

CERTIFICATE OF TYPE, SIZE AND STYLE AND
ANTI-VIRUS SCAN

Undersigned counsel does hereby certify that the Cross/Reply Brief of Respondent/Appellee/Cross Appellant is submitted in 14 point proportionately spaced Times New Roman font, and that the computer disk filed with this brief has been scanned and found to be free of viruses, by Norton AntiVirus for Windows.

**ARGUMENT IN RESPONSE TO REPLY BRIEF SUBMITTED BY
COMPLAINANT/APPELLANT/CROSS APPELLEE**

The Respondent respectfully requests that the Court consider this as a Cross/Reply Brief in response to the Florida Bar's Reply Brief.

Basically the Florida Bar, as represented by Mr. Itturalde, has tried to convince this Court to accept the Referee's findings of fact as is and to ignore the more than 40 page Cross/Initial Brief/Answer filed by the Respondent which indicated that the Referee repeatedly violated the "clear and convincing evidence rule". In representing the Florida Bar, Mr. Itturalde can not escape the fact that the only evidence against the Respondent are the audio tapes which were the result of a man suffering from the disease of alcoholism having a silly and lewd conversation with a woman with whom he had a previous, non-representative sexual encounter, a woman who was prompted by Police Officers to come to the Respondent's office and initiate a conversation about sex.

Mr. Itturalde, in representing the Florida Bar, also further ignores the overwhelming evidence that the Complainant's initial complaint could not be true because of the unrefuted testimony of four separate witnesses, to wit; Robin Tidwell, Geneva Wildman, Stephen Michael Short, and Linda Short. Mr. Itturalde,

further refuses to accept the testimony of noted polygraph examiner, Mr. Ben Malinowski, and forensic psychologist, Dr. Krop, each of which respectively indicated that the Respondent was telling the truth and was not a sexual threat to anyone. In the last paragraph of page 2 of Mr. Itturalde's Reply Brief, Mr. Itturalde suggests that the Respondent has "...unmitigated arrogance...". In his Cross/Initial Brief/Answer, the Respondent has previously explained to the Court the rural and socio-economic nature of his practice of law in suggesting that he perhaps be disciplined by being ordered to aid the obviously understaffed forces of the Public Defender's office and the Legal Aid Service in the Third Judicial District by automatically accepting referrals of pro-bono cases. Mr. Itturalde, in representing the Florida Bar, is ignoring the unrefuted evidence that approximately fifty percent (50%) of the cases the Respondent represents now are pro-bono in one form or another. The Respondent, in making such a suggestion, is not being arrogant but simply asking this Court to seek a creative solution of the differences between the Florida Bar and the Respondent and avoid virtually throwing out 25 years of competent legal experience in representing poor, rural citizens, without sufficient resources to afford competent legal representation.

The Respondent is asking the Court for simple common sense justice. Common sense dictates that an attorney did not survive in a town of approximately

500 inhabitants for twenty-five years without being a reasonably decent and honest individual. The Respondent has frankly admitted to having loose, silly, sexually oriented conversation with a woman with whom he had a prior non-representative sexual encounter. The evidence is clearly in the record that two extremely experienced police officers and a battery of state attorneys could find nothing more serious to charge the Respondent with than solicitation of prostitution. Florida Department Of Law Enforcement agent Robin McDaniels and Assistant State Attorney C. Nieto Johnson even admitted in their testimony that this charge was weak and would not stand up in Court. The Respondent has further frankly admitted the problem he had with alcoholism and the steps he has taken to correct that problem under no one's initiative but his own.

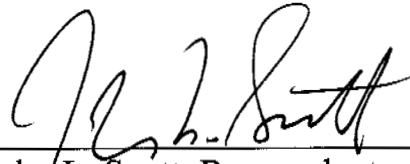
CONCLUSION

The Respondent reiterates his request for an oral argument before this Court and merely asks the Court to give him the opportunity to answer the Court's questions and further give him the opportunity to resolve this matter in a just and fair manner.

One more thing the Respondent would request of each member of this Court to consider. On page 39 of his Cross Initial Brief/Answer the Respondent referred to the purpose and nature of sanctions. If the Florida Bar generally considered the Respondent to be a danger to the public, a danger to the administration of justice, and a person who would not discharge his duties to clients, the legal system and other lawyers, why would the Florida Bar not have sought an immediate and emergency suspension of the Respondent's privilege to practice law. This case has been going on for well over three years. The Florida Standards for Imposing Lawyer Sanctions provide for the Florida Bar to seek an immediate emergency suspension of a lawyer's privilege to practice law if there is an indication that they are a danger to clients, the public and the profession. The Florida Bar has not done so in this case. It strikes the Respondent that the Florida Bar's decision to not seek immediate emergency suspension is an indication of the empty rhetoric contained in the Florida Bar's pleadings.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Cross Initial Brief/Answer regarding Supreme Court Case Nos. SC96087 and SC97020 has been mailed via regular U.S. Mail to Edward Iturralde, Bar Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida 32399-2300, on this 17th day of May, 2001.



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