

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

Supreme Court Case
No. 2025-1075

v.

The Florida Bar File
No. 2025-00,089(2B)

HEATHER RENAE MARX,
Respondent.

_____ /

REPORT OF REFEREE ACCEPTING CONSENT JUDGMENT

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 July 22, 2025, The Florida Bar (the bar) filed its complaint against the respondent in these proceedings. The Supreme Court of Florida entered an order on July 28, 2025, designating the Chief Judge of the Second Judicial Circuit of Florida to appoint a referee in this case. The Honorable Chief Judge Francis J. Allman appointed the undersigned to serve as the referee on July 28, 2025. An initial case management conference was held in this matter on August 12, 2025. The parties entered into a conditional guilty plea for consent judgment on October 1, 2025.

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Throughout these proceedings, the bar was represented by Bar Counsel Lauren Michelle Williams. The respondent was pro se. All of the pleadings, responses, exhibits received in evidence, and this report constitute the record in this case and are filed with the Supreme Court of Florida.

II. FINDINGS OF FACT

Jurisdictional Statement. The 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. In addition to membership in The Florida Bar, respondent is, and at all times relevant to this matter was, a member of The Colorado Bar, subject to the jurisdiction of the Colorado Supreme Court.

Narrative Summary Of Case. This is a reciprocal discipline action, based on the Stipulation to Discipline Pursuant to C.R.C.P.242.19, dated August 2, 2024, and the Order Approving Stipulation To Discipline Under C.R.C.P. 242.19(c), dated August 6, 2024, which imposed a one year and one day suspension, with three months to be served and remainder to be stayed upon the successful completion of a two-year period of probation with conditions. The conditions of probation are that respondent shall not engage in any further violation of the Colorado Rules of Professional

Conduct, attend and successfully pass ethics school and if respondent returns to practicing law and/or representing clients as a solo practitioner respondent shall provide quarterly status reports during her probationary period. Respondent has successfully completed ethics school.

1. The following allegations and rules provide the basis for respondent's guilty plea and for the discipline to be imposed in this matter:

- (a) Following a remedial contempt hearing held in February 2021 in a domestic relations case, respondent did not timely file a proposed order or affidavit for attorney's fees with the court.
- (b) In September 2021, the court entered the order respondent had proposed, directing her to file her affidavit for attorney's fees within ten days of the order's date.
- (c) Respondent did not do so, nor did she send a copy of the order to her client until December 1, 2021, when her client inquired about the matter.
- (d) That same day, respondent's client also asked about the affidavit for attorney's fees and requested a copy of what respondent filed.
- (e) Respondent's client again inquired about the affidavit five days later, having received no response.
- (f) Respondent eventually filed an affidavit for attorney's fees in the amount of \$51,566.00 on December 10, 2021.
- (g) When her client expressed concern over the affidavit's timeliness, respondent assured her there was no deadline for an affidavit for attorney's fees. Respondent did not

discuss her mistake with her client or how it might affect the client's ability to collect fees from the opposing party.

- (h) In January 2022, the court issued an order noting that respondent filed the affidavit eleven weeks late without any requests for extensions.
- (i) Respondent did not discuss the order's significance with her client but moved to reconsider the order with the district court.
- (j) The district court denied the motion to reconsider.
- (k) Again, respondent did not discuss the significance of that order with her client.
- (l) In May 2022, the client learned through communications with the opposing party that the orders from January 2022 and February 2022 amounted to denials of her request for attorney's fees.
- (m) When the client confronted respondent with this information, respondent misrepresented that she had requested an extension to file the affidavit with the court. Respondent's client requested communications related to that issue, but respondent did not provide all the communications.
- (n) Respondent violated Colo. RPC 1.3 (a lawyer must act with reasonable diligence and promptness when representing a client); Colo. RPC 1.4 (a lawyer must reasonably communicate with the client and must explain a matter so as to permit the client to make informed decisions regarding the representation); Colo. RPC 1.16A (a lawyer in private practice must retain a client's file unless the lawyer gives the file to the client, the client authorizes the destruction, or the lawyer has notified the client in writing of the intention to destroy the file); and

Colo. RPC 8.4(c) (it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation).

III. RECOMMENDATIONS AS TO GUILT:

By operation of Rule 3-4.6, Rules Regulating The Florida Bar, the Stipulation and Order from Colorado is conclusive proof of the misconduct in this disciplinary proceeding that respondent has violated Colo. RPC 1.3 (a lawyer must act with reasonable diligence and promptness when representing a client); Colo. RPC 1.4 (a lawyer must reasonably communicate with the client and must explain a matter so as to permit the client to make informed decisions regarding the representation); Colo. RPC 1.16A (a lawyer in private practice must retain a client's file unless the lawyer gives the file to the client, the client authorizes the destruction, or the lawyer has notified the client in writing of the intention to destroy the file); and Colo. RPC 8.4(c) (it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation).

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 the respondent:

Age: 46

Date admitted to the Bar: September 21, 2004

Prior Discipline: None in Florida.

V. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Florida Standards for Imposing Lawyer

Sanctions before recommending discipline:

4.4 Lack of Diligence

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.

4.6 Lack of Candor

Suspension is appropriate when a lawyer knowingly deceives a client and causes injury or potential injury to the client.

I find the following aggravating factors:

- (2) Dishonest or selfish motive; The court in Colorado found respondent made misrepresentations to the client in the underlying matter.
- (9) Substantial experience in the practice of law; Respondent was admitted on September 21, 2004.

I find the following mitigating factors:

- (1) Absence of a prior disciplinary record; Respondent has no prior discipline in Florida.
- (5) Full and free disclosure to the bar or cooperative attitude towards the proceedings; respondent has been cooperative with the bar. Respondent submitted documents in mitigation to The Florida Bar that have been filed under separate cover and considered by the referee.
- (8) Physical or mental disability or impairment or substance-related disorder; Respondent was in and out of the hospital at the time the conduct occurred due to COVID and a high-risk pregnancy.

VI. CASE LAW

I considered the following case law before recommending discipline:

In The Florida Bar v. Millien-Felix, 2023 WL 1836947 (Fla. Feb. 9, 2023)– The Court suspended the lawyer for 90-days and ordered restitution. The lawyer filed a civil complaint on behalf of a homeowners' association, which she then neglected. She then failed to inform the Homeowner's Association that the lawsuit was dismissed for lack of prosecution. The Homeowner's association was also assessed costs. Just before the running of the statute of limitations, respondent refiled the case after the association had terminated her representation.

In The Florida Bar v. Naughton, 2022 WL 402705 (Fla. Feb. 10, 2022) – The Court approved the uncontested Amended Report of Referee recommending acceptance of a Conditional Guilty Plea for Consent Judgment for a 90-day suspension and restitution within 30 days of the Court's order for neglect and inadequate communication. The lawyer undertook the representation of a couple seeking custody of their grandchildren after the death of their daughter. After filing the Petition for Dependency, the lawyer failed to handle the matter diligently and maintain adequate communication with his clients. After being prompted by his clients to seek a default, the lawyer filed a motion for default without first reviewing the clerk's docket. The father had already filed a pro se answer. As a result, the court denied the motion for default. The lawyer failed to timely advise his clients of the denial of the default and that he had been engaged in settlement negotiations on their behalf with the father.

In The Florida Bar v. Hill, 2021 WL 4995559 (Fla. Oct. 28, 2021)– The Court approved the uncontested Report of Referee recommending a 90-day suspension, completion of Ethics School and restitution. The lawyer received referrals from The Florida Bar Lawyer Referral Service. He then referred those individuals to another attorney. The lawyer also neglected a case referred to him by the other attorney. The lawyer agreed to handle the trial a few days before the trial date; he never spoke with the client or attempted to prepare him for trial. When the client failed to appear because the other attorney had mistakenly told him not to appear for the court date, respondent made no attempt to directly contact the client. The client was ordered to pay a judgment on the counterclaim.

In The Florida Bar v. Husby, 2021 WL 3214747 (Fla. July 29, 2021) – The Court suspended the lawyer for 90 days, with completion of DDCS and Ethics School. In the first matter, respondent neglected a client's adoption matter, failed to communicate adequately with the client, and failed to respond timely to bar inquiries. In a second matter, the lawyer failed to provide his client with competent representation.

In The Florida Bar v. Borgia, 2016 WL 5719327 (Fla. Sept. 29, 2016) – The Court suspended the lawyer for 90 days, one-year period of probation, and was ordered to pay restitution. The lawyer neglected multiple client matters involving disability claims and/or appeals. The lawyer also failed to communicate with his clients and failed to keep them reasonably informed of the status of their matters. At the time of the neglect, the lawyer suffered from a serious illness.

In The Florida Bar v. Polk, 168 So.3d 230 (Fla. 2015) – The Court suspended the lawyer for 90 days pursuant to a consent judgment for neglecting a client's criminal appeal and failing to communicate with the client. The client wrote a letter to the clerk's office, without the lawyer's knowledge. The client's letter was treated as a notice of appeal. Thereafter, the lawyer filed his notice of appearance and notice of appeal. He had difficulty obtaining the client's record on appeal and filed an extension of time to file the brief after the appellate court issued two orders to show cause why the appeal should not be dismissed. The court granted the request for an extension of time to file the initial brief. However, he failed to file the brief. After the court issued an order to show cause why the appeal should not be dismissed, the client filed a petition for belated appeal with the court in an effort to keep his appeal from being dismissed.

VII. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE IMPOSED

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

- A. Suspension from the practice of law for 90 days, effective immediately on entry of the Supreme Court of Florida's order approving this consent judgment.

- i. On entry of the Court's order, respondent must immediately:
 1. cease all practice of law in Florida;
 2. cease holding respondent out as a Florida Bar member or lawyer and eliminate all indicia of respondent's status as a Florida Bar member or lawyer on websites, social media, telephone listings, stationery, checks, business cards, office signs, email address, and any other indicia of respondent's status as a Florida Bar member or lawyer in Florida;
 3. cease withdrawing or disbursing any money from any trust account or other financial institution account holding funds of clients or third parties in respondent's possession in connection with legal representation in Florida;
 4. not transfer any ownership of any real or personal property purchased in whole or in part with funds of clients or third parties in connection with legal representation in Florida; and
 5. provide a copy of the suspension order to all courts, tribunals, or adjudicative agencies before which respondent is counsel of record; all state, federal, or administrative bars of which respondent is a member; all clients; all co-counsel; and all opposing counsel in Florida, as required by Rule 3-5.1(h).
 6. Within 30 days from the date of the Court's order, respondent must provide the bar's headquarters office in Tallahassee with an affidavit listing all of the following that respondent notified of the suspension order: all courts, tribunals, or adjudicative agencies of which respondent is a

member; all state, federal, or administrative bars of which respondent is a member; all clients; all co-counsel; and all opposing counsel in Florida.

- B. Respondent must fully comply with Rule Regulating The Florida Bar 3-5.1(h).
- C. Respondent must also fully comply with Rule Regulating The Florida Bar 3-6.1, if applicable.
- D. Respondent will be placed on one year probation to commence on the Court's approval of the consent judgment. Respondent will submit quarterly affidavits to The Florida Bar's Headquarters office. The quarters are March 31, June 30, September 30 and December 31. Respondent will pay a onetime monitoring fee of \$100.00 quarterly monitoring fee to the bar due prior to the termination of probation. Respondent's affidavit will specifically confirm respondent's compliance with the conditions of her probation in Colorado as noted in paragraph 4 above and confirm that she is not the subject of any new discipline inquiries. The reports are due 15 days following the end of each quarter.
- E. Payment of The Florida Bar's costs.

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

I find the following costs were reasonably incurred by The Florida

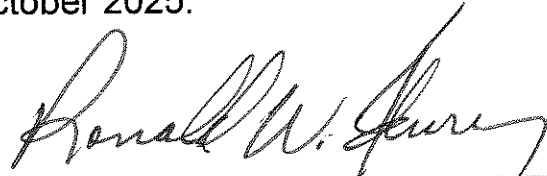
Bar:

Administrative Costs	\$1,250.00
Investigative Costs	7.95
TOTAL	\$1,257.95

I recommend that the above costs be charged to the respondent and that interest accrue at the statutory rate. If the respondent does not satisfy

the cost judgment within 30 days of the judgment becoming final, the respondent will be delinquent and ineligible to practice law under R. Regulating Fla. Bar 1-3.6, unless otherwise deferred by the Board of Governors of The Florida Bar.

Dated this 1 day of October 2025.

A handwritten signature in black ink, appearing to read "Ronald W. Flury", written over a horizontal line.

Judge Ronald W. Flury, Referee

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

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