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IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

HENRY GEORGE FERRO,

Respondent.

_____________________/

Supreme Court Case Nos.
SC2024-0156 & SC2024-0613

The Florida Bar File Nos.
2023-30,035(09B); 2023-30,115(09B); 2023-30,187(09B); 2023-30,404(09B)

# REPORT OF REFEREE

## I. SUMMARY OF PROCEEDINGS

The undersigned was appointed as Referee to conduct disciplinary proceedings in accordance with R. Regulating Fla. Bar 3-7.6 and to preside over all matters in this cause.

On February 1, 2024, The Florida Bar (The Bar") filed its Complaint against the Respondent in Supreme Court Case No. SC2024-0156. The Supreme Court of Florida entered an Order on February 2, 2024, designating the Chief Judge of the Eighth Judicial Circuit of Florida to appoint a Referee in this case.

On April 26, 2024, the Bar filed its Complaint against the Respondent in Supreme Court Case No. SC2024-0613. The Supreme Court of Florida entered an Order on April 29, 2024, designating the Chief Judge of the Eighth Judicial Circuit of Florida to appoint a Referee in this case.

Eighth Judicial Circuit Chief Judge Mark W. Moseley appointed the undersigned to serve as the Referee in both cases. On June 25, 2024, Supreme Court Case No. SC2024-0613 was consolidated with Supreme Court Case No. SC2024-0156.

The Bar was represented by Bar Counsel Ashley Taylor Morrison and Co-Bar Counsel Jill Marie Hampton. The Respondent was *pro se*.

A final hearing in this matter was duly noticed and conducted before the undersigned on October 7, 2024, October 29, 2024, and January 28, 2025. The following exhibits were entered into evidence by the Bar at the final hearing: The Florida Bar's Exhibits 1-10, 12,15, and 17-24. Respondent entered into evidence the following exhibits: Respondent's Exhibits A-J, and AA-FF. The following joint exhibits were entered into evidence: Joint Exhibit 1. The Bar called the following witnesses to testify during the final hearing: Magistrate Stacie Corbett, Attorney Anne Raduns, Bar Staff Investigator Angel Taylor, Attorney Toby Hunt, Shelly Owen, Attorney Brett Little, and the Respondent. The Respondent called Margaret Harding, Mary Ruth Baker, Attorney William Gladson, Attorney William Harris, Attorney Walter Forgie, Marion Koral, and Ronald Sosa to testify in this matter. The Respondent also testified on his own behalf during the proceedings.

A sanction hearing was held on March 27, 2025. The following exhibits were entered into evidence at the sanction hearing: The Florida Bar's Sanction Hearing Exhibit 1. Marion Koral also testified at the sanction hearing.

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

## II. FINDINGS OF FACT

Jurisdictional Statement. 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.

Narrative Summary of Case. The evidence to sustain discipline must be clear and convincing. *See The Florida Bar v. McCain*, 361 So. 2d 700, 706 (Fla. 1978); *The Florida Bar v. Rayman*, 238 So. 2d 594, 598 (Fla. 1970). *See also The Florida Bar v. Berthiaume*, 78 So. 3d 503, 505, 508 (Fla. 2011).

### SUPREME COURT CASE NO. SC2024-0156

### COUNT I

### [TFB FILE Nos. 2023-30,035(09B) AND 2023-30,115(09B)]

**FINDINGS FOR COUNT I:**

TFB File No. 2023-30,035(09B): Based on the evidence presented and the Respondent's own admission, the Respondent was solely responsible for creating and publishing two websites containing content pertaining to Judge Lori Cotton, who was a candidate in a county judicial election. The Respondent further acknowledged using email and social media platforms to disseminate links to these websites and confirmed sole responsibility for the content.

Website Statements

Excerpts from both websites created and published by the Respondent assert that, based on Judge Cotton's position as both a sitting judge and an Assistant State Attorney, her daughter received preferential treatment in connection with two criminal matters in which the daughter was the named defendant. The cases referenced include a 2018 misdemeanor charge for possession of drug paraphernalia and a 2021 charge for driving under the influence. The content implies that Judge Cotton improperly influenced the disposition or handling of these cases to secure favorable outcomes for her daughter. Respondent also suggested that Judge Cotton was complicit in allowing her daughter to drive Judge

Cotton's vehicle, knowing her daughter had a drug and alcohol addiction.

The following excerpts are taken from the content referenced on the identified websites:

> *"She doesn't tell you that as a senior member of the State Attorney's Office and as a judge, she and her family have benefited from her positions."*
>
> *"In 2018, Lori Cotton's middle daughter, R.C.H., was arrested and prosecuted for possession of drug paraphernalia. Instead of immediately recusing itself in this matter, the Office of the State Attorney offered Judge Cotton's Daughter a pretrial diversion. See Marion County Case Number 2018-MM-7737."*
>
> *"On October 1, 2021, Lori Cotton's middle daughter, R.C.H., was involved in a very bad automobile accident in which three people were seriously injured. See Marion County Case Number 2022-CF783." "Unlike other similarly situated defendants, R.C.H. was not immediately arrested." "After the Office of the State Attorney for the Fifth Circuit requested a recusal from the case, the Supreme Court of Florida assigned the Office of the State Attorney for the Eighth Circuit of Florida and further assigned a Circuit Judge from the Eighth Circuit of Florida to preside over this case in March of 2022."*
>
> *"R.C.H. was finally arrested on May 28, 2022, on three counts of Driving Under the Influence with Serious Bodily Injury, three counts of Reckless Driving with Serious Bodily Injury; and one count of DUI Impairment with property damages and personal injury."*

> *"Judge Lori Cotton now claims that her daughter has had a drug and alcohol addiction issue since she was 15 years of age. How would any parent, knowing that their child had this type of problem, permit the child to drive their vehicle under similar circumstances?"*

Respondent insinuated that Judge Cotton's daughter received beneficial treatment in connection with her misdemeanor drug paraphernalia case. Specifically, Respondent claimed that the Office of the State Attorney for the Fifth Judicial Circuit ("State Attorney's Office") conferred a benefit by failing to request an Executive Order to reassign the case to another judicial circuit, but rather, offered her an opportunity to participate in a pretrial diversion program. However, credible evidence, including the testimony of William Gladson, State Attorney for the Fifth Judicial Circuit, and Angel Taylor, the lead investigator retained by the Bar, contradicted the Respondent's implication of impropriety. The testimony demonstrated that when the likely disposition of a case is a deferred prosecution or a pretrial intervention program, it is common practice for the State Attorney's Office to forego reassignment. Furthermore, it was established that pretrial diversion is the standard resolution for first time offenders charged with possession of drug paraphernalia.

Respondent also maintains there was interference by Judge Cotton in her daughter's possession of drug paraphernalia case, due to Judge

Cotton’s friendship with one of the prosecuting attorneys, Rebecca Fletcher. However, Respondent did not provide evidence that Judge Cotton sought any information about her daughter’s case from Rebecca Fletcher, from the State Attorney database, or from any other State Attorney employee. In fact, the evidence demonstrated that Rebecca Fletcher told Judge Cotton she should bond her daughter out of jail because it was Christmas Eve, and the daughter had been in jail long enough. Arguably, Rebecca Fletcher’s remarks may be considered a violation of the State Attorney’s Office’s policy not to discuss the case with the related employee. However, Respondent failed to establish that Judge Cotton initiated the discussion, nor did Respondent present any evidence of beneficial treatment received by Judge Cotton’s daughter. In fact, the Respondent conceded that he believes Judge Cotton should have bonded her daughter out of jail sooner than Christmas Eve. *See* Oct. 7, 2024, Tr. Vol. 1 at 246–47. Based on the record, Judge Cotton’s only involvement in her daughter’s drug paraphernalia case was contacting law enforcement to address concerns about her daughter’s drug use and posting her bond.

Additionally, Respondent failed to provide any evidence of Judge Cotton’s involvement in her daughter’s DUI case that provides an objectively reasonable factual basis for asserting beneficial treatment. The record reflects that the State Attorney's Office immediately requested an Executive Order to assign the case to another circuit. Additionally, Judge Cotton sought guidance from the Judicial Qualifications Commission (JQC) and, in accordance with their advice, refrained from becoming involved unless and until requested to do so by law enforcement. The record is clear that Judge Cotton's only involvement in her daughter's DUI case is that, upon the request of the Marion County Sheriff's Department, Judge Cotton provided the address for her daughter's rehabilitation facility in order to facilitate her daughter's arrest. Additionally, there is no evidence in the record to support Respondent's statement *"[u]nlike other similarly situated defendants, R.C.H. was not immediately arrested."* Respondent did not provide any evidence regarding the Marion County Sheriff's Department's procedures involving the arrest of defendants hospitalized with severe injuries following a DUI car accident. The Respondent acknowledged he was aware the daughter was hospitalized with serious injuries sustained in the crash when he created the content for his websites. The fact that the daughter was in the hospital for approximately one month with serious injuries, followed by her admission to an inpatient rehab facility, would have provided critical context for "similarly situated defendants" and an explanation for the delay in arrest. These facts, coupled with Angel Taylor's credible testimony, suggest that a truly similarly situated defendant would not have been arrested immediately. Moreover, Respondent did not provide any examples of truly similarly situated defendants in support of his claim.

The Respondent's statement regarding Judge Cotton allowing her daughter to drive her vehicle, knowing she has a drug and alcohol addiction, gives the impression that Judge Cotton's daughter was a minor at the time of the accident and that the daughter was driving Judge Cotton's car when she was charged with DUI. The record reflects that Judge Cotton's daughter was an adult at the time of the accident, and Judge Cotton was merely a co-signer for her daughter's car. There is nothing in the evidence establishing that Judge Cotton permitted her daughter to drive any vehicle on the date of the accident, or any other time. The daughter did not reside with Judge Cotton at the time of the accident, and, in fact, Judge Cotton was in New York when the accident occurred. Judge Cotton was not in a position to permit or prohibit her daughter from driving any motor vehicle on the date of the accident.

Respondent has not provided any evidence to constitute an objectively reasonable factual basis for alleging beneficial treatment in the drug paraphernalia case, the driving under the influence case, or any other matter related to Judge Cotton. Respondent has not provided evidence of any benefits Judge Cotton, or her family, acquired, nor has Respondent provided evidence of Judge Cotton engaging in conduct in an attempt to gain beneficial treatment. Respondent's statements regarding Judge Cotton's daughter are misleading and made with reckless disregard for their truth or falsity and directly impugn Judge Cotton's integrity as a judge and former prosecutor. The Respondent's statements also imply collusion within the State Attorney's Office without any supporting evidence.

The websites created by Respondent also contain the following statement concerning Judge Cotton's post-judgment issues in a dissolution of marriage case involving Judge Cotton and her former husband.

> *"She doesn't tell you that in 2019 her former husband was forced to file a motion for contempt to be able to have summer visitation with his daughter. See Marion County Case Number 2011-DR-1950."*

There is no evidence in the dissolution case record to suggest that Judge Cotton's former husband was "forced" to file the motion for contempt. *See* Angel Taylor Testimony, Oct. 7, 2024, Tr. Vol. 1 at 175 and 225–26. In fact, the former husband's motion for contempt was not granted, and the Judge specifically found that the former husband was not in compliance with the terms and conditions of the parties' agreement regarding timesharing. However, Respondent failed to include any of this information on the website. Respondent's statements regarding Judge Cotton's dissolution case are misleading and made with reckless disregard for their truth or falsity and directly impugn Judge Cotton's integrity as a judge.

Social Media Statements

Respondent created a social media post scrutinizing two claims published on one of Judge Cotton's campaign flyers:

> *"Lori Cotton claims to have 145 jury trials under her belt as a prosecutor...The real facts are as follows:*
> *A. From 1997 through 1999-Two Trials*
> *B. From 2000 through 2009-127 Trials*
> *C. From 2010 through 2017-Nine Trials"*
>
> *"Lori Cotton claims to have been the prosecutor responsible for bringing the Forest High School shooter to justice… The truth is that Toby Hunt was the prosecutor that had that responsibility."*

Evidence in the form of records from the State Attorney's Office provided that Judge Cotton participated in 138 jury trials during her tenure as an Assistant State Attorney. Therefore, the discrepancy between the records and Judge Cotton's claims is sufficient to establish an objectively reasonable factual basis for Respondent's statement and does not constitute a violation of R. Regulating Fla. Bar 4-8.2(a).

Judge Cotton listed "prosecuted the Forest High School shooter" on one of her campaign flyers. Respondent argues that "[Judge Cotton] claimed that she was the lead prosecutor in the murder case of the Forest High School shooting”. *See* Oct. 7, 2024, Tr. Vol. 1 at 27. It is undisputed that Toby Hunt was the lead prosecutor, and Judge Cotton was one of the prosecutors on the team that assisted Toby Hunt. There is no other evidence in the record to suggest that Judge Cotton claimed to be “the prosecutor responsible” or “the lead prosecutor.” Nevertheless, Judge Cotton’s lack of specificity as to whether she was a prosecutor or the prosecutor in the case could be reasonably interpreted to suggest that she was the lead or sole prosecutor in that case. There is an objectively reasonable factual basis for Respondent’s statement and therefore, the statement does not constitute a violation of R. Regulating Fla. Bar 4-8.2(a).

<u>Notice to Cease-and-Desist</u>

Respondent emailed Judge Cotton a notice to cease and desist and accused Judge Cotton of *“intentionally and maliciously making false and misleading statements”* regarding Respondent. Excerpts from the email are listed below:

> *“I discovered that you are maliciously spreading inaccurate and unfounded information that I am running the Harris’ .org website and have falsely reported the same to The Florida Bar.”* (Bar Ex. 1 at 0024).
>
> *“As a member of the judiciary, your disregard for the right of individuals to support the candidates of their*

> *choice is appalling. Your use of the vast resources of THE FLORIDA BAR to silence my voice is reprehensible. I have at all times made my positions absolutely clear and unmistakable, I do not believe that you are qualified to serve as a county judge in Marion County, Florida, for a myriad of reasons.*
>
> *Under the laws of the State of Florida, it is unlawful for any individual to make deliberate statements intended to harm a person's reputation without factual evidence or based on hearsay. Every statement I have asserted concerning your history and candidacy, is sadly, true and accurate."*

Respondent also threatens litigation in the Notice to Cease-and-Desist:

> *"If you do not cease making false and baseless statements involving my person, I will file a claim for damages against you and anyone else involved in the deliberate effort.*
>
> *In addition, let this serve as a pre-suit letter demanding that you provide us written assurance within ten (10) days that you will cease and desist from making further factually untrue statements.*
>
> *If you do not comply with this cease-and-desist letter within the time-period, a lawsuit may be filed in the proper jurisdiction seeking monetary damages as well as pursuing all available legal remedies for your defamation."* (Bar Ex. 1 at 0024)

During his closing argument, Respondent stated that he sent the email to Judge Cotton in an effort to prevent her from continuing to discuss Respondent's websites and social media posts following the conclusion of the election. The Respondent further testified that he likely would have initiated legal action against Judge Cotton had she not complied with his demands.

## First Amendment Defense

Respondent raises a First Amendment defense with respect to the statements contained and disseminated through the websites, social media posts, and the cease-and-desist email. It is clear that attorneys may express ". . . legitimate criticism of judicial officers . . ."; however, ". . . attorneys must follow the Rules of Professional Conduct when doing so." *See The Florida Bar v. Ray*, 797 So. 2d 556, 560 (Fla. 2001); *see also The Florida Bar v. Mirabal*, 390 So. 3d 1172, 1185 (Fla. 2024). Statements that are false or made with a reckless disregard as to their truth or falsity are not protected by the First Amendment. *See Ray,* 797 So. 2d 556, at 558. In fact, statements that lack an objectively reasonable basis are not protected under the First Amendment for the purposes of attorney disciplinary hearings for violations of Rule 4-8.2(a). *Id.* Statements impugning the judiciary are not protected speech under the First Amendment in attorney disciplinary proceedings unless the attorney had an objectively reasonable basis in fact for making the statements. Once the Bar presents evidence that an attorney made statements concerning the qualifications or integrity of a judge, the burden shifts to the Respondent to provide an objectively reasonable factual basis for making statements. *Id.* at 559.

The Respondent contends that prior to publishing the statements at issue, he personally considered whether the statements “had some kind of connection” in his own mind to the truth. However, the Respondent’s subjective analysis does not satisfy the requirement of an objectively reasonable factual basis, and the Respondent failed to provide credible evidence demonstrating an objectively reasonable basis for his statements. Accordingly, the statements are not protected by the First Amendment in this attorney disciplinary action and are sanctionable by The Florida Bar.

<u>TFB File No. 2023-30,115(09B):</u> Between August 21, 2021, and May 3, 2022, Respondent failed to appear for hearings involving three different clients, Antoni Yovany, Tommie Sanders, and Daniel Rivera. Judge Cotton was the presiding judge in all of the cases. Judge Cotton issued a capias for Tommie Sanders and Daniel Rivera based on their failure to appear. Respondent testified that his failures to appear were due to calendaring mistakes, human error, or personal issues, including illness. The Respondent argues that the failures to appear were not problematic, citing the fact that he was not held in contempt, Judge Cotton granted his motions to set aside the capias in both cases, and neither of his clients was

arrested because of the nonappearance. This argument is unpersuasive and does not excuse Respondent's conduct. The Rules of Professional Conduct do not require actual harm to clients as a prerequisite for the imposition of discipline. Potential injury, such as the risk of incarceration by an active bench warrant, is sufficient to constitute a sanctionable violation. The capias issued in Tommie Sanders' case remained active for seven days following the Respondent's failure to appear, while the capias issued in the case of client Daniel Rivera was not withdrawn until fifteen days after the nonappearance. As a result, both clients remained unaware of the risk posed by the issuance of bench warrants and were placed in jeopardy of arrest and incarceration due to Respondent's failure to appear on their behalf and failure to advise the clients of the scheduled hearings.

## COUNT II

## [TFB FILE NO. 2023-30-187(9B)]

**FINDINGS FOR COUNT II:**

The Respondent made the following statements in the presence of clients, other attorneys, court reporters, and, in one instance, the Court.

On February 12, 2020, Anne Raduns and Respondent were opposing counsel in a hearing on a petition to modify child support in *In Re: John D. Harding v. Margaret Harding*, Case Number 42-2006-DR-5347-FC

(“Harding”). Anne Raduns testified that while in the hallway outside the courtroom waiting for the hearing, Anne Raduns approached the Respondent and said, *“Hey buckaroo, what’s up?”* (as a Toy Story reference) and Respondent replied *“Well, what’s up bitch”*. The Respondent testified that what he actually said to Anne Raduns, was, *“If I came up to you and said, ‘Hey, bitch. What are you talking about?’ would that offend you?”* Nevertheless, it is undisputed that Respondent directed the term “bitch” to Anne Raduns. Upon entering the courtroom and as the proceedings commenced, the Respondent became visibly upset and agitated during the hearing, prompting the Court to call a five-minute recess. During the final hearing, Anne Raduns testified that as Respondent walked past her table, he uttered the term, *“asshole.”* Respondent denies making this remark. However, Magistrate Stacie Corbett, who was present in the courtroom, seated behind Anne Raduns and observing the hearing, testified that she heard Respondent refer to Anne Raduns as *“asshole”.* I find the testimony of Anne Raduns and Magistrate Stacie Corbett credible regarding this incident.

On December 23, 2020, while on a break during a Zoom deposition for *In Re: The Matter of Amber Lynn Sosa and Ronald E. Sosa,* Case Number 42-2019-DR-000117-FC, Respondent made profane and sexually explicit comments to his client, Ronald Sosa, about the opposing party, Amber Sosa, represented by attorney, Anne Raduns. Anne Raduns testified that she heard the Respondent say the following:

> *“What do you want her to do, spread her legs and let you fuck her again?"*
>
> (Raduns Testimony, Oct. 7, 2024, Tr. Vol. 1, pg. 141)

Respondent and Ronald Sosa testified that the conversation was not intended to be heard by others. Respondent testified he made the comment in an attempt to appease his client, who purportedly harbored negative sentiments toward Amber Sosa. The Respondent’s explanation does not justify the use of vulgar or disparaging language concerning a testifying witness and reflects conduct unbecoming a member of the legal profession. *See The Florida Bar v. Norkin*, 132 So. 3d 77, 90–91 (Fla. 2013); *see also*, Guidelines for Professional Conduct (A)(4).

On March 31, 2022, during a hearing in a separate dissolution of marriage case, *In Re: Deidre Lea Whitt v. Nathanael Clark Whitt,* Case Number 42-2019-DR-2270-FG, Respondent stated that the opposing counsel, Anne Raduns, had a *“cheesy way of practicing law”* and that Anne Raduns *“so blatantly is fast and loose with the truth . . .”.*

On September 16, 2022, during a deposition in a personal injury case, Case No. 2021-CA001699 ("*Baker*"), in which Anne Raduns was the defendant, and Respondent represented the plaintiffs, Respondent became visibly angry with Anne Raduns, prompting a pause in the deposition. Respondent then exited the deposition room visibly angry and yelling, *"done! done!"* and *"she is out of hand"* in reference to Anne Raduns. *See* Angel Taylor Report, Bar Ex. 7 at 0330. Respondent also yelled at Anne Raduns something to the effect of, *"I'm tired of her shit"* and *"this is the kind of shit she pulls in other cases."*

Based on the testimony from the Respondent and other witnesses, in conjunction with the content and context of Respondent's statements, I find that in each instance, Respondent made these statements for the purpose of disparaging and humiliating Anne Raduns and Amber Sosa, either knowingly or with callous indifference to the consequences of his conduct. Furthermore, multiple recesses and breaks were required during various proceedings (e.g., *Harding* hearing & *Baker* depositions) due to Respondent's visible anger and inability to maintain composure and decorum. Respondent's conduct was disruptive and prejudicial to the orderly administration of justice and contrary to his obligation to maintain professionalism in interactions with opposing counsel and the judiciary.

The Respondent’s use of disparaging, profane, and—on at least one occasion—sexually explicit language constitutes a clear violation of Respondent’s obligations under the Oath of Admission to The Florida Bar to act with “fairness, integrity, and civility, not only in court, but also in all written and oral communications” towards opposing counsel and opposing client. These incidents reflect the Respondent’s failure to “. . . abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged” as required by the Oath of Admission to The Florida Bar.

**SUPREME COURT CASE NO. SC2024-0613**

**[TFB FILE NO. 2023-30,404(09B)]**

On April 14, 2021, Marion Koral retained Respondent as her attorney to represent her in a civil action against defendants Brett Foote, Robert Barnett, Moon Tide Garden Escapes, LLC., and Twisted Hibiscus Garden Center, LLC, Case No. 42-2021-CA-001730. The Respondent accepted a $5,000.00 retainer fee from Marion Koral but failed to file the civil complaint until approximately five months later. Additionally, Respondent neglected to file a motion for default prior to a hearing scheduled for January 19, 2022. The Respondent did not inform Marion Koral of his failure to timely file the motion. In fact, Marion Koral did not become aware of the issue until months later, despite making regular attempts to contact Respondent, including calling at least once per month for updates on her case. On June 18, 2022, Marion Koral sent an email to the Respondent, stating *“time is of the essence”, “there is not much time left”*, inquired of the Respondent if there was anything she could do to expedite the process, and pleaded with the Respondent, writing, *“please, Henry, help me.”*

Subsequently, Respondent was provided with five alternative dates during the last week of June 2022 for the hearing on the motion for default but failed to secure any of those dates. The hearing was ultimately held on August 18, 2022, at which time the motion for default was granted. However, the Respondent failed to obtain the judge’s signature on the default judgment. On April 4, 2023, a case status entry for the default judgment against Robert Barnett, Twisted Hibiscus, and Moon Tide indicated the default had not been signed and that further communication by Respondent with the presiding judge was necessary. When questioned as to why it took approximately eight months to realize that no order had been entered on the motion for default, Respondent testified that he had been focusing on the important person with the money, Brett Foote. *See* Oct. 29, 2024, Tr. Vol. 2 at 311. On April 6, 2023, the trial court entered an order granting Marion Koral's motion for entry of a default against defendants Robert Barnett, Moon Tide, and Twisted Hibiscus, *nunc pro tunc*, to August 18, 2022.

As to Marion Koral's case against Brett Foote, Respondent failed to appear at the case management conference on October 26, 2022. After several inquiries from Marion Koral in November and December of 2022, Respondent finally rescheduled the conference and set it for May 24, 2023, seven months after the original conference date.

It is evident that Respondent failed to act with reasonable diligence and promptness throughout his representation of Marion Koral. Respondent's failures to timely schedule hearings, file necessary documents, secure the judge's signature on the default judgment, and appear at the case management conference caused significant and unjustified delays in the proceedings. *See generally The Florida Bar v. Patterson*, 330 So. 3d 519 (Fla. 2021) ("*Patterson II*"). The timeline of Marion Koral's case is inconsistent with Marion Koral's clearly communicated desire to expedite litigation, something she made abundantly clear in her June 18, 2022, email to the Respondent. Marion Koral regularly contacted the Respondent seeking updates on the progress of her case and upcoming hearing dates, further demonstrating her interest in moving the case forward. Marion Koral's requests for progress updates and upcoming hearing dates were reasonable requests for information; however, the Respondent repeatedly failed to provide substantive updates. Instead, the Respondent placed the burden on Marion Koral to keep herself informed and updated throughout the case progression by contacting the clerk's office and monitoring the case docket online. The Respondent does not dispute that he failed to personally provide Marion Koral with regular updates regarding the status of her case. Marion Koral retained the Respondent to commence litigation against Brett Foote in part to assert a claim that could be attached to a potential settlement in a separate personal injury case. She expressed concerns that should Brett Foote reach a settlement in the personal injury action before her case advanced to the appropriate stage, she might never recover the funds owed to her. Respondent's failures to timely file and schedule motions directly resulted in the loss of that opportunity. There is nothing in the record to suggest that the Respondent consulted with Marion Koral regarding strategies to accomplish her objectives until it was too late to attach to the settlement. Although Marion Koral and Brett Foote ultimately reached a settlement, Brett Foote has failed to comply with its terms, and further action is needed.

## III. RECOMMENDATIONS AS TO GUILT.

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

**SUPREME COURT CASE NO. SC2024-0156**

**As to Count I:**

**Rule 3-4.3 Misconduct and Minor Misconduct.** "The standards of professional conduct required of members of the bar are not limited to the observance of rules and avoidance of prohibited acts, and the enumeration of certain categories of misconduct as constituting grounds for discipline are not all-inclusive nor is the failure to specify any particular act of misconduct be construed as tolerance of the act of misconduct. The commission by a lawyer of any act that is unlawful or contrary to honesty and justice may constitute a cause for discipline whether the act is committed in the course of the lawyer's relations as a lawyer or otherwise, whether committed within Florida or outside the state of Florida, and whether the act is a felony or a misdemeanor."

**Rule 4-8.2(a) Impugning Qualifications and Integrity of Judges or Other Officers.** "A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, mediator, arbitrator, adjudicatory officer, public legal officer, juror or member of the venire, or candidate for election or appointment to judicial or legal office."

In attorney disciplinary proceedings under R. Regulating Fla. Bar 4-8.2(a), the applicable standard to analyze an attorney's statements questioning the integrity of a judicial officer is whether the attorney had an objectively reasonable factual basis for making the statements. *The Florida Bar v. Mirabal,* 390 So. 3d 1172, 1184 (Fla. 2024) (citing *The Florida Bar v. Ray,* 797 So. 2d 556, 559 (Fla. 2001)). "'[O]nce the Bar presents evidence establishing that a lawyer made statements concerning the qualifications or integrity of a judge, the burden shifts to the [respondent-attorney] to provide an objectively reasonable factual basis for making the statements.'" *Mirabal,* 390 So. 3d 1172 at 1184 (quoting *The Florida Bar v. Jacobs*, 370 So. 3d 876, 883 (Fla. 2023)); *Ray*, 797 So. 2d 556, 558 n.3 (Fla. 2001). Furthermore, a respondent's personal belief in the accuracy of the statements does not constitute an objectively reasonable factual basis. *See Id.* at 1185.

**<u>The Oath of Admission to The Florida Bar</u>** "…I will maintain the respect due to courts of justice and judicial officers…" *See also The Florida Bar v. Patterson,* 257 So. 3d 56, 64-65 (Fla. 2018) ("Patterson I").

**<u>Rule 4-1.3 Diligence</u>**. "A lawyer shall act with reasonable diligence and promptness in representing a client."

**<u>Rule 4-8.4(d) Misconduct</u>**. "A lawyer shall not… engage in conduct in connection with the practice of law that is prejudicial to the administration of justice, including to knowingly, or through callous indifference, disparage, humiliate, or discriminate against litigants, jurors, witnesses, court personnel, or other lawyers on any basis, including, but not limited to, on account of race, ethnicity, gender, religion, national origin, disability, marital status, sexual orientation, age, socioeconomic status, employment, or physical characteristic."

**As to Count II:**

**<u>Rule 4-8.4(d) Misconduct.</u>** "A lawyer shall not… engage in conduct in connection with the practice of law that is prejudicial to the administration of justice, including to knowingly, or through callous indifference, disparage, humiliate, or discriminate against litigants, jurors, witnesses, court personnel, or other lawyers on any basis, including, but not limited to, on account of race, ethnicity, gender, religion, national origin, disability, marital status, sexual orientation, age, socioeconomic status, employment, or physical characteristic."

Conduct prejudicial to the administration of justice includes making inappropriate or disparaging statements to others about opposing counsel. *See Patterson I,* 257 So. 3d 56 at 65. While the use of profanity alone may not always rise to the level of a violation, it can be considered prejudicial to the administration of justice when it exacerbates relationships and disrupts the legal process. *See The Florida Bar v. Martocci*, 791 So. 2d 1074 (Fla. 2001).

**Rule 3-4.3 Misconduct and Minor Misconduct**. "The standards of professional conduct required of members of the bar are not limited to the observance of rules and avoidance of prohibited acts, and the enumeration of certain categories of misconduct as constituting grounds for discipline are not all-inclusive nor is the failure to specify any particular act of misconduct be construed as tolerance of the act of misconduct. The commission by a lawyer of any act that is unlawful or contrary to honesty and justice may constitute a cause for discipline whether the act is committed in the course of the lawyer's relations as a lawyer or otherwise, whether committed within Florida or outside the state of Florida, and whether the act is a felony or a misdemeanor."

**The Oath of Admission to The Florida Bar** "…To opposing parties and their counsel, I pledge fairness, integrity, and civility, not only in court, but also in all written and oral communications; I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;…”

**SUPREME COURT CASE NO. SC2024-0613**

**Rule 4-1.3 Diligence** “A lawyer shall act with reasonable diligence and promptness in representing a client.”

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

**Rule 4-1.4(b) Duty to Explain Matters to Client** “A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.”

**<u>Rule 4-3.2 Expediting Litigation</u>** "A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client."

**<u>Rule 4-8.4(d) Misconduct</u>** "A lawyer shall not… engage in conduct in connection with the practice of law that is prejudicial to the administration of justice, including to knowingly, or through callous indifference, disparage, humiliate, or discriminate against litigants, jurors, witnesses, court personnel, or other lawyers on any basis, including, but not limited to, on account of race, ethnicity, gender, religion, national origin, disability, marital status, sexual orientation, age, socioeconomic status, employment, or physical characteristic."

IV. <u>STANDARDS FOR IMPOSING LAWYER SANCTIONS</u>

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

A. Standard 4.4(b): 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.

B. Standard 6.2(b): Suspension is appropriate when a lawyer knowingly violates a court order or rule and causes injury or potential injury to a client or a party or causes interference or potential interference with a legal proceeding.

C. Standard 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.

D. Standard 8.1(b): Suspension is appropriate when a lawyer has been publicly reprimanded for the same or similar conduct and engages in a further similar act of misconduct that causes injury or potential injury to a client, the public, the legal system, or the profession.

**Aggravating Factors:**

I find the following aggravating factors pursuant to Standard 3.2(b):

A. <u>Respondent has a prior disciplinary record</u>. *The Florida Bar v. Ferro*, No. SC19-1251 (Fla. 2020) — Respondent received a public reprimand and an order to complete The Florida Bar's Professionalism Workshop and pay costs pursuant to a Conditional Guilty Plea for Consent Judgment by Court Order dated January 16, 2020. The Respondent represented a client in a federal suit and was sanctioned by the court for filing frivolous claims on the client's behalf. Respondent was found to have violated the Oath of Admission to The Florida Bar, Rule 4-3.1, and Rule 4-8.4(d). I consider this an aggravating factor, as it occurred within five years of the current disciplinary proceedings.

*The Florida Bar v. Ferro*, No. SC02-328, SC02-572, 825 So. 2d 935 (Fla. 2002) Respondent received a public reprimand pursuant to a Conditional Guilty Plea for Consent Judgment by Court Order dated August 22, 2002. The reprimand was administered by letter from the Chair of the Fifth Judicial Circuit Grievance Committee "A." Respondent neglected a debt collection matter, failed to maintain adequate communication with his client, and failed to timely advise a prospective client that he was not handling his legal matter. The Respondent also failed to respond to the Bar's investigative inquiries in a timely manner. Respondent was required to undergo a law office management review and comply with all recommendations. Although the Respondent's prior discipline case occurred 22 years ago, it involved similar misconduct; therefore, I consider it an aggravating factor.

B. <u>Respondent engaged in a pattern of misconduct</u>. Respondent's multiple failures to appear before Judge Cotton, failure to attend

Marion Koral's case management conference, and failure to appear at the pre-trial conference in this disciplinary action establish a clear pattern of misconduct. A pattern of misconduct is further supported by Respondent's prior discipline, Respondent's lack of diligence in the three cases in which Judge Cotton presided, during his representation of Marion Koral, and Respondent's lack of preparation in the disciplinary proceedings. Respondent has exhibited a persistent pattern of offensive conduct towards or in the presence of others, including opposing counsel, opposing clients, and participants in the legal system. This conduct reflects a disregard for civility and ethical standards essential to the orderly administration of justice.

C. Respondent committed multiple offenses. Respondent's conduct resulted in 11 violations of seven (7) different Rules Regulating the Florida Bar and two (2) violations of the Oath of Admission to The Florida Bar.

D. Respondent engaged in deceptive practices during the disciplinary proceedings. During the October 7, 2024, guilt phase hearing, this Court denied Respondent's request to admit a list of Judge Cotton's jury trials annotated with Respondent's handwritten notes and allowed only the unannotated document to be admitted as Exhibit A. Despite agreeing to provide a clean copy and Respondent affirming he would do so several times, Respondent later moved to admit the annotated document during the January 28, 2025, hearing. This Court sustained the Florida Bar's objection, reaffirming that only the unannotated version was admissible pursuant to the Court's prior ruling. Still unable to present a clean copy, the Respondent then sought to mark the annotated document as Exhibit 1 for purposes only.

During the March 27, 2025, sanctions hearing, Respondent objected to the admission of nine cases the Florida Bar sought to present, asserting that the Florida Bar had not provided the cases until "thirteen minutes" prior to the hearing, thereby depriving him of adequate time to prepare. *See* Bar Arg. March 27, 2025, Vol. 4, at 629. Respondent referred to this as an "ambush" and argued the cases should not be considered. The record is clear that the Bar provided all of the cases during the October 29, 2024, and January 28, 2025, hearings, apart from the *Lynum* and *Adler* cases. The Bar merely provided Respondent with hard copies of the cases shortly before the sanctions hearing as a courtesy. I find Respondent's repeated attempts to move an inadmissible document into evidence, along with his false accusation that Bar counsel ambushed him with case law, to be sufficient to constitute deceptive conduct and consider it an aggravating factor.

E. Respondent refuses to acknowledge the wrongful nature of his conduct. Although Respondent eventually apologized for the offensive and profane statements about Amber Sosa and referring to Anne Raduns as a "bitch", he clarified that his apology was ". . . not in the sense that the Florida Bar would find agreeable, but in recognizing that [he] should have done better." Respondent's Closing Argument, March 28, 2025. Throughout these disciplinary proceedings, the Respondent accused Judge Cotton of filing inquiries to the Bar as a form of retaliation,[1] retribution,[2] and political payback.[3] Respondent stated, ". . . I will not accept responsibility for something that I don't believe I've done wrong. And I don't think I've done anything wrong with regard to Judge Cotton . . ." and that it would be "disingenuous" (sic) to apologize for his statements about Judge Cotton. *See* R.

[1] See Resp't Opening Statement, Oct. 7, 2024, Tr. Vol. 1 at 29; Bar Ex.5 at 0130.
[2] See Bar Ex. 5 at 0140; Resp't Closing Argument, Jan. 28, 2025 Tr. (Jan. 28, 2025 transcript not yet available)
[3] See Bar Ex. 5 at 0133 line 3.

Closing Arg. Jan. 28, 2025, Vol. 3, at 601; *see also* R. Arg., March 27, 2025, Vol. 4, at 666. Respondent has failed to demonstrate sincere remorse for his conduct or provide a genuine apology, but instead, continues to justify, rationalize, and minimize his blatant misconduct.

Respondent attempts to defend his actions by arguing that the First Amendment protects his speech and shields him from sanctions for his statements regarding Judge Cotton relying on *New York Times Co.* and other precedent unrelated to the Bar disciplinary proceedings. However, the First Amendment does not grant immunity from compliance with the Rules of Professional Conduct. *See The Florida Bar v. Sayler*, 721 So. 2d 1152, 1154–55 (Fla. 1998) ("The First Amendment does not protect those who make harassing or threatening remarks about the judiciary or opposing counsel."); *see also The Florida Bar v. Wasserman*, 675 So. 2d 103, 104–05 (Fla. 1996) ("It is clear that the right to free speech under the federal and Florida Constitutions does not preclude the disciplining of a lawyer for speech directed at the judiciary."). Respondent erroneously contends that his disparaging remarks online, posted on websites and social media, concerning Judge Cotton are protected by the First Amendment. In doing so, he misinterprets established precedent and advances an argument that is both unpersuasive and without legal merit.

F. <u>Vulnerability of the victim</u>. The record reflects that the Respondent was aware that Marion Koral was over the age of retirement and had suffered a substantial financial loss in her case. Marion Koral testified that she could not afford to retain another attorney and emphasized that she wanted to recover the money owed to her by the defendants. Based on the testimony of both Marion Koral and Respondent, I find Marion Koral's vulnerability to be an aggravating factor.

G. <u>Substantial experience in the practice of law.</u> The Respondent was admitted to The Florida Bar on June 28, 1983, and has practiced law for forty-two years.

Throughout the disciplinary proceedings, the Respondent emphasized his forty-two years of legal experience, including his service as a circuit court judge. However, this level of experience serves to raise the expectation that, if anyone should fully comprehend, appreciate, and diligently adhere to the Rules of

Professional Conduct, it is an attorney with Respondent's wealth and diversity of education and experience. Respondent's continued reliance on a meritless First Amendment defense in response to the allegations impugning the integrity of a judge is especially troubling given the scope of his experience as a member of the Bar and former member of the judiciary. At this point in his lengthy career, Respondent should be fully cognizant of the standards governing both the conduct of attorneys and judges. Equally concerning is his lack of contrition or expression of remorse. This lack of accountability and acknowledgment of the gravity of what this Court has found to be clear violations of the rules raises significant concerns about his suitability and fitness to remain a member of the profession. Because Respondent's extensive legal experience and duration of practice should correlate with a greater understanding and appreciation of the Rules of Professional Conduct, I find Respondent's substantial experience in the practice of law to be an aggravating factor.

**Mitigating Factors:**

I do not find any mitigating factors, pursuant to Standard 3.3(a). Given the breadth of Respondent's professional experience as an attorney and circuit court judge, and as a candidate for Attorney General for the State of Florida, it is more than reasonable to expect the presentation of character evidence or other mitigation on Respondent's behalf. However, the only witness Respondent presented for mitigation purposes, in addition to his own testimony, was his client, Marion Koral, who testified that she no longer wanted to pursue her complaint against the Respondent because his diligence improved upon the commencement of the Bar proceedings. She also testified that she cannot afford to retain another attorney to pursue collection of the settlement. Despite Marion Koral's emphatic request that Respondent not be sanctioned, I do not find this to constitute mitigation in these proceedings. On the contrary, the Respondent's conduct towards this client reflects a clear dereliction of his duties to provide competent and diligent representation. Marion Koral's support, while noted, does not negate or diminish the seriousness of Respondent's misconduct.

Respondent's failure to present evidence in mitigation—apart from his own testimony and the testimony of a client whose matter was the basis for a complaint—is particularly concerning. The absence of such character evidence raises serious questions regarding Respondent's recognition of the gravity of the misconduct and his willingness to accept responsibility. Alternatively, and even of greater concern, is the possibility that no member of the legal community in any of the numerous circuits in which Respondent has practiced over the course of his career was willing to provide testimony in support of his character or contributions to the profession.

V. CASE LAW

I considered the following case law before recommending discipline:

A. *Florida Bar v. Jacobs*, 370 So. 3d 876 (Fla. 2023). The proceedings arose out of three separate grievances in which *Jacobs* made several disparaging and reckless remarks regarding the judges who ruled against the respondent in legal proceedings and failed to provide any objectively reasonable factual basis for these remarks. The Court in *Jacobs* found several aggravating factors, including a pattern of misconduct, multiple offenses, and substantial experience in the practice of law. The *Jacobs* Court also identified mitigating factors, including an absence of a disciplinary record, personal or emotional problems, and character and reputation. Ultimately, the Court found that the respondent's conduct constituted three counts of violating Rule 4-8.2(a) and imposed a 91-day rehabilitative suspension.

B. *The Florida Bar v. Mitchell*, 2022 Fla. LEXIS 534 (Fla. 2022). The Court imposed a ninety-one-day rehabilitative suspension in *Mitchell* after respondent included disparaging statements in a motion to disqualify, alleging that the presiding judge was biased and had rendered unfair, unjust, and unlawful rulings. The Court found that the respondent failed to provide an objectively reasonable factual basis for the assertions contained in the motion.

C. *The Florida Bar v. Ray*, 797 So. 2d 556 (Fla. 2001). The respondent authored three letters to the Chief Immigration Judge containing statements that impugned the veracity of an immigration judge and alleged that the judge acted unfairly towards one of the respondent's clients during a hearing. The Court rejected the respondent's First Amendment defense, including his argument that the defamation standard announced in *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964) was applicable. The Court established that the appropriate standard for Florida attorney disciplinary proceedings under rule 4-8.2(a) is whether the attorney had an objectively reasonable factual basis for making the statements. The Court found the respondent lacked an objectively reasonable factual basis and imposed a public reprimand.

D. *The Florida Bar v. Patterson*, 257 So. 3d 56 (Fla. 2018). The respondent in *Patterson* made inappropriate and disparaging statements about opposing counsel, judges, and the legal system in court filings and in a letter distributed to other members of the judiciary. The respondent failed to provide an objectively reasonable factual basis for these statements. The Court imposed a one-year suspension.

E. *The Florida Bar v. Aven*, 317 So. 3d 1095 (Fla. 2021). The respondent in *Aven* attempted to impugn a judge's integrity in the respondent's election campaign by citing the judge's record in criminal cases, while repeatedly implying that the respondent was biased in favor of state prosecutors and law enforcement. The Court imposed a public reprimand.

F. *The Florida Bar v. Lynum*, 2020 WL 1061266 (Fla. 2020). In *Lynum,* the respondent used unprofessional and threatening language in motions filed with the court and in emails with opposing counsel. The *Lynum* respondent made disparaging statements impugning the integrity of the judiciary in the respondent's motion to disqualify without an objectively reasonable factual basis. The Court found a pattern of misconduct, multiple offenses, refusal to acknowledge the wrongful nature of the conduct, and substantial experience in the practice of law as aggravating factors. The Court imposed a 180-day suspension.

G. *The Florida Bar v. Fragakis*, 2021 WL 3560667 (Fla. 2021). During the respondent's judicial campaign, the *Fragakis* respondent made disparaging and misleading statements about her opponent. The Court found no aggravating factors but found mitigating factors including absence of a disciplinary record, good character or reputation, other sanctions imposed, and remorse. The Court imposed a 90-day suspension pursuant to the Conditional Guilty Plea for Consent Judgment.

H. *The Florida Bar v. Mirabal*, 390 So. 3d 1172 (Fla. 2024). In *Mirabal*, the respondent was the opposing judicial candidate of the complaining judge. During the election, respondent engaged in professional misconduct by repeatedly certifying as correct campaign finance reports he knew were false, making material misrepresentations and omissions in his judicial vacancy application, and writing letters containing statements that impugned the integrity of the complaining judge. The Court found respondent's statements alleging the judge filed a frivolous lawsuit lacked an objectively reasonable factual basis, and respondent's threat to escalate the matter as an attempt to intimidate or silence the judge and dissuade the judge from pursuing the disciplinary action further. The Court noted that the respondent's subjective belief in the truth of the statements was not sufficient to establish an objectively reasonable factual basis for the statements. The Court found a pattern of misconduct, multiple offenses, bad faith obstruction of the disciplinary process, submission of a false statement during the disciplinary process, and substantial experience in the practice of law as aggravating factors. The Court in *Mirabal* found three mitigating factors including, absence of prior disciplinary record, a reputation for good character, and other sanctions imposed against the respondent. The Court imposed disbarment.

I. *The Florida Bar v. Springer*, 873 So. 317 (Fla. 2004). The respondent was disbarred for multiple instances of misconduct in six matters in which he represented an individual or a condominium association for which respondent was president. The multiple instances included failure to provide competent representation, failure to act with reasonable diligence, failure to keep the client reasonably informed, and misrepresenting the status of the client's matter. The Court found the respondent committed multiple offenses and demonstrated a pattern of misconduct as aggravating factors. The respondent in *Springer* previously received a public reprimand for neglect of a client matter. The Court found the respondent had a cooperative attitude during the proceedings and showed remorse as mitigating factors. The Court imposed permanent disbarment.

J. *The Florida Bar v. Davis*, 149 So. 3d 1121 (Fla. 2014). The Court in *Davis* found the respondent guilty of violations of Rule 4-1.4(a)(3)-(4) for failing to keep her client informed about the status of the representation and for failing to comply with reasonable requests for information. In *Davis*, respondent failed to file the client's dissolution of marriage paperwork for two months, and once filed, submitted erroneous paperwork in need of corrections. The client ultimately had to file her own paperwork after the respondent neglected to submit corrected paperwork on the client's behalf. The Court found that the respondent neglected the case over a period of several months amounting to serious misconduct and warranting a severe sanction. Respondent failed to file an answer to the Bar's allegations and did not appear at disciplinary hearings. The referee found that the respondent in *Davis* had several aggravating factors, including respondent's disciplinary history, a pattern of misconduct, vulnerability of the client, and respondent's experience in the practice of law. The referee did not find any mitigating factors. Notably, the referee found that respondent's conduct demonstrated a "continuing . . . pattern of neglect," evidenced by respondent's neglect of her client's case, failure to keep the client informed as to the status of the case, and refusal to participate in the disciplinary process. The Court concluded that disbarment was the appropriate sanction, considering that disbarment is the appropriate discipline when a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to the client.

K. *The Florida Bar v. Picon*, 205 So. 3d 759 (Fla. 2016). In *Picon*, the respondent engaged in professional misconduct in three separate criminal cases by repeatedly failing to appear in court proceedings and neglecting to file necessary motions in a timely manner. In one instance, the respondent arrived late at a hearing after being directed to return at a specific time, resulting in contempt proceedings initiated by the court. Additionally, the respondent failed to appear at a scheduled hearing in another case due to "calendaring issues" and failure to review the orders to appear. The court subsequently issued a bench warrant for the client who was incarcerated for five days. The respondent presented incorrect information during a hearing regarding her client's probation status. As a result of these violations, the Court imposed a one-year suspension.

L. *The Florida Bar v. Norkin*, 132 So. 3d 77 (Fla. 2013).

Respondent in *Norkin* sent a series of vitriolic e-mails to opposing counsel accusing him of lying and dishonesty. He also disrupted numerous hearings in front of several judges and accused a retired judge, who served as provisional director appointed by the court, of being a conspirator. He received a public reprimand for previous misconduct and had previously attended anger management. The Court imposed a two-year suspension and public reprimand.

M. *The Florida Bar v. Ratiner*, 238 So. 3d 117 (Fla. 2018). During a four-day document review session, the respondent referred to opposing counsel as a dominatrix and stated that she must enjoy dominating people. The respondent in *Ratiner* made the comment in a loud voice to his consultant expert, who was present at the time. The Referee specifically found this statement served no substantial purpose other than to embarrass opposing counsel. The Court imposed a three-year suspension as a result of this misconduct.

N. The Court has moved toward stronger sanctions for attorney misconduct in recent years. *See Fla. Bar v. Altman*, 294 So. 3d 844 (Fla. 2020); *see also Florida Bar v. Parrish*, 241 So. 3d 66 (Fla. 2018) ("in more recent years the Court has imposed even more severe discipline for unethical and unprofessional conduct than in the past." The Court ". . . views cumulative misconduct more seriously than an isolated instance of misconduct, and cumulative misconduct of a similar nature warrants an even more severe discipline than might dissimilar conduct."); *Florida Bar v. Patterson*, 257 So. 3d 56, 65 (Fla. 2018) (" . . . this Court has become increasingly concerned by the lack of respect and professionalism exhibited by many Florida lawyers during judicial proceedings and would in all likelihood impose a much lengthier suspension on the respondent in *Abramson* [2009] were he to appear before us today.”). *See also*, *The Florida Bar v. Adler*, 126 So. 3d 244, 247 (Fla. 2013).

## VI. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE IMPOSED

When considered in the aggregate and in conjunction with the numerous aggravating factors, the Respondent’s violations warrant the imposition of a suspension exceeding three years. “If the conduct is so egregious that a suspension longer than 3 years seems warranted, the sanction of disbarment should be imposed.” *See* Comments to Fla. Stds. Imposing Law. Sanctions 2.3. With forty-two years of legal experience, as both a practicing attorney and a circuit court judge, the Respondent should exemplify the highest ethical standards of the profession. Instead, Respondent’s pattern of misconduct—coupled with an unwillingness to acknowledge his wrongful conduct and failure to engage in genuine reflection and remorse— evidences a blatant disregard for the ethical standards of the legal profession and an unfitness to uphold the duties entrusted to members of the Florida Bar. Respondent’s failure to present mitigation evidence from members of the legal community or broader community, through testimony or in the form of letters, attesting to his character, integrity, and fitness to practice law, is indicative of a lack of support and standing in both communities. The absence of this support weighs heavily against the Respondent. Respondent’s repeated misconduct and lack of civility towards and in the presence of others erodes public confidence in the profession and undermines the integrity of the legal system. Disciplinary action is necessary not only to address Respondent’s misconduct but to preserve the integrity of the system and deter similar misconduct by other members of the profession.

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

A. Disbarment, and

B. Payment of The Florida Bar's costs in these proceedings.

## VII. PERSONAL HISTORY, PAST DISCIPLINARY RECORD

Before recommending discipline under R. Regulating Fla. Bar 3-7.6(m)(2)(D), I considered the following:

Personal History of Respondent:

Age: 67

Date admitted to the Bar: June 28, 1983

Prior Discipline: The *Florida Bar v. Ferro*, No. SC02-328, SC02-572, 825 So. 2d 935 (Fla. 2002) Respondent received a public reprimand pursuant to a Conditional Guilty Plea for Consent Judgment by Court Order dated August 22, 2002. The reprimand was administered by letter from the Chair of the Fifth Judicial Circuit Grievance Committee “A.” Respondent neglected a debt collection matter, failed to maintain adequate communication with his client, and failed to timely advise a prospective client that he was not handling his legal matter. Respondent also failed to respond to the Bar’s investigative inquiries in a timely manner. Respondent was required to undergo a law office management review and comply with all recommendations.

*The Florida Bar v. Ferro*, No. SC19-1251 (Fla. 2020) — Respondent received a public reprimand and an order to complete The Florida Bar’s Professionalism Workshop and pay costs pursuant to a Conditional Guilty Plea for Consent Judgment by Court Order dated January 16, 2020. The respondent represented a client in a federal suit and was sanctioned by the court for filing frivolous claims on the client’s behalf. Respondent was found to have violated the Oath of Admission to The Florida Bar, Rule 4-3.1, and Rule 4-8.4(d).

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

I find the following costs were reasonably incurred by The Florida Bar:

| | | |
|---|---|---|
| Administrative Fee | | $1,250.00 |
| Bar Counsel Costs | | $2,345.38 |
| Copy Costs | | $478.80 |
| Court Reporters' Fees | | $11,411.75 |
| Investigative Costs | | $4,447.54 |
| | TOTAL | $19,933.47 |

I recommend that the above costs be charged to the Respondent and that interest accrue at the statutory rate. The Respondent will be delinquent 30 days after the judgment in this case becomes final unless paid in full or otherwise deferred by the Board of Governors of The Florida Bar.

Dated this 28th day of April, 2025.

*/S/ SUSANNE WILSON BULLARD*
Susanne Wilson Bullard
Circuit Court Judge
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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