

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

v.

ERICA HELENE KOBLOTH,
Respondent.

Supreme Court Case
No. SC22-1578

The Florida Bar File
Nos. 2019-50,195(15A); and
2019-50,306(15A)

Received, Clerk, Supreme Court
MAY 19 2023

REPORT OF REFEREE ACCEPTING CONSENT JUDGMENT

I. **SUMMARY OF PROCEEDINGS**

Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to Rule 3-7.6, Rules of Discipline, the following proceedings occurred:

On November 22, 2022, The Florida Bar filed its Complaint against respondent in Case No. SC22-1578 [The Florida Bar File Nos. 2019-50,195(15A) and 2019-50,306(15A)]. The parties have presented a Conditional Guilty Plea for Consent Judgment. I recommend respondent's Conditional Guilty Plea for Consent Judgment be approved for the reasons set forth herein. All of the aforementioned pleadings, responses thereto, exhibits received in evidence, and this Report constitute the record in this case and are forwarded to the Supreme Court of Florida.

II. FINDINGS OF FACT

A. Jurisdictional Statement. Respondent is, and at all times mentioned during this investigation was, a member of The Florida Bar, subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

B. Narrative Summary of Case.

1. As to Count I of Case No. SC22-1578 [The Florida Bar File No. 2019-50,195(15A)], while serving as counsel for Kenneth Freeman, the petitioner in a dissolution of marriage case, respondent filed an emergency motion to continue the trial and requested a short continuance citing to a personal health related matter. After the trial court granted respondent's emergency motion to continue the trial date, the court specially set the case for the trial and respondent confirmed her availability for that date. Respondent failed to appear at the specially set trial date and she failed to contact the trial court before the trial date to advise the trial court that she would not be in attendance. Although a different attorney e-filed a motion for continuance on behalf of Mr. Freeman approximately one-hour and fifteen minutes before the start of trial, neither respondent nor anyone on her behalf directly contacted the trial judge's office to request a continuance of the specially set trial date. After respondent did not appear in court on behalf of

her client, the trial went forward and Mr. Freeman represented himself at trial, *pro se*. Respondent failed to respond to the bar's official inquiries and she also failed to update her official bar mailing address and official bar email address with The Florida Bar.

By reason of the foregoing, respondent violated the following R. Regulating Fla. Bar: Rule 1-3.3(a), (b) (official bar name and contact information); Rule 4-1.3 (diligence); Rule 4-1.4(a) (communication); Rule 4-1.4(b) (duty to explain matters to client); Rule 4-1.16(d) (termination of representation); and Rule 4-8.4(g) (failure to respond to official bar inquiry).

2. As to Count II of Case No. SC22-1578 [The Florida Bar File No. 2019-50,306(15A)], respondent was retained to provide legal representation for Frederick Brunn, the petitioner in a dissolution of marriage case. Respondent received a \$2,000.00 payment from Kim Pandiani for the purpose of providing legal representation to Mr. Brunn in his dissolution of marriage case. Respondent failed to take significant action on behalf of the client, failed to file a notice of appearance on behalf of the client in the court case and failed to keep the client reasonably informed about the status of his case. Respondent also failed to timely respond to the bar's official inquiries about this matter.

By reason of the foregoing, respondent violated the following R. Regulating Fla. Bar: Rule 4-1.3 (diligence); 4-1.4(a) (communication); Rule 4-1.4(b) (duty to explain matters to client); Rule 4-1.5(a) (fees and costs); Rule 4-1.16(d) (termination of representation); 4-8.4(a) (violate or attempt to violate the Rules of Professional Conduct); 4-8.4(d) (engage in conduct prejudicial to the administration of justice); and Rule 4-8.4(g) (failure to respond to official bar inquiry).

III. RECOMMENDATIONS AS TO GUILT

As to Count I of Case No. SC22-1578 [The Florida Bar File No. 2019-50,195(15A)], I recommend respondent be found guilty of violating the following Rules Regulating The Florida Bar: 1-3.3 (a) & (b) (official bar name and contact information); 4-1.3 (diligence); 4-1.4(a) (communication); 4-1.4(b) (duty to explain matters to client); 4-1.16(d) (termination of representation); and 4-8.4(g) (failure to respond to official bar inquiry).

As to Count II of Case No. SC22-1578 [The Florida Bar File No. 2019-50,306(15A)], I recommend respondent be found guilty of violating the following Rules Regulating The Florida Bar: 4-1.3 (diligence); 4-1.4(a) (communication); 4-1.4(b) (duty to explain matters to client); 4-1.5(a) (fees and costs); 4-1.16(d) (termination of representation); 4-8.4(a) (violate or attempt to violate the Rules of Professional Conduct); 4-8.4(d) (engage in

conduct prejudicial to the administration of justice); and 4-8.4(g) (failure to respond to official bar inquiry).

IV. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Standards prior to recommending discipline:

4.4 Lack of Diligence

4.4(b) Suspension. Suspension is appropriate when a lawyer causes injury or potential injury to a client and:

- (1) knowingly fails to perform services for a client; or
- (2) engages in a pattern of neglect with respect to client matters.

4.4(c) Public Reprimand. 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.

V. CASE LAW

I considered the following case law prior to recommending discipline:

The Florida Bar v. Gass, 153 So. 3d 886 (Fla. 2014). The Court suspended the respondent for one year for neglecting client matters and failing to communicate with the clients. Successive petitions for orders to show cause were issued against the lawyer's clients. In one instance, although the lawyer received notice of a show cause hearing, he did not notify the clients about the hearing and the respondent did not appear at the

hearing. Also, the lawyer did not respond to the clients' requests for direction on how they should respond to the order to show cause. The clients were arrested for contempt and spent approximately three days in jail.

The Florida Bar v. Cimbler, 840 So. 2d 955 (Fla. 2002). The Court suspended an attorney for one year, followed by three years of probation with special conditions, for neglecting client matters and failing to communicate with clients. The attorney also failed to maintain his record bar address or telephone number and made himself unavailable and difficult to contact. The bar charged the attorney with violations of the R. Regulating Fla. Bar related to three clients. The referee found the attorney had been receiving mental health treatment during the period when this conduct occurred and was diagnosed with depression.

VI. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

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

- A. One-year suspension; and
- B. payment of the bar's disciplinary costs;

Respondent will eliminate all indicia of her status as an attorney on email, social media, telephone listings, stationery, checks, business cards,

office signs or any other indicia of respondent's status as an attorney, whatsoever. Respondent will no longer hold herself out as a licensed attorney.

VII. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

Prior to recommending discipline pursuant to Rule 3-7.6(m)(1)(D), I considered the following personal history of respondent, to wit:

Age: 37

Date admitted to the Bar: March 26, 2012

Prior Discipline: In December of 2019, the Court in Case No. SC19-1707 entered an order holding respondent in contempt and suspended respondent until she responded to the bar in writing, after respondent failed to timely respond to official bar inquiries regarding The Florida Bar File Nos. 2019-50,195(15A) and 2019-50,306(15A). In November of 2020, the Court in Case No. SC20-1018 entered an order holding respondent in contempt and suspending her for one year after respondent failed to submit an affidavit pursuant to Rule 3-5.1(h) of the R. Regulating Fla. Bar as ordered by the Court on December 13, 2019. In May of 2021, the Court in Case No. SC21-432 entered an order holding respondent in contempt and suspending respondent for three years, after respondent failed to submit an affidavit pursuant to Rule 3-5.1(h) of the R. Regulating Fla. Bar as ordered by the

Court on November 2, 2020. On March 25, 2022, in Case No. SC21-1406, after respondent's untimely submission of the required affidavit pursuant to Rule 3-5.1(h), the Court held respondent in contempt and publicly reprimanded respondent.

3.2 Aggravating Factors

3.2(b)(1) prior disciplinary offenses; and

3.2(b)(3) a pattern of misconduct.

3.3 Mitigating Factors

3.3(b)(3) personal or emotional problems. Respondent asserts that in or around the time period when this conduct occurred, she experienced health problems, suffered from depression, had a substance abuse issue, and relocated to another state to be the caretaker of an ailing relative;

3.3(b)(5) full and free disclosure to the bar or cooperative attitude;

3.3(b)(11) imposition of other penalties or sanctions. Respondent received prior discipline due in part to her failure to timely respond to official inquiries of the bar in this case regarding The Florida Bar File Nos. 2019-50,195(15A) and 2019-50,306(15A), and those sanctions were imposed under Supreme Court of Florida Case Nos. SC19-1707; SC20-1018; SC21-432; and SC21-1406;

3.3(b)(12) remorse.

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

In the Conditional Guilty Plea for Consent Judgment, respondent agreed to pay the bar's costs, which were \$1,712.37 at the time respondent signed the consent judgment, however, the court reporter's attendance at a subsequent court hearing that was held on April 24, 2023, resulted in the bar incurring an additional court reporter fee in the amount of \$250.00.

I find the following costs were reasonably incurred by The Florida

Bar:

Administrative Costs	\$1,250.00
Investigative Costs	\$102.37
Court Reporter Fees	\$610.00
TOTAL	\$1,962.37

It is recommended such costs be charged to respondent and that interest at the statutory rate shall accrue and should such cost judgment not be satisfied within thirty days of said judgment becoming final, respondent shall be deemed delinquent and ineligible to practice law, pursuant to R.

Regulating Fla. Bar 1-3.6, unless otherwise deferred by the Board of
Governors of The Florida Bar.

Dated this 16th day of May, 2023.

/s/

Honorable Luis Delgado, Referee
Judge Daniel T. K. Hurley Courthouse
205 N. Dixie Highway
West Palm Beach, FL 33401

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