

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

Supreme Court Case
No. SC23-0745

v.

The Florida Bar File
No. 2022-30,217 (5A)

WILLIAM GLENN ROY JR.,
Respondent.

_____ /

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 May 24, 2023, The Florida Bar filed its Complaint against respondent in these proceedings. 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**

1. **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.

2. Narrative Summary of Case.

A. Respondent represented plaintiff homeowners in Raymond Moyer, et al. v. All in One Pools, Inc., et al., Case No. 2019-CA-054538, in the Circuit Court of the Eighteenth Judicial Circuit in and for Brevard County, Florida.

B. On or about November 14, 2019, respondent filed suit against All in One Pools, five (5) individual employees, and Paul Marks, a retired electrician named as the electrical subcontractor on the permitting application for the Moyer's pool.

C. On January 10, 2020, attorney Nicholas Vidoni filed and served a Motion to Compel Arbitration and Strike Demand for Jury Trial on behalf of all six (6) individual defendants.

D. On January 20, 2020, Paul Marks (age 87) was served with the Complaint. On January 31, 2020, Paul Marks called respondent's office and said he had done no work on the Moyer's pool. Respondent declined to speak with Paul Marks, but his staff invited Mr. Marks to send a letter if he thought he was served incorrectly.

E. On February 1, 2020, Paul Marks wrote a letter to respondent stating that he did not obtain the permit for the Moyer's pool and did not sign the electrical permitting application.

F. Paul Marks called respondent on February 7, 2020, and respondent inquired whether Paul Marks was represented. Paul Marks said he was not represented and had not hired any attorney to file any pleading on his behalf.

G. Respondent assisted Paul Marks with formatting an affidavit confirming his conversations with respondent, which Paul Marks signed on February 11, 2020.

H. On March 6, 2020, respondent filed a motion with the court attaching a copy of Paul Marks' February 11, 2020 affidavit and seeking guidance from the court.

I. In or around April 2020, respondent and Mr. Vidoni had a brief phone call. Mr. Vidoni advised that he represented Paul Marks and had a fee agreement with Paul Marks' signature on it.

J. Mr. Vidoni later produced a redacted General Retainer Agreement with Conflict Waivers purportedly signed by all six (6) individual defendants on January 10, 2020; the day he filed the initial pleading on their behalf.

K. Mr. Vidoni acknowledged that he was not present and could not confirm if Paul Marks signed the January 10, 2020 fee agreement and conflict waiver. Mr. Vidoni first met Paul Marks when he went to Paul Marks' home on October 5, 2020.

L. Paul Marks contended, and a handwriting expert opined in a report later filed in the civil case to "a level of highly probable," that the signatures of Paul Marks on the Moyer's electrical permitting application, the January 10, 2020 fee agreement and conflict waiver were forged.

M. Respondent drafted a Motion for Sanctions and an October 4, 2020 safe harbor letter requesting Mr. Vidoni to withdraw any pleadings he had filed on behalf of Paul Marks.

N. On October 5, 2020, Mr. Vidoni and his wife, a notary, visited Paul Marks' home and provided him with an affidavit that contradicted the February 11, 2020 affidavit, stating Mr. Vidoni "is authorized by me to file documents on my behalf since January 1, 2020." Mr. Vidoni also presented another fee agreement and conflict waiver to Paul Marks, which he signed on October 5, 2020.

O. When Michael Marks, the son of Paul Marks who held a power of attorney for Paul Marks, learned of Mr. Vidoni's visit, he

contacted Mr. Vidoni demanding the return of the original documents, which he claimed were wrongfully obtained. On October 8, 2020, Michael Marks wrote a letter to Mr. Vidoni stating he was not authorized to file the affidavit that contradicted his father's February 11, 2020 affidavit. Michael Marks made a demand for the return of all documents that his father signed on October 5, 2020.

P. Mr. Vidoni filed a Motion to Withdraw from representing Paul Marks on October 20, 2020, which the trial court granted on January 11, 2021, after which respondent immediately dismissed Paul Marks from the lawsuit.

Q. On July 26, 2021, the trial court issued an Order to Show Cause whether respondent had communicated with Paul Marks after Mr. Vidoni became counsel of record for all the individual defendants on January 10, 2020.

R. The trial court scheduled an evidentiary hearing for August 10, 2021. Defendants and respondent filed written closing arguments on October 6, 2021; however, neither made the trial court aware of In re Decker, 212 So. 3d 291 (Fla. 2017).

S. On October 11, 2021, the trial court issued a Judgment on Order to Show Cause, presently on appeal with the Fifth District

Court of Appeal, finding that respondent communicated with a represented party in violation of Rule 4-4.2 and “gained privileged substantive information.” The trial court disqualified respondent from further participating in the litigation and referred the matter to The Florida Bar. Respondent intends to continue pursuing the appeal as he maintains that the judgment is not supported by the facts or the law.

T. The bar had opened a file and sent a letter to respondent dated October 7, 2021, requesting a response to the July 26, 2021 Order to Show Cause by October 25, 2021.

U. On October 20, 2021, respondent checked on his son whom he was unable to reach, and tragically found him deceased. Respondent’s staff requested, and the bar granted, an extension for respondent to file his response. The bar referred the case to the Fifth Judicial Circuit Grievance Committee on October 26, 2021.

V. On November 10, 2021, respondent filed his response to The Florida Bar with an attached document making unprofessional statements describing portions of the court’s Judgment as “false, misleading, with no supporting evidence...driven by the court’s high bias in supporting his friends attorneys Vidoni and Bachand.”

W. Respondent described the court's findings as "materially false" and "a blatant lie."

X. Respondent described the court's disqualification of him as "malicious" and stated that "the only conclusion is that the entire evolution was a contrived hit job contrived by the Court and the two defense attorneys in retaliation for Roy filing [his November 20, 2020] Florida Bar complaint against Attorney Vidoni."

Y. Respondent believed his November 10, 2021 communications to the bar were confidential and did not otherwise publicize or disseminate his comments outside of the bar disciplinary proceeding; however, his comments became public record upon the probable cause finding on March 2, 2023.

III. RECOMMENDATIONS AS TO GUILT

1. I recommend that respondent be found guilty of violating the following Rules Regulating The Florida Bar: 3-4.3 (Misconduct and Minor Misconduct); 4-4.2(a) (Communication with Person Represented by Counsel); 4-8.2(a) (Impugning Qualification and Integrity of Judges or Other Officers); 4-8.4(d) (Misconduct); and Oath of Admission to The Florida Bar.

IV. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Standards prior to recommending discipline:

7.1 Deceptive Conduct or Statements and Unreasonable or Improper Fees

7.1(b) Suspension is appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

3.2(b) Aggravating Factors

(9) substantial experience in the practice of law.

3.3(b) Mitigating Factors

(1) absence of a prior disciplinary record;

(2) absence of a dishonest or selfish motive;

(3) personal or emotional problems;

(5) full and free disclosure to the bar or cooperative attitude toward the proceedings;

(7) character or reputation;

(11) imposition of other penalties or sanctions;

(12) remorse.

V. CASE LAW

I considered the following case law prior to recommending discipline:

In The Florida Bar v. Saldivar, 2022 WL 1788273 (Fla. June 2, 2022) (Unpublished Disposition), pursuant to a consent judgment, the Court suspended respondent for 60 days and directed respondent to attend Ethics School and Professionalism Workshop. The file was opened based on a verified motion to disqualify the trial judge filed by respondent. The representations made in the motion to disqualify, while ultimately found by the Second District Court of Appeal to be a legally sufficient basis to grant disqualification, were not wholly accurate or otherwise inappropriately called into question the integrity of the trial judge. The motion alleged, among other things, that the judge engaged in ex parte discussions with opposing counsel during a hearing, and that the trial judge engaged in disparate treatment as to scheduling depositions and trial. The motion also alleged that the judge engaged in disparate treatment of the parties with respect to the production of evidence.

In The Florida Bar v. McCallum, 2019 WL 6873032 (Fla. Dec. 16, 2019), by Court order dated December 16, 2019, the Court suspended respondent for 15 days and required her to attend Ethics School. The referee recommended respondent be publicly reprimanded by appearance

before the Board of Governors and that she be required to attend The Florida Bar's Ethics School within six months of the issuance of the Court's order. The bar appealed seeking a 91-day suspension. In a series of letters, respondent wrote to the Chief Judge and General Counsel of the Fifth Judicial Circuit accusing two sitting Circuit Court Judges of misconduct. Respondent implied that the first judge may be involved in illegal activity and that his conduct should be investigated. Respondent's statements also impugned others in the court system. Respondent accused the second judge of being biased against her. Video recordings of court proceedings referenced by respondent did not support her accusations against the judges.

In The Florida Bar v. Nunes, 661 So.2d 1202 (Fla. 1995), Nunes received a ten-day suspension, a public reprimand, and eighteen months of supervised probation for knowingly communicating with a represented person without the consent of opposing counsel. Nunes accomplished this communication by copying a letter he wrote to opposing counsel to the opposing counsel's clients. In this letter, Nunes criticized opposing counsel's handling of a foreclosure matter and stated that he believed that opposing counsel had breached the ethical standards of The Florida Bar.

In The Florida Bar v. Ray, 797 So. 2d 556 (Fla. 2001), Ray was publicly reprimanded for three letters written to the Chief Immigration Judge in Virginia questioning a judge's veracity, integrity, and his fairness at a hearing involving Ray's client, with reckless disregard as to truth or falsity of such statements.

In The Florida Bar v. Feinberg, 760 So. 2d 933 (Fla. 2000), an Assistant State Attorney received a public reprimand for having direct contact on several occasions with a represented defendant and subsequently lying to the defense attorney about it. The defendant had indicated to the prosecutor that he had or was about to fire his counsel and asked that the discussions not be revealed as he feared his attorney's ties to the "drug community." After learning definitively that the defendant was still represented, the prosecutor consulted his supervisor and continued to meet with the represented defendant without his lawyer present.

VI. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

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

- A. Thirty-day suspension from the practice of law;
- B. Payment of the bar's disciplinary costs.

During the period of suspension, respondent will eliminate all indicia of respondent's 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.

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: 77

Date admitted to the Bar: May 19, 1980

Prior Discipline: None

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

I find the following costs were reasonably incurred by The Florida

Bar:

Investigative Costs	\$129.75
Administrative Fee	\$1,250.00
Court Reporters' Fees	\$65.00
TOTAL	\$1,444.75

It is recommended that such costs be charged to respondent and that interest at the statutory rate shall accrue and that 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 November, 2023.


eSigned by NELSON, KATHRYN
on 11/16/2023 15:32:22 wb1N1yz+

Kathryn Maxine Nelson, Referee

Original to:

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