

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

JONATHAN GLEN DRAKE,

Respondent.

Supreme Court Case
No. SC-

The Florida Bar File
No. 2020-10,703 (6D)

_____ /

COMPLAINT

The Florida Bar, complainant, files this Complaint against Jonathan Glen Drake, respondent, pursuant to the Rules Regulating The Florida Bar and alleges:

1. Respondent is and was at all times mentioned herein a member of The Florida Bar admitted on April 26, 2013, and is subject to the jurisdiction of the Supreme Court of Florida.

2. Respondent resided and practiced law in Hillsborough County, Florida, at all times material.

3. The Sixth Judicial Circuit Grievance Committee "D" found probable cause to file this complaint pursuant to Rule 3-7.4, of the Rules Regulating The Florida Bar, and this complaint has been approved by the presiding member of that committee.

4. From approximately December 2016 to December 2020, respondent was an attorney for the Strems Law Firm, P.A. n/k/a The Property Advocates, P.A. (“SLF”).

5. SLF’s practice almost exclusively involved the representation of homeowners (as plaintiffs) in pursuing claims against their property insurance companies.

6. At all times relevant, respondent worked in the firm’s Tampa office, which serviced clients in Hillsborough and surrounding counties.

7. At all times relevant, respondent was the attorney in charge of the Tampa office and its associated cases.

8. The month following the commencement of his employment, respondent was assigned to approximately 1,500 of the firm’s cases in litigation, in Hillsborough and other counties.

9. Respondent was made a managing partner of the firm in October or November of 2017.

10. In his role as managing partner of his firm’s Tampa office, respondent supervised the other attorneys and the staff of the office.

11. Respondent engaged in misconduct in the course of several cases litigated in the 13th Judicial Circuit in and for Hillsborough County, Florida, as described in further detail below.

12. On or about June 4, 2020, Hon. Gregory Holder of the Civil Circuit of the 13th Judicial Circuit submitted a grievance and an affidavit to The Florida Bar detailing numerous instances of unethical conduct by respondent in his circuit.¹ *See generally* Exhibit 1.

13. In relevant part, Judge Holder alleges:

- a. “During my over three years now assigned to this Division, I have had many conversations with my judicial colleagues concerning the pattern and practice of Jonathan Drake and the Strems Law Firm. Universally, these discussions have noted his absolute violations of the Rules of Professional Responsibility and blatant obstruction of justice in virtually every case where he and his firm enter an appearance. In virtually every case, Mr. Drake has violated numerous Rules of Professional Conduct in his representation of these clients and has placed his own interests above those of his clients.” *Id.*, p. 1.
- b. “My personal experience with Mr. Drake proves that this attorney engages in dilatory tactics and violates the Rules Regulating The Florida Bar in virtually every case. Mr. Drake refuses to participate in discovery, fails to attend properly noticed hearings, violates court orders, refuses to return calls, texts or messages, and exhibits a total lack of candor to the Court, resulting in additional litigation and hearing time before the Court. Mr. Drake and The Strems Law Firm engage in mendacious, bad-faith conduct in violation of both the Rules of Professional Conduct and the sworn oath taken by every attorney licensed to practice law within the State of Florida.” *Id.*, p. 2.
- c. “I have been called upon in many of the Strems Law Firm cases to sanction Mr. Drake and the Strems Law Firm.

¹ Judge Holder has subsequently retired from the bench.

These sanctions are based upon the willful and contumacious actions of Mr. Drake and his firm in failing to comply with the applicable Florida Rules of Civil Procedure involving lawful discovery, honesty and integrity.” *Id.*, pp. 2-3.

14. Judge Holder also complains that respondent and his firm often filed “one, two, or three separate lawsuits against the insurance company in the Circuit Court alleging the same damage to the same rooms in the home from the same event,” and frequently failed to consolidate those cases or notify the court of related cases. *Id.*, p. 2.

15. Judge Holder alleges that respondent’s conduct has harmed his own clients as well as the parties who have had to defend themselves against respondent’s spurious and bad-faith litigation, which has been wasteful of judicial resources. *See id.*, p. 7.

16. In his time with SLF, respondent engaged in a broad pattern of misconduct, which included (but was not limited to) the following features:

- a. Repeated failure to notify the trial court of the pendency of factually overlapping cases pending in another division of the same court;
- b. Repeated failure to satisfy deadlines under the Florida Rules of Civil Procedure, notably the discovery rules;
- c. Repeated failure to confer with opposing counsel regarding procedure and discovery;
- d. Repeated violation of court orders and court-mandated deadlines;

- e. Repeatedly filing lawsuits in matters without first satisfying the post-loss conditions of coverage, which was often fatal to his clients' cases;
- f. Repeatedly failing to file adequate evidence to oppose motions for summary judgment; and
- g. Repeated neglect of cases to the point of dismissal for the lack of prosecution.

17. Respondent's pattern of misconduct has exhibited his failure to exercise competence, his failure to exercise diligence, his failure to observe his duty of fairness to opposing counsel, and his commission of acts prejudicial to the administration of justice, which includes the waste of court resources.

18. The following paragraphs describe specific cases of respondent's misconduct in the 13th Judicial Circuit, most of which are particularized in Judge Holder's affidavit. *See generally id.*, pp. 3-7.

Bermudez, et al. v. Security First Ins. Co.
Case Nos. 17-CA-8935, 17-CA-8936

19. Respondent filed the complaints in Case Nos. 17-CA-8935 and 17-CA-8936 on September 27, 2017.

20. Respondent failed to file a notice of related case in either of these cases. See Exhibit 1, p. 2.

21. On November 8, 2017, defendant moved for consolidation of both cases.

22. Judge Martha Cook granted the motion on June 24, 2018, and both cases were consolidated to Case No. 17-CA-8935.

23. On February 24, 2020, the court filed a notice of lack of prosecution (a “FLOP notice”), noting 10 preceding months of inactivity. The notice provided that the case would be dismissed if no record activity occurred within the next 60 days.

24. No such record activity occurred, and the court entered an order dismissing the case for lack of prosecution on April 30, 2020. See Exhibit 2.

Brito, et al. v. Heritage Prop. & Cas. Ins. Co.
Case No. 16-CA-9482

25. Respondent became active on this case by March 6, 2017.

26. On April 4, 2017, Judge Gregory Holder entered an order staying the case and compelling the parties to complete the appraisal process, as described by the insurance contract. See Exhibit 1, p. 3.

27. On April 27, 2017, defendant filed a motion to compel appraisal, for an order to show cause as to why plaintiffs and their counsel should not be held in contempt for violating the April 4, 2017 order, and for sanctions. The motion alleges that plaintiffs failed to select an appraiser within the time ordered.

28. On May 29, 2017, the court granted this motion in part, ordering the parties to appraisal and awarding defendant entitlement to fees as a sanction.

29. On July 25, 2017, the parties agreed to an order awarding defendant \$2,000.00 as a sanction. The agreed order provided a deadline of August 15, 2017 for this payment. See Exhibit 3.

30. On August 17, 2017, defendant filed another motion for sanctions, stating that sanctions awarded on July 25, 2017 had still not been paid.

31. This case settled on or before December 12, 2017.

Cosme v. Citizens Prop. Ins. Corp.
Case No. 16-CA-5587

32. Prior to respondent's involvement, on August 21, 2017, Judge Lamar Battles entered an order granting defendant's motion to compel better discovery responses and requiring those responses within 10 days of that order.

33. On October 30, 2017, defendant moved for an order to show cause due to the failure of a representative of Contender Claims Consultants, Inc. (who prepared the estimate for plaintiff's case) to appear at a properly noticed deposition.

34. Respondent entered his appearance in Case No. 16-CA-5587 on or about November 10, 2017.

35. On January 4, 2018, defendant filed a motion to enforce the August 21, 2017 order, alleging that the discovery responses were not all provided.

36. On February 1, 2018, Judge Battles entered an order granting defendant's October 30, 2017 motion for order to show cause, directing Contender to appear at a February 21, 2018 hearing to show cause as to why it should not be sanctioned.

37. The February 1, 2018 order was subsequently amended on February 8, 2018, and required the appearance of "a Senior, Supervisory, Managing Partner of The Strems Law Firm, P.A." to appear at all future hearings in the case.

38. Following the February 21, 2018 show cause hearing, Judge Battles entered another order on March 5, 2018 expressly requiring respondent's supervisor Scot Strems to appear at all future hearings in the matter.

39. Through separate counsel, plaintiff appealed the March 5, 2018 order to the Second District Court of Appeal.

40. On May 16, 2018, the court filed an agreed order wherein plaintiff agreed to pay defendant \$1,424.65 in fees and costs relating to defendant's efforts to enforce the August 21, 2017 order. See Exhibit 4.

41. The trial court's orders of February 8, 2018 and March 5, 2018 were *per curiam* affirmed on January 2, 2019.

42. On December 6, 2019, respondent filed a Notice of Resolution, advising the court that the lawsuit had been resolved between the parties.

43. On February 7, 2020, the parties filed a joint stipulation of dismissal.

Rodriguez v. Tower Hill Select Ins. Co.
Case No. 16-CA-3297

44. On January 5, 2017 and again on April 6, 2017, Judge Paul Huey entered orders compelling plaintiffs to file amended answers to defendant's discovery requests in Case No. 16-CA-3297.

45. Respondent became active in this case by April 6, 2017.

46. On April 14, 2017, defendant filed a motion for an order to show cause and for sanctions, alleging that the discovery responses had still not been provided.

47. On September 15, 2017, Judge Huey entered an order granting this motion, ordering plaintiffs to file interrogatory responses within 10 days, and ordering plaintiffs to pay a total of \$3,000.00 to defendant as sanctions

within 20 days. This order also cautioned that further violations of court orders could result in dismissal with prejudice. See Exhibit 5.

48. On September 27, 2017, defendant filed a motion to show cause and for sanctions, stating that the court-ordered discovery responses had not been provided. The motion requested sanctions of attorney's fees as well as the striking of plaintiff's pleadings with prejudice.

49. This motion to show cause was set for hearing on November 1, 2017.

50. Hours prior to the November 1, 2017 hearing on the motion to show cause, respondent filed a notice of voluntary dismissal without prejudice with the intent to avoid potential sanctions from the pending motion. See Exhibit 1, p. 3.

51. At the November 1, 2017 hearing, the question arose as to whether the court had jurisdiction to rule upon defendant's September 27, 2017 motion to show cause, in light of the notice of voluntary dismissal. The court entered an order granting plaintiff's *ore tenus* motion to brief the issue.

52. The court afforded the parties the opportunity to brief the issue, but respondent failed to file such a brief.

53. On December 20, 2017, Judge Huey entered an order granting defendants motion to show cause and for sanctions, reserving the amount of such sanctions for later proceedings.

54. On March 20, 2018, the parties entered into an agreed order awarding defendant \$2,300.00 as sanctions. See Exhibit 6.

Welliver v. Tower Hill Prime Ins. Co.
Case Nos. 16-CA-7766, 16-CA-7774

55. In both cases, defendant filed a motion to dismiss on September 21, 2016, explaining that it had invoked its right to repair the property under the insurance policy before suit was filed, and alleging that SLF failed to comply with defendant's right to repair.

56. Respondent became active in both cases in January or February 2017.

57. In Case No. 16-CA-7766, defendant's motion to dismiss was set for hearing on February 28, 2017.

58. On February 8, 2017, respondent filed a motion to appear at the hearing telephonically, which was granted by Judge Claudia Isom.

59. Neither respondent nor any other attorney attended the February 28, 2017 hearing, telephonically or otherwise.

60. Following the hearing, Judge Isom entered an order denying plaintiff's telephonic appearance for future hearings, noting that the court

and defendant had waited 30 minutes for plaintiff's counsel to appear, and that the court could not reach counsel by telephone.

61. On June 13, 2017, the court denied the motion to dismiss and instead abated the action for six months to permit the parties to effectuate repairs under the policy.

62. On July 20, 2018, defendant filed a motion to lift the abatement and enter final judgment, explaining that the repairs had been completed and that the plaintiff had signed a certificate of satisfaction regarding the repairs, leaving no justiciable issue before the court.

63. On December 27, 2018, Judge Gregory Holder entered an order granting the motion and entering final judgment for defendant. See Exhibit 1, p. 3; Exhibit 7.

64. In the sister case, Case No. 16-CA-7774, defendant moved for summary judgment on June 19, 2018, alleging that it was entitled to judgment as a matter of law because the plaintiff would not comply with defendant's right to repair.

65. This motion was granted on December 27, 2018, and final summary judgment was entered at that time.

Camacho, et al. v. Heritage Prop. & Cas. Ins. Co.

Case Nos. 17-CA-824, 17-CA-825

66. Respondent filed the complaints in both of these cases on January 26, 2017.

67. In both cases, on April 5, 2017, defendant filed a motion to abate the action and compel the plaintiffs to comply with certain post-loss duties required of them under the insurance policy (namely, providing a sworn proof of loss, sitting for an examination under oath, and producing certain documents).

68. In Case No. 17-CA-824, the motion to abate was granted by Judge Rex Barbas on June 2, 2017. In Case No. 17-CA-825, the parties agreed to abatement on July 17, 2017.

69. Respondent failed to file a notice of related cases until April 11, 2018.

70. On December 10, 2019, the court consolidated both cases on its own motion. See Exhibit 1, p. 3.

71. The consolidated case remains in litigation as of the writing of this complaint.

Mendoza v. Security First Ins. Co.

Case No. 17-CA-10858

72. Respondent filed the complaint on December 4, 2017.

73. On October 25, 2018, defendant filed a motion for summary judgment, arguing that the claimed damage pre-existed the policy, and/or that it was caused by deferred maintenance, neither of which were covered under the policy.

74. Defendant's motion for summary judgment was supported by the testimony of an expert who performed a cause and origin evaluation.

75. On October 17, 2019, the motion for summary judgment was noticed for hearing on November 20, 2019.

76. On November 5, 2019, and again on November 6, 2019, respondent moved to continue the summary judgment hearing, but this motion was denied.

77. On November 18, 2019, respondent filed the response in opposition to the motion for summary judgment, which relied on the plaintiff's own affidavit and an affidavit from the company that prepared the repair estimate. The opposition was not supported by expert evidence.

78. On December 2, 2019, Judge Gregory Holder granted summary judgment, finding that plaintiff's summary judgment evidence was not competent to rebut defendant's expert evidence. See Exhibit 1, p. 4; Exhibit 8. Specifically, the plaintiff was a layperson unqualified to opine on

cause and origin of the loss, and the affiant from the repair company lacked personal knowledge of the matter.

79. The court's summary judgment decision was appealed (by separate counsel) to the Second District Court of Appeals, who *per curiam* affirmed the court's decision on May 20, 2021.

Morales Gittens v. Universal Prop. & Cas. Ins. Co.
Case No. 17-CA-10227

80. Respondent filed the complaint on November 10, 2017.

81. On March 16, 2018, respondent filed two notices of voluntary dismissal *with prejudice* (one unsigned and one signed).

82. Nearly six months later, on September 5, 2018, respondent filed a notice purporting to withdraw the prior notice of voluntary dismissal with prejudice.

83. Respondent took no further action on this matter.

84. On May 13, 2020, Judge Gregory Holder held a case management conference, at which the court reasoned that respondent's "attempts to 'un-do' an act of finality [was] futile." See Exhibit 1, p. 4.²

85. The case was administratively closed on May 13, 2020.

² In Judge Holder's affidavit, this case is misnumbered as "17-CA-10277."

Prada, et al. v. Citizens Prop. Ins. Co.

Case No. 17-CA-9447

86. Respondent filed the complaint on October 16, 2017.

87. On or about June 1, 2018, defendant served plaintiffs with a proposal for settlement.

88. Defendant moved for summary judgment on July 30, 2018, supported by recorded statements and discovery responses from the plaintiffs indicating that the water damage had been caused by flooding or surface water intrusion, which were not covered under the policy. Defendant noted that the plaintiffs contradicted these statements at their later depositions.

89. The motion for summary judgment was subsequently set for hearing on January 14, 2019.

90. Respondent did not file a response in opposition to the motion for summary judgment.

91. On January 10, 2019, respondent filed a notice of intent to rely upon materials in opposition to summary judgment, which only indicated reliance on the plaintiffs' prior recorded statements and deposition testimony.

92. On January 23, 2019, Judge Gregory Holder entered an order granting summary judgment in favor of defendant. See Exhibit 1, p. 4; Exhibit 9.

93. On February 6, 2019, defendant moved to tax attorney's fees and costs based upon their prior proposal for settlement, which was not accepted.

94. On May 6, 2019, the parties entered into an agreed order stipulating an award of \$500.00 in attorney's fees.

95. On October 23, 2019, the court entered an order of final judgment, granting defendant \$6,534.14 in costs, in addition to the previously stipulated attorney's fees. See Exhibit 10. This order notes that plaintiff's counsel failed to meet and confer with defense counsel regarding the amount of costs sought.

Baro-Maynoldi v. Citizens Prop. Ins. Co.
Case Nos. 16-CA-9277, 17-CA-9163

96. Respondent became active in Case No. 16-CA-9277 in January 2017.

97. On June 20, 2017, defendant filed its motion for summary judgment in Case No. 16-CA-9277, which was ultimately set for hearing on August 23, 2017. See Exhibit 1, p. 4.

98. Respondent filed no response to the motion for summary judgment.

99. On the morning of the hearing, respondent filed a notice of voluntary dismissal with prejudice.

100. On August 29, 2017, Judge Gregory Holder entered an order finding that defendant was entitled to recover attorney's fees associated with preparing for the summary judgment hearing.

101. On November 8, 2017, the parties entered an agreed order awarding defendant \$1,126.40 in fees and costs. See Exhibit 11.

102. On October 5, 2017, respondent re-filed the action in Case No. 17-CA-9163.

103. Respondent failed to identify the prior filing (Case No. 16-CA-9277) in the Request for Division Assignment form.

104. On January 19, 2018, defendant moved for summary judgment on the basis that plaintiffs failed to satisfy certain post-loss duties under the policy. Specifically, defendant alleged that plaintiffs failed to produce allegedly faulty parts for inspection, failed to timely provide a recorded statement, and failed to submit to an examination under oath.

105. On January 25, 2018, defendant moved to transfer the case back to Division E, and this motion was granted on March 5, 2018.

106. On March 15, 2018, defendant served plaintiff with a proposal for settlement.

107. Judge Holder granted defendant's motion for summary judgment on June 12, 2018. See Exhibit 12.³

108. On June 12, 2018, defendant moved to tax attorney's fees and costs on the basis that its proposal for settlement was not accepted.

109. The motion to tax attorney's fees and costs was granted on August 3, 2018, with the amount of fees and costs to be determined in later proceedings.

110. Through separate counsel, the plaintiff appealed the order entering final summary judgment to the Second District Court of Appeal, who *per curiam* affirmed that decision on November 2, 2020.

111. By order dated March 12, 2021, the parties stipulated to an award of \$2,517.98 in fees and costs at the trial level, and \$11,500.00 for appellate fees and costs. See Exhibit 13.

Perez v. Security First Ins. Co.
Case Nos. 17-CA-6555, 17-CA-6559

112. Respondent filed the complaints in these cases on July 12, 2017.

³ This order incorporates a hearing transcript. For purposes of keeping a compact record, indices to hearing transcripts have been removed in the exhibits accompanying this complaint.

113. Respondent did not file a notice of related cases.

114. On August 15, 2017, defendant filed a motion to consolidate the two cases.

115. Judge Gregory Holder entered an order consolidating the cases on October 10, 2017. See Exhibit 1, pp. 4-5. The court ordered respondent to file an amended complaint consolidating the pleadings in both cases not later than 4:00 PM on October 27, 2017.

116. After this deadline passed, defendant filed a notice advising the court that no amended complaint had been filed, as ordered.

117. Based upon defendant's notice, Judge Holder entered an order dismissing the case with prejudice on November 1, 2017. See Exhibit 14.

118. Nearly a year later, on October 11, 2018, respondent filed a motion to vacate the prior dismissal with prejudice.

119. By this time, respondent had still not filed an amended complaint.

120. The court denied the motion to vacate on February 5, 2019.

121. Through separate counsel, Plaintiffs appealed the dismissal of the lawsuit to the Second District Court of Appeal, who *per curiam* affirmed the decision on March 30, 2020.

Santiago v. Universal Prop. & Cas. Ins. Co.

Case No. 17-CA-6183

122. Respondent filed the complaint on June 29, 2017.

123. On September 20, 2018, defendant served respondent with a notice of lack of prosecution, noting no record activity on the file in the preceding ten months.

124. Respondent failed to engage in any record activity following that notice. See Exhibit 1, p. 5.

125. With no record activity on the file within the following 60 days, defendant moved to dismiss for a lack of prosecution on December 14, 2018.

126. On December 19, 2018, Judge Gregory Holder granted the motion and dismissed the case. See Exhibit 15.

Goodson v. American Southern Home Ins. Co.

Case No. 17-CA-5667; 17-CA-10664

127. Respondent filed the complaint in Case No. 17-CA-5667 on June 15, 2017.

128. Respondent filed the complaint in Case No. 17-CA-10664 on November 28, 2017.

129. Respondent did not file a notice of related cases until April 16, 2018.

130. On June 22, 2018, defendant filed a motion to enforce settlement in each case, disclosing that the parties had reached an agreement to settle both cases on March 21, 2018. See Exhibit 1, p. 5.

131. The motion to enforce detailed numerous attempts by defense counsel to confer with respondent and consummate the settlement, to which respondent did not reply.

132. Respondent filed no response to these motions.

133. On August 3, 2018, Judge Gregory Holder granted the motion to enforce the settlement.

134. On August 28, 2018, defendant filed a motion for awarding attorney's fees related to its efforts to enforce the settlement, noting that defense counsel made 19 separate efforts to confer and finalize the settlement over many months, all of which were ignored by respondent.

135. By order dated November 21, 2018, the parties stipulated to an award of \$3,500.00 in attorney's fees for defendant. See Exhibit 16.

Untiveros v. Citizens Prop. Ins. Corp.
Case No. 17-CA-2200

136. Respondent filed the complaint in Case No. 17-CA-2200 on March 9, 2017.

137. On July 24, 2017, defendant moved for summary judgment on the basis that the plaintiff failed to submit to an examination under oath prior to filing suit, in breach of the insurance agreement.

138. The motion for summary judgment was set for hearing on February 1, 2018.

139. Respondent did not file a response or any evidence in opposition to the motion for summary judgment.

140. At 4:52 PM on January 31, 2018 (the afternoon prior to the hearing), respondent filed a notice of voluntary dismissal without prejudice. See Exhibit 1, p. 5. The case was subsequently closed.

Alfonso Perez, et al. v. Citizens Prop. Ins. Corp.
Case Nos. 17-CA-888, 17-CA-889

141. Respondent filed the complaints in Case Nos. 17-CA-888 and 17-CA-889 on January 27, 2017. These cases were assigned to Judge Gregory Holder and Judge Paul Huey, respectively.

142. In both cases, defendant filed a motion for summary judgment on March 15, 2018. Defendant alleged that plaintiff was late in reporting the subject loss, and that plaintiff repaired the alleged damage and discarded faulty parts, all in derogation of the insurance contract.

143. In Case No. 17-CA-888, the motion for summary judgment was set for hearing on June 18, 2018. In Case No. 17-CA-889, the hearing was set for the following day, June 19, 2018.

144. Respondent filed notices of related cases on April 19, 2018.

145. In both cases, on June 15, 2018, respondent filed the affidavits of the plaintiffs in opposition to the motion for summary judgment.

146. In Case No. 17-CA-888, the hearing on the motion was held on June 18, 2018. See *generally* Exhibit 17, pp. 3-52. At that hearing, respondent moved to consolidate Case Nos. 17-CA-888 and 17-CA-889 and have the motions for summary judgment heard together at a later time. See *id.*, pp. 15-16. During the hearing, Judge Holder also struck the plaintiffs' affidavits as untimely under Fla. R. Civ. P. 1.510. See *id.*, p. 18.

147. The summary judgment hearing in Case No. 17-CA-889 was held on June 19, 2018.

148. Judge Holder granted the motion for summary judgment in Case No. 17-CA-888 and entered an order to that effect on July 19, 2018. See Exhibit 17.

149. That same date, Judge Huey also entered an order granting the motion for summary judgment in Case No. 17-CA-889. See Exhibit 18.

Hernandez v. Citizens Prop. Ins. Corp.

Case No. 17-CA-3531

150. Respondent filed the complaint in Case No. 17-CA-3531 on April 17, 2017.

151. On December 17, 2019, Judge Gregory Holder entered a Uniform Order Setting Case for Trial and Pretrial, which set the pretrial conference for July 7, 2020. The order required plaintiff to file a list of witnesses and experts 120 days before the pretrial conference.

152. Respondent failed to provide witness disclosures by the 120-day cutoff, and instead filed disclosures on May 6, 2020. See Exhibit 1, p. 6.

153. The case was dismissed pursuant to a settlement on June 18, 2020.

Wilson v. Citizens Prop. Ins. Corp.

Case No. 17-CA-2250

154. Respondent filed the complaint in Case No. 17-CA-2250 on March 10, 2017.

155. Defendant filed motions for summary judgment on May 22, 2017, August 20, 2018, and December 26, 2019. These motions allege plaintiff's various failures to satisfy post-loss conditions to coverage, and

most notably focused on plaintiff's failure to submit to an examination under oath prior to suit.

156. Defendant's motion for summary judgment was granted by Judge Gregory Holder on May 4, 2020. See Exhibit 19.

157. An order on final judgment was entered on July 10, 2020.

158. The final judgment was appealed to the Second District Court of Appeal by separate counsel, and the judgment was *per curiam* affirmed on December 22, 2021.

Rodriguez v. Safepoint Ins. Co.
Case No. 18-CA-2666

159. Respondent filed the complaint in Case No. 18-CA-2666 on March 23, 2018.

160. Defendant filed a motion for summary judgment on December 12, 2018. Defendant argued that, based upon its expert's testimony as to the cause of the property damage, the damage was not a covered loss under the policy.

161. On February 21, 2019, respondent filed a notice of intent to rely upon affidavits from plaintiffs in opposition to the motion for summary judgment. Respondent did not offer any expert evidence.

162. Defendant amended the motion for summary judgment on September 26, 2019, maintaining the same argument.

163. On January 2, 2020, Judge Holder entered an order granting summary judgment for defendant. See Exhibit 20. In his order, Judge Holder ruled that the affidavit testimony of the plaintiffs (who were laypersons) was not competent to rebut defendant's expert testimony regarding the cause and origin of the loss. See Exhibit 20, p. 4 ("Plaintiffs' musings about the cause of the alleged damage do not controvert Defendant's expert report and affidavit, which was made by an expert qualified to reach the conclusions therein.").

164. On January 29, 2020, defendant filed a motion for entitlement to attorney's fees under Fla. Stat. § 768.79, due to plaintiffs' refusal to accept earlier proposals for settlement.

165. On February 3, 2020, plaintiffs appealed the summary judgment order (through other counsel) to the Second District Court of Appeals.

166. On May 4, 2020, Judge Holder granted defendant's motion for entitlement to attorney's fees.

167. On July 8, 2020, the court entered an agreed order wherein the plaintiffs stipulated to an award of \$10,108.50 in attorney's fees and \$6,115.70 in costs. See Exhibit 21.

168. Judge Holder's order granting summary judgment was *per curiam* affirmed on November 3, 2021.

Leon & Leon Properties v. Certain Underwriters at Lloyd, London

Case No. 18-CA-11598

169. Respondent filed the complaint in Case No. 18-CA-11598 on November 28, 2018.

170. On April 22, 2020, the clerk filed a notice of lack of prosecution, noting no record activity for the prior 10 months, and advising that the case would be dismissed if no record activity occurred in the following 60 days.

171. On June 26, 2020, respondent filed a notice of dismissal without prejudice. See Exhibit 1, p. 6.

Gonzalez v. St. Johns Ins. Co., Inc.

Case No. 18-CA-9536

172. Respondent filed the complaint in Case No. 18-CA-9536 on September 28, 2018.

173. On August 14, 2019, defendant filed a motion to compel discovery regarding interrogatories, requests for production, and requests for admission which had been served on respondent on October 29, 2018.

174. On May 4, 2020, Judge Gregory Holder entered an order granting the motion to compel and deeming the requests for admission to be admitted. See Exhibit 22. Judge Holder noted that 554 days had

elapsed without an objection or response to defendant's discovery, and 264 days had elapsed without a response to the motion to compel.

175. In the May 4, 2020 order, Judge Holder also stated:

The Court notes and has considered, once again, the fact that this is not an isolated incident of completely dilatory and unprofessional behavior and conduct on the part of Plaintiff's Counsel, The Strems Law Firm and Mr. Jonathan Drake. In point of fact, this Court has repeatedly counseled and warned The Strems Law Firm and Mr. Drake of their professional obligations to both clients and this Court. Despite these heartfelt words of warning, The Strems Law Firm and Mr. Drake have continued this absolute failure to meet their contractual and ethical obligations to clients and their ethical obligations to this Court and our system of justice.

Exhibit 22, p. 1.

176. The order also directed plaintiffs to provide discovery responses within 10 days, with the court reserving jurisdiction to consider the sanctions requested in the motion to compel. *Ibid.*

177. On May 18, 2020, respondent filed a notice of settlement.

178. Respondent dismissed the case with prejudice on September 1, 2020.

Perez Diaz v. Heritage Prop. & Cas. Ins. Co.
Case Nos. 18-CA-5748, 18-CA-5756

179. On June 14, 2018, respondent filed the complaints in Case Nos. 18-CA-5748 and 18-CA-5756.

180. These cases related to different water losses at the same property, which occurred on the same date, under the same policy of insurance. See Exhibit 1, p. 7.

181. Respondent did not file a notice of related cases in either case.

182. On August 20, 2019, defendant filed a motion to consolidate the cases.

183. Judge Gregory Holder entered an order granting the motion and consolidating the cases on May 5, 2020.

184. The case remains in litigation as of the writing of this complaint.

Martinez v. Heritage Prop. & Cas. Ins. Co.
Case No. 18-CA-4724

185. Respondent filed the complaint in Case No. 18-CA-4724 on May 18, 2018.

186. On February 26, 2019, the court entered agreed order providing plaintiffs until April 1, 2019 to respond to outstanding discovery. See Exhibit 1, p. 7.

187. Respondent failed to provide any discovery responses by the court-ordered deadline. See *ibid*.

188. On May 5, 2020, defendant filed a motion for order to show cause, alleging that plaintiffs never provided discovery responses pursuant to the agreed order. See *ibid*.

189. Judge Holder scheduled a case management conference for May 13, 2020 to address non-compliance with discovery.

190. On May 12, 2020, respondent filed a motion to withdraw, citing irreconcilable differences with the client. *See ibid.*

191. Respondent's motion to withdraw was never heard or set for hearing, and the case remains in litigation.

Hernandez-Diaz v. Anchor Prop. & Cas. Ins. Co.
Case No. 18-CA-3077

192. Respondent filed the complaint in Case No. 18-CA-3077 on April 4, 2018.

193. On August 28, 2019, Judge Gregory Holder entered a Uniform Order Setting Case for Trial and Pretrial. *See Exhibit 1, p. 7.* This order set the pretrial conference for June 2, 2020, and required plaintiff to make witness and expert disclosures 120 days ahead of the conference.

194. Respondent failed to make any witness disclosures within the court-ordered timeframe. *See ibid.*

195. The case was voluntarily dismissed with prejudice by respondent's successor counsel on June 3, 2021.

Santana v. Heritage Prop. & Cas. Ins. Co.

Case Nos. 18-CA-2234, 18-CA-2240, 18-CA-2246

196. Respondent filed the complaints in Case Nos. 18-CA-2234, 18-CA-2240, and 18-CA-2246 on March 12, 2018.

197. Respondent did not file a notice of related cases in any of these cases.

198. On May 13, 2020 in Case No. 18-CA-2240, Judge Gregory Holder issued a *sua sponte* order consolidating the three cases, together with three county court cases (not involving respondent) relating to assignment of benefits lawsuits brought by a water mitigation company. See Exhibit 1, p. 7.

199. Judge Holder found that these cases alleged breaches of the same insurance policy, damage to the same real property, and ostensibly separate water losses that occurred extremely close in time or on the same day.

200. The case remains in litigation as of the drafting of this complaint.

Llorent v. Safepoint Ins. Co.

Case Nos. 19-CA-6058, 19-CA-6061

201. Respondent filed the complaints in Case Nos. 19-CA-6058 and 19-CA-6061 on June 11, 2019.

202. Respondent failed to file a notice of related cases in either case.

203. On February 25, 2020, Judge Holder entered a *sua sponte* order consolidating the two cases on the basis that both cases involved the same property, the same insurance policy, and two separate losses close in time. See Exhibit 1, p. 7.

204. The case resolved with a settlement on or about June 16, 2022.

Mosley v. Avatar Prop. & Cas. Ins. Co.
Case No. 20-CA-269

205. Respondent filed the complaint in Case No. 20-CA-269 on January 10, 2020.

206. On February 17, 2020, defendant served its requests for admissions and other discovery requests.

207. On March 27, 2020, having received no discovery responses, defendant filed a motion to compel discovery and a motion for its requested admissions to be deemed admitted.

208. On May 3, 2020, Judge Gregory Holder entered an order granting the requested relief, noting that respondent had failed to answer the discovery in the 55 days since service, and failed to respond to defendant's motions, which had been pending for 37 days. See Exhibit 23.

209. In the May 3, 2020 order, Judge Holder issued the same finding regarding respondent's conduct as it appears above in paragraph 174. See *ibid.*

210. This case was closed on or about May 27, 2022, after the defendant insurance company was placed in receivership.

Rivera, et al. v. Security First Ins. Co.
Case Nos. 16-CA-4946, 16-CA-4950

211. Respondent became active in Case Nos. 16-CA-4946 and 16-CA-4950 on or about March 13, 2017.

212. On July 19, 2017, defendant filed a "Motion for Sanctions for Continued Pattern of Delay and for Plaintiffs' Failure to Appear at Deposition, Alternatively, Motion to Compel Deposition of Plaintiffs."

213. In the motion, defendant's counsel alleged the Strems Law Firm engaged in a pattern of dilatory conduct stretching back to the filing of the lawsuit in 2016. Defendant alleged that respondent and respondent's firm repeatedly failed to coordinate the depositions with defense counsel, and failed to honor previously agreed deposition dates.

214. The motion sought sanctions, including the dismissal of the action and the award of attorney's fees and costs.

215. Defendant's motion for sanctions was heard on August 3, 2017 before Judge Rex Barbas. See Exhibit 24.

216. Regarding respondent's inability to secure his client for deposition, Judge Barbas stated:

[M]y problem is that this seems to be a real problem with the Strems Law Firm. This is not isolated. ...

And I know this has been a problem for Judge Holder, Judge Rice, Judge Nielsen. All of us have had problems with the Strems Law Firm, and I don't understand it. I'm a little concerned, frankly, with the well – legal welfare of your clients, the Strems Law Firm clients.

...

...I'd like to know what the problem is because this is not isolated by any stretch of the imagination. This is not isolated. This is becoming a real issue in this circuit, if not in other circuits.

Exhibit 24, pp. 17-18.

217. Respondent did not file a written response to the motion for sanctions.

218. On August 16, 2017, Judge Rex Barbas entered an order granting the motion in part. See Exhibit 25. The order awarded defendant \$37,000.00 in fees and referred "The Strems Law Firm, P.A. to the Florida Bar for disciplinary measures and/or for an investigation into the actions and conduct of The Strems Law Firm, P.A." See *id.*, p. 9.

219. In relevant part, the court found:

45. Plaintiffs' lawyers' actions in this litigation have been deliberate and contumacious and designed to prevent the orderly movement of this litigation.
46. The most basic discovery, Plaintiffs' depositions, were deliberately delayed, and Plaintiffs failed to provide any credible or reasonable justification for the delays.
47. At some point mere foot dragging becomes conduct which evinces deliberate callousness and willful disregard of the Court's authority. *Turner v. Marks*, 612 So. 2d 610 (Fla. 4th DCA 1992).
48. Plaintiffs' lawyers have willfully disregarded the Florida Rules of Civil Procedure and the Rules of Professional Conduct and have engaged in bad faith litigation conduct.
49. The actions of Plaintiffs' lawyers have caused substantial problems of judicial administration in not only this case, but this Circuit Court.

Id., p. 7.

220. After reconsideration, Judge Barbas entered a revised order retracting the amount of the sanctions, and setting the issue for further proceedings. See Exhibit 26. The revised order expressly preserved all other findings of the August 16, 2017 order.

221. On October 5, 2017, defendant filed a motion for final summary judgment. The defense alleged that it was entitled to judgment as a matter of law because the plaintiffs failed to satisfy certain post-loss conditions required for coverage under the policy, namely by failing to provide prompt

notice of the loss, failing to submit signed proofs of loss, failing to show damaged property, failing to produce records and documents, and failing to submit to an examination under oath.

222. The motion for summary judgment was heard on November 21, 2017.

223. Respondent filed the opposition to the motion for summary judgment on November 21, 2017, four days before the hearing.

224. On November 28, 2017, Judge Barbas entered an order granting the motion for final summary judgment. See Exhibit 27.

225. Through separate counsel, plaintiffs appealed the summary judgment order to the Second District Court of Appeal on December 27, 2017.

226. The order granting summary judgment was *per curiam* affirmed on May 24, 2019.

Perez, et al. v. Homeowners Choice Prop. & Cas. Ins. Co., Inc.
Case No. 16-CA-10243

227. On January 9, 2017, defendant moved to dismiss the complaint on the basis that the plaintiffs had not satisfied certain post-loss obligations, such as sitting for an examination under oath and providing requested documents.

228. In an order dated June 8, 2017, Judge Gregory Holder declined to dismiss the complaint, and instead abated the action to permit plaintiffs an opportunity to satisfy their post-loss obligations.

229. On October 1, 2017, defendant filed a “Motion to Lift Abatement and for Sanctions.” Defendant alleges that the plaintiffs failed to appear at their mutually coordinated examination under oath, and otherwise failed to satisfy the post-loss conditions during the pendency of the abatement.

230. Defendant’s motion sought the lifting of the abatement and an award of sanctions, and alternatively the dismissal of the complaint.

231. Respondent became active in Case No. 16-CA-10243 on or about September 27, 2017, and he filed a response to the motion on that date.

232. The motion was heard before Judge Holder on September 28, 2017. See Exhibit 28.

233. At the September 28, 2017 hearing, Judge Holder made the following findings:

As I was saying before I was so rudely interrupted by counsel, this Court finds that indeed through the conduct of counsel for the plaintiffs this case has been continuously delayed. The Court finds that this matter was improperly filed without compliance with the terms and conditions of the policy, which was attached to the very

complaint filed by counsel for these plaintiffs. This Court will not countenance any dilatory tactics, whether they be for lucre or malice in violation of the oath to God that every attorney takes. The Court finds that indeed the conduct of counsel for the plaintiffs have resulted in a delay and additional cost, time, energy and expense expended by the defendant. As such, again, this Court will be prepared to conduct an evidentiary hearing. The abatement has been lifted. The case has been dismissed; that this Court has retained jurisdiction as it relates to sanctions.

Id., p. 16.

234. Subsequently, Judge Holder explained:

You seem like a very, very nice young man, [respondent], but your firm has engaged in these tactics on a repeated basis, whether it's incompetence, misfeasance, malfeasance, nonfeasance, or just a lack of ethics, we will make that determination, but indeed it must stop.

Id., p. 18.

235. On October 16, 2017, Judge Holder entered an order lifting the abatement, dismissing the case, and sanctioning respondent's firm. See Exhibit 29.

Ramirez, et al. v. Heritage Prop. & Cas. Ins. Co.
Case No. 16-CA-3258

236. Respondent became active in Case No. 16-CA-3258 on or about May 30, 2017.

237. On July 21, 2017, defendant moved to compel better discovery responses from plaintiffs, and sought attorney's fees associated with that

motion. Among other things, defendant's discovery requests related to plaintiffs' phone records around the time of the subject loss.

238. On November 2, 2017, Judge Rex Barbas entered an order granting the motion to compel, and awarding defendant entitlement to fees. Judge Barbas ordered plaintiffs to provide certain discovery responses by November 6, 2017.

239. Respondent failed to provide the court-ordered responses.

240. On December 15, 2017, defendant filed a "Motion to Dismiss Plaintiffs' Complaint and/or Verified Motion for Order to Show Cause Why Plaintiffs and Plaintiffs' Counsel Should Not be Held in Contempt for Violating This Court's November 2, 2017 Order and for Sanctions." In the motion, defendant alleged that the "better" discovery responses were not responsive to the court's order, that they were not properly verified, and that subsequent deposition testimony conflicted with counsel's earlier representations about documents requested from plaintiff.

241. The December 15, 2017 motion requests that the court strike the plaintiffs' pleadings, dismiss the case with prejudice, issue an order to show cause as to why plaintiff and plaintiff's counsel should not be held in contempt, and award defendant costs and attorney's fees.

242. By agreed final judgment dated December 28, 2017, the parties agreed to an award of \$4,000.00 in attorney's fees relating to defendant's July 21, 2017 motion to compel. See Exhibit 30.

243. On April 3, 2018, Judge Barbas granted the December 15, 2017 motion in part. The order directed plaintiffs to submit better discovery responses within 30 days, and found that defendant was entitled to attorney's fees. The order reserved ruling on further sanctions.

244. The court further considered the December 15, 2017 motion in another hearing on July 24, 2018, and issued a subsequent order granting the motion on August 23, 2018. See Exhibit 31.

245. By this time, defendant had obtained one plaintiff's cell phone records, which the court found contradicted the case as pled, as well as plaintiffs' testimony surrounding the relevant chain of events. See *id.*, pp. 11-12.

246. The court further found that plaintiffs and their counsel spoliated evidence by failing to preserve plaintiffs' other phone records. See *id.*, p. 10.

247. For these reasons, Judge Barbas found that defendant was prejudiced in bringing a potential defense. See *id.*, p. 13.

248. Accordingly, the court dismissed the case with prejudice, citing the “continued and willful violations of this Court’s Order.” See *ibid*.

249. Judge Barbas found that “Plaintiffs’ counsel’s disobedience was willful, deliberate, and contumacious. Plaintiffs’ counsel has already been sanctioned once in this case for a similar violation.” See *id.*, p. 15.

Vera, et al. v. American Security Ins. Co.
Case No. 18-CA-6103, 18-CA-04991

250. Respondent filed the complaint in Case No. 18-CA-6103 on June 25, 2018.

251. On December 6, 2018, Judge Lamar Battles entered an agreed order directing the parties to undergo the appraisal process.

252. On March 26, 2019, defendant filed a “Motion to Compel Plaintiffs to Make the Property Available for Inspection by Appraisal Panel and motion for Sanctions for Violation of Court’s Order Dated December 6, 2018.”

253. In the motion, defendant alleges that plaintiff’s appraiser had failed to select an umpire for the appraisal, and had failed to make the property available to inspection by the appraisal panel. These failures allegedly made it impossible to proceed with appraisal.

254. Defendant also alleged that one of the named plaintiffs, Israel Perez, had died years prior to the lawsuit being filed.

255. The motion sought inspection of the property within 20 days, sanctions in the form of attorney's fees and costs, and an order to show cause regarding whether the plaintiff Mr. Perez was in fact deceased.

256. At 9:22 PM on April 30, 2019 (the eve of the hearing on defendant's motion), respondent filed a notice of related cases, for the first time disclosing Case No. 18-CA-4991 as a related case.

257. Respondent had previously filed Case No. 18-CA-4991 on May 25, 2018, nearly one year earlier.

258. A hearing was held on defendant's motion on May 1, 2019. See Exhibit 32, pp. 8-18.

259. On the record, Judge Battles made the following findings:

Counsel's motion today points out a pattern of violation of this Court's orders that is best described in their motion and through a litany of past orders. It's not an isolated incident.

A long time ago in this very hearing room on numerous occasions, Mr. Drake of the Strems Law Firm has been ordered and required to file the notice of related cases. That was not done in this case until after 9:00 last night before this hearing today at 2:00 PM.

...

I want to make one other thing clear. Based on this record of late submissions, violations, or close to violations of court orders, the Court in this particular case is going to order, and I want you to get this specifically, that Scott Strems, Esquire, the President of Strems Law Firm, is to

appear before the Court at any further hearings in this matter. And that would be personal appearance; no telephonic appearance. Let's be clear so there's no misunderstanding. Scott Stremms will physically appear in any further hearings on this matter, along with the client or clients.

...

You don't need to write this portion in there, but there has to be accountability in these matters. The Court is not to turn a blind eye to an established pattern, and can remedy it in the way it sees fit. The only way that I think we're going to get any closer to response in these matters is to require the most senior attorney to be present to address these matters so we can then address any failures on the spot.

See Exhibit 32, pp. 10-13.

260. On May 2, 2019, Judge Battles entered an order granting the motion to compel.

261. On May 10, 2019, respondent filed a notice of showing good cause in response to the May 2, 2019 order. Respondent represented that the plaintiff named "Israel Perez" was not the deceased Israel Perez, but his adult son.

262. Nonetheless, when respondent amended the complaint on June 5, 2019, "Israel Perez" was dropped as a plaintiff entirely.

263. On May 13, 2019, respondent moved to disqualify Judge Battles. See Exhibit 32.

264. In his motion, respondent alleged that Judge Battles was prejudiced against the attorneys of the Strems Law Firm, having made “derogatory statements” about those counsel at the May 1, 2019 hearing, including “accusing the firm of ‘a pattern of violation of this Court’s orders.’” See Exhibit 32, ¶ 14.

265. Judge Battles denied the motion to disqualify as legally insufficient on May 15, 2019.

266. Through separate counsel, plaintiffs sought a writ of prohibition from the Second District Court of Appeal to effectively appeal Judge Battles’s decision on the motion to disqualify.

267. The Second District Court of Appeal denied the petition for a writ of prohibition on or about October 21, 2019.

Payano, et al. v. Security First Ins. Co.
Case Nos. 17-CA-5477, 17-CA-8898

268. Respondent filed the complaint in Case No. 17-CA-5477 on June 9, 2017.

269. Respondent filed the complaint in Case No. 17-CA-8898 on September 27, 2017.

270. On November 7, 2017, defendant moved to consolidate both cases.

271. Respondent filed a notice of related cases on April 19, 2018, disclosing that the two cases were in fact related.

272. On May 17, 2018, Judge Martha Cook entered an order granting defendant's motion, and consolidating the cases.

273. The May 17, 2018 order required respondent to file an amended complaint consolidating the allegations in both actions within 10 days of the order.

274. The May 17, 2018 order expressly advised that failure to comply with the order will result in the dismissal of both cases with prejudice.

275. Respondent failed to file the amended complaint within 10 days, as required by the order.

276. On May 31, 2018, defendant filed a Notice of Plaintiff's Failure to Comply with Court Order advising that no amended complaint had been filed as of that date.

277. On that same date, Judge Cook entered an order dismissing the case with prejudice due to the failure to comply with the May 17, 2018 order. See Exhibit 33.

278. On January 3, 2019, respondent moved to vacate the order of dismissal.

279. Respondent's motion to vacate was heard on April 1, 2019, and Judge Cook entered an order denying the motion on April 2, 2019.

280. Through separate counsel, plaintiffs appealed the order denying the motion to vacate to the Second District Court of Appeal.

281. Judge Cook's decision was *per curiam* affirmed on or about September 16, 2020.

Solis v. Heritage Prop. & Cas. Ins. Co.
Case No. 17-CA-7374

282. Respondent filed the complaint in Case No. 17-CA-7374 on August 5, 2017.

283. On June 27, 2018, the clerk entered a Notice of Lack of Prosecution. See Exhibit 34.

284. The notice observed that there had been no record activity for 10 months prior, and it further provided that the action would be dismissed if no record activity occurred within the subsequent 60 days.

285. Respondent failed to make any record activity during those 60 days.

286. The case was dismissed for a lack of prosecution on September 6, 2018.

287. On or about January 14, 2019, respondent made various filings and re-opened the case.

288. On March 17, 2020, the clerk again entered a Notice of Lack of Prosecution, noting no record activity in the preceding 10 months. See Exhibit 35.

289. Respondent again failed to make any record activity.

290. On May 12, 2020, Judge Martha Cook ordered the clerk to close the case.

Martin v. American Security Ins. Co.
Case No. 17-CA-7633

291. Respondent filed the complaint in Case No. 17-CA-7633 on August 14, 2017.

292. Defendant served requests for production and interrogatories on respondent on September 15, 2017.

293. On September 27, 2017, defendant noticed plaintiff's deposition to take place on November 20, 2017.

294. On November 7, defendant moved to compel responses to its discovery requests. Defendant alleged that the discovery was overdue, and plaintiff's counsel made no effort to seek an extension.

295. By November 17, 2017, defendant had still received no discovery responses, and canceled plaintiff's deposition set for November 20, 2017.

296. Additionally on November 17, 2017, defendant moved for sanctions, and to compel deposition dates from plaintiff.

297. On December 13, 2017, Judge Martha Cook entered an agreed order granting defendant's motions, finding entitlement to fees in defendant's favor, and compelling plaintiff to provide deposition dates and *verified* discovery responses within 10 days.

298. Respondent served unverified discovery responses on December 22, 2017.

299. On January 8, 2017, defendant again moved for sanctions on the basis that the answers provided by respondent were unverified, in derogation of the December 13, 2017 court order.

300. On February 14, 2018, Judge Cook entered an agreed order setting plaintiff's deposition for March 8, 2018, and requiring him to bring verified discovery responses at that time. See Exhibit 36.

301. The February 14, 2018 order also provided that, if plaintiff failed to appear for the deposition or failed to bring verified discovery responses, he would be required to file a notice of voluntary dismissal with prejudice within three days.

302. On March 13, 2018, defendant filed a Motion to Dismiss with Prejudice Pursuant to the Court's February 14, 2018 Order and for

Sanctions for Plaintiff's Failure to Comply with the Court's February 14, 2018 order.

303. In the motion, defendant alleged that plaintiff failed to appear for the March 8, 2018 deposition, in violation of the February 14, 2018 order.

304. Defendant also alleged that a notice of voluntary dismissal was not filed within 3 days of plaintiff's failure to appear, again in violation of the February 14, 2018 order.

305. Defendant's motion sought dismissal with prejudice as well as attorney's fees and costs associated with the motion and plaintiff's failure to attend.

306. Defendant's March 13, 2018 motion was set for hearing on May 7, 2018.

307. On May 4, 2018, respondent filed a notice of voluntary dismissal with prejudice.

Rivero v. Citizens Prop. Ins. Corp.
Case No. 17-CA-10025

308. Respondent filed the complaint in Case No. 17-CA-10025 on November 3, 2017.

309. On May 29, 2018, defendant moved for summary judgment.

310. In its motion, defendant alleged that the loss was not covered as a matter of law because it was not caused by an insured peril. The motion was supported by various exhibits of evidence, including the affidavit of defendant's adjuster.

311. The motion for summary judgment was set for hearing on September 18, 2018.

312. Respondent did not file any opposition to the motion for summary judgment.

313. On September 17, 2018, the day before the summary judgment hearing, respondent filed a notice of voluntary dismissal without prejudice.

314. By reason of the foregoing, respondent has violated the following Rules Regulating The Florida Bar: Rule 4-1.1 (Competence); Rule 4-1.3 (Diligence); Rule 4-3.4 (Fairness to Opposing Party and Counsel); and Rule 4-8.4(d) (Misconduct: A lawyer shall not engage in conduct in connection with the practice of law that is prejudicial to the administration of justice).

WHEREFORE, The Florida Bar prays respondent will be appropriately disciplined in accordance with the provisions of the Rules Regulating The Florida Bar as amended.



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CERTIFICATE OF SERVICE

I certify that this document has been e-filed with The Honorable John A. Tomasino, Clerk of the Supreme Court of Florida; with copies provided Scott Kevork Tozian, Counsel for Respondent, via email at stozian@smithtozian.com and by United States Mail via certified mail No. 7020 1810 0000 0813 3198, return receipt requested, to 109 N. Brush St., Ste. 200 Tampa, FL 33602-4116; and via email to J. Derek Womack, Bar Counsel, jwomack@floridabar.org, on this 25th day of April, 2023.



Patricia Ann Toro Savitz
Staff Counsel

NOTICE OF TRIAL COUNSEL AND DESIGNATION OF PRIMARY EMAIL ADDRESS

PLEASE TAKE NOTICE that the trial counsel in this matter is J. Derek Womack, Bar Counsel, whose address, telephone number and primary email address are The Florida Bar, 651 E. Jefferson St., Tallahassee, Florida 32399-2300, (813) 561-3140 and jwomack@floridabar.org. Respondent need not address pleadings, correspondence, etc. in this matter to anyone other than trial counsel and to Staff Counsel, Patricia Ann Toro Savitz, The Florida Bar, 651 E Jefferson Street, Tallahassee, Florida 32399-2300, psavitz@floridabar.org.

MANDATORY ANSWER NOTICE

RULE 3-7.6(h)(2), RULES REGULATING THE FLORIDA BAR,
PROVIDES THAT A RESPONDENT SHALL ANSWER A COMPLAINT.