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**FILED**  
SID J. WHITE

FEB 8 1993

IN THE SUPREME COURT OF THE STATE OF FLORIDA **CLERK, SUPREME COURT**

By \_\_\_\_\_  
Chief Deputy Clerk

THE FLORIDA BAR RE:  
PETITION TO AMEND RULES  
REGULATING THE FLORIDA BAR  
(ANTI-DISCRIMINATION RULE)

CASE NO. 81-010

**RESPONSE OF ANTONIO CAPESTANY, A CITIZEN**

The undersigned Respondent, ANTONIO CAPESTANY, a non-attorney and concerned citizen, pursuant to the provisions of Rule 9.100, Florida Rules of Appellate Procedure and Article I, Section 21 of the Florida Constitution, respectfully submits this response to the Joint Petition To Amend Rules Regulating the Florida Bar (Anti-Discrimination Rule) to wit:

1. The undersigned, ANTONIO CAPESTANY, responds in support of the Florida Bar's proposed provision requiring another agency to make a prior finding of improper discrimination practices before the Florida Bar takes proper disciplinary action. Moreover, that the public and the State of Florida, will be properly served by the proposed Petition amending Rule 4-8.4(d), in regards to reviewing alleged discrimination charges, by an independent agency. Further, that this proposed amendment to the Rules will serve the public with an objective and unbiased opinion, consistent with the practice of Due Process of Law.

2. The undersigned, ANTONIO CAPESTANY, has no direct personal knowledge of any results of findings of groups, such as, the Florida Supreme Court Racial and Ethnic Bias Study Commission and the Florida Bar's Gender Bias Study Commission.

However, the undersigned has direct personal knowledge of discriminatory practices by our legal professionals in our courts of law. In addition, the undersigned, respectfully states that an unpublished rule and practice exist by which, members of the Florida Bar discriminate against un-represented (pro se) litigants.

3. The undersigned respectfully states that by personal observation and comparison of the results and the records, that the trusted officers of the court discriminate against non-attorney (pro se) litigants. Moreover, that the discrimination practices reflect a mockery in our courts and a repugnant disease affecting human dignity and moral values. In addition, that the high cost of maintaining a legal representative to access and maneuver in our courts, has caused an influx of unskilled and unrepresented laymen, (pro se) litigants. Further, that these (pro se) non-bar member litigants are discriminated against because they are not members of the Florida Bar. The proposed Petition to amend Rule 4-8.4(d), should be modified to include and indicate specifically "pro se" as a prefix to the text identified therein as "litigant". (i.e. pro se litigants).

4. The undersigned, as a concerned citizen and a pro se litigant, concur with the Florida Bar's members democratic process, to preserve the dignity of their profession by amending the Rules regulating the Florida Bar. Further, that this Honorable Supreme Court and the members of the Florida Bar's democratic process,

support the Bar's proposed Petition to amend the Rules and the following Modification to amend the Petition now before this Court to wit:

**RULE 4-8.4 MISCONDUCT**

A lawyer shall not:

\* \* \*

(d) engage in conduct that is prejudicial to the administration of justice, including to knowingly, or through callous indifference disparage, humiliate, [discount], or discriminate against [pro se] litigants, jurors, witnesses, court personnel, or other lawyers on account of race, ethnicity, gender, religion, national origin, disability, marital status, [financial status], sexual orientation or age;

INSERT the text, "discount", "financial status", and "pro se" as a prefix before the text 'litigants'.

\* \* \*

Comment

\* \* \*

Under subdivision (d): The contents under Rule 4-8.4, within the comment portion of the Florida Bars Petition to Amend the Rules Regulating the Florida Bar to remain as stated therein with the following specific amendments;

INSERT the text, "pro se" as a prefix before the text 'litigants'.

INSERT the text, "financial status" after 'marital status'

ADD a new sentence at the end of the first paragraph under the comment.

"Thereupon final disposition of the matter by the Florida Bar Disciplinary committee, the evidence and prescribed punishment be remanded to the independent agency for review and public scrutiny."

5. The following will serve to amend Rule 4-8.7 of the Rule Regulating the Florida Bar in the Petition now before this Court:

**RULE 4-8.7 DISCRIMINATION**

Paragraph one;

If a lawyer has been adjudicated or held to have committed, in the practice of law, a prohibited discriminatory practice by a final order of an "independent" agency or court of competent jurisdiction, after all appellate rights have been exhausted, such conduct shall be subject to discipline under these rules Regulating the Florida Bar.  
ADD sentence.

ADD the sentence,

"Thereupon final disposition of the matter by the Florida Bar Disciplinary committee, the evidence and prescribed punishment be remanded to the independent agency for review and public scrutiny."

INSERT the text, "independent" before the text 'agency'.

\* \* \*  
Comment  
\* \* \*

The contents under Rule 4-8.7, within the comment portion of the Florida Bars Petition to Amend the Rules Regulating the Florida Bar are to remain as stated therein with the following specific amendments;

Paragraph one;

INSERT the text, "independent" before the text 'agency'.

ADD a new sentence at the end of the first paragraph under the comment.

"Thereupon final disposition of the matter by the Florida Bar Disciplinary committee, that the evidence and prescribed punishment be remanded to the independent agency for review and public scrutiny."

Paragraph three;

INSERT the text, "financial status" after 'marital status'.

Paragraph four;

ADD a new sentence at the end of paragraph four under the comment.

"Thereupon final disposition of the matter by the Florida Bar Disciplinary committee, that the evidence and prescribed punishment be remanded to the independent agency for re-view and public scrutiny."


6. The undersigned states that the aforesaid modifications and amendment, will serve to restore the publics' confidence and trust in our system of justice, as well as traditional notions of equality. Moreover, to serve as a basis and application for a deterrent to the discrimination in the legal profession.

7. The undersigned, respectfully submits that this Supreme Court has jurisdiction under Rule 9.030 of the Florida Rules of Appellate Procedure and under Article V, Section 3(b), of the Florida Constitution (1980), to amend the Rules Governing the Florida Bar as a matter of law. In addition, under Rule 1-12.1(a), Rules regulating the Florida Bar, the rule states that "only the Supreme Court of Florida shall have the authority to amend all other chapters of these Rules Regulating the Florida Bar."

8. The undersigned, ANTONIO CAPESTANY, respectfully reserves the right to file additional comments in support of the proposed amendment.

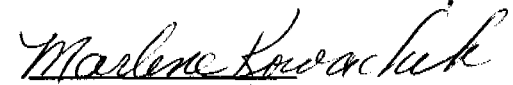
REQUEST FOR ORAL ARGUMENT

9. The undersigned, ANTONIO CAPESTANY, respectfully request Oral Argument concerning the Rules Regulating the Florida Bar.

  
Signature *FR DL C123-061-58-051*

Subscribed and affirmed to before me this 1 day of FEB, 1993.


Seal  
My commission expires April 9, 1995.

  
[Signature ]  
Comm #097142

OFFICE PUBLIC STATE OF FLORIDA  
COMMISSION EXPIRES APR. 9, 1995  
LAWYER'S HALL TALLAHASSEE, FLA. 32301

I HEREBY CERTIFY that a true and correct copy was served by regular U.S. Mail to John F. Harkness, Jr., and John Boggs of the Florida Bar at 650 Apalachee Parkway, Tallahassee, Florida, 32399-2300, on the 1st day of February, 1993.

RESPECTFULLY SUBMITTED

  
ANTONIO CAPESTANY  
1647 N.E. 185th Street, #124  
N.M.E., Florida, 33179