. Herman, P.A. Trust Account.

23. In his capacity as Liland's attorney, respondent sent correspondence to Liland's insurance provider Metropolitan Casualty Insurance Company.

24. On August 12, 2021 and December 6, 2021, respondent sent a letter to Metropolitan Casualty Insurance Company seeking to reach a settlement of Liland's insurance claim in connection with the October 22, 2019 motor vehicle accidents.

25. In his December 6, 2021, letter to Metropolitan Casualty Insurance Company, respondent acknowledged The Law Firm of Todd J. Herman, P.A. was providing legal representation for Liland and Geico Insurance Company and Wesco Insurance Company tendered \$50,000.00 and \$95,594.93, respectively, for the benefit of his client Liland in connection with the October 22, 2019, motor vehicle accidents.

26. Respondent failed to reasonably respond to Liland's request for information about her case, including accounting for all the settlement proceeds he received on her behalf related to the October 22, 2019 motor vehicle accidents.

27. After August 10, 2022, respondent failed to respond to Liland's requests for updates about the status of her case.

28. Respondent did not keep Liland reasonably informed about the status of her case.

29. Respondent did not provide Liland with any proceeds from the check no. N602381375.

30. After he received the settlement proceeds into his trust account, respondent failed to provide Liland with sufficient information to enable her to make informed decisions about her case and the settlement proceeds, in that respondent did not provide Liland with a closing statement.⁶

31. Although, respondent received settlement funds on behalf of Liland, he failed to provide Liland with a written itemized list detailing what costs, fees, and payments to third parties were made from Liland's settlement funds.

32. Respondent failed to respond to the bar's official letters of inquiry dated January 24, 2023, March 17, 2023, and April 12, 2023, concerning the bar grievance Liland filed against respondent, The Florida Bar File No. 2023-50,384(17E).

⁶ In the matter of Rebecca Liland, Plaintiff v Todd J Herman, et al Defendants, Broward County, FL Case No. CACE24001692, the court entered a final order of garnishment on November 8, 2024 and directed the financial institution that maintains respondent's trust account, the garnishee, Truist Bank to pay the sum of \$50,000.00 to Rebecca Liland and CMTL, PLLC trust account.

33. On August 11, 2023, The Florida Bar filed a Petition for Contempt and Order to Show Cause with the Florida Supreme Court, after respondent was found by the grievance committee to be in willful non-compliance for failing to respond to official inquiries of the bar.

34. On August 11, 2023, in Case No. SC2023-1117, the Florida Supreme Court issued an order to show cause requiring respondent to respond by August 28, 2023.

35. Respondent failed to respond to the Florida Supreme Court's August 11, 2023, order to show cause.

36. On October 6, 2023, the Florida Supreme Court found respondent in contempt, and suspended him until such time as he responds to the bar's investigative inquiries and until further order of the Florida Supreme Court. A copy of the October 6, 2023 Order is attached hereto and incorporated herein as The Florida Bar's Exhibit 3.

37. Respondent's conduct as described above violated the following Rules Regulating The Florida Bar:

- (a) 3-4.3 (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) 4-1.4(a)(1) (A lawyer shall (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in terminology, is required by these rules; (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished; (3) keep the client reasonably informed about the status of the matter; (4) promptly comply with reasonable requests for information).

(c) 4-1.4(b) (A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.)

(d) 4-1.5(f)(1) (As to contingent fees: (1) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by subdivision (f)(3) or by law. A contingent fee agreement must be in writing and must state the method by which the fee is to be determined, including the percentage or percentages that will accrue to the lawyer in the event of settlement, trial, or appeal. The agreement must also state the costs to be deducted from the recovery and whether those costs are to be deducted before or after the contingent fee is calculated. On conclusion of a contingent fee matter, the lawyer must provide the client with a written statement describing the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination. This written statement must include an itemization of costs, fees of each lawyer or law firm participating in the fee, and payments to third parties to be paid from the recovery.)

(e) 4-8.4(a) (A lawyer shall not: (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;)

COUNT III

The Florida Bar File No. 2023-50,323(17E)

38. Respondent's law firm, The Law Office of Todd J. Herman, P.A., was located in Broward County, FL.

39. José Daniel Fernández (hereinafter referred to as "Fernández") hired respondent's law firm for legal representation in connection with a motor vehicle accident that occurred on or about June 2, 2021.

40. Initially, an associate attorney at respondent's firm was handling Fernández's case.

41. On or about April 15, 2022, Fernández received a letter from The Law Office of Todd J. Herman P.A. advising that the associate attorney was leaving the law firm, and that Fernández could choose to remain a client of respondent's law firm or retain new counsel.

42. Thereafter, Fernández informed respondent he would continue as a client of The Law Office of Todd J. Herman P.A.

43. On or about May 26, 2022, respondent contacted Fernández and he gave Fernández his email address and personal telephone number.

44. In the months that followed, Fernández contacted respondent several times to get an update on the status of his case, but respondent failed to promptly respond to Fernández's requests for status updates.

45. In or about August of 2022, respondent notified Fernández that United Insurance had offered to settle Fernández's case for \$10,000.00, respondent sent Fernández a text message seeking authority to settle Fernández's ". . . personal injury claim for no less than \$10,000.00.", and Fernández confirmed by text message respondent had authority to settle his claim. A copy of the "authority to settle" text message is attached hereto and incorporated herein as The Florida Bar's Exhibit 5.

46. Respondent did not provide Fernández with any proceeds from the \$10,000.00 settlement.

47. Respondent failed to reasonably respond to Fernández's requests for information about his case, including accounting for all the settlement proceeds respondent received on his behalf related to the June 2, 2021 motor vehicle accident.

48. Respondent failed to provide Fernández with sufficient information to enable him to make informed decisions about his case, in that respondent did not inform Fernández about any settlement proceeds he received on Fernández's behalf, and he did not provide Fernández with a closing statement .

49. Respondent failed to respond to the bar's official letters of inquiry dated December 29, 2022, January 20, 2023, February 15, 2023

and April 12, 2023, concerning the bar grievance Fernández filed against respondent, The Florida Bar File No. 2023-50,323(17E).

50. On August 11, 2023, The Florida Bar filed a Petition for Contempt and Order to Show Cause with the Florida Supreme Court, after respondent was found by the grievance committee to be in willful non-compliance for failing to respond to official inquiries of the bar.

51. On August 11, 2023, in Case No. SC2023-1117, the Florida Supreme Court issued an order to show cause requiring respondent to respond by August 28, 2023.

52. Respondent failed to respond to the Florida Supreme Court's August 11, 2023, order to show cause.

53. On October 6, 2023, the Florida Supreme Court found respondent in contempt, and suspended him until such time as he responds to the bar's investigative inquiries and until further order of the Florida Supreme Court. A copy of the October 6, 2023 Order is attached hereto and incorporated herein as The Florida Bar's Exhibit 3.

54. Respondent's conduct as described above violated the following Rules Regulating The Florida Bar:

- (a) 3-4.3 (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) 4-1.4(a) (A lawyer shall (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in terminology, is required by these rules; (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished; (3) keep the client reasonably informed about the status of the matter; (4) promptly comply with reasonable requests for information; and (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows or

reasonably should know that the client expects assistance not permitted by the Rules of Professional Conduct or other law.)

- (c) 4-1.4(b) (A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation).
- (d) 4-8.4(a) (A lawyer shall not: (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;).
- (e) 4-8.4(g)(1) (A lawyer shall not: (g) 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;)
- (f) 4-8.4(g)(2) (A lawyer shall not: (g) 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: (2) within 10 days of the date

of any follow-up investigative inquiries by bar counsel, grievance committee, or board of governors;)

COUNT IV

The Florida Bar File No. 2023-50,232(17E)

55. Respondent's law firm, The Law Office of Todd J. Herman, P.A., was located in Broward County, FL.

56. Respondent was the attorney for the plaintiff, in Broward County, FL Court Case No. COCE21014114, *Balarezo Family Chiropractic Hollywood a/a/o Jose Pena v. State Farm Mutual Automobile Insurance Company* (hereinafter referred to as "*Balarezo v. State Farm Mutual Auto. Ins. Co.*").

57. On July 5, 2022, the court in *Balarezo v. State Farm Mutual Auto. Ins. Co.* issued an Order to Show Cause after respondent failed to appear at the pretrial conference on June 24, 2022; and respondent failed to appear at the case management conference on June 30, 2022. A copy of the July 5, 2022 Order is attached hereto and incorporated herein as The Florida Bar's Exhibit 6.

58. The July 5, 2022, order to show cause, in *Balarezo v. State Farm Mutual Auto. Ins. Co.* commanded respondent and his client to appear on July 19, 2022 to show cause why respondent and the plaintiff

should not be held in contempt of court and sanctioned for failing to comply with the court's orders of May 23, 2022 and June 24, 2022

59. On July 19, 2022, respondent filed a notice of voluntary dismissal with prejudice on behalf of the plaintiff in the *Balarezo v. State Farm Mutual Auto. Ins. Co.*

60. Respondent was the attorney for the plaintiff in Broward County, FL Court Case No. COCE21019669, *Chiropractic Clinics of South Florida PL v State Farm Mutual Automobile Insurance Company* (hereinafter referred to as "*Chiropractic Clinics v. State Farm Mutual Auto. Ins. Co.*").

61. On May 24, 2022, the court in *Chiropractic Clinics v. State Farm Mutual Auto. Ins. Co.* issued an Order to Show Cause after respondent failed to appear at a court ordered mediation. A copy of the May 24, 2022 Order is attached hereto and incorporated herein as The Florida Bar's Exhibit 7.

62. The May 24, 2022, order to show cause, in *Chiropractic Clinics v. State Farm Mutual Auto. Ins. Co.* commanded respondent to appear on June 9, 2022 to show cause why respondent should not be sanctioned for his failure to appear at mediation as had been ordered by the court's February 14, 2022 order.

63. On June 8, 2022, respondent filed a notice of voluntary dismissal without prejudice on behalf of the plaintiff in *Chiropractic Clinics v. State Farm Mutual Auto. Ins. Co.*

64. Respondent was the attorney for the plaintiff in Broward County, FL Court Case No. COCE21027872, *Golden Medical Center Inc. v. Ocean Harbor Casualty Insurance Company* (hereinafter referred to as “*Golden Medical v. Ocean Harbor Casualty Ins. Co.*”).

65. On May 24, 2022, the court in *Golden Medical v. Ocean Harbor Casualty Ins. Co.* issued an Order to Show Cause after respondent failed to appear at the mandatory case management conferences, set respectively on April 7, 2022 and May 24, 2022. A copy of the May 24, 2022 Order is attached hereto and incorporated herein as The Florida Bar’s Exhibit 8.

66. The May 24, 2022, order to show cause, in *Golden Medical v. Ocean Harbor Casualty Ins. Co.* commanded respondent or his client the plaintiff to appear on June 8, 2022 to show cause why the cause of action should not be dismissed due to respondent failing to appear for two mandatory case management conferences.

67. On June 7, 2022, respondent filed a notice of voluntary dismissal without prejudice on behalf of the plaintiff in *Golden Medical v. Ocean Harbor Casualty Ins. Co.*

68. Respondent was the attorney for the plaintiff in Broward County, FL Court Case No. COCE21025648, *Windsor Imaging v Ocean Harbor Casualty Insurance Company* (hereinafter referred to as “*Windsor v. Ocean Harbor Casualty Ins. Co.*”).

69. On August 29, 2022, the court in *Windsor v. Ocean Harbor Casualty Ins. Co.* issued an Order to Show Cause after respondent failed to appear at a case management conference on August 26, 2022. A copy of the August 29, 2022 Order is attached hereto and incorporated herein as The Florida Bar’s Exhibit 9.

70. The August 29, 2022, order to show cause, in *Windsor v. Ocean Harbor Casualty Ins. Co.* commanded respondent or his client the plaintiff to appear on September 21, 2022 to show cause “why case should not be dismissed for plaintiff’s failure to appear at court order case management on August 26, 2022.”

71. On September 22, 2022, the court in *Windsor v. Ocean Harbor Casualty Ins. Co.*, noted respondent failed to appear at the September 21, 2022 show cause hearing, found no good cause has been shown for respondent not appearing at the August 26, 2022 case management conference and issued an order dismissing the case with prejudice. A copy

of the September 22, 2022 Order is attached hereto and incorporated herein as The Florida Bar's Exhibit 10.

72. Respondent was attorney for the plaintiff in Broward County, FL Court Case No. COCE21027867, *Joel D. Stein DO PA v State Farm Mutual Automobile Insurance Company* (hereinafter referred to as "*Stein DO PA v. State Farm Mutual Auto. Ins. Co.*").

73. In the November 2, 2022, the court in *Stein DO PA v. State Farm Mutual Auto. Ins. Co.* issued an order granting defendant's motion for an extension of time to comply with court order, and in that order the court stated respondent failed to appear for an October 31, 2022 court hearing.

74. Respondent failed to respond in writing to the bar's November 30, 2022 official letter of inquiry, concerning his failure to appear at court hearings in *Balarezo v. State Farm Mutual Auto. Ins. Co.*, *Chiropractic Clinics v. State Farm Mutual Auto. Ins. Co.*, *Golden Medical v. Ocean Harbor Casualty Ins. Co.*, and *Windsor v. Ocean Harbor Casualty Ins. Co.*

75. Respondent's conduct as described above violated the following Rules Regulating The Florida Bar:

- (a) 4-1.3 (A lawyer shall act with reasonable diligence and promptness in representing a client.)

(b) 4-1.16 (a) When Lawyer Must Decline or Terminate

Representation. Except as stated in subdivision (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if: (1) the representation will result in violation of the Rules of Professional Conduct or law; (2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; (3) the lawyer is discharged; (4) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent, unless the client agrees to disclose and rectify the crime or fraud; or (5) the client has used the lawyer's services to perpetrate a crime or fraud, unless the client agrees to disclose and rectify the crime or fraud. (b)

When Withdrawal Is Allowed. Except as stated in subdivision (c), a lawyer may withdraw from representing a client if: (1) withdrawal can be accomplished without material adverse effect on the interests of the client; (2) the client insists upon taking action that the lawyer considers repugnant, imprudent, or with which the lawyer has a

fundamental disagreement; (3) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled; (4) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or (5) other good cause for withdrawal exists. (c) Compliance With Order of Tribunal. A lawyer must comply with applicable law requiring notice or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.; failure to comply with court order;)

- (c) 4-3.4(c) (A lawyer must not: (c) knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists;)
- (d) 4-8.4(a) (A lawyer shall not: (a) violate or attempt to violate the Rules of Professional Conduct, knowingly

assist or induce another to do so, or do so through the acts of another;)

- (e) 4-8.4(g)(1) (A lawyer shall not: (g) 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;)
- (f) 4-8.4(g)(2) (A lawyer shall not: (g) 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: (2) within 10 days of the date of any follow-up written investigative inquiries by bar counsel, grievance committee, or board of governors;).

III. RECOMMENDATIONS AS TO GUILT

To date, respondent has not participated in any of the proceedings in this case. The undersigned referee has taken extraordinary steps to make it convenient for respondent to participate in this proceeding, by allowing the parties to appear at each hearing by Zoom video conference. The undersigned referee finds that respondent was properly noticed of the June 3, 2025 sanctions hearing. In addition to filing the notice of hearing for the June 3, 2025 sanctions hearing in the Florida Courts E-filing Portal, the bar mailed a copy of the notice to respondent's record bar mailing address 1 E. Broward Blvd., Ste. 700, Fort Lauderdale, FL 33301-1876; to respondent at 2450 SW 81st Avenue, Bldg. 6, Apt. 408, Davie, FL 33324; and the bar also posted a copy of the notice for the final hearing on sanctions on the apartment door of 2450 SW 81st Avenue, Bldg. 6, Apt. 408, Davie, FL 33324. This referee also noted that the certified mail receipt for delivery of the formal complaint that was mailed by the bar to Todd J. Herman at 2450 SW 81st Avenue, Bldg. 6, Apt. 408, Davie, FL 33324 was signed for by the addressee on February 21, 2025.⁷

⁷ See The bar's Motion for Default Judgment, Exhibit 1, *The Florida Bar v. Todd J. Herman*, Case No. SC2025-0228

The undersigned referee previously found that respondent failed to file an *Answer* to the bar's complaint. On April 30, 2025, the court granted the bar's motion for default, and all allegations made in the bar's formal complaint were deemed admitted. There is competent and substantial evidence in the bar's complaint upon which the undersigned referee based her findings. Thusly, the undersigned referee finds that respondent engaged in a pattern of neglect with respect to client matters, that he failed to keep his clients reasonably informed about the status of their cases, and respondent failed to provide the clients in this case with an accounting of any settlement proceeds he received on their behalf.

At the time of the proceedings in this case, respondent had not been reinstated to the practice of law from the suspensions that were imposed by the Court respectively on October 6, 2023 and July 29, 2024.

I recommend that respondent be found guilty of violating the following Rules Regulating The Florida Bar:

As to Count I [The Florida Bar File No. 2023-50,456(17E)]: I recommend that respondent be found guilty of violating the following R. Regulating Fla. Bar: Rules 3-4.3 (misconduct and minor misconduct); 4-1.4(a) (communication); 4-1.4(b) (duty to explain matters to client); 4-1.5(f)

(contingent fees); and 4-8.4(a) (violate or attempt to violate the Rules of Professional Conduct).

As to Count II [The Florida Bar File No. 2023-50,384(17E)]: I recommend that respondent be found guilty of violating the following R. Regulating Fla. Bar: Rules 3-4.3 (misconduct and minor misconduct); 4-1.4(a) (communication); 4-1.4(b) (duty to explain matters to client); 4-1.5(f)(1) (contingent fees); and 4-8.4(a) (violate or attempt to violate the Rules of Professional Conduct).

As to Count III [The Florida Bar File No. 2023-50,323(17E)]: I recommend that respondent be found guilty of violating the following R. Regulating Fla. Bar: Rules 3-4.3 (misconduct and minor misconduct); 4-1.4(a) (communication); 4-1.4(b) (duty to explain matters to client); 4-8.4(a) (violate or attempt to violate the Rules of Professional Conduct); 4-8.4(g)(1) (failure to respond to official inquiry of the bar); and 4-8.4(g)(2) (failure to respond to official inquiry of the bar).

As to Count IV [The Florida Bar File No. 2023-50,232(17E)]: I recommend that respondent be found guilty of violating the following R. Regulating Fla. Bar: Rules 4-1.3 (diligence); 4-1.16 (termination of representation); 4-3.4(c) (knowingly disobey an obligation under the rules of a tribunal); 4-8.4(a) (violate or attempt to violate the Rules of Professional

Conduct); 4-8.4(g)(1) (failure to respond to official inquiry of the bar); and 4-8.4(g)(2) (failure to respond to official inquiry of the bar).

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: 41

Date admitted to the Bar: December 17, 2010

Prior Discipline: In Florida Supreme Court Case No. SC2024-0621, respondent was held in contempt and suspended for ninety-one days in 2024. In Florida Supreme Court Case No. SC2023-1117, in 2023 respondent was held in contempt; and suspended from the practice of law until he fully responds to the bar's official inquiries and until further order of the Court.

V. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Florida Standards for Imposing Lawyer Sanctions before recommending discipline:

4.4 Lack of Diligence

4.4(a) Disbarment is appropriate when a lawyer causes serious or potentially serious injury to client and:

- (1) abandons the lawyer's practice;
- (2) knowingly fails to perform services for a client; or
- (3) engages in a pattern of neglect with respect to client matters.

I find the following aggravating factors under standard 3.2:

- 3.2(b)(1) prior disciplinary offenses.
- 3.2(b)(2) dishonest or selfish motive.
- 3.2(b)(3) a pattern of misconduct.
- 3.2(b)(9) substantial experience in the practice of law.

I find no mitigating factors under standard 3.3(b) are applicable.

VI. CASE LAW

I considered the following case law before recommending discipline:

The Florida Bar v. Davis, 149 So. 3d 1121 (Fla. 2014). The Court approved the referee's recommendation for disbarment of a lawyer who was found guilty of violating R. Regulating Fla. Bar 4-1.3 (diligence) and 4-1.4(a) (communication). After the lawyer failed to file an *Answer* to the bar's formal complaint, the bar's motion for default judgment was granted, and allegations in the bar's complaint were deemed admitted. The Court found that the lawyer's lack of participation in the proceedings before the referee presented serious questions about the lawyer's fitness to practice law.

The Florida Bar v. Hudson, 2022 WL 17176708, SC2022-0743 (Fla. Nov. 23, 2022). The Court approved the amended report of referee which recommended disbarment of a lawyer who was admonished by the trial court for lack of competency in handling a family court matter, failed to respond to official inquiries of The Florida Bar, was held in contempt by the Court and suspended from the practice of law. A default judgment was entered against the lawyer in the bar proceedings. The referee found the lawyer guilty of violating R. Regulating Fla. Bar 4-1.1 (competency); 4-8.4(d) (conduct prejudicial to the administration of justice); and 4-8.4(g) (failure to respond to official inquiry of the bar). In aggravation, the referee found the lawyer had prior discipline, a dishonest or selfish motive; a pattern of misconduct; multiple offenses; and had acted in bad faith.

The Florida Bar v. Jones, 2023 WL365149, SC2022-1739 (Fla. May 25, 2023). The Court approved the referee's recommendation of disbarment of a lawyer who repeatedly failed to appear in court, failed to communicate with her clients and abandoned her clients' legal matters. The referee granted the bar's motion for default and found respondent guilty of violating several R. Regulating Fla. Bar including 3-4.3 (misconduct and minor misconduct), 4-1.3(diligence), 4-1.4(a) (communication); 4-1.4(b)

(communication); 4-1.16(a)(2) and (d) (declining or terminating representation); and 4-8.4(d) and (g) (misconduct).

VII. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE IMPOSED

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

- A. Disbarment; and
- B. Payment of The Florida Bar's costs in these proceedings.

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
Audit Costs	\$3,888.00
Court Reporters' Fees	\$660.00
Investigative Costs	\$157.00
TOTAL	\$5,955.00

I recommend that the above costs be charged to respondent and that interest accrue at the statutory rate. Respondent will be delinquent 30 days

after the judgment in this case becomes final unless respondent pays the costs in full or the Board of Governors of The Florida Bar defers payment under R. Regulating Fla. Bar 1-3.6.

Dated this 8th day of July, 2025.



Hon. Dina Keever-Agrama, Referee

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

Joi L Pearsall, Bar Counsel, The Florida Bar, jpearsal@floridabar.org

Mr. Todd J. Herman, Respondent, pro se, therman@toddhermanlaw.com; by U.S. Mail 1 E. Broward Blvd., Ste. 700, Fort Lauderdale, FL 33301-1786; and by U.S. Mail to 2450 SW 81st Avenue, Bldg. 6, Apt. 408, Davie, FL 33324

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