IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

JONATHAN ISAAC ROTSTEIN,

Respondent.
_____/

Case No. SC01-114
[TFB Case Nos. 2000-30,672(07C);
2000-32,134(07C);
2000-32,142(07C)]

THE FLORIDA BAR'S INITIAL BRIEF

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SYMBOLS AND REFERENCES

The complainant, The Florida Bar, shall be referred to as "The Florida Bar" or "the Bar" in this brief.

The transcript of the final hearing held on June 26 and June 27, 2001 shall be referred to as "T" followed by the cited page number and line number.

The Report of Referee dated August 3, 2001 will be referred to as "ROR" followed by the referenced page number(s) of the attached Appendix. (ROR-A____).

Bar exhibits shall be referred to as “B-Ex” followed by the exhibit number.

STATEMENT OF THE CASE

On October 25, 2000, the Seventh Judicial Circuit Grievance Committee "C" voted to find probable cause in this matter. The complaint was filed with the Supreme Court of Florida on January 19, 2001 and The Honorable L. Page Haddock was appointed as referee on February 5, 2001.

Judge Haddock entertained the final hearing on June 26 and June 27, 2001, and entered his report of referee on August 3, 2001 recommending that respondent be found guilty of violating the following Rules Regulating The Florida Bar in connection with the Linda Jarrett matter: 3-4.3 for engaging in conduct that was contrary to honesty and justice; 4-1.4(a) for failing to keep a client reasonably informed about the status of a matter; 4-3.3 for knowingly making a false statement of material fact or law to a tribunal; 4-8.1(a) for knowingly making a false statement of material fact in connection with a disciplinary matter; 4-8.4(c) for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; and 4-8.4(d) for engaging in conduct that was prejudicial to the administration of justice.

Additionally, the referee determined that respondent improperly filed motions to enforce settlement against two personal injury clients, Margaret Beaver and Olga Petrucha, without client knowledge or consent, and without first

withdrawing from his representation of Ms. Beaver, whose matter remained pending. The referee found that respondent thereby knowingly took a position adverse to his clients, violating Rule 4-1.7 of The Rules Regulating The Florida Bar.

The referee recommended that respondent be suspended from the practice of law for a period of one year, submit payment of costs associated with the action, re-take the ethics portion of the Bar exam and prove fitness/rehabilitation to resume practice prior to his reinstatement.

The Board of Governors of The Florida Bar considered the report of referee at its August 2001 meeting and voted to seek enhancement of the suspension to a term of three years. The Bar then filed its Petition for Review on September 5, 2001, and respondent cross-petitioned for review on September 10, 2001.

By Order received by the Bar on September 24, 2001, this Court granted the Bar's motion to extend time to file its initial brief on the merits, allowing for a filing up to and including the date of November 5, 2001.

STATEMENT OF THE FACTS

The Bar adopts the referee's findings of fact as set forth in his report. The following facts are taken from the report of referee contained in the appendix herein and as otherwise noted.

Linda Jarrett retained respondent on May 23, 1998 to pursue a claim against M&M/Mars Company after she allegedly broke her tooth on a piece of candy (ROR-A2; T. 45, L. 19-25; T. 46, L. 1-5). Aside from sending an insurance disclosure letter to M&M/Mars in June 1998, respondent took no further action on behalf of Ms. Jarrett, and the statute of limitations expired in December 1998 (ROR-A2; T. 50, L. 19).

During the Bar's investigation of Ms. Jarrett's subsequent complaint, respondent made intentional misrepresentations to The Florida Bar on four separate occasions related to the representation of Ms. Jarrett. First, respondent created and backdated to July 8, 1998 a letter purportedly withdrawing from Ms. Jarrett's case and purportedly advising Ms. Jarrett of the statute of limitations (ROR-A 2; T. 16, L. 16-21; T. 47, L. 9-25; T. 48, L. 1). Second, in his initial response to the Bar's inquiry dated January 29, 2000, respondent intentionally misrepresented that he timely sent the withdrawal/statute of limitations letter to his client (ROR-A 2; T. 54, L. 16-25; T. 55, L. 1-4). Respondent intentionally misrepresented that he

timely sent the subject letter for a third time in his February 26, 2000 response to the Bar's investigating member, Ray Ruester (ROR-A 2; T. 51, L. 17-21; T. 55 L. 7-23; T. 56, L. 2-9). Finally, respondent intentionally misrepresented that he timely sent the subject letter in another response to Mr. Ruester dated May 14, 2000 (ROR-A 2; T. 57-59).

The Bar gathered and obtained unequivocal evidence supporting respondent's fraud. Only upon becoming aware of this evidence via the grievance committee's scheduled probable cause vote notice did respondent retain counsel and admit to these intentional deceptions (ROR-A 2; T. 397, L. 2-8; T. 400, L. 21-25).

At final hearing, the referee found that respondent submitted four false documents to the grievance committee and to The Florida Bar (ROR-A 2; T. 349, L. 23-24; T. 335, L. 24-25). Additionally, the referee determined that respondent improperly filed motions to enforce settlement against two personal injury clients. Margaret Beaver retained respondent to represent her in a slip-and-fall injury claim (ROR-A 3; T. 65, L. 11-13), and following voluntary settlement at mediation, refused to sign settlement paperwork. Respondent then filed a motion to enforce the mediation settlement without first consulting with Ms. Beaver or obtaining her consent, thus knowingly taking a position adverse to his client (ROR-A 3; T. 69, L.

10-23). Similarly, personal injury client Olga Petrucha refused to endorse a settlement check following voluntary settlement at mediation when she learned that her net proceeds amounted to only $12.15 (ROR-A 3; T. 82, L. 2-20). Without his client's knowledge or consent, respondent filed a motion to enforce the mediation settlement agreement, thus knowingly taking a position adverse to his client (ROR-A 3; T. 84, L. 1-18), thereby violating Rule 4-1.7 of The Rules Regulating The Florida Bar in each case (ROR-A 4; T. 339, L. 6-12; T. 344, L. 4-11).

During the proceedings on June 26 and 27, 2001, respondent testified under oath that he never counseled clients to lie to the court (T. 401, L. 9-13) and that he was not previously sanctioned in connection with counseling clients to lie to the court (T. 404, L. 8-13).

In rebuttal, Judge Richard Orfinger testified that he did informally sanction respondent for engaging in "fraud on the court" (T. 429, L. 15-16), explaining that he felt respondent had participated in fraudulently obtaining a continuance for his former clients (T. 428, L. 6-15). Judge Orfinger testified that he dismissed respondent's clients' case with prejudice as a result (T. 428, L. 18) and that he did sanction respondent by ordering him to pay the opposing party's attorney's fees (T. 425, L. 22-24; T. 428, L. 16-22).

After hearing the evidence and arguments of counsel, and after considering the Florida Standards for Imposing Lawyer Sanctions and aggravating/mitigating factors, the referee recommended respondent be suspended for a period of one year, pay costs associated with this disciplinary action, re-take the ethics portion of the Bar exam and prove his fitness/rehabilitation to resume the practice of law prior to reinstatement (ROR-A 4-5; T. 483, L. 8-16).

SUMMARY OF THE ARGUMENT

A one year suspension is insufficient considering the serious nature of respondent's misconduct. This Court has determined that consideration of prior/cumulative misconduct, the attorney's comprehension of wrongdoing, and the degree of mitigation, along with the Florida Standards for Imposing Lawyer Sanctions, is appropriate to enhance a recommended discipline.

This Court is not being asked to review an isolated act of deliberate deception. After being disciplined by the Bar in October 1999, respondent systematically engaged in acts to deliberately deceive the Bar and to hinder its investigation of his misconduct. Respondent refused to admit his wrongdoing and refused to make restitution to the aggrieved client until after he became aware that the grievance committee had discovered his fraud and he retained counsel. To aggravate the situation, respondent falsely testified during the final hearing regarding whether he had previously counseled clients to deceive the court and whether he was sanctioned for that conduct. Judge Richard Orfinger testified that he in fact imposed informal sanctions on respondent for engaging in what Judge Orfinger perceived as fraud upon his court.

Respondent additionally engaged in a conflict of interest by filing motions to compel settlement against two clients. Respondent maintained that his actions in

so doing were designed to protect the clients from incurring opposing party's fees and costs, and denied any material interest in his own attorney's fee through these acts (T. 98-101). However, the testimony of the witnesses bore out that respondent's filing the motions against his own clients were highly unusual acts (T. 165, L. 15-19; T. 168, L. 3-9; T. 209, L. 8-9; T. 252, L. 16; T. 257, L. 23-25; T. 258, L. 1-2; T. 266, L. 5-12; T. 268, L. 7-8; T. 278, L. 20-24; T. 279, L. 9-12), and the referee himself noted that he had never seen such a course of conduct in his decades on the bench (T. 340, L. 10-16).

The referee noted that the three judges whose depositions were taken in this matter ultimately agreed that respondent had a conflict of interest with Ms. Beaver and Ms. Petrucha (T. 342, L. 2-3, L. 16-18). Respondent, however, failed to acknowledge any understanding of this conflict during these proceedings.

There is no question that respondent's conduct was deliberate, intentional and systematic. The referee found that respondent intentionally deceived the Bar on four separate occasions. In light of his recent admonishment, respondent's false testimony regarding prior sanctions during these very proceedings on charges of misrepresentation demonstrates respondent's disregard for the Rules Regulating The Florida Bar and for the disciplinary process itself. Respondent's repeated pattern of deception reflects adversely both on his fitness as a lawyer and on the

reputation and dignity of the profession. No less than a three year term of suspension would be appropriate to impress respondent with seriousness of his misconduct and fulfill the goals of discipline.

ISSUE

WHETHER NO LESS THAN A THREE YEAR TERM OF SUSPENSION FROM THE PRACTICE OF LAW WOULD BE AN APPROPRIATE SANCTION FOR KNOWINGLY MAKING REPEATED FALSE STATEMENTS OF MATERIAL FACT AND FOR ENGAGING IN CONDUCT INVOLVING DISHONESTY, FRAUD, DECEIT AND MISREPRESENTATION.

ARGUMENT

THE REFEREE'S RECOMMENDED DISCIPLINE, A ONE YEAR SUSPENSION, IS INSUFFICIENT CONSIDERING THE SERIOUS NATURE OF RESPONDENT'S MISCONDUCT. CASES PREVIOUSLY DECIDED BY THIS COURT, TOGETHER WITH THE FLORIDA STANDARDS FOR IMPOSING LAWYER SANCTIONS, SUPPORT THE IMPOSITION OF A THREE YEAR SUSPENSION.

A. Respondent's instant acts of cumulative misconduct, considered with his prior disciplinary record, merit a three year suspension.

"In reviewing a referee's recommendation of discipline, this Court's 'scope of review is somewhat broader than that afforded to findings of fact because, ultimately, it is [the Court's] responsibility to order an appropriate punishment.'" The Florida Bar v. Wolfe, 759 So. 2d 639, 644 (Fla. 2000), citing The Florida Bar v. Anderson, 538 So. 2d 852, 854 (Fla. 1989). A judgment must be fair to society, fair to the accused attorney, and severe enough to deter others who may be "tempted to become involved in like violations." The Florida Bar v. Cibula, 725 So. 2d 360, 363 (Fla. 1988), quoting The Florida Bar v. Reed, 644 So. 2d 1355,

1357 (Fla. 1994).

In Wolfe, a case involving improper in-person solicitation of clients in tornado-damaged areas, this Court considered three factors in concluding to enhance the referee's recommended discipline against the accused attorney: (1) prior/cumulative misconduct, (2) the degree of comprehension of wrongdoing, and (3) the degree of mitigation.

The Wolfe factors prove instructive in the instant case. On October 1, 1999, respondent had been disciplined by the Bar with an admonishment for minor misconduct for failing to act with reasonable diligence on behalf of a former client, and for failing to keep that client reasonably informed about case status and respondent's contemplated withdrawal. At around the same time as his admonishment, respondent created a fraudulent letter, then, repeatedly over the course of the next year, held that letter out as evidence he timely sent notice to client Linda Jarrett of his withdrawal and of the statute of limitations. The referee found that respondent deliberately submitted false information to the Bar on four separate occasions during the course of these disciplinary proceedings (ROR-A 2).

In addition, during these very proceedings exposing respondent's pattern of misrepresentations, respondent lied under oath. Respondent testified at the final hearing that he never counseled clients to mislead the court (T. 401, L. 9-13) and

that he was not previously sanctioned in connection with so counseling clients (T. 404, L. 8-13). Respondent testified that he counseled his clients about the option of firing and later rehiring him to obtain a continuance five or six years ago because respondent knew the court would not entertain another motion to continue (T. 403, L. 1-15). He testified that following this exchange, he had a "conversation" with Judge Richard Orfinger about it, "and that was it" (T. 403, L. 20-22). He testified that he was not sanctioned $12,000.00 by the judge (T. 404, L. 10) and that he could not recall if the clients' case was dismissed (T. 404, L. 11-13).

In rebuttal, Judge Orfinger testified that he did sanction respondent for engaging in a "fraud on the court" (T. 429, L. 15-16), explaining that he believed respondent had participated in fraudulently obtaining a continuance for his clients (T. 428, L. 6-15). Judge Orfinger testified that he dismissed respondent's clients' case with prejudice as a result (T. 428, L. 18), and sanctioned respondent by ordering him to pay attorney's fees (T. 425, L. 22-24; T. 428, L. 16-22).

The Bar could not foresee at the time the Complaint was drafted that respondent would lie at the final hearing. This situation is akin to that in The Florida Bar v. Stillman, 401 So. 2d 1306, 1307 (Fla. 1981), where this Court found evidence "not squarely within the scope of the Bar's accusations" admissible as relevant to the questions of the accused attorney's fitness to practice law and to

appropriate discipline. Certainly, respondent here was on notice that he was under investigation for engaging in deceitful conduct (T. 397, L. 2-17). Thus, this Court could properly consider the record of respondent's false testimony at final hearing as evidence of cumulative misconduct.

This Court views cumulative misconduct more seriously than an isolated act of misconduct, "especially where the misconduct at issue is similar in nature." The Florida Bar v. Klein, 774 So. 2d 685, 691 (Fla. 2000), citing The Florida Bar v. Bern, 425 So. 2d 526 (Fla. 1982). "Honesty and candor in dealing with others is part of the foundation upon which respect for the profession is based." The Florida Bar v. Poplack, 599 So. 2d 116, 118 (Fla. 1992). An attorney "is draped with the insignia of a great profession and he cannot afford to drag it in the dirt." Dodd v. Florida Bar, 118 So. 2d 17, 21 (Fla. 1960), Justice Terrell, concurring.

Respondent's prior disciplinary record, four subsequent affirmative acts of deception to the Bar, and false testimony during the final hearing merit the imposition of no less than a three year suspension by this Court. The discipline recommended by the referee, a one year suspension, falls short of effectively proscribing the type of cumulative, repeated, and deliberate deception in which respondent has engaged.

B. Respondent's continued misrepresentations, despite his

comprehension of wrongdoing, merit a three year suspension.

Another factor this Court considered in enhancing the Wolfe sanctions was the attorney's comprehension of wrongdoing. "[W]hen an attorney affirmatively engages in conduct" he "knows to be improper, more severe discipline is warranted." Wolfe, 759 So. 2d at 645.

Respondent testified that he created the false withdrawal letter in September 1999 (T. 47, L. 22; T. 386, L. 9) when he "realized the statute of limitations had been missed" and he "panicked" (T. 47-48; L. 25-1). He testified that he first became aware of Ms. Jarrett's grievance to the Bar in November 1999 (T. 48, L. 14-19). He then testified that he deliberately made false statements to the Bar regarding the existence of the withdrawal letter in January 2000, February 2000, and May 2000 (T. 387-388), affirmatively choosing to stay silent regarding his deception, both to the Bar and to Ms. Jarrett, despite the ongoing Bar investigations (T. 397-400).

Respondent testified that he became aware that the grievance committee was investigating possible misrepresentations made by respondent when he received the notice of probable cause vote in August 2000 (T. 397, L. 2-17) and that he subsequently retained counsel. He failed to acknowledge his misconduct until faced with the knowledge that the grievance committee had discovered his fraud,

and notwithstanding his awareness of the wrongfulness of his acts, respondent chose to perpetuate a deception on the Bar and on his client, blatantly disregarding his ethical obligation. The referee found that while disbarment is not an inappropriate sanction[1] under these facts, he believed it was "not required or appropriate" (T. 480-481, L. 19-25, 1-10).

Indeed, this Court has found disbarment to be appropriate where attorneys made intentional misrepresentations to the Bar during disciplinary proceedings. In The Florida Bar v. Orta, 689 So. 2d 270 (Fla. 1997), an attorney made misrepresentations to the Bar during the Bar's investigation regarding his petition for reinstatement by failing to accurately describe foreign property holdings until after he was caught lying and was disbarred accordingly. Similarly, in The Florida Bar v. Budnitz, 690 So. 2d 1239 (Fla. 1997), this Court disbarred an attorney for violating Rule 4-8.1(a) by knowingly making a false statement of material fact in a disciplinary matter, specifically for backdating a notarized document. An attorney was also disbarred for creating, signing and mailing various false documents in violation of Rule 4-8.4(d) in The Florida Bar v. Cox, 718 So. 2d 788 (Fla. 1998),

[1] The referee found that appropriate discipline in this case could range from suspension to disbarment. Pursuant to the Florida Standards for Imposing Lawyer Sanctions 6.11 and 5.11, disbarment is appropriate when a lawyer, with the intent to deceive the court, knowingly makes a false statement or submits a false document, and likewise when a lawyer engages in any intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

and in The Florida Bar v. Barenz, 500 So. 2d 1344 (Fla. 1987), an attorney was disbarred after making false representations to the grievance committee during its investigation, failing to properly record instruments, and issuing a title insurance policy without first clearing mortgage liens on a property.

The Bar maintains that a term of suspension of no less than three years would serve to sufficiently punish respondent for his breach of ethics and would serve to encourage respondent's reflection on the need for reformation and rehabilitation.

A three year term of suspension for engaging in intentionally deceptive misconduct is supported by The Florida Bar v. Klausner, 721 So. 2d 720 (Fla. 1998), where an attorney engaged in fraudulent conduct similar to respondent's by forging signatures on documents submitted to the court on behalf of his client and for falsely representing himself to the court.

A three year suspension is also supported by the Florida Standards for Imposing Lawyer Sanctions, as outlined by the referee. Suspension is appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system. See Fla. Stds. Imposing Law. Sancs. 7.2. By intentionally committing repeated acts of fraud upon the Bar and upon his client, respondent's misconduct

reflects adversely on his fitness as a lawyer and on the reputation and dignity of the profession.

Suspension is also appropriate pursuant to Standard 4.42(a) when a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client, or when a lawyer engages in a pattern of neglect and causes injury or potential injury to a client. Ms. Jarrett's claim was time barred due to respondent's acts, and had the grievance committee not carefully investigated respondent's actions, it is likely that Ms. Jarrett never would have realized any retribution for her injuries.

Standards 4.62 and 6.22, respectively, suggest suspension when a lawyer knowingly deceives a client, and causes injury or potential injury to a client, or when a lawyer knows that he or she is violating a court order or rule, and causes injury or potential injury to a client or a party, or causes interference or potential interference with a legal proceeding. These standards go to the crux of these proceedings, revealing respondent's pattern of deceit. No less than a three year term of suspension would sufficiently address respondent's misconduct and act as an effective deterrent.

C. Aggravating factors found by the referee outweigh mitigation and

support a three year term of suspension.

The final discipline enhancement factor considered by this Court in Wolfe was the degree of mitigation presented. In the instant case, the referee found in mitigation that respondent demonstrated timely good faith effort to make restitution or to rectify consequences of misconduct (T. 477-478, L. 23-2), but acknowledged that "the more moral and ethical response would have been to make the restitution about nine months earlier" (T. 478, L 16-19). See Fla. Stds. Imposing Law. Sancs. 9.23(d).

The record reflects that respondent paid $17,750.00 to Ms. Jarrett around December 2000 (B. Ex. A-9; T. 64, L. 13-25), well after the probable cause finding and in an undisguised attempt to mitigate his conduct.

The referee also found that respondent showed remorse (T. 479, L. 17-20) under Standard 9.23(l).

Aggravating factors found by the referee far outweighed the degree of mitigation presented by respondent. The referee found that several aggravating factors applied to support a term of suspension, namely, prior disciplinary offenses (the October 1999 admonishment), a dishonest or selfish motive,[2] bad faith

[2] With regard to the filing of the false letter with the grievance committee, the referee found respondent's motive to be "one of dishonesty and self protection" (T. 476, L. 10-14).

obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency,[3] submission of false evidence, false statements, or other deceptive practices during the disciplinary process,[4] and substantial experience in the practice of law.[5] See Fla. Stds. Imposing Law. Sancs. 9.22(a), 9.22(e), 9.22(f), and 9.22(i), respectively.

The totality and the weight of the aggravating factors present outweigh the totality and weight of the mitigation. Accordingly, the referee's recommended discipline, a one year suspension, is insufficient. The nature and duration of respondent's misconduct reflects adversely on respondent's fitness as a lawyer and on the reputation and dignity of the profession, meriting no less than a three year term of suspension.

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[3] Respondent failed to comply with the Bar's instanter subpoena (T. 476, L. 15-23).

[4] The actual nature of the Jarrett count (T. 476, L. 24; T. 477, L. 1-3).

[5] Respondent was admitted to practice in 1991, and the referee found he was "clearly not someone new to the practice of law who may have committed some discrepancies through sheer inexperience" (T. 477, L. 4-14).

CONCLUSION

The Bar would agree with Judge Orfinger's testimony that, considering the referee's findings of intentional deception, whatever previous informal efforts Judge Orfinger made to "mentor" respondent several years ago were unsuccessful (T. 436, L. 12-21).

The cold record before this Court cannot adequately portray the detrimental impact respondent's deliberate deceptions and misconduct had upon not only his clients, but upon the sanctity of the disciplinary process. It is likely that Ms. Jarrett, Ms. Beaver and Ms. Petrucha's distrust of lawyers will contribute to the public's continuing doubt of the ability of the legal profession to police itself. The Bar wasted valuable resources, time and money in obtaining evidence of respondent's deceptions, resources that could have been saved but for respondent's continued pattern of deceit.

Respondent's actions reflect a general unfitness to practice law. The consensus of trial witnesses is that "he has too much on his plate" (T. 166, L. 13), that "he can be aggravating to deal with" (T. 187, L. 22-23) and in situations where "the carrier's responsibility for benefits may be doubtful or limited, he will take aggressive positions, notwithstanding what on its face seems to be unwarranted" (T. 188, L. 23-25; T. 189, L. 1).

A three year term of suspension would be appropriate to compel respondent to prove rehabilitation, to demonstrate to the public that this Court takes very seriously multiple acts of deceit by a Florida lawyer, and to effectively deter attorneys contemplating a course of deceptive conduct in the future.

WHEREFORE, The Florida Bar submits that respondent should be sanctioned to a term of suspension no less than three years and payment of costs now totaling $6,782.95, in addition to the referee's original terms requiring respondent to prove rehabilitation prior to reinstatement by taking and passing the ethics portion of The Florida Bar examination.

Respectfully submitted,

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By:_____
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Bar Counsel

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and seven (7) copies of The Florida Bar's Brief and Appendix have been sent by regular U.S. Mail to the Clerk of the Court, The Supreme Court of Florida, Supreme Court Building, 500 S. Duval Street, Tallahassee, Florida, 32399-1927; a copy of the foregoing has been furnished by regular U.S. Mail to Patricia S. Etkin, Counsel for Respondent, 8181 West Broward Boulevard, Suite 262, Plantation, Florida, 33324-2049; and a copy of the foregoing has been furnished by regular U.S. Mail to Staff Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida, 32399-2300, this ____ day of October, 2001.

Respectfully submitted,

_____
Elizabeth Sikora Conan
Bar Counsel

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

Undersigned counsel does hereby certify that the Brief of The Florida Bar 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.

Elizabeth Sikora Conan
Bar Counsel

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APPENDIX TO COMPLAINANT'S INITIAL BRIEF

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