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IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

DANIELLE RENEE WATSON,

Respondent.
_____/

Supreme Court Case No.: SC23-0416

The Florida Bar File No.: 2018-50,287 (15F)

ANSWER BRIEF

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PRELIMINARY STATEMENT

Complainant is referred to as The Florida Bar or the bar. Danielle Renee Watson is referred to as Respondent or Ms. Watson.

Bar exhibits are referred to as "TFB-Exh." followed by the exhibit number, and based on volume, may also reference applicable bates stamp number(s) (e.g., TFB-Exh.1, B.S. 1).

The documents comprising the Index of Record are referred to by tab number (e.g., Tab#1). The Amended Report of Referee is referred to as "ROR:" followed by the applicable page number(s).

There are six (6) transcripts of hearings before the Referee. These transcripts are referred to as "T1" through "T6" respectively, followed by the applicable page number(s), and any applicable line numbers (e.g., T1:1:1-2).

The bar's Initial Brief is referred to as "IB:" followed by the applicable page number(s).

STATEMENT OF THE CASE

The conduct at issue occurred on September 5, 2017. On December 12, 2017, Ms. Watson filed her response to the bar complaint. (TFB-Exh.19). In 2020, Ms. Watson's matter was set for review by the Grievance Committee. (ROR: 27). Ms. Watson tendered her admission to minor misconduct in 2020. (ROR: 27). In 2021, the Board of Governors rejected the admission and found probable cause. (ROR: 27). Almost 2 years later, on March 22, 2023, The Florida Bar filed its one-count complaint. (Tab#01). On March 22, 2023, the Supreme Court of Florida ordered the appointment of a referee. (Tab#05). The Honorable Allison Gilman was appointed as the Referee on March 28, 2023. (Tab#06). Respondent was represented by Kevin P. Tynan, Esquire, and the bar was represented by Linda Ivelisse Gonzalez, Esquire, during the hearings. (ROR: 2).

The bar also filed a six-count complaint, on April 10, 2023, against Respondent's law partner, Malik Leigh, in Supreme Court of Florida Case No. SC2023-0518, and tried both Leigh and Respondent's cases together. (ROR: 2).

The final hearing was then held on August 14-16, 2023, August 21, 2023, and August 23-24, 2023. (ROR: 3). Florida Bar Exhibits 1-19 are primarily the "operative exhibits" related to Ms. Watson's disciplinary actions. (ROR: 4).

STATEMENT OF THE FACTS

I. Introduction

The bar prosecution examines Ms. Watson's reaction to opposing counsel's office affixing her electronic signature on an outdated draft of a joint stipulation without first requesting or receiving Ms. Watson's authorization to do so before filing the stipulation. Ms. Watson did not falsely accuse the opposing firm of affixing her signature without permission. It is uncontested that opposing counsel and her office never attempted to obtain Ms. Watson's permission to affix her signature or to ensure Ms. Watson had reviewed the stipulation because Ms. Watson's co-counsel had been exclusively negotiating the stipulation. It is also uncontested that the stipulation filed by opposing counsel did not incorporate the changes provided by Ms. Watson's co-counsel.

Ms. Watson characterized the unauthorized use of her signature as a "forgery" in a pleading without investigating whether opposing counsel had made a good faith mistake that could be simply remedied. Ms. Watson acknowledged her myopic and emotional reaction to the trial court, the grievance committee, and to the Referee. The following detailed factual discussion is intended

not to excuse any misconduct but rather to respond to the bar's broad characterizations which hinder thoughtful consideration of an appropriate sanction. The Referee's recommended admonishment for minor misconduct is consistent with recent dispositions after considering the full circumstances and balancing aggravating and mitigating factors.

II. The Underlying Litigation

The joint pre-trial stipulation at issue was filed in Parish-Carter v. Avossa, McKeever & The School Board of Palm Beach County (hereinafter "Parish-Carter"). This litigation concluded in 2017, six (6) years before the final disciplinary hearing. (ROR: 3). In 2017, Ms. Watson had been practicing law for six (6) years. (ROR: 15; TFB-Exh.14, p. 48). Ms. Watson practiced property damage defense at Charles Bechert & Associates, usually working in his office from 7:00 a.m. until 2:00 p.m. (T5:971). Ms. Watson also was a co-owner of Watson & Leigh, P.A. with her partner, Malik Leigh. (ROR: 6, 15). Ms. Watson and Mr. Leigh first met in law school and are law partners and romantic partners. (T5: 967).

Parish-Carter was pending in the United States District Court for the Southern District of Florida before the Honorable Robin L. Rosenberg, United States District Judge. (ROR: 5; Tab#01, para. 4). The Parish-Carter litigation was the "first case (along with two others)" that Mr. Leigh had filed with Ms. Watson as co-counsel in federal court. (ROR: 5, 15). It was "uncontroverted" that Mr. Leigh was "primary counsel" and "lead attorney" in Parish-Carter. (ROR: 5, IB: 2). Ms. Watson was co-counsel, and her name was included in the signature block for their law firm. (ROR: 5, 15). Lisa Kohring, Esquire, represented the defendant, the Palm Beach County School Board, having taken over the defense in the beginning of August 2017. (T2:331-332).

III. The Joint Pre-Trial Stipulation Negotiation

The court ordered deadline to submit a joint pre-trial stipulation in Parish-Carter was September 5, 2017. (ROR: 5). It was uncontroverted that Ms. Watson did not draft any email communications related to the stipulation or take any part in the drafting of the stipulation. (ROR: 6).

Mr. Leigh and Ms. Kohring began negotiating the stipulation in earnest in late August. (TFB-Exh.14, p. 11-12; TFB-Exh.8, TFB-Exh.19, B.S. 009-013). On August 30, 2017, Mr. Leigh sent Ms. Kohring revisions to the joint stipulation Ms. Kohring had drafted, along with the list of plaintiff's exhibits, to which Ms. Kohring acknowledged receipt on August 31, 2017. (TFB-Exh.14, p. 11-12; TFB-Exh.8, B.S. 015-016). The Initial Brief incorrectly states that Ms. Kohring had been seeking revisions to her draft stipulation since August 24, 2017, but had not heard back until the day the stipulation was due. (IB: 3). Ms. Kohring's testimony and her Sanctions Motion also inaccurately claimed Mr. Leigh had failed to respond until the day of the deadline. (T2:310-311).[1]

[1] Ms. Kohring's initial motion for sanctions incorrectly stated, "Between August 24 and September 1, Undersigned Counsel attempted to confer with Plaintiff's counsel to finalize the Stipulation drafted by Undersigned Counsel. Plaintiff's counsel waited until the due date on September 5 to engage in substantive discussions, despite emails, reminders and notification that Undersigned Counsel would be otherwise occupied on the due date. *See* **Composite Exhibit 'A.'"** Composite Exhibit A omitted the August 30 and 31 emails with Mr. Leigh's substantive revisions and Ms. Kohring's acknowledgment of the revisions. (Compare: TFB-Exh.3, B.S. 002, 006-010 with TFB-Exh.19, B.S. 011-013).

On the morning of September 5, 2017, Mr. Leigh and Ms. Kohring exchanged telephone messages before connecting around noon. (TFB-Exh.10, B.S. 009). Ms. Kohring confirmed that she and Mr. Leigh had spent substantial time on September 5, 2017, conferring on the stipulation.[2] Ms. Korhing consistently testified she only spoke to Mr. Leigh. (TFB-Exh.14, p. 13; T2:303:21-24).

In the final hours of the workday, Ms. Kohring and Mr. Leigh were still negotiating the stipulation. (Tab#01, para. 6). During these final negotiations, Ms. Kohring addressed her emails only to "Malik" (Mr. Leigh) although Ms. Watson was copied on the emails. (Tab#01, para. 6; ROR: 6). Ms. Watson noticed the emails were being exchanged regarding the stipulation but did not open the emails because she was working at Charles Bechert & Associates during the day. (ROR: 8).

Ms. Kohring sent three (3) emails after 5:00 p.m. attaching stipulations for Mr. Leigh to review.

- At 5:13 p.m., Ms. Kohring provided a draft asking Mr. Leigh to confirm they could affix his signature and file. (TFB-Exh.19, B.S. 026).

[2] TFB-Exh.14, p. 24 (Ms. Kohring testifying they "conferred for eight hours"); T2:322-23; T2:339:1-2 (Ms. Kohring testifying they "conferred for over an hour.").

- At 5:20 p.m., Ms. Kohring asked Mr. Leigh to ignore the prior version she had just sent to him and to use the attached version. (TFB-Exh.19, B.S. 027).

- At 5:25 p.m., Mr. Leigh confirmed receipt of the email and stated that he was reviewing the stipulation. (TFB-Exh.19, B.S. 026).

- At 5:35 p.m., Ms. Kohring asked Mr. Leigh to review "this version" and respond to her paralegal with confirmation they could file. (TFB-Exh.19, B.S. 027).

Mr. Leigh reviewed the 5:35 p.m. draft sent by Ms. Kohring and began revisions to include the specific basis for objecting to defense exhibits. (TFB-Exh.14, p. 73-74; TFB-Exh.19, B.S. 28). Mr. Leigh revised the stipulation to identify the legal basis for objections to six (6) defense exhibits rather than the general "objection" that he had previously included. (T2:350-52). Mr. Leigh was concerned that failure to identify the basis would waive objections to the exhibits. (TFB-Exh.14, p. 47). Ms. Kohring later acknowledged Mr. Leigh's additions were "substantive" changes. (T2:406-07).

IV. Affixing Signature and Submission of the Stipulation

At approximately 5:40 p.m., Ms. Kohring left work without finalizing the stipulation because she had either missed or cooked a

pre-planned anniversary dinner.[3] Ms. Kohring asked her paralegal, Ana Jordan, to wait for approval from Mr. Leigh to file the Stipulation. (T2:330).

Mr. Leigh completed his revisions, affixed his wet signature and at 5:53 p.m. emailed the revised stipulation to defense counsel with the email message, "Pre trial Stipulation to sign and file." (TFB-Exh.14, p. 74, TFB-Exh.4, B.S. 43). Ms. Jordan's supervisor was present when Ms. Jordan received Mr. Leigh's 5:53 p.m. email. (TFB-Exh.14, p. 38). Ms. Jordan did not open Mr. Leigh's signed and revised stipulation attached to Mr. Leigh's email, and she was not otherwise instructed to open the attachment. (TFB-Exh.14, p. 33, 36). Ms. Jordan interpreted Mr. Leigh's email as "go ahead and sign and file" Ms. Kohring's 5:35 p.m. version. (TFB-Exh.14, p. 28, 36; T1:240:21-22, 242:12-13). Ms. Jordan revised Ms. Kohring's 5:35 p.m. draft to include the addresses of defense witnesses. (TFB-Exh.14, p. 35). Ms. Jordan affixed Ms. Kohring's signature

[3] TFB-Exh.14, B.S. 67: Ms. Kohring writes "I stayed late and missed an anniversary dinner"; T2:328:11-13, 335:9-11: Ms. Kohring testifies she had planned on cooking dinner for her anniversary and was sure they had a "decent night."

and Ms. Watson's signature to Ms. Kohring's 5:35 p.m. stipulation. (TFB-Exh.14, p. 34; T1:242:16-21).

Ms. Jordan did not contact Ms. Watson or Mr. Leigh for permission to affix Ms. Watson's signature or confirm Ms. Watson had reviewed and approved the stipulation. (T2:285-86). Ms. Watson had not reviewed the document before her signature was affixed to the stipulation. (TFB-Exh.14, p. 41). Ms. Jordan did not include Mr. Leigh's signature. (IB: 5).

V. Mr. Leigh and Ms. Watson's Discovery of Incorrectly Filed Stipulation

On the evening of September 5, 2017, Mr. Leigh reviewed the filed pre-trial stipulation and quickly realized it was not the version he had emailed for submission. (ROR: 8). Noting Ms. Watson's signature, Mr. Leigh texted and then called Ms. Watson around 7:00 p.m., forwarding the stipulation and asking whether she had authorized the filing. (TFB-Exh.14, p. 42-45). Ms. Watson was "quite surprised" and upset because she had never had another attorney affix her name to a pleading without her knowledge. (TFB-Exh.14, p. 43:4-5, 48; ROR: 10). Mr. Leigh told Ms. Watson that

Ms. Kohring's 5:35 p.m. version did not include the legal basis for Plaintiff's objections to six (6) defense exhibits included in Mr. Leigh's final version. (TFB-Exh.14, p. 45-47).

Ms. Watson and Mr. Leigh discussed unilaterally filing Mr. Leigh's latest version of the stipulation so as not to inadvertently waive any plaintiff's objections to the defense exhibits with an explanation that the joint stipulation had been filed without approval. (TFB-Exh.14, p. 47, 74). However, Ms. Watson had no role in drafting Mr. Leigh's pretrial stipulation addendum, did not review it before it was filed, and did not approve of it. (TFB-Exh.14, p. 46; IB: 5; T5:974:19-23). The stipulation addendum stated that "Lisa Kohring, not only filed the wrong Pre-trial Stipulation, but she forged Plaintiff Counsel, Danielle Watson's electronic signature and filed it." (ROR: 9).

VI. Ms. Kohring Discovers Her Office Filed the Wrong Stipulation

Ms. Kohring reviewed Mr. Leigh's unilateral pre-trial stipulation and investigated what happened. (TFB-Exh.14, p. 17, ROR: 10). Ms. Kohring learned that her paralegal had not opened the attachment with Mr. Leigh's revised stipulation. (TFB-Exh.17,

B.S. 005). Ms. Kohring realized that Mr. Leigh had not authorized submission of the 5:35 p.m. stipulation and that her paralegal had signed Ms. Watson's name. (T2:385).

Ms. Kohring did not know why her paralegal affixed Ms. Watson's signature. (TFB-Exh.14, p. 16; T2:331). Ms. Jordan, as Ms. Kohring's assigned paralegal, did not recall any emails authored by Ms. Watson. (T2:278). Ms. Jordan explained she signed Ms. Watson's name because it is "her practice" to sign the name of the attorney appearing first beneath the signature line for the firm but did not know if anyone else in the office had that practice and that her office did not have any procedure for affixing electronic signatures. (TFB-Exh.14, p. 30-31; T1:244; T2:276). Shawntoyia Bernard, deputy general counsel for the Schoolboard, confirmed her office did not have a policy related to affixing electronic signatures. (T1:209-210).

The Referee observed Ms. Kohring and Ms. Jordan's demeanor and found they were "very defensive on cross-examination on the signature issue that forms the basis of the dispute for Watson and, especially as to [Ms.] Kohring, aggressively attempting to volunteer information outside the questions that were posed to her." (ROR:

4). Ms. Kohring emailed Mr. Leigh September 6, 2017, copying Ms. Watson, demanding a retraction of his addendum or she would pursue sanctions. (ROR: 10, TFB-Exh.4, B.S. 67). Ms. Kohring offered no explanation for her mistake. (TFB-Exh.4, B.S. 067). She did not explain that her paralegal had not realized that Mr. Leigh had attached an updated version of the stipulation or why her paralegal affixed Ms. Watson's signature. (T2:389; TFB-Exh.6, B.S. 67). Ms. Kohring testified it was not her "job" to explain what occurred. (T2:393).

Ms. Kohring sent a second email later that day indicating her intent to pursue sanctions again without any explanation. (ROR: 10; TFB-Exh.4, B.S. 68). Ms. Kohring left Ms. Watson a voice mail that Ms. Watson acknowledged to the trial court and to the Referee that she should have returned. (TFB-Exh.14, p. 56, 68; T5:1015-1016). Ms. Watson explained that on September 6, 2017, when Ms. Kohring had called and emailed, Ms. Watson was preparing for Hurricane Irma due to make landfall. (T5:975). She had picked up her father at the airport who had flown in to assist, and she also went to Mr. Bechert's law office to help his firm with hurricane preparations. (T5:975).

The next day, Ms. Watson reviewed the escalating emails exchanged between Ms. Kohring and Mr. Leigh and unfortunately determined that telephonic communications would not be productive. (TFB-Exh.14, p. 68). Ms. Watson later acknowledged to the trial court and the Referee that she should have returned Ms. Kohring's phone call. (TFB-Exh.14, p. 56; T5:1015-1016). The Referee found Ms. Watson to be "candid and truthful." (ROR: 4). Ms. Watson admitted at the final hearing that she overreacted to the unauthorized use of her signature. (T5:1015-16). The Referee noted that "[a]s to some difficult questions posed to her, she clearly spoke from the heart in responding and was truly embarrassed and remorseful by what occurred herein." (ROR: 4).

VII. Telephone Calls to Investigative Authorities

Ms. Watson told a former assistant state attorney with whom she worked at Charles Bechert & Associates that an opposing counsel had affixed her signature without her knowledge and that

her colleague had opined it was an "egregious" act.[4] (T5:978). Ms. Watson did not speak with anyone at the Palm Beach State Attorney's Office. (T5:978). Ms. Watson understood that Mr. Leigh also spoke with an assistant state attorney who consulted with his superior and that Mr. Leigh was told they would need to talk to the U.S. Marshall because that office had jurisdiction. (T5:979; TFB-Exh.14, p. 55, T5:1035).

Mr. Leigh and Ms. Watson made preliminary inquiries whether affixing the electronic signature was criminal activity. (ROR: 16). They did not identify Ms. Kohring and never filed a report or otherwise sought prosecution. (TFB-Exh.14, p. 54, 65-67; ROR: 16; T5:989, 1034). These inquiries did not result in criminal investigations, and Ms. Kohring indicated she had never been contacted by authorities. (T2:428). The Referee determined that these communications did not violate the Rules Regulating The Florida Bar. (ROR: 16). Ms. Watson and Mr. Leigh discussed filing

[4] The Initial Brief incorrectly states she "could not identify" her colleague. (IB: 10). Ms. Watson could not recall her last name when testifying before Judge Rosenberg but indicated that she had her cell phone number. (TFB-Exh.14, p. 50-52; T5:978).

a Bar Complaint believing they had a good faith basis to do so, but Ms. Watson did not recall drafting a Bar Complaint. (T5:977).

VIII. Ms. Kohring's and Mr. Leigh's Sanctions Motions

On September 7, 2017, Ms. Kohring filed a Motion for Sanctions, asserting that her paralegal had believed she had permission to file the Stipulation without explaining that her paralegal had not opened the attachment to Mr. Leigh's email. (TFB-Exh.3). Ms. Kohring also asked that Mr. Leigh's addendum be stricken. (TFB-Exh.3). On September 7, 2017, Mr. Leigh prepared, signed, and filed a Motion for Sanctions arguing that it was implausible that the stipulation was filed in error. (TFB-Exh.4). Ms. Watson's name appeared in the signature block as co-counsel, but she did not assist in drafting Mr. Leigh's pleading. (T5:982). The trial court denied the motions without prejudice, noting they could be raised, if necessary, after a final resolution of the claims. (ROR: 12).

The trial court entered summary judgment in favor of the defense, and Ms. Kohring filed a Renewed Motion to Strike on September 19, 2017. (TFB-Exh.5; ROR: 12). Mr. Leigh then

prepared, signed, and filed a Renewed Motion to Strike Pleadings on September 19, 2017. (TFB-Exh.6). Ms. Watson's name appeared on the signature block, but she did not assist in drafting the pleading. (T5:982). Ms. Kohring filed a Response in Opposition on September 21, 2017. (TFB-Exh.7). Mr. Leigh then prepared a Response to Defendants' Renewed Motion and Ms. Watson prepared an affidavit. (TFB-Exh.8). Ms. Watson provided a factual Affidavit confirming opposing counsel had not requested permission to affix her signature. (TFB-Exh.8, B.S. 73-74; T5:979-80, 983). Ms. Watson testified that she should not have remained silent when Mr. Leigh filed aggressive responses. (ROR: 11). The Referee found that Ms. Watson was "reactive" to events and was relying on her partner who was drafting most of the pleadings. (ROR: 15).

IX. Trial Court Orders Ms. Watson to File a Response

Other than providing a brief factual affidavit with no argument, Ms. Watson did not engage in the arguments between Mr. Leigh and Ms. Kohring until the trial court entered an order requiring Ms. Watson to file a response. (TFB-Exh.14, p. 7). On September 25, 2017, Ms. Watson filed a response under her

signature titled "Supplemental Response to Defendants' Response to Plaintiff's Motion to Strike." (TFB-Exh.9). Ms. Kohring confirmed this was the first time she heard from Ms. Watson regarding the arguments. (T2:354). The underlying case had been resolved at the time of Ms. Watson's filing. (ROR: 12). Ms. Watson's language choice and tone were markedly more restrained and measured than Mr. Leigh's responses. (TFB-Exh.9). Ms. Watson reacted to defense counsel's assertions that she believed, at the time, were inflammatory, arguing defense counsel's arguments were made to bias the court, but Ms. Watson failed to step back and evaluate the tenor of her own co-counsel's pleadings. (T5:1015-16).

Ms. Watson characterized her unauthorized signature as a "forgery" but subsequently acknowledged she should have described it differently. (T5:1015). Ms. Watson had no prior experience with federal joint pre-trial stipulations, and her Supplemental Response cited the Florida Rules of Judicial Administration. (TFB-Exh.14, p. 76; TFB-Exh.9). The gravamen of Ms. Watson's Supplemental Response addressed the requirements related to the use of electronic signature, including citations to ethics opinions. (TFB-Exh.9). Ms. Watson acknowledged she failed

to investigate whether there was a reasonable misunderstanding before accusing Ms. Kohring of bad intent. (T5:1015-16).

Ms. Watson accurately explained in her Supplemental Response, "[a]t no time after the signed PDF was sent via email at 5:53pm by Plaintiff's Counsel Leigh did anyone from Defense Counsel's Office contact Plaintiff's Counsels in any way." (TFB-Exh.9, B.S. 005). The Initial Brief asserts this statement is inconsistent with Ms. Watson's acknowledgment that she should have returned Ms. Kohring's calls after the stipulation was filed. (IB: 11). However, this statement is taken out of context; Ms. Watson correctly asserted in her Supplemental Response that defense counsel did not contact her or Mr. Leigh after receiving Mr. Leigh's 5:53 p.m. stipulation and before affixing Ms. Watson's signature to the prior version of the stipulation. (TFB-Exh.9). Ms. Watson further states in her Supplemental Response that defense counsel never admitted they had made an error, apologized, or withdrew the Stipulation. (TFB-Exh.9, B.S. 005). Ms. Kohring confirmed she never acknowledged her error and never apologized for her mistake. (T2:393, 396-97).

X. Trial Court Hearing, Bar Referral, and Appeal

On September 27, 2017, the Honorable Robin L. Rosenberg held an evidentiary hearing and entered an Order on October 2, 2017. (ROR: 13). Ms. Kohring and Ms. Jordan explained for the first time, that Ms. Jordan had not opened Mr. Leigh's attachment with the revised stipulation, giving context to their position that they believed Mr. Leigh's 5:53 p.m. email message authorized filing Ms. Kohring's earlier stipulation. (T2:389, 393; TFB-Exh.14, p. 16-17). Judge Rosenberg found that Mr. Leigh and Ms. Watson reacted in bad faith and should have spoken with Ms. Kohring rather than make accusations of forgery. (TFB-Exh.14, p. 56-57). Judge Rosenberg noted she was expressing no opinion as to whether any Rules Regulating The Florida Bar had been violated but referred the issue to the bar, in part, because there was a prior bar referral related solely to Mr. Leigh's previous conduct in the same litigation. (TFB-Exh.12, p. 8).

The Initial Brief incorrectly contends that Ms. Watson argued on appeal Judge Rosenberg's ruling regarding the pre-trial stipulation was erroneous. (IB: 13). The Eleventh Circuit Court of Appeal's Order in Parish-Carter explained that Ms. Watson "recites

these events [and the sanction orders] in the facts section" but did not argue in her brief that Judge Rosenberg erred in her orders imposing sanctions and attorney's fees. (TFB-Exh.17, B.S. 006). The Eleventh Circuit noted Ms. Watson argued that the magistrate judge erred in a previous order imposing sanctions against Mr. Leigh for social media posts. (TFB-Exh.17, B.S. 006).[5]

XI. Florida Bar Investigation and Referee Hearing

Ms. Watson's conduct occurred in 2017, and she first responded to the bar in 2017. (ROR: 27; TFB-Exh.19). Her matter was sent to a grievance committee in 2020, at which time she admitted Minor Misconduct, indicating her acceptance of an admonishment. (ROR: 27). A year later, in 2021, the Board of Governors rejected the admonishment and found probable cause. (ROR: 27). The bar then waited almost two (2) years to file a formal complaint. (ROR: 27). Although the bar investigated additional

[5] Ms. Watson did not create or otherwise participate in these posts, and the bar did not charge Ms. Watson with any misconduct related to these posts. (T5:1039). The Eleventh Circuit found that the magistrate's social media sanction order had already been dismissed because it had not been rendered final by the district court. (TFB-Exh.17, B.S. 006).

conduct by Mr. Leigh, the bar only charged Ms. Watson with conduct related to the stipulation. (T5:1009). The Referee found that Ms. Watson had not contributed to this delay and that the bar's six (6) year prosecution was not diligent. (ROR: 27-29). The Referee found this delay warranted mitigation of Ms. Watson's sanction. (ROR: 29).

The single count against Ms. Watson was tried with a six-count complaint against Mr. Leigh. (ROR: 2). Count II of the Leigh complaint addresses the same "core facts" as the single count against Ms. Watson. (ROR: 2). The Referee recommended finding Ms. Watson guilty of Rule 4-8.4(a) and Rule 4-8.4(d), the two (2) Rules charged in the Complaint. (Tab#01, para. 30; ROR: 17). Ms. Watson does not contest these recommendations and admits, as she did in 2020, that her actions constituted minor misconduct. In responding to the bar's Complaint, Ms. Watson denied that these Rule violations warranted discipline greater than an admonishment, which is supported by recent dispositions. (Tab#08).

XII. Aggravating and Mitigating Factors

The bar did not charge, and the Referee did not find, a violation of any Rule relating to dishonest or deceptive conduct. (Tab#01, para. 30). The Referee found "multiple violations" (Standard 3.2(b)(4)) as an aggravating factor because there were two (2) rule violations, although "not multiple unethical actions." (ROR: 24).

The Referee rejected the bar's argument that Ms. Watson's sanction should be aggravated based on Mr. Leigh's conduct set out in Count I of Mr. Leigh's Complaint, related to his social media posts. Ms. Watson had no participation and did not supervise or direct these social media posts and was not charged with any misconduct related to these posts. (ROR: 19-20).

After the trial court evidentiary hearing when she learned about the postings, she expressed her disappointment in Mr. Leigh's derogatory language when posting about the litigation, but she also explained that she knew Mr. Leigh and believed that the school board was mistaken in viewing his posts as "veiled threats." (T5:1040-41, 1044). The post referencing "bike riding" and "shooting campaign" was accompanied by a picture of Mr. Leigh in

bike riding gear, smiling next to his road bike, and Ms. Watson understood Mr. Leigh was referencing his hobbies of bike riding and photography. (T5:1044).

Counts III, IV, V, and VI against Mr. Leigh addressed Mr. Leigh's conduct in the "Stonybrook Litigation." (ROR: 20). Although Ms. Watson's name was included on Stonybrook pleadings as co-counsel, she did not participate in the litigation, even administratively. (ROR: 20-21; T5:1025). Opposing counsel "acknowledged Watson did not attend any hearings or depositions with them and they had no communication with her." (ROR: 20; T2:441; T3:577-78, 590-91). Ms. Watson recognized that even though she considered Stonybrook to be Mr. Leigh's case, she should have either carefully reviewed the pleadings or insisted that her name be removed from the signature block as co-counsel. (ROR: 20-21). Instead, she trusted her partner to advise her of the contents. (ROR: 23).

Ms. Watson did not carefully review the Stonybrook Gag Order, and between November 7 and November 10, 2017, retweeted four (4) articles from the Palm Beach Tenant's Union regarding a Stoneybrook protest, believing that the Order only prohibited

counsel from discussing court proceedings. (ROR: 21; T5:994-95). When Mr. Leigh advised her that the Gag Order covered any communication about the subject matter, Ms. Watson immediately removed her retweets. (ROR: 22; T5:995). The Referee determined Ms. Watson was credible and frank in admitting her failure to carefully review the Gag Order before retweeting the articles. (ROR: 22).

Ms. Watson also did not review the order to show cause, giving her an opportunity to withdraw from Stonybrook before sanctions were entered. (ROR: 22). Ms. Watson did not appear at the hearing and did not withdraw. (ROR: 22). Ms. Watson was not held individually liable, but Malik Leigh and the Watson & Leigh firm were held jointly liable for attorneys' fees which had not been satisfied, and the Referee found this supported aggravation. (ROR: 23; T5:998). Ms. Watson would have withdrawn had she either reviewed the order or been advised of the court's directive. (ROR: 23; T5:1033).

In mitigation, the Referee determined Ms. Watson had not engaged in a pattern of unethical conduct (Standard 3.2(b)(3)) and that she did not have a selfish or dishonest motive (Standard

3.2(b)(2)). (ROR: 24). The Referee also found that Ms. Watson did not offer any false evidence or testimony (Standard 3.2(b)(6)) and was "sincere, remorseful, and apologetic as to what occurred relative to the forgery allegation." (ROR: 25).

The Referee also noted the absence of a disciplinary record (Standard 3.3(b)(1)) and her character and reputation (Standard 3.3(b)(7)) as established by her professional colleagues. (ROR: 26). In the six (6) years since her 2017 misconduct, Ms. Watson has not been the subject of any grievances. (ROR: 29). The Referee determined she "provided heartfelt and emotional testimony as to remorse and her desire not to run afoul of any future Bar violations." (ROR: 30).

SUMMARY OF ARGUMENT

The bar's characterization of Ms. Watson's conduct as dishonest is not supported by the bar's charging document, the Report of Referee, or the record. Ms. Watson did not falsely or inaccurately accuse the opposing side of affixing her signature without authorization; she was not charged nor found guilty of any Rule violation involving dishonesty. It is undisputed that the opposing side never sought her authorization nor confirmed Ms. Watson had reviewed and approved the stipulation before filing the stipulation with Ms. Watson's electronic signature. The Referee found Ms. Watson to be candid and truthful as well as not having a dishonest or selfish motive.

It is also undisputed that Ms. Watson inappropriately overreacted to discovering her signature had been used without her permission, imputing bad motive without first speaking to opposing counsel. Ms. Watson's brief telephonic inquiries to authorities, without identifying any party, to evaluate the propriety of affixing a signature without permission is not the pursuit of false criminal charges, especially when no criminal report was filed, and no investigation was conducted. Ms. Watson immediately

acknowledged her poor judgment to the trial court, and the Referee found her remorse to be heartfelt.

Ms. Watson's disciplinary investigation spanned approximately six (6) years, and the bar limited its charged misconduct to a single count addressing the pre-trial stipulation. Ms. Watson was tried in conjunction with a six (6) count complaint filed against Mr. Leigh, even though charged misconduct overlapped in only one (1) count. Even then, Mr. Leigh was the primary actor in the shared count. The Court should reject the bar's argument urging the Court to reweigh the evidence and to place greater weight on uncharged conduct, predominantly actions taken by Mr. Leigh, to support a rehabilitative suspension.

An admonishment for minor misconduct is supported by recent dispositions for similar misconduct. An admonishment appropriately balances mitigators and aggravators while considering that her poor reaction was an aberration in twelve (12) years of litigation practice.

STANDARD OF REVIEW

In evaluating a "referee's factual findings and recommendations as to guilt" this Court has set forth the following standard of review:

> This Court's review of such matters is limited, and if a referee's findings of fact and conclusions concerning guilt are supported by competent, substantial evidence in the record, this Court will not reweigh the evidence and substitute its judgment for that of the referee.

Florida Bar v. Shoureas, 913 So. 2d 554, 557 (Fla. 2005) (citing Florida Bar v. Rose, 823 So. 2d 727, 729 (Fla. 2002).

As when evaluating a Referee's recommendations as to guilt and findings of fact, a "referee's decision not to find that a mitigating or aggravating factor applies also carries a presumption of correctness and will not be disturbed unless clearly erroneous or without support in the record." Florida Bar v. Varner, 992 So. 2d 224, 230 (Fla. 2008).

The Court's review of a Referee's recommended sanction is "broader than that afforded to the referee's findings of fact because, ultimately, it is the Court's responsibility to order the appropriate sanction." Florida Bar v. Kinsella, 260 So. 3d 1046, 1048 (Fla. 2018) (quoting Florida Bar v. Ratiner, 46 So. 3d 35, 39 (Fla. 2010)).

Generally, the "Court will not second-guess the referee's recommended discipline as long as it has a reasonable basis in existing caselaw and the [Florida] Standards for Imposing Lawyer Sanctions." Kinsella, 260 So. 3d at 1048 (quoting Ratiner, 46 So. 3d at 39)

ARGUMENT

I. THE BAR IGNORES COMPETENT AND SUBSTANTIAL EVIDENCE SUPPORTING THE REFEREE'S FINDINGS AND RESORTS TO CONCLUSORY GENERALIZATIONS TO URGE THE IMPOSITION OF A NINETY-ONE (91) DAY SUSPENSION.

The bar's contention that the Referee inappropriately mitigated Ms. Watson's conduct based on a comparison with Mr. Leigh is not supported by case law or by the Referee's analysis. First, given Mr. Leigh's more extensive participation and misconduct, the Referee appropriately evaluated Ms. Watson's actions in relation to Mr. Leigh's more extensive conduct. In assessing discipline, the varying culpability of the actors should be considered. See Florida Bar v. Tauler, 775 So. 2d 944, 949 (Fla. 2000) (finding that while it did not "countenance" the actions of the responding attorney, "proportionality requires that Tauler be held less culpable.").

Second, the Referee appropriately focused on the bar's charged allegations against Ms. Watson and the record evidence. On review, the bar characterizes Respondent's conduct as dishonest to support a rehabilitative suspension. The bar did not charge Ms. Watson with committing dishonest conduct. The bar reviewed Ms. Watson's case for almost two (2) years after the finding of probable cause

before filing its formal complaint despite being required to "promptly" file a complaint.[6] Ms. Watson was not charged with any dishonesty rule violation, including Rule 4-8.4(c), which broadly prohibits "dishonesty, fraud, deceit, or misrepresentation" or Rule 4-3.3, which requires candor to the tribunal. The bar did not amend the charged violations at the final hearing. Ms. Watson accepts the Referee's determination that her conduct violated Rule 4-8.4(d) and Rule 4-8.4(a).

Ms. Watson overreacted, imputing bad faith without investigating why opposing counsel failed to request or obtain her permission to affix her electronic signature on a document she had not reviewed. Other than preparing a factual affidavit, the bar acknowledges that Ms. Watson did not engage in the dueling motions between Ms. Kohring and Mr. Leigh until the trial court required her to file a response. (IB: 8). Even then, Respondent's Supplemental Response was more neutral and measured than the pleadings filed by Mr. Leigh or, to a lesser extent, Ms. Kohring. (See

[6] See R. Regulating Fla. Bar 3-7.4(l) ("[i]f . . . the board of governors finds probable cause, the bar counsel assigned to the committee must promptly prepare a record of its investigation and a formal complaint.").

TFB-Exh.9). While Respondent used the term "forgery" to describe the unauthorized signature, her response primarily discussed authority related to affixing an attorney's signature. (See TFB-Exh.9).

Ms. Watson admitted to the trial court that she should have returned Ms. Kohring's call but was reluctant to speak to her given the tenor of the communications.[7] Ms. Kohring maintained that her firm believed Mr. Leigh had given permission without providing the basis for this belief; simply explaining her office had mistakenly missed Mr. Leigh's attachment would have promoted constructive discussions. Ms. Kohring maintained that it was not her "job" to explain that her paralegal had failed to open the attachment or affix Ms. Watson's signature. (T2:393).

The Referee assessed the credibility of the witnesses. This Court noted it "has long held, 'The referee is in a unique position to assess the credibility of witnesses, and his judgment regarding

[7] The mandatory CLE on professionalism recognizes this is a common mistake and urges "picking up the phone" to resolve issues. See Continuing Legal Education, The Florida Bar, https://tfb.inreachce.com/Details/Information/50353a32-ef54-4e19-a1d7-4f7672f4c79e (last visited March 27, 2024).

credibility should not be overturned absent clear and convincing evidence that his judgment is incorrect." Florida Bar v. Petersen, 248 So. 3d 1069, 1077 (Fla. 2018) (quoting Florida Bar v. Tobkin, 944 So. 2d 219, 224 (Fla. 2006)).

The bar dismisses Ms. Watson's reluctance to speak with Ms. Kohring, whom the bar describes as "forceful" and the Referee found to be aggressive and defensive. (IB: 22). The bar asserts that Ms. Watson had "six years' experience" and should recognize that "contentious communication" is an "unavoidable aspect of litigation." (IB: 22-23). This argument ignores that heated or forceful disagreement is inconsistent with constructive and civil conversation that was appropriately expected of Ms. Watson.

The bar overstates Respondent's conduct, urging the Court to reweigh the evidence and substitute its judgment for that of the Referee to find Ms. Watson made "false accusations." However, Respondent's "accusations" were factually correct; opposing counsel made significant mistakes, even if the mistakes were not made in bad faith. Although Judge Rosenberg determined that this was an "everyday occurrence" in federal court, this was Respondent's first

federal pretrial stipulation in her six (6) years of practice and her prior pretrial stipulations were filed in state court.

Florida state courts operate under Florida Rules of General Practice and Judicial Administration 2.515(a)(1) and (c)(2)(C) which indicate respectively, in pertinent part, that a "signature of an attorney shall constitute a certificate by the attorney that the attorney has read the document" and that "by filing a document by electronic transmission using an attorney's assigned electronic filing credentials . . . every person identified as a signer in the document . . . has authorized such signature." Bar discipline has been imposed when an attorney failed to ensure he had permission from another attorney (his co-counsel) before utilizing the attorney's signature, even when the unauthorized signature did not cause harm.[8]

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[8] See Florida Bar v. Omar Medina, Jr., SC2009-164 and SC2009-644 (Public Reprimand published by the Board of Governors in conjunction with a ninety (90) day suspension stating, "[d]uring the course of the representation, and with the agreement and knowledge of the other attorney, you signed all pleadings and other papers on behalf of the other attorney using the other attorney's name with the notation 'for' the other attorney. The settlement documentation prepared by opposing counsel required signatures from you and the other attorney binding your respective law firms

Ms. Watson had not provided any communications related to the pre-trial stipulation, had not read the document, and had not authorized her signature. Despite conferring for "hours" with Mr. Leigh, communicating exclusively with Mr. Leigh, and sending three (3) separate stipulations to Mr. Leigh between 5:13 p.m. and 5:35 p.m., Ms. Kohring and her paralegal could not explain why they did not open Mr. Leigh's responsive 5:53 p.m. email attachment. Similarly, the paralegal failed to contact Ms. Watson to ensure Ms. Watson had reviewed the document and that she had permission to affix her signature.

While the trial court found that the changes were "miniscule," "trivial at best," and "amounted to no real prejudice," Ms. Kohring acknowledged Mr. Leigh's revisions were substantive. Mr. Leigh's revisions included the legal basis for objections to six (6) defense exhibits. Local Rule 16.1(e)(9) for the Southern District of Florida requires each party to "identify concisely the basis for objection" to the opposing party's exhibits. Federal Rule of Civil Procedure

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to a confidentiality provision. You signed the other attorney's name without his knowledge or permission and failed to advise opposing counsel that the signature on the agreement for the other attorney was not genuine.").

26(a)(3)(B), pertaining to pretrial disclosure objections, states that "[a]n objection not so made [at pretrial] . . . is waived unless excused by the court for good cause." Fed. R. Civ. P. 26(a)(3)(B). These rules, without the benefit of federal practice experience, do not suggest that a trial court would find the failure to raise an objection to be trivial notwithstanding more appropriate remedial measures to address the incorrectly filed stipulation.

The bar has failed to demonstrate that "there is no evidence . . . to support" the Referee's findings that the initial calls to authorities did not violate bar rules. Florida Bar v. Vining, 761 So. 2d 1044, 1047 (Fla. 2000). Ms. Watson's informal discussion with a former prosecutor and the brief telephone call with the United States Marshall's Office about the general fact pattern without identifying the parties or filing any criminal report did not initiate investigations. While Ms. Watson used the term "forgery" to describe her unauthorized signature in her Supplemental Response, the statement was in conjunction with procedural requirements for affixing an electronic signature in court filings. Her Supplemental Response, filed at the direction of the court after the underlying

proceedings had been resolved, was not filed to gain an advantage in the case.

Ms. Watson has consistently conceded since 2017 that these concerns should have been addressed with a telephone call to consider whether any potential prejudice could be cured by correcting the incorrectly filed stipulation rather than inflammatory and accusatory pleadings. Contrary to the bar's assertions, Ms. Watson did not argue on appeal that Judge Rosenberg erred in her order related to the stipulation. (TFB-Exh.17, B.S. 006: "Although Parish-Carter cites the district court's orders imposing sanctions and awarding attorney's fees in her amended notice of appeal, she does not argue in her brief that the district court erred by doing that.").

Ms. Watson overreacted and failed to pick up the phone and call opposing counsel before submitting her response. She recognized the communication had fully broken down and added to the problem instead of de-escalating the acrimony. Rather than addressing the conduct at issue, the bar relies on broad generalities, sometimes in small measures and without citation,

and thus, overstates its case. These broad strokes distort what occurred. Examples include the following:

- Argues plaintiff's counsel waited to respond to defense counsel's August 24, 2017, draft stipulation until the September 5, 2017, deadline, omitting Respondent's August 30, 2017, responses, contemporaneously acknowledged by the defense. (IB: 3; TFB-Exh.18, B.S. 055-57).

- Did not reference the defense's three (3) stipulations sent to Mr. Leigh between 5:13 and 5:35 p.m. on September 5, 2017, when arguing Mr. Leigh waited until 5:53 p.m. to provide a final revision, knowing defense counsel had to leave for her anniversary dinner.

- Dismisses reasonable concerns about the unauthorized signature of an attorney who had not read the pleading or contributed to discussions regarding the pleading.

- Describes Mr. Leigh's revisions as "minor, insubstantial differences" even after Ms. Kohring acknowledged the revisions were substantive and related to objections to six (6) defense exhibits. (IB: 19; T2:406-407).

- States that Ms. Watson "could not identify" a colleague with whom she discussed the electronic signature even though Ms. Watson testified she remembered her first name and had her cell phone number. (IB: 10; TFB-Exh.14, p. 70).

- Characterizes informal inquiries about affixing a signature without permission as "pursuing criminal charges" when parties were not identified, no police report was filed, and no request for prosecution was made. (IB: 12).

- Lifts the statement "[a]t no time after the signed PDF was sent via email at 5:53pm by Plaintiff's Counsel Leigh did anyone from Defense Counsel's Office contact Plaintiff's Counsels in any way" to argue Ms. Watson dishonestly claimed that Ms. Kohring

never contacted her after the stipulation was filed, when a fair and accurate reading was that defense counsel had not called between receiving Mr. Leigh's revised stipulation and filing the stipulation with Ms. Watson's signature. (IB: 11; TFB-Exh.9, p. 5).

- Discounts Ms. Watson's immediate acknowledgment to the trial court that she should have called Ms. Kohring first and her continuing acceptance of responsibility to the Referee six (6) years later.

In examining recent dispositions and the Standards for Imposing Lawyer Sanctions, authority involving aggressive or unprofessional litigation tactics are more instructive than authority related to the dishonest pursuit of criminal charges to gain an advantage as urged by the bar.

II. AN ADMONISHMENT IS SUPPORTED BY RELEVANT AUTHORITY FOR UNPROFESSIONAL MISCONDUCT THAT WAS NOT CHARGED AS OR FOUND TO BE DISHONEST, AFTER BALANCING THE MITIGATING AND AGGRAVATING FACTORS.

A. An Admonishment for Minor Misconduct is Supported by the Standards for Imposing Lawyer Sanctions

The Referee recommended the imposition of an admonishment for minor misconduct after evaluating Florida's Standards for Imposing Lawyer Sanctions. Standard 1.3 states the "purpose of lawyer disciplinary proceedings is to protect the public and the

administration of justice." Fla. Stds. Imposing Law. Sancs. 1.3(a).

As explained by this Court, the Standards:

> [C]onstitute a model, setting forth a comprehensive system for determining sanctions, permitting flexibility and creativity in assigning sanctions in particular cases of lawyer misconduct. They are designed to promote:
>
> (1) consideration of all factors relevant to imposing the appropriate level of sanctions in an individual case;
>
> (2) consideration of the appropriate weight of these factors in light of the stated goals of lawyer discipline; and
>
> (3) consistency in the imposition of disciplinary sanctions for the same or similar offenses.

Fla. Stds. Imposing Law. Sancs. 1.3(c).

The framework for analyzing the appropriate sanction begins with consideration of Standard 1.1, which requires the consideration of the following factors:

> (a) duties violated;
>
> (b) the lawyer's mental state;
>
> (c) the potential or actual injury caused by the lawyer's misconduct;
>
> (d) the existence of aggravating or mitigating factors.

Fla. Stds. Imposing Law. Sancs. 1.1. After considering the duty violated, Ms. Watson's mental state and any potential injury caused

by her misconduct, the Referee found that Standards 4.5 ("Lack of Competence") and 6.3 ("Improper Communications with Individuals in the Legal System") were applicable. Standard 4.5(d) directs that an admonishment is appropriate when "a lawyer engages in an isolated instance of neglect in determining whether the lawyer is competent to handle a legal matter and causes little or no injury to a client." Standard 6.3(d) states an admonishment is appropriate "when a lawyer negligently engages in an improper communication with an individual in the legal system and causes little or no actual or potential injury to a party or causes little or no actual or potential interference with the outcome of the legal proceeding."

The bar charged Ms. Watson with isolated misconduct in a federal court case. The Referee found she lacked sufficient experience, having only practiced law for six (6) years, primarily in state court property damage defense litigation, which was entirely unrelated to the issues in Parish-Carter. The misconduct charged against Ms. Watson was also isolated to one (1) pleading. Although Ms. Watson did not participate in the flurry of motions exchanged between her co-counsel and Ms. Kohring, she filed a response when the trial court directed her to do so. Prior to submitting her

response, Ms. Watson neglected to call opposing counsel. Instead, she made arguments inferring bad intent, which she has consistently conceded, beginning with the trial court in September 2017 and continuing through to the final hearing in August 2023, was a mistake adding to the terrible breakdown in communication.

However, contrary to the bar's assertions, Ms. Watson did not have "the benefit of Ms. Kohring's explanation that she believed she had permission to file the stipulation she sent to Mr. Leigh" before she filed her response. (IB: 25). At the time of Ms. Watson's response, Ms. Kohring still had not explained that her paralegal had failed to open Mr. Leigh's attachment, and Ms. Kohring maintained she owed them no explanation. (T2:393). Even assuming that Ms. Kohring believed Mr. Leigh had given permission, Ms. Kohring had not explained why the paralegal affixed Ms. Watson's signature rather than Mr. Leigh's signature when Ms. Watson had not communicated with opposing counsel regarding the stipulation, had not reviewed the document, and had not been contacted for permission to affix her signature.

The record does not support the bar's attempt to expand Ms. Watson's involvement beyond her supplemental response. Ms.

Watson made initial calls to authorities related to the unauthorized signature, but she did not identify the parties, file a report, make a complaint, or pursue prosecution. Judicial time was wasted, and Ms. Kohring was understandably offended, but no party was injured. The Eleventh Circuit found that Ms. Watson did not argue on appeal that Judge Rosenberg erred. Instead, Ms. Watson attempted to accept responsibility for this aberration by tendering an admission for minor misconduct and again admitting her mistakes to the Referee approximately three (3) years later at the final hearing. These circumstances fall within the Standards 4.5(d) and 6.3(d) supporting the imposition of an admonishment.

B. Aggravating and Mitigating Circumstances

1. Mr. Leigh's Social Media Posts

The record supports the Referee's finding that Mr. Leigh's social media postings should not be an aggravating factor in Ms. Watson's case. The bar concedes that "Ms. Watson did not author these postings" but states, without record support, that "she was aware that her co-counsel and law partner was engaging in this behavior." (IB: 28). Ms. Watson testified, without contradiction,

that she was not aware of the social media postings until the evidentiary hearing before the magistrate related to the social media postings. (T5:1039).

The bar further agrees that Ms. Watson did not have a "duty or ability to curb" Mr. Leigh's behavior. (IB: 30). Ms. Watson did not have managerial authority over Mr. Leigh, who was lead counsel. (ROR: 19-20). Accordingly, Ms. Watson's sanction should not be aggravated for conduct over which she had no knowledge or control. See R. Regulating Fla. Bar 4-5.1(c).

2. The Stonybrook Litigation

The bar did not charge Ms. Watson with any conduct related to the Stonybrook litigation. It instead seeks to impose enhanced sanctions based on uncharged conduct. Ms. Watson did not participate in the litigation, did not attend any hearings or depositions, did not draft or respond to any emails, and did not even participate in administrative tasks related to the litigation. Mr. Leigh handled this litigation on his own. Opposing counsel all confirmed that they had no contact with Ms. Watson, did not see her attend any proceedings, and never received an email from her.

Ms. Watson's involvement was limited to appearing as co-counsel on pleadings. Ms. Watson generally saw emails related to pleadings in the litigation but did not review pleadings or orders. As a result, she did not carefully review a Gag Order and over a three (3) day period, retweeted four (4) posts by a tenant association that were supportive of the plaintiffs. Ms. Watson believed that the Gag Order prohibited posts about what was occurring in the litigation. But when Mr. Leigh told her that any posts related to the subject of the dispute were prohibited, she quickly deleted the retweeted posts.

Ms. Watson also did not review and was not told that the judge had ordered her to appear at the sanctions hearing or to file a motion to withdraw. Had Ms. Watson known about the order, she would have withdrawn. The judge imposed sanctions against Malik Leigh individually and against the Watson and Leigh law firm but did not impose sanctions against Ms. Watson individually. Ms. Watson learned about the order and the sanction imposed against the law firm while preparing for the final disciplinary hearing.

The bar did not charge Ms. Watson with any Rule violation related to Stonybrook and instead argues the sanction for her

charged misconduct should be aggravated to a rehabilitative suspension based on uncharged allegations. Had the bar determined that Ms. Watson's conduct in Stonybrook warranted formal discipline, the bar had extensive time to investigate and charge Ms. Watson. The bar's delay and circumvention of procedural safeguards set out in Rules 3-7.3, 3-7.4, and 3-7.6 significantly tempers any aggravation.

3. Lack of Diligence in the Bar's Prosecution

In Florida Bar v. Rubin, 362 So. 2d 12, 15 (Fla. 1978), the Court criticized the bar for failing to promptly file a report of referee to investigate additional charges which prejudiced Mr. Rubin. In pertinent part, the Court held as follows:

> The Bar's violation of the prompt filing requirement in this case, to allow a second grievance proceeding against Rubin to mature, is directly antithetical to the spirit and intent of the rule. In addition, it has inflicted upon Rubin the "agonizing ordeal" of having to live under a cloud of uncertainties, suspicions, and accusations for a period in excess of that which the rules were designed to tolerate.

Rubin, 362 So. 2d at 15 (footnote omitted).

In this case, the bar provides an even less compelling explanation for the two (2) year delay between the finding of probable cause and filing the formal complaint than "allow[ing] a

second grievance proceeding against [Watson] to mature." Id. Instead, the bar indicates that it was due to the bar's investigation of Mr. Leigh's conduct and the bar's intent to "try these matters together rather than in bifurcated proceedings to avoid conflicting reports of referee with inconsistent findings." (IB: 37).

However, Ms. Watson's matter was not just delayed to try Mr. Leigh's and Ms. Watson's cases together to preserve judicial resources or avoid inconsistent rulings; the bar seeks to enhance Ms. Watson's discipline in the single count charged against her with uncharged conduct in Mr. Leigh's matters. Like Rubin, the bar's actions specifically prejudiced Ms. Watson by delaying the filing on the Parish-Carter case to pursue additional investigations.

Unlike Rubin, the bar used information gathered when investigating Mr. Leigh during the delay to argue additional "aggravating circumstances" against Ms. Watson. The bar seeks to impose sanctions for uncharged conduct without complying with disciplinary procedures set out in Rules Regulating The Florida Bar 3-7.3 ("Review of Inquiries, Complaint Processing, and Initial Investigatory Procedures"), 3-7.4 ("Grievance Committee Procedures"), and 3-7.6 ("Procedures Before a Referee"). The bar's

position not only renders the Rule 3-7.4(l) directive to "promptly" file the complaint meaningless, it seeks unfettered discretion to ignore Chapter Three of the Rules Regulating The Florida Bar (the "Rules of Discipline"). The bar prejudices Ms. Watson by urging imposition of severe sanctions based on uncharged misconduct without complying with procedural safeguards within the disciplinary process.

The Referee appropriately relied on Florida Bar v. Alters, 260 So. 3d 72 (Fla. 2018); Florida Bar v. Varner, 992 So. 2d 224 (Fla. 2008); and Florida Bar v. Wolf, 930 So. 2d 574 (Fla. 2006) in determining that delay is a significant mitigating factor. As in Wolf, the delay mitigates any aggravation found in the bar's additional investigation of Ms. Watson's uncharged, limited involvement in Stonybrook.

4. The Referee Appropriately Rejected Standard 3.2(b)(2) (Dishonest or Selfish Motive)

The bar also fails to meet its burden of showing that the Referee's rejection of the aggravator of a "dishonest or selfish motive" (Standard 3.2(b)(2)) was clearly erroneous. The bar does not argue that Ms. Watson had an improper financial motive but

notes Florida Bar v. Schwartz, SC2019-0983 & SC2021-0484 (Fla. Jan. 18, 2024) at *22, held that a selfish motive of promoting an attorney's reputation can also be applicable. Schwartz at *22. However, the bar does not cite any evidence suggesting Ms. Watson was promoting her reputation. The Referee's finding that Standard 3.2(b)(2) was not applicable is presumed correct, and the bar has not met its burden of showing that the finding is without record support. See Florida Bar v. Kinsella, 260 So. 3d 1046, 1049 (Fla. 2018).

5. The Referee Appropriately Determined that Ms. Watson's Six Years of Practice Neither Mitigated nor Aggravated the Sanction.

The bar argues that the Referee erred in declining to find that Respondent's six (6) years of practice constituted "substantial experience in the practice of law" (Standard 3.2(b)(9)) warranting aggravation even though the Referee also found that the mitigating factor "inexperience in the practice of law" (Standard 3.3(b)(6)) was also inapplicable. The bar incorrectly recites the holding of Florida Bar v. Shankman, 41 So. 3d 166 (Fla. 2010) to argue that the "substantial experience" aggravator applied to a three (3) year practitioner even though the attorney was inexperienced in federal

court. Shankman considered the Referee's application of the inexperience in the practice of law mitigator. Id. The Shankman Court reasoned as follows:

> With respect to the mitigating factors that Shankman was inexperienced in the practice of law at the time and remorseful, the record evidence clearly contradicts the referee's conclusion. Significantly, Shankman recognized his lack of experience in federal practice, but repeatedly ignored the advice of the practitioners he had engaged because of their greater legal experiences.

Id. at 174. Although the Court rejected the inexperience mitigator of Standard 3.3(b)(6), the Shankman Court did not impose the "substantial experience in the practice of law" aggravator of Standard 3.2(b)(9). See id. (stating "the referee's own findings of fact support the application of the following aggravating factors under standard 9.22: dishonest or selfish motive, a pattern of misconduct, refusal to acknowledge the wrongful nature of the conduct, and the vulnerability of the victim.").

The bar also cites Florida Bar v. Abrams, 919 So. 2d 425, 428 (Fla. 2006), which approved the Referee's finding that an attorney admitted for approximately three (3) years had "substantial experience," but Abrams had not petitioned to review the Referee's recommended aggravators and the Court did not specifically

discuss application of Standard 3.2(b)(9). If, as urged by the bar, the substantial experience aggravator is applied to all attorneys in practice over three (3) years, the aggravator would automatically apply in any proceeding in which the inexperience mitigator did not apply and thus, should not be afforded much weight.

6. The Referee appropriately found Standards 3.3(b)(12)(remorse) and 3.3(b)(7)(reputation) were established.

The bar concedes Ms. Watson offered testimony expressing remorse and thus the record supports Standard 3.3(b)(12). However, the bar also asserts her acknowledgment six (6) years earlier to the trial court that she should have called Ms. Kohring somehow undercuts the Referee's finding of remorse. Ms. Watson's immediate recognition of her mistake to the trial court confirms that Ms. Watson not only regretted her poor decision but also acknowledged the wrongfulness of her conduct.

In further support of her remorse and recognition of her mistake, Ms. Watson tendered an admission of minor misconduct to the grievance committee. (ROR: 27). Ms. Watson's denials to the formal complaint appropriately contested the sanction sought by the bar after the minor misconduct admission was rejected.

Nonetheless, since 2017, Ms. Watson has acknowledged she should have talked to Ms. Kohring before filing the supplemental response and thus, there is significant support for the remorse mitigator.

Consistent with her remorse, Ms. Watson has demonstrated her rehabilitation through testimony establishing positive character and reputation (Standard 3.3(b)(7)), which is not contested by the bar. Ms. Watson has substantially modified her practice to confine her representation to state property damage defense cases. Although the Referee noted her disapproval that Ms. Watson still practices with Mr. Leigh, the single count related to the pre-trial stipulation is the only bar complaint Ms. Watson has received in her twelve (12) years of practice, which includes the recent six (6) years following the Parish-Carter litigation.

C. The Court Has Not Imposed Rehabilitative Suspensions for Similar Misconduct and Instead, Recent Dispositions Support an Admonishment with Conditions

The Court has held that unpublished dispositions "cannot constitute 'case law' providing a reasonable basis for the referee's recommendation." Florida Bar v. Wynn, 210 So. 3d 1271, 1274 (Fla. 2017). However, in the last five (5) years, there are no

published opinions addressing conduct warranting minor misconduct, even though the Court has approved 157 admonishment dispositions from 2018 to 2023.[9] Similarly, in the last five (5) years, there has only been one (1) published opinion addressing the underlying facts related to the imposition of a public reprimand[10] even though the Court has approved 149 public reprimand dispositions in the same time frame.[11]

Although the Court indicated in Florida Bar v. Rosenberg, 169 So. 3d 1155, 1162 (Fla. 2015) that it will rely on recent opinions in evaluating discipline, there is only one published opinion addressing the 306 admonishments and public reprimand dispositions from 2018 to 2023. Accordingly, there is scarce case law to consider when evaluating circumstances resulting in discipline less than a suspension.

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[9] Lawyer Discipline Statistics, The Florida Bar, https://www.floridabar.org/public/acap/lawyer-discipline-statistics/ (last visited March 26, 2024).
[10] Florida Bar v. Aven, 317 So. 3d 1095 (Fla. 2021).
[11] Lawyer Discipline Statistics, The Florida Bar, https://www.floridabar.org/public/acap/lawyer-discipline-statistics/ (last visited March 26, 2024).

The Standards are utilized in determining "acceptable pleas" between the bar and respondents. Fla. Stds. Imposing Law. Sancs. 1.1. As such, consent judgments may assist in imposing consistent discipline. Just as the Standards for Imposing Lawyer Sanctions are designed to promote "consistency in the imposition of disciplinary sanctions for the same or similar offenses," so too should similar unpublished dispositions be helpful in evaluating a comparable sanction in analogous matters. Fla. Stds. Imposing Law. Sancs. 1.3.[12]

Equitable discipline requires consistency. In Florida Bar v. Kinsella, 260 So. 3d 1046, 1052 (Fla. 2018) (Pariente, J., dissenting), Justice Pariente reflected on the published cases cited by the majority noting the facts in those cases were so egregious the cases were not helpful in evaluating the "circumstances of each individual case and the purposes of Florida Bar discipline." In this

[12] While a Court's own unwritten decision is "not a precedent for a principle of law and should not be relied upon for anything other than res judicata. . . . it would not be improper for counsel, in an effort to persuade a court to adopt a certain position, to refer to such a decision and thereby suggest to the court how it previously viewed the proposition." Dep't of Legal Affs v. Dist. Ct. App., 5th Dist., 434 So. 2d 310, 313 (Fla. 1983).

regard, the dissent considered the facts of a recent unpublished disposition by the Court writing, "just this year, we approved an eighteen-month suspension" and then compared the facts of the unpublished disposition to Kinsella's conduct. Id. at 1054, citing Florida Bar v. Perez, No. SC2016-111, 2018 WL 2731612, at *1 (Fla. June 7, 2018).

The bar relies on cases decided in 1994 and 2014, with more extensive, repeated, and egregious conduct to argue for imposition of a ninety-one (91) day suspension. However, recent dispositions in 2017 through 2023 support admonishment.

In 2017, the Court approved an admonishment followed by two (2) years of probation in Florida Bar v. Benjamin Raul Alvarez, SC2015-872, for inflammatory and accusatory litigation misconduct violating Rules 4-8.4(d) and 4-8.4(a), in which Alvarez was both party and pro se litigant. Alvarez sent emails to opposing counsel that were "aggressive, rude and unbecoming conduct of a member of The Florida Bar." Alvarez, SC15-872, Amended Report of Referee, p. 10-11. Further, in a deposition, Alvarez falsely accused the opposing counsel of lying and being untrustworthy. Id. at 14. As conditions of probation, Alvarez was ordered to complete the

practice and professionalism enhancement program, have his work supervised by a member of The Florida Bar and satisfactorily complete a legal education course or paper approved by the Florida Supreme Court. Id. at 21-22.

Similarly, in Florida Bar v. Houson R. Lafrance, SC2021-868, the Court approved an admonishment for comments undermining the judicial system violating Rules 4-8.4(d) and 3-4.3. Lafrance demeaned witnesses making inappropriate statements about their veracity and after he lost the trial, stated, "I'm tired of this racist f****** town" in the courtroom hallway. Lafrance, SC2021-868, Report of Referee Accepting Consent Judgment, p. 2. Lafrance was also ordered to attend a professionalism workshop. Lafrance, SC2021-868, Oct. 14, 2021 Order.

Alvarez and Lafrance both address Rule 4-8.4(d) violations, the substantive Rule at issue here. The resolutions in Alvarez and Lafrance serve the purposes of discipline as enunciated by Florida Bar v. Poplack, 599 So. 2d 116, 118 (Fla. 1992) which balances fairness to society ("protecting the public" while not "denying the public the services of a qualified lawyer"), fairness to the respondent ("sufficient to punish a breach of ethics and at the same time

encourage reformation and rehabilitation"), and deterring others from similar misconduct. While Ms. Watson's conduct is distinguishable because her conduct pertained to one pleading rather than multiple acts, an admonishment, with imposition of any relevant conditions, would further promote Ms. Watson's commitment to professionalism, which has already been demonstrated in the six (6) years since the misconduct.

In Florida Bar v. Theodore R. Doran, SC2023-0870, the Court approved a consent agreement imposing a public reprimand with completion of the Professionalism Workshop and Ethics School for an attorney who, in a marital dissolution proceeding, leveraged false accusations of fraud to gain an advantage in the marital settlement. Doran based his threat on the wife's allegation that her husband did not have permission to file a tax return when the return at issue had not even been finalized for filing. Doran, SC2023-0870, Report of Referee Accepting Consent Judgment, p. 3. Doran threatened the opposing party stating as follows:

> At this point, we feel [the husband] has two options: one, he can execute the partial settlement agreement as it is written, without alteration, since it has been presented to him as an executed offer by [the wife]; or, two, we can initiate a fraud investigation with the IRS and request that

> the return be rescinded and that criminal charges be filed against [the husband] for his fraudulent and illegal conduct.

Id.

Doran violated Rules 3-4.3, 4-3.4(g), and 4-8.4(d). Id. at 5. Moreover, Doran had a prior disciplinary record and had been practicing law since 1982. Id. at 6. Doran, decided last year imposing a public reprimand for more serious misconduct, should be the ceiling for discipline imposed here.

The bar's request to suspend Ms. Watson for ninety-one (91) days is not supported by recent dispositions in 2021 and 2023 for more extensive and troubling litigation misconduct. For example, despite a pattern of abusive behavior and prior discipline, the bar did not seek, and the Court did not impose, a rehabilitative suspension. On February 4, 2021, this Court approved a consent judgment imposing a public reprimand when an attorney directly engaged in aggressive and unprofessional misconduct in three (3) matters. Florida Bar v. Curtis Lee Allen, SC2020-1470.

In the first matter, Allen told a deponent that he "knew the presiding judge and asked the witness to explain to him why the presiding judge should not put the witness in jail for lying to

respondent." Allen, SC2020-1470, Report of Referee Accepting Consent Judgment, p. 2. In the second matter, Allen "failed to respond to Plaintiff's counsel's multiple inquiries concerning a privileged email communication inadvertently sent" and then failed to appropriately communicate with opposing counsel to resolve the issue without the need for a hearing. Id. at 2-3.

In the third matter, the trial court made extensive findings of misconduct as follows:

> [I]mproper treatment of plaintiff's counsel during court hearings, email correspondence and depositions; improper treatment of the individual plaintiffs and their witnesses (evidenced in deposition transcripts); disrespect for the trial court and the orders of the trial court; and an otherwise lack of good faith and fair dealing in defending the case.

Id. at 3.

Following the imposition of a public reprimand in 2021, Allen was again referred to the bar for similar misconduct. Florida Bar v. Curtis Lee Allen, SC2023-1725. The Court approved a non-rehabilitative ten (10) day suspension, followed by probation for similar threatening and unprofessional trial tactics. Id. This case addressed misconduct found by the Fifth District Court of Appeal and by a trial court in a separate matter. Allen, SC2023-1725,

Conditional Guilty Plea for Consent Judgment. First, in SafePoint Ins. Co v. Hallet, 322 So. 3d 204, 206 n.1 (Fla. 5th DCA 2021), the court criticized Allen's behavior during examinations under oath and described the misconduct as follows:

> While one must read the entire examinations to appreciate his behavior fully, the first thirty pages of Mr. Hallet's first examination alone contain multiple instances of unprofessional conduct. Allen repeatedly lectured and questioned Mr. Hallet—a mechanic with a high school education—on the policy's legal implications. He called Mr. Hallet "rude," "disrespectful," "confrontational," and "defensive." He referenced how long he had been practicing law and repeatedly highlighted his past career as a homicide prosecutor.
>
> Throughout all three examinations, his behavior towards opposing counsel was also unprofessional. He called opposing counsel "irritating," "offensive," "belligerent," "snarky," "a jerk," "a very nasty person," "a setup artist," and an "ass." He informed opposing counsel he "was not in South Florida," was "not in Miami," and that Hernando County judges "are really going to be interested in your style." He encouraged opposing counsel to "file a Bar complaint, Sport" and described his objections as "grievable." Taken as a whole, Allen's repetitive and argumentative examinations illustrate he was more interested in making the process as long and painful as possible, rather than gathering information about the Hallets' claim.

Id.; see also Allen, SC2023-1725, Conditional Guilty Plea for Consent Judgment, p. 5.

In a separate and unrelated trial court proceeding, Allen made unprofessional allegations in a Renewed Motion for Attorney Fees and Costs causing the trial court to criticize both the tone and the length of the motion. Allen, SC2023-1725, Conditional Guilty Plea for Consent Judgment, p. 6. Allen accused the opposing counsel and opposing party of engaging in fraud by arguing, "[w]hile Plaintiff and its lawyers attempted to play SafePoint for the fool, SafePoint was not about to be further duped." Id. After considering Allen's conduct and history, he received a ten (10) day suspension and as conditions of a one-year probation, was required to be monitored by a supervising attorney who would file quarterly reports attesting that Allen was professionally litigating his cases, attend ethics school, and take fifteen (15) hours of professionalism CLEs. Florida Bar v. Allen, SC2023-1725.

Ms. Watson's supplemental response was an isolated incident in twelve (12) years of practice. Ms. Watson accurately described opposing counsel's actions but imputed bad intent without speaking to Ms. Kohring. This conduct is entirely distinguishable from Allen's proclivities for animosity, accusations, and unprofessional behavior. While Ms. Watson spoke generally with a

former prosecutor and U.S. Marshall regarding the legality of an unauthorized signature without filing a complaint or identifying the parties, Allen threatened an opposing party with jail, emphasizing that he knew the judge. Allen also failed to resolve a dispute with opposing party, requiring hearing time and accused another lawyer and party of lying. Allen also engaged in name calling and demeaned litigants and counsel. Appellate and trial judges complained about Allen's repeated conduct. Given the non-rehabilitative suspension and probation imposed in Allen, the bar's argument to impose a rehabilitative suspension is excessive and unwarranted.

The Referee did not rely upon any unpublished opinions and did not have the benefit of evaluating circumstances pertaining to aggressive litigation tactics that have recently been decided. The Referee considered published disciplinary opinions but noted the opinions addressed more egregious misconduct. The bar disputes the Referee's determination that Florida Bar v. Adams, 641 So. 2d 399 (Fla. 1994) is more egregious and instead contends that Ms. Watson's conduct is worse than Adams. Adams represented a father in contesting the adoption of a child without the father's

consent. Id. at 399. Adams threatened three (3) different opposing attorneys in the litigation with allegations that were not supported by evidence. Id. at 399-400. Mr. Adams accused the attorney who handled the adoption of suborning perjury by threatening the mother to withhold the father's name and claimed the attorney pressured the mother by stating she could make the mother's life difficult with "HRS." Id. Adams claimed that the adoption attorney had interfered with his relationship with his client and accused the adoption attorney of "*numerous* other instances" of misconduct, threatening he would speak with all her prior clients and investigate the adoption attorney's unethical behavior. Id. at 400.

Adams then claimed, without evidence, that either or both the hospital's attorney and/or the obstetrician's attorney were a part of this conspiracy. Id. The Court and referee found that Adams "did have some reason to suspect [the adoption attorney's] communication with [the mother]," but Adams had no basis to accuse either of the attorneys representing the hospital or the obstetrician. Id. at 400-01.

Ms. Watson's characterization of the unauthorized signature as "forgery" was overly aggressive and made without speaking to

Ms. Kohring. Nonetheless, unlike most of the allegations in Adams, Ms. Watson had a factual basis to assert her signature was utilized without her permission. Although the bar suggests Ms. Watson's case is more aggravated because of her "efforts to have Ms. Kohring criminally charged," Ms. Watson's contact with authorities was limited to brief conversations addressing, without revealing, Ms. Kohring's identity and the lawfulness of affixing an electronic signature without permission. Ms. Watson did not request investigation or prosecution of Ms. Kohring. The extent and absence of factual basis in Adams supports the Referee's determination that Adams involved significantly worse conduct.

The bar's authority is entirely distinguishable and does not provide helpful guidance regarding the appropriate sanction. The bar relies on Florida Bar v. Committe, 136 So. 3d 1111 (Fla. 2014), in which the Court imposed a three-year suspension. In Committe, the trial court dismissed a suit for tortious interference with a business relationship and slander for being frivolous because Committe had no evidence to support the claims. Id. at 1113. The court awarded fees and the defendant sought collection. Id. Despite knowing the defendant had a valid claim for fees, Committe

wrote to the U.S. Attorney's office claiming the defendant was attempting to extort money and to request prosecution. Id. In contrast to Committe, Ms. Watson accurately stated that the opposing counsel's office had signed Ms. Watson's name without authorization. While Ms. Watson failed to speak with opposing counsel to understand whether it was a good faith mistake, she did not "request prosecution" like Committe. Ms. Watson did not file a report or otherwise identify any parties when she spoke with the former prosecutor or the U.S. Marshall's office.

In addition, when considering the willful nature of Committe's refusal to pay the attorney's fee sanction, the Court considered whether he "knowingly" disobeyed an order and referenced the Preamble to the Rules of Professional Conduct which provides that "'knowingly,' 'known,' or 'knows' denotes actual knowledge of the fact in question." Committe at 1115. It was undisputed that Committe knew about the sanctions order and consistently refused to comply with it. Id.

The Referee considered in aggravation that the sanctions order imposed against Malik Leigh and the Watson and Leigh law firm, jointly and severally in the uncharged Stonybrook litigation, was

not satisfied. It was uncontradicted that Ms. Watson did not know about the order until preparing for the disciplinary hearing. It was also undisputed that Ms. Watson did not participate in Stonybrook although her name appeared as co-counsel. Because the bar had not charged Ms. Watson with any conduct in Stonybrook, she was also not aware of the sanctions' judgment through any grievance or disciplinary proceedings. In contrast to Committe, there was no evidence that she had "actual knowledge" of the sanctions order and contumaciously refused to satisfy the obligation.

The bar recognized that the three-year suspension imposed in Committe is not warranted here, primarily because Committe had prior discipline that was not present here. (IB: 43). But Committe's prior non-rehabilitative suspension of ninety (90) days was also for significantly more egregious. Florida Bar v. Committe, 916 So. 2d 741 (Fla. 2005). In Committe's prior disciplinary case, Committe repeatedly refused to appear for depositions related to collection of a monetary judgment against him despite the denial of his motions for protective order. Id. at 742-43. Committe's refusals led to him being held in contempt of court. Id. at 743. While the contempt motion was pending, Committe filed two (2) federal lawsuits, one

lawsuit against the opposing party and lawyer and one lawsuit against the opposing lawyer. Id. Both lawsuits were found to be frivolous. Id. at 743-44. Committe demonstrated a pattern of abusing the legal process to harass those seeking to collect a debt. Id. at 744.

The cases cited by Florida Bar v. Committe, 136 So. 3d 1111 (Fla. 2014), and referenced by the bar, are also distinguishable. Florida Bar v. Gwynn, 94 So. 3d 425 (Fla. 2012) involved "numerous instances" of dishonesty and repeated misconduct. Id. at 426-27. Gwynn filed "numerous motions for sanctions" and made frivolous claims in pleadings and testimony. Id. at 427. There were "many instances" in which she filed papers "meant as ad hominem attacks upon parties and not upon the issues." Id. at 431. She defied a court order prohibiting further filings. Id. at 427-28. Based on the extensive, persistent, and defiant misconduct, the Court imposed a ninety-one (91) day suspension. Id. at 433.

In contrast to Gwynn, Ms. Watson filed a single pleading, at the direction of the court, where she had failed to appropriately investigate whether opposing counsel's mistake was made in good faith and could be remedied without court intervention. In Ms.

Watson's testimony before the trial court, she acknowledged she should have taken that action, and her misconduct was isolated to the pre-trial stipulation dispute. Ms. Watson's conduct does not remotely rise to the level of Gwynn's continuous pattern of misconduct warranting a rehabilitative suspension.

Reliance on Florida Bar v. Hagendorf, 921 So. 2d 611 (Fla. 2006), in which the Court imposed a two-year suspension, is also misplaced. Hagendorf was a member of multiple state bars, including Florida, but was initially suspended in Nevada. Id. at 612. The Nevada suspension arose out of a dispute regarding his office lease wherein he learned that the title to the office building was in the name of a limited partnership that failed to renew its registration. Id. at 613. Hagendorf then formed a limited partnership using the defunct name, bringing frivolous claims to quiet title, misleading the court regarding the location of the defendant. Id. Hagendorf unsuccessfully attempted to collect rent from tenants. Id.

Hagendorf told The Florida Bar claimed it was a civil dispute, intimating he was treated unfairly because opposing counsel was a member of the Nevada Board of Governors. Id. at 612. Hagendorf

also sued the Nevada State Bar. Id. at 613. This Court found Mr. Hagendorf's conduct violated multiple rules of dishonesty, including Rules 4-8.4(c), 4-3.3, and 4-4.1 as well as Rule 4-8.4(d). Ms. Watson's conduct is not remotely comparable.

Florida Bar v. Gersten, 707 So. 2d 711 (Fla. 1998), also cited by the bar, addresses unrelated issues of intentionally refusing to comply with a court order after exhausting appeals, based on Gersten's contention that there was not a valid obligation. There is no such contention here.

Ms. Watson cannot cite published Florida Supreme Court opinions imposing admonishment because the Court has not issued any recently published opinions related to the 157 admonishments that have been approved in the last five (5) years. However, recent and analogous minor misconduct and public reprimand dispositions support the Referee's recommendations to impose a sanction less than suspension. Moreover, an admonishment with additional terms of probation, with conditions such as completion of Professionalism Workshop and Ethics School, promote the purpose of discipline.

CONCLUSION

For the reasons stated above, Respondent requests this Court to approve the Amended Report of Referee.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Answer Brief has been E-filed through the Florida Courts E-Filing Portal; and a true and correct copy by email to Mark Lugo Mason, Bar Counsel, The Florida Bar at mmason@floridabar.org and mhowland@floridabar.org; Patricia Ann Toro Savitz, Staff Counsel, The Florida Bar at psavitz@floridabar.org on this 1st day of April, 2024.

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CERTIFICATE OF FONT STYLE, SIZE AND WORD COUNT

Undersigned counsel does hereby certify that this Brief complies with the applicable font style and size and word count limit requirements of Florida Rule of Appellate Procedure 9.045 and 9.210(a)(2)(B). The font is 14-point Bookman Old Style. The word count is 12,983 words. It has been calculated by the word processing system, and it excludes the content authorized to be excluded under the rule but includes any footnote.

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