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IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,  
Complainant,

CASE NO.: 85,179

v.

TFB NO.: 94-10,655 (13F)  
94-11,021 (13F)

ROBERT B. MORRISON, JR.,  
Respondent.

\_\_\_\_\_ /

REPLY BRIEF

ATTORNEY FOR THE RESPONDENT:

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TAMPA, FL 33672-2297

ATTORNEY FOR THE FLORIDA BAR:

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## REBUTTAL ARGUMENT

The Florida Bar has sought a one-year suspension from the practice of law of MR. MORRISON and thereafter until he can prove rehabilitation. The imposition of the one-year suspension is an unreasonable and unwarranted sanction for MR. MORRISON's conduct and is contrary to the objectives of Bar discipline.

The Supreme Court in The Florida Bar v. Lord, 433 So. 2d 983, 986 (Fla. 1983), defined the objectives of Bar discipline as:

"....**First**, the judgment must be fair to society, both in terms of protecting the public from unethical conduct and at the same time not denying the public the services of a qualified lawyer as a result of undue harshness in imposing penalty. **Second, the judgment must be fair to the respondent**, being sufficient to punish a breach of ethics and at the same time encourage reformation and rehabilitation. **Third**, the judgment must be severe enough to deter others who might be prone or tempted to become involved in like violations." (Emphasis added).

The Bar, in its *Answer Brief*, emphasizes the third objective, stating that with respect to MR. MORRISON, the third objective has a dual purpose: to deter other lawyers from neglecting their client's matters and to deter other lawyers from ignoring the disciplinary process.

Nowhere in the Bar objectives is there mention of the objective to deter lawyers from ignoring the disciplinary process. In fact, to sanction MR. MORRISON for this reason would be unreasonable, unwarranted and unjustified, as MR. MORRISON has not ignored the disciplinary process. MR. MORRISON by the proffer of this Reply Brief is participating in the disciplinary process.

The objectives of Bar discipline are to be read as a whole. Therefore the third objective, to deter other lawyers from mishandling their client's cases is tempered by the second objective, that the judgment must be fair to the respondent. Thus, the Court would be unjustly sanctioning MR. MORRISON for something he has not failed to do, that is, to participate in the disciplinary process.

The Florida Bar also cites cases in support of the imposition of the one-year sanction. These cases as reflected in MR. MORRISON'S *Amended Initial Brief* are distinguishable. The Bar states that MR. MORRISON'S conduct was egregious and that coupled with his prior pattern of misconduct the one-year suspension is justifiable.

In The Florida Bar v. Bern, 425 So. 2d 526, 528 (Fla. 1982), the Supreme Court recognized that in rendering discipline, previous disciplinary history may increase the penalty where appropriate; and that similar cumulative misconduct should warrant more severe discipline than dissimilar conduct.

In the instant case, MR. MORRISON, on one previous occasion, had two counts against him for failure to communicate with his client, and had received a public reprimand and one year probation. In Bern, the respondent had several counts against him, and was reprimanded privately on two separate occasions for similar offenses, and the Court regarding the third disciplinary proceeding, imposed only a three month suspension. The Court in looking at the respondent's previous pattern of misconduct deemed

that the sanction imposed was reasonable. Here, MR. MORRISON has only been sanctioned once by the Bar, (thus it is arguable whether a pattern of misconduct has been established), therefore to move from probation to suspension, and suspension for one-year, for the second offense is unreasonable and severe, and holds MR. MORRISON to a more stringent standard than in Bern, and in the cases addressed by MR. MORRISON in his *Amended Initial Brief*.<sup>1</sup>

The Bar also alludes to certain aggravating factors and the absence of mitigating factors that justify the imposition of the one-year suspension.

As stated previously, MR. MORRISON has been sanctioned by this Court on one prior occasion, for failure to communicate with his client. This is MR. MORRISON'S only prior disciplinary offense. This by no means establishes a pattern of misconduct that would warrant suspension for one-year.

Similarly, MR. MORRISON, did not and has not obstructed the disciplinary proceedings that were initiated against him. MR. MORRISON has great respect for his profession, and therefore takes very seriously any disciplinary action by the Bar. In addition, MR. MORRISON has not and is not refusing to acknowledge that his conduct with respect to Virginia C. Bates, D.S.S. and Shelley Von

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<sup>1</sup> See analysis of the following cases The Florida Bar v. Provost, 323 So. 2d 578 (Fla. 1975) on Page 7-8 of the Amended Initial Brief; The Florida Bar v. Pincus, 327 So. 2d 29 (Fla. 1975) on Page 8-9 of the Amended Initial Brief; The Florida Bar v. Valentiejus, 355 So. 2d 425 (Fla. 1978) on Page 9 of the Amended Initial Brief; The Florida Bar v. Kaplan, 576 So. 2d 1318 (Fla. 1991) on Page 9-10 of the Amended Initial Brief; and The Florida Bar v. Grant, 514 So. 2d 1075 (Fla. 1987) on Page 10 of the Amended Initial Brief.

Newkirk Tavernier was questionable and not in keeping with the Rules regarding a lawyer's conduct.

MR. MORRISON has practiced law for over sixteen (16) years, and except for the prior disciplinary action in 1993, his record is unblemished. He has performed numerous civic and community activities, and is a very active member of the Florida Bar.<sup>2</sup> These are mitigating factors that should be taken into account by the Court.

It is also noteworthy that MR. MORRISON was sanctioned in 1993 for neglecting legal matters entrusted to him, a charge he took very seriously. He was publicly reprimanded and placed on probation. MR. MORRISON then took steps, such as notifying clients and putting in place at his office, checks to avoid a recurrence of similar events. That his misconduct with respect to Dr. Bates and Ms. Tavernier, did not occur after the Court first brought disciplinary action against MR. MORRISON, but before or concurrently with the first and only sanction MR. MORRISON received. Thus, MR. MORRISON did not, after being sanctioned by the Court, continue a "pattern" of misconduct.

The Court would therefore be committing error and unfairly, unjustly and unreasonably sanctioning MR. MORRISON for conduct that he has taken steps to avoid. MR. MORRISON has also acknowledged that he needs to make restitution, which he recognizes does not fully recompense the Complainants for their injuries. The Court however, in sanctioning MR. MORRISON, must look at the second Bar

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<sup>2</sup> See attached a copy of MR. MORRISON'S resume.

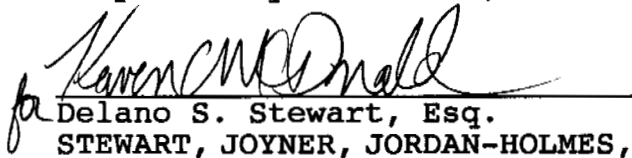
objective, a punishment that is fair to the respondent. MR. MORRISON is neither indifferent to the disciplinary proceedings, nor is he flagrantly disregarding the Bar or its Rules. He has acted upon previous Bar discipline by implementing certain safeguards to adhere to the Rules. He is a well respected and civic-minded attorney who will be severely penalized by the imposition of a one-year suspension.



CONCLUSION

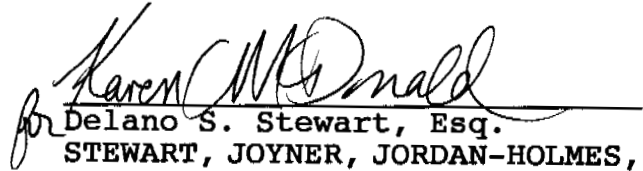
The one year suspension for MR. MORRISON is not consistent with other sanctions by this Court, nor is it consistent with the objectives of Bar discipline as outlined in The Florida Bar v. Lord, 433 So. 2d 983 (Fla. 1983). Therefore, this Court should carefully review the sanctions imposed on MR. MORRISON, and impose less severe sanctions that are in keeping with prior rulings, while still adhering to the precepts stated in The Florida Bar v. Lord. Id. In addition, reviewing MR. MORRISON'S long professional career with only one blemish, and his commitment to the Bar and to the community. To impose the one (1) year suspension would be a denial of justice and contrary to the objectives of Bar discipline.

Respectfully Submitted,

  
Delano S. Stewart, Esq.  
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and seven (7) copies of the Reply Brief has been furnished by regular U.S. Mail to Sid J. White, Clerk, The Supreme Court of Florida, 500 South Duval Street, Tallahassee, Florida 32399-1927; a true and correct copy of the foregoing by regular U.S. Mail to Stephen C. Whalen, Esq. Assistant Staff Counsel, The Florida Bar, Suite C-49, Tampa Airport, Marriott Hotel, Tampa, Florida 33607, and John T. Berry, Esq., Staff Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida 32399-2300, this 4th day of December, 1995.

  
for Delano S. Stewart, Esq.  
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RESUME  
of  
ROBERT B. MORRISON, JR., Esq.

EDUCATION

- 1978           University of Florida, College of Law  
Gainesville, Florida  
Juris Doctorate
- 1975           Loyola University  
New Orleans, Louisiana  
Bachelor of Arts-Political Science
- 1985-Present   Partner, Law Firm of Morrison, Gilmore &  
Clark  
Emphasis:   Construction Law; Business Law;  
Real Estate Development;  
Government & Administrative Law
- 1979-1987      Executive Assistant to the Mayor, City of  
Tampa
- 1978-1979      Attorney with Law Office of Warren H. Dawson

AFFILIATIONS

Legal:

American Bar Association  
National Bar Association  
Florida Bar  
Florida Chapter - National Bar Association,  
President 1985-1987  
George E. Edgecomb Bar Association  
Hillsborough County Bar Association  
Regional Director - Region XI, National Bar  
Association - 1984/85

Vice-Chairman - ABA General Practice,  
Governmental and Administrative Law Section  
- 1985/86  
Special Assistant to the President - National  
Bar Association - 1982/83; 1984/85  
Board of Governors - National Bar Association  
- 1984/85; 1985/86; 1986/87  
Chairman - Tampa Bay Black Business  
Investment Corporation

Non-Legal:

Chairman - State of Florida Lottery  
Commission  
Chairman of the Board - Rohart Properties,  
Inc.

Board of Directors:

Tampa Bay Economic  
Development Corp. -  
Chairman  
WEDU - TV (3)  
Former Member  
Tampa Urban League  
March of Dimes of  
Hillsborough County -  
Former Member  
Centre Club of Tampa -  
Former Member  
Gulf Ridge Council,  
Boy Scouts of America  
University of Florida  
College of Law, Dr.  
Martin Luther King,  
Jr. Fund  
Jesuit High School  
Foundation

Rotary Club of Downtown Tampa - Former Member  
Greater Tampa Chamber of Commerce Committee  
of 100  
Greater Tampa Chamber of Commerce Traveling  
Executives Task Force - Former Member  
University of Tampa Board of Counselors -  
Former Member  
University of South Florida Dean's Associates  
of College of Business Administration  
State of Florida Job Training Coordinating  
Council  
Past Chairman - Bi Racial Advisory Committee,  
Hillsborough County School Board - 1981

Past Chairman - Mayor's Cable Television  
Advisory Committee, 1979-1982  
Past President - St. Pete Claver Parish  
Council, 1980-1982  
Mediator - Citizens Dispute Settlement  
Program - 1979  
Tampa Organization of Black Affaris -  
Co-Founder & Board of Directors, 1980-1985  
NAACP  
Who's Who in Black America - 1985  
Outstanding Young Men in Ameica - 1982, 1983  
Greater Tampa Chamber of Commerce Board of  
Governors  
Greater Tampa Chamber of Commerce - Executive  
Committee  
Co-Chair - Tampa Coalition

### MAJOR ACCOMPLISHMENTS

- 1980 Revision to City of Tampa Civil Service Law  
Responsible for coordinating and developing updated model of the personnel administrative code for governing grievance and personnel matters for the City of Tampa's classified and unclassified employees
- 1980-1985 Ybor City Redevelopment  
Assigned the initial responsibility for developing and creating, on behalf of the Mayor, the necessary mechanism to spearhead the Ybor City Redevelopment Project. Ultimately, this has resulted in a major investment by both private and public sectors in this historic district.
- 1980-1981 Rocky Point Golf Course/Critikon Inc. Redevelopment  
Forty-six acres of the 180 acre Rocky Point Golf Course was targeted for redevelopment by the City of Tampa. Critikon, Incorporated, a subsidiary of Johnson & Johnson, established its international headquarters on the 46 acre location. Ultimately, the negotiations resulted in a \$4,000,000 ground lease agreement, a

\$1.8 million renovation of the golf course and a \$1.5 million road and transportation improvement to the surrounding area.

1982

Lloyd Copeland Park

As a result of the above mentioned Critikon redevelopment project, the City of Tampa purchased a 52 acre site in northeast Tampa for a major regional park. This negotiation resulted in an ultimate purchase price of \$1.5 million and was the first park to be established in this area in over 20 years.

1980-1983

Cable TV Franchise Advisory Committee

Responsible for coordinating and developing (along with a 5 member committee) the cable television selection process, enabling ordinance and franchise agreement negotiations for the City. This system, valued at over \$100,000,000, has been noted based on its rate adjustment clauses allowing for a rate of return formula to govern increases, a Minority Business Assistance Fund to assist companies looking to expand into the cable market and ordinance provisions which are deemed to be the most stringent but equitable yet to be developed.

1983-1985

Deferred Compensation

Program Development on behalf of the City, assigned the responsibility of studying, reviewing and recommending the Deferred Compensation program to be initiated and pursued by the City of Tampa.

1983-1985

Minority Business Enterprise Program

Taken on the responsibility of directing the development of the minority business enterprise program for the City of Tampa, which includes vendor tracking, purchasing restructure, certification of potential vendors, development of surety and insurance provisions as well as targeting employment goals.

1984-1985

Union Station Redevelopment

Responsible for overseeing a consultant review along with the Urban Mass Transit Administration coordinating for the City of Tampa railroad station in conjunction with Amtrak and the CXS Corporation.

1984-1985

Annexation

Project responsibility for the coordination of the City's planned annexation of 45 additional square miles of property. This has included extensive negotiations with the City of Temple Terrace on sewer service, with the University of South Florida concerning the effect of various fees and taxes, and working with six developers/property owners in developing the annexation process.

1984-1985

MacDonald Training Center

Coordinated on behalf of the City of Tampa, Hillsborough County and MacDonald Training Center (MTC), the team responsible for the sale and disposition of MTC's 27 acre parcel for \$15,000,000. This negotiation included resolving reverer interest questions, lease restrictions and the Request for Proposal and development in conjunction with this project.

CERTIFICATION

Approved by the National Football League Players Association and National Basketball Players Association as a Contract Advisor.