

App. 1

Supreme Court of Florida

MONDAY, JULY 16, 2018

**CASE NO(S): SC00-2222; SC01-275; SC04-397;
SC04-852; SC04-2011**

Lower Tribunal No(s): 2001-50,023(17D);
2001-50,484(17D); 2004-90,021(OSC);
2004-51,357(17D)OSC; 2005-90,017(OSC)

THE FLORIDA BAR

vs. ROSE J. SPANO

Complainant(s)/Petitioner(s)

Respondent(s)

Respondent's "Omnibus Motion to Vacate Judgments of Probation, Contempts, Suspension, Disbarment, and Permanent Disbarment" is hereby stricken as unauthorized. The Court expressly retains jurisdiction to pursue any possible sanctions. *See generally* Fla. R. App. P. 9.410(a).

Benjamin S. Waxman is hereby ordered to show cause on or before July 31, 2018, why the motion should not be deemed frivolous. The Florida Bar may serve its reply on or before August 10, 2018.

NOT FINAL UNTIL TIME EXPIRES TO FILE RE-HEARING MOTION AND, IF FILED, DETERMINED.

App. 2

CANADY, C.J., and PARIENTE, LEWIS, QUINCE,
POLSTON, LABARGA, and LAWSON, JJ., concur.

A True Copy

Test:

[SEAL]

/s/ John A. Tomasino

John A. Tomasino

Clerk, Supreme Court

ca

Served:

ALAN ANTHONY PASCAL

BENJAMIN S. WAXMAN

ADRIA E. QUINTELA

App. 3

Supreme Court of Florida

FRIDAY, AUGUST 6, 2004

CASE NO.: SC04-397

Lower Tribunal No.:

2004-90,021(OSC)

THE FLORIDA BAR

vs. ROSE J. SPANO

Complainant

Respondent

The Florida Bar's Motion for Judgment on the Pleadings is hereby granted. The Court having issued its Order to Show Cause to respondent and respondent having filed a response to said Order to Show Cause,

IT IS ORDERED that respondent is suspended from the practice of law for ninety-one (91) days, effective thirty (30) days from the date of this order so that respondent can close out her practice and protect the interests of existing clients. If respondent notifies this Court in writing that she is no longer practicing and does not need the thirty (30) days to protect existing clients, this Court will enter an order making the suspension effective immediately. Respondent shall accept no new business from the date this order is filed until the suspension expires.

Judgment is entered for The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, for recovery of costs from Rose J. Spano in the amount of \$1,250.00, for which sum let execution issue.

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Not final until time expires to file motion for rehearing, and if filed, determined. The filing of a motion for rehearing shall not alter the effective date of this suspension.

ANSTEAD, C.J., and WELLS, PARIENTE, LEWIS, QUINCE, CANTERO and BELL, JJ., concur.

Case No. SC04-397

Page Two

A True Copy Test:

/s/ Thomas D. Hall [SEAL]
Thomas D. Hall
Clerk, Supreme Court

dy
Served:
JOHN ANTHONY BOGGS
LORRAINE C. HOFFMANN
KENNETH LAWRENCE MARVIN
FRED HADDAD
ALVIN E. ENTIN
STEVEN M. GREENBERG
ROSE J. SPANO

App. 5

Supreme Court of Florida

FRIDAY, APRIL 8, 2005

CASE NO.: SC04-2011

Lower Tribunal No.: 2005-90,017(OSC)

THE FLORIDA BAR

vs. ROSE J. SPANO

Complainant

Respondent

The respondent's "Motion to Strike and Vacate the Florida Bar's Petition for Contempt and Order to Show Cause" is hereby denied.

The Court grants The Florida Bar's "Motion for Judgment on the Pleadings" and hereby disbars Rose J. Spano from the practice of law in Florida. Respondent is currently suspended. *See Florida Bar v. Spano*, SC04-852 (Fla. Feb. 18, 2005); *Florida Bar v. Spano*, 881 So. 2d 1114 (Fla. 2004). Thus, she is no longer practicing and does not need thirty days to close out her practice to protect existing clients. The disbarment is effective immediately.

Judgment is entered for The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, for recovery of costs from Rose J. Spano in the amount of \$1,250.00, for which sum let execution issue.

Not final until time expires to file motion for rehearing, and if filed, determined. The filing of a motion for rehearing shall not alter the effective date of this disbarment.

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PARIENTE, C.J., and WELLS, ANSTEAD, LEWIS,
QUINCE, CANTERO and BELL, JJ., concur.

A True Copy

Test:

[SEAL]

/s/ Thomas D. Hall

Thomas D. Hall

Clerk, Supreme Court

dy

Served:

JOHN ANTHONY BOGGS KENNETH LAWRENCE

LORRAINE C. HOFFMANN MARVIN

ROSE J. SPANO

App. 7

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Petitioner,

Case No.

v.

TFB No. 2004-

ROSE J. SPANO,

90,021(OSC)

Respondent.

/

**THE FLORIDA BAR'S PETITION FOR
CONTEMPT AND ORDER TO SHOW CAUSE**

Petitioner, The Florida Bar, files this, its petition for contempt and order to show cause against respondent Rose J. Spano, and says:

1. In Florida Supreme Court Case Nos. SC00-2222 and SC01-275, by order dated December 4, 2003, respondent was placed on probation for one (1) year under the terms and conditions set forth in the amended referee's report, effective immediately.

2. The terms and conditions of the amended referee's report included respondent entering into an agreement with Florida Lawyers Assistance, Inc. (hereafter FLA, Inc.) to complete a substance abuse and psychological evaluation, to successfully complete any recommended treatment and to receive counseling by a licensed psychologist. FLA, Inc. should also mentor respondent and monitor her progress in counseling and any other recommended treatment for her one (1) year term of her probation.

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3. The Florida Bar has made respondent aware of the conditions associated with her probation in letters dated December 16, 2003 and January 26, 2004. True and correct copies of The Florida Bar's letters to respondent are attached as Composite Exhibit "A." (omitted)

4. Respondent has notified The Florida Bar in letters dated January 16, 2004 and February 4, 2004 that she is not going to comply with this court's order dated December 4, 2003. True and correct copies of respondent's letters to The Florida Bar are attached as Composite Exhibit "B." (omitted)

5. The Florida Bar has been advised by FLA, Inc. that they have not heard from respondent since October 2001. An affidavit from Myer [sic] John Cohen, Executive Director of Florida Lawyers Assistance, Inc. is attached as Exhibit "C." (omitted)

6. Implicit in an order of discipline is enhanced discipline if the respondent fails to comply with the terms and conditions of the court's order. Therefore, it is appropriate that respondent receive a ninety-one (91) day suspension, so that she is required to demonstrate rehabilitation in reinstatement proceedings as a prerequisite to returning to the practice of law.

WHEREFORE, petitioner, The Florida Bar, respectfully requests this court enter its order terminating the probation in Case Nos. SC00-2222 and SC01-275 and directing respondent Rose J. Spano, to show cause why

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she should not be held in contempt and suspended
from the practice of law for ninety-one (91) days.

/s/ Kenneth L. Marvin
Kenneth Lawrence Marvin,
Bar Counsel
The Florida Bar
651 E. Jefferson Street
Tallahassee, Florida
32399-2300
(850)561-5845
Florida Bar No. 200999

[Certificate Of Service Omitted]

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,	CASE NOS.: SC00-2222
Complainant,	SC01-275
vs.	TFB Case No.:
	2001-50,023(17D)
ROSE J. SPANO,	2001-50,484(17D)
Respondent.	

RESPONDENT ROSE SPANO'S
RESPONSE TO PETITION FOR CONTEMPT
AND ORDER TO SHOW CAUSE

COMES NOW the Respondent, ROSE J. SPANO, by and through her undersigned counsel and hereby files this Response to Petition for Contempt and Order to Show Cause and states unto the Court as follows:

1. That on or about March 9, 2004, the Petitioner, The Florida Bar, filed with this Court a Petition for Contempt and Order to Show Cause against Respondent Rose Spano.
2. The Florida Supreme Court, by order dated December 4, 2003, placed Respondent on probation for one year under the terms and conditions set forth in the Referee's Amended Order.
3. The Referee's Amended Order was dated April 1, 2003, and Respondent began complying with same immediately.

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4. Respondent was not found by the Referee to be suffering from any kind of substance abuse, nevertheless the Referee ordered that Respondent be ordered to enter into an agreement with FLA to complete a substance abuse and psychological evaluation and to successfully complete recommended treatment.

5. Respondent had no objection to counseling and treatment and in fact engaged in both evaluations and treatment with S. Richard Sauber, Ph.D. prior to the filing of the Florida Bar's petition. A copy of Dr. Sauber's extensive report is attached hereto, incorporated by reference herein and marked Exhibit 1.

6. Respondent was unaware prior to January 2004, that the requirement to enter into the contract with FLA was a formal part of her probation. In fact, Respondent had informed her counsel to seek a waiver of the FLA requirement in the Amended Referees Report. In fact, Fred Haddad, Esquire filed a motion to that effect in April 2003, with this Court.

7. At no time material to the matter set forth in the Petition did prior counsel advise Respondent of this Court's denial of her motion. Attached hereto and incorporated by reference herein is the affidavit of Respondent Rose Spano marked as Exhibit 2.

8. As indicated hereinabove, Respondent is and has been willing at all times to comply with the testing, treating, mentoring and monitoring provisions of her probation. However, as is well known to the Petitioner,

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the Florida Bar, and staff counsel Lorraine Hoffman [sic], Respondent has a severe personality conflict and adversary relationship with Meyer John Cohn of FLA. Respondent and Mr. Cohn have a totally adversarial relationship arising out of a prior matter which would make his and FLA's participation in Respondent's probationary process inappropriate. See attached affidavit of Respondent.

9. Respondent has fully complied with and continues to comply with all of the substantive requirements of this Court's Order. Respondent is ready, willing and able to comply with the required monitoring and mentoring should this Court find that same remains necessary. Respondent would prefer not to be required to complete monitoring and mentoring with the FLA program based on her serious concerns with the severe tension existing between her and the director of the FLA program.

10. Respondent should not be held in contempt or suspended for 91 days. Should this Court feel any penalty should be assessed, it should be no more than to complete the probationary period to allow the mentoring and monitoring portion of the probation to be completed.

WHEREFORE Respondent prays the Florida Bar's Petition be denied and no Order to Show Cause be issued.

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[Certificate Of Service Omitted]

ENTIN, DELLA FERA &
GREENBERG, P.A.
Auto Nation Tower, Suite 1970
110 Southeast Sixth Street
Fort Lauderdale, Florida 33301
Telephone: (954) 761-7201

By: /s/ Alvin E. Entin
Alvin E. Entin
Fla. Bar No. 127027

EXHIBIT 1

S. Richard Sauber, Ph.D.
Diplomate American Board of
Professional Psychology (Clinical and Family)
Diplomate American Board of
Professional Disability Consultants
Suite 112, 7300 W. Camino Real,
Boca Raton, Florida 33433
Tel.: 561-750-9200 Fax: 561-883-5597

**PSYCHOLOGICAL EVALUATION
OF ROSE J. SPANO**

Re: TFB File No: 2004-90,021 (OSC)
TFB File No: 1996-51,687 (17D)
TFB File No: 2001-50,023 and 2001-50,484(17D)
Motion for Contempt and Respondent's Response



PURPOSE:

The purpose of conducting a psychological evaluation on Rose J. Spano served a dual function in that simultaneous and related to her post custody modification action pending in Family Court was the Florida Bar's Petition for Contempt and Order to Show Cause, I made reference to the term "related" because I understand that the Bar's Complaint came about as a result of a contentious alleged aggravated stalking matter that arose as a result of the partnership between her former boyfriend, James Stephens and the father of the minor child, Dennis Bruce, they were attempting to remove her parental rights. In reviewing the legal documents, this partnership may be considered a well executed conspiracy against Rose Spano.

Ms. Spano, being resourceful in our field, contacted a number of professionals and my name was given to her as a well qualified mental health professional to conduct a psychological evaluation. This examiner has never had any contact with this client, nor had any name recognition of her in any capacity. Thus, as a forensic psychologist, the evaluation can be considered objective and impartial.

The objective was to determine whether or not there were any indicators to suggest that Rose Spano either is suffering from or is likely to suffer from any mental disorder. If a finding did emerge indicating a DSM diagnosis of a mental disorder, then a treatment protocol was to be recommended.

PROCEDURE:

The procedure consisted of conducting diagnostic interviews and psychological testing on the following dates of service: 2/3/04, 2/5/04, 2/9/04, 2/12/04, 2/23/04, 2/25/04 and 3/17/04. The psychological instruments administered included the Minnesota Multi phasic Personality Inventory-2, Forensic Analysis; Assessment Scale for Potential Violence; a research instrument of factors associated with the prediction of possible violence; Health Concerns Questionnaire and the Parent child Relationship Inventory. The latter test was principally utilized for her custodial considerations but also has direct relevance in terms of Parental Competence and Psychological function.

Review of the documents was necessary in order to understand the history of the case and the complexity of variables that needed to be taken into account in order to arrive at a conclusion based upon reliable and valid information. The following list of documents included:

- 1) Dr. Glen Caddy testimony dated October 2001
- 2) Dr. Miguel Firpi testimony dated April 2001
- 3) Child Custody Investigative Report May 2000
- 4) Copies of Statues [sic] 61.13
- 5) Mother's Emergency Motion for Relief (7/21/03)
- 6) Third DCA Opinion 4/26/02
- 7) Third DCA Opinion 6/26/02
- 8) Petition to Modify Custody dated 5/1/03
- 9) Agreed Final Judgment 4/30/01

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- 10) Correspondence from Rose J. Spano to Alan Shuminer
- 11) Correspondence from Rose J. Spano to Dennis Bruce
- 12) Order of September 12, 2003
- 13) Petition for Rule to Show Cause
- 14) Emergency Temporary Relief
- 15) Petitioner [sic] Motion for Child Support
- 16) Motion for Rehearing dated August 7, 2003
- 17) Certificate of Completion of Divorce Course
- 18) Objection to Participate in Depository Program
- 19) Various Motions and Orders from several cases concerning Rose J. Spano

FINDINGS:

The psycho-social history reveals a rather normal development with an intact family, cohesive, supportive and functional. Ms. Spano was the second to the youngest in which she had two older sisters, 9 and 7 years older, a brother 3 1/2 years her senior and a younger sister of one year. Noteworthy features in her history revealed her impressive success in terms of (1) athletics, softball, field hockey, track, swimming, (2) school activities such as captain of the cheerleaders, drama club, dance club and (3) academic achievements, national honor society and graduating #5 in the high school graduating class of 900.

Her award as "Ms. Spartan" was an indication of her popularity and the respect she earned from the student body. The fact that she was so busy with all these activities also accounts for her time in avoiding any

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transgression that kids and adolescents often encounter.

There was no signs of any kind of substance abuse nor emotional problems during this time of her life.

She was close with her siblings and her mother took charge of the family in "strict military style". Her father operated a construction business was [sic] a "no nonsense" kind of man. There were standards of appropriate behavior that were required of all of the children in her family.

She attended Catholic School, was exposed and adopted the spiritual doctrines and moral teachings that have guided her thinking and behavior throughout her life. She remains very active with St. Coleman Catholic Church. She generously volunteers what little time she has to church related community functions. Between the religious doctrines, her strict rules of her parents and the community expectations for the members of her family, e.g. (her father ran for city Mayor, her parents shaped her behavior to be a good little girl, well behaved and to act appropriately at all times. She was very much a "goody goody").

She accepted this role and never exhibited a reaction in terms of rebellion. She was the perfectionist, the most responsible of her siblings, very organized, neat and correct in achieving high standards that she established for herself based upon her childhood development. Even her history of relationships with boys and men reflected stability. She dated her high school boyfriend for four years, dated her college sweetheart for

five years and then got married. There were no indications from her history of intimate relationships to suggest any sexual deviancy or social deviancy that would fit into a paradigm of stalking.

At age 14 Rose Spano knew that she wanted to be an attorney. Her mother at a young age picked this career for her daughter and she followed in this career path to date. Attending the University of Florida, exposed to the opportunity for distraction did not detour from her academic goals of achieving a 3.75 GPA and assuming leadership positions such as Vice President and Secretary of Phi Kappa Phi Honor Society for three years. Never straying from her sense of responsibility she was motivated to practice as an attorney and complete her studies as rapidly as possible. She completed law school at the University of Florida in 2 1/2 years by taking double credits. She has practiced law on a full time basis other than maternity leave.

The results of the computer scored and interpreted MMPI was done in Minneapolis. "This client's MMPI-2 clinical profile is within normal limits and no clinical diagnosis is provided. . . . Her validity scale configuration suggests that she complied with the test taking task enough to provide valid interpretable scores" (Page 3 of the MMPI-Forensic Report).

This test evaluates psychopathology as well as substance abuse. There were no peak elevations or even areas of concern identified within each of these two areas of nosology. The MMPI results were consistent with the Health Concerns Questionnaire in that the only

items indicating stress were related to her ongoing litigation in Family Court (e.g.) custody disputes, financial, and legal problems, worry and frustration.

The Assessment Scale for Potential Violence offers qualitative as well as quantitative interpretation. Qualitatively, there simply were no factors of any kind to point in a direction of potential violence. In fact, her quantitative score was so low that of a score of # 5 with a ceiling of 114 points also depicts no risk factors for potential violence whether domestic, social or any other context for that matter.

The Parent-Child Relationship Inventory was computer scored with the results of the validity indicators measuring that this test was a true reflection of her parenting skills versus the potential of the profile scales showing areas of difficulty and disturbances. There were seven specific aspects of parenting evaluated and she showed appropriate parenting in all areas with exceptional scores in four categories which was consistent with the other data of her parenting competency.

Parenting skills and Mother children relationships is another dimension to measure overall mental functioning. Considering the stress created by the father viciously taking every opportunity to alienate the mother from her daughter, disrupt her visitation schedule and terminate her parental rights attest to a true study of her endurance and mental stability with the on going threats generated by the adversarial position of the father.

Without elaborating on the particulars of her domestic case, we can make reference to Solomon's wisdom and understand that a father displaying this kind of destructive manipulation is certainly not in the best interest of a child who needs a healthy relationship with her caring and loving mother.

RECOMMENDATIONS:

Questions that lead to this examination addressed the matters of mental disturbance, substance abuse, stalking and domestic violence.

The results of the evaluation found no evidence, signs nor any symptoms in any of the above categories. In fact, the examination showed a relatively high functioning adult female under conditions of severe [sic] stress, managing her daily life functions most adeptly and adaptively in every aspect of life.

This evaluator also had the unique opportunity of observing Ms. Spano as an attorney, pro se, in her own family law litigation. I observed her presenting the chronology and case history, and her performance, both during direct and cross examination in my deposition taken on March 4, 2004 and my trial testimony taken on March 10, 2004.

There never was a question in this evaluation of her competency, incapacity, or impaired judgment as she

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exemplified high standards in conducting herself as an ethical and skillful attorney.

/s/ S. Richard Sauber
S. Richard Sauber Ph.D. March 20, 2004
Diplomate in Clinical Psychology, ABPP

[Exhibit 2 Omitted]

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Petitioner,

Case No. SC04-397

TFB No. 2004-90,021 (OSC)

v.

ROSE J. SPANO,

Respondent.

/

**THE FLORIDA BAR'S MOTION FOR
JUDGMENT ON THE PLEADINGS**

Petitioner, The Florida Bar, pursuant to Rule 1.140(c) of the Florida Rules of Civil Procedure, moves this court for entry of an order suspending respondent from the practice of law for ninety-one days for a finding of probable cause during the term of probation and for failure to comply with the court's earlier directives, and directing respondent to show compliance of the conditions of her probation being a prerequisite to her reinstatement to the practice of law and as grounds therefore shows:

1. In Florida Supreme Court Case Nos. SC00-2222 and SC01-275, by order dated December 4, 2003, respondent was placed on probation for one (1) year under the terms and conditions set forth in the amended referee's report, effective immediately.

2. Respondent admitted in her answer and affirmative defenses to The Florida Bar's Amended Petition for Contempt and Order to Show Cause that the Seventeenth Judicial Circuit Grievance Committee "D" found probable cause for misconduct committed

during the probationary period and that she failed to comply with the terms and conditions associated with her probationary period, specifically by failing to complete a substance abuse and psychological evaluation by an Florida Lawyers Assistance, Inc. approved evaluator, and to successfully complete any recommended treatment.

3. Pursuant to Rule 3-7.6, Rules Regulating The Florida Bar, the Bar is requesting administrative costs of \$1,250.00 when the bar is successful, in part or in whole, against the respondent

WHEREFORE, petitioner, The Florida Bar, respectfully requests this court enter its order suspending respondent Rose J. Spano, from the practice of law for ninety-one (91) days, and directing respondent to show compliance with the conditions of her probation being a prerequisite to her reinstatement to the practice of law, and assessing costs in the amount of \$1,250.00 to The Florida Bar.

/s/ Kenneth L. Marvin
Kenneth Lawrence Marvin,
Bar Counsel
The Florida Bar
651 E. Jefferson Street
Tallahassee, Florida
32399-2300
(850)561-5731
Florida Bar No. 200999

[Certificate Of Service Omitted]

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**IN THE SUPREME COURT OF FLORIDA
(Before a Referee)**

THE FLORIDA BAR

Petitioner

Case No:SCO4-397

TFB Case No:

ROSE J. SPANO

2004-90,012(OSC)

Respondent /

**PETITION TO VACATE AND TERMINATE
COURT'S ORDER OF SUSPENSION
DATED AUGUST 6, 2004 PURSUANT TO
THE RULES REGULATING THE FLORIDA
BAR AND RULES OF DISCIPLINE**

COMES NOW the Respondent, Rose J. Spano and files this Petition to Vacate and Terminate the Court's Order of Suspension dated August 6, 2004 pursuant to the Rules of Discipline, Rules Regulating the Florida Bar and as grounds therefore would state:

1. On August 12, 2004, the Respondent received from her attorney, Alvin Entin, the Court's Order of Suspension based upon the Florida Bar's Motion for Judgment on the Pleadings.
2. The Respondent immediately met with her attorney, Alvin Entin to determine if a Motion for Judgment on the Pleadings had been received by her attorney and responded to by her attorney.
3. The Respondent confirmed that her attorney, Alvin Entin did not receive the Florida Bar's

Motion for Judgment on the Pleadings. (a copy of the affidavit of Alvin Entin, Esquire is attached hereto and incorporated herein)

4. Furthermore, the original Petition for Contempt and Order to Show Cause was not served upon the respondent as required by the Florida Rules of Discipline, Rules Regulating the Florida Bar (Rule 3-7.4(p)) nor was the Petition referred to the Circuit Court Judge who had jurisdiction to determine if the Florida Bar's Petition for Contempt and Order to Show Cause was appropriate under Florida law. Rule 3-7.11(f) of the Florida Rules of Discipline, Rules Regulating the Florida Bar.

WHEREFORE, based upon the Florida Bar's failure to follow the Rules of Discipline and Rules Regulating the Florida Bar, the Respondent respectfully request this Court to enter an Order Granting the Respondent's Motion to Vacate and Terminate the Court's Order of Suspension dated August 6, 2004.

[Certificate Of Service Omitted]

Rose J. Spano, P.A.
P.O. Box 50136
Lighthouse Point, Florida 33074-0136
(954) 568-7040

By: /s/ Rose J. Spano
Rose J. Spano
Florida Bar No: 473189

AFFIDAVIT OF ALVIN ENTIN, ESQUIRE

STATE OF FLORIDA)
COUNTY OF BROWARD) SS.

BEFORE ME, the undersigned authority duly authorized to administer oaths and take acknowledgments, this day appeared ALVIN ENTIN ESQUIRE. who, upon first being duly sworn under oath, deposes and states the following:

1. My name is Alvin Entin, Esquire and I was the attorney of record for Rose J. Spano in Case No. SCO 04-397.
2. That by virtue of the Court's docket it appears that the Motion for Judgment on the pleadings was filed in late May 2004.
3. That your affiant was in New York from May 27, 2004 through June 25, 2004 actively engaged in the case of United States v Thomas Prousalis in the United States District Court for the Southern District of New York.
4. That at no time was your affiant advised by his office, with which he was in daily contact, of the receipt of any Motion for Judgment on the Pleadings.
5. That during the time your affiant was engaged in New York, Steven Greenberg, Esquire of his firm was monitoring this matter and he also saw no Motion for Judgment on the Pleadings.
6. A complete review of all of the Spano files conducted over this past weekend also fails to

disclose the receipt of a Motion for Judgment on the Pleadings.

7. Since I have personal knowledge that I did not receive a Motion for Judgment on the Pleadings filed by the Florida Bar in this case, neither I nor Ms. Spano could respond to the Motion.
8. Furthermore, due process of law considerations for the Respondent require that the Order of Suspension dated August 4, 2004 be vacated.

FURTHER AFFIANT SAYETH NAUGHT

/s/ Alvin Entin, Esquire
Alvin Entin, Esquire

STATE OF FLORIDA)
)
COUNTY OF BROWARD)

The foregoing instrument was acknowledged and signed before this 16th day of August 2004, by Alvin Entin, Esq., who is personally known to me or has produced ___ as identification and who did take an oath.

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Witness my hand and official seal, this 16th day of
August, 2004

My commission expires: /s/ Cynthia D. Bolger
Notary Public,
State of Florida

CYNTHIA DIANE BOLGER
MY COMMISSION
DD 298864
EXPIRES: March 10, 2008
Bonded Thru Notary
Public Underwriters

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR

Petitioner

ROSE J. SPANO

Respondent

Case No: SCO4-397

**TFB Case No: 2004-
90,012(OSC)**

**EMERGENCY MOTION FOR TEMPORARY
INJUNCTIVE RELIEF AGAINST THE
ACTIONS OF THE FLORIDA BAR
AND/OR THEIR EMPLOYEES**

COMES NOW the Respondent, Rose J. Spano and files this Emergency Motion for Temporary Injunctive Relief against the actions of the Florida Bar and/or its Employees and as grounds therefore would state:

1. On March 9, 2004 the Florida Bar filed a Petition for Contempt and Order to Show Cause why the Respondent, Rose J. Spano, Esquire should not be held in Contempt of Court for allegedly not complying with Judge Rapp's Amended Report of Referee.
2. In that Petition filed on March 9, 2004, the Florida Bar requested that the matter be heard with a 1/2 day trial date. (see Exhibit "A" attached and incorporated herein).
3. Not only was the matter not set for the 1/2 day trial as required by Florida Law, the Florida Bar misrepresented to this Honorable Court that the Respondent was not going to comply

with this Court's Order or comply with the Referee's recommendation that a psychological and substance abuse evaluation be done.

4. In fact, after the Respondent paid the costs to the Florida Bar, the Florida Bar refused to file a satisfaction of costs judgment until August 10, 2004, some seven months after the costs had been paid, presumably with the intent to injure the reputation and credibility of the Respondent.
5. In addition to refusing to file a satisfaction of cost judgment, the Florida Bar refused to acknowledge the report of Dr. Richard Sauber, a board certified psychologist which had been transmitted to the Florida Bar by Postal Express Mail on March 20, 2004 certifying the Respondent's compliance with both this Court's Order and the Report of the Referee. (see Exhibit "B" Postal Express Receipt attached and incorporated herein).
6. Then, the Florida Bar filed a Motion for Judgment on the Pleadings which was not received by either the Respondent or her attorney, Alvin Entin. (See Exhibit "C" attached and incorporated herein).
7. Finally, on August 16, 2004, when Respondent filed her Petition to Vacate this Honorable Court's Order of Suspension dated August 6, 2004 for a variety of reasons that included the Respondent [sic] right to be heard on her compliance with this Court's Order, compliance with Judge Rapp's Report of Referee and the Florida Bar's failure to follow the Rules

Regulating the Florida Bar, the Florida Bar and/or its administrative secretary continued to send the Respondent notices of delinquency stating that the Florida Bar would seek additional discipline, if not paid.

8. Since this matter is properly before the Court, the Respondent, Rose J. Spano. Esquire, respect request [sic] this Court to issue an Emergency Order Temporarily Enjoining the Florida Bar and/or its employees from taking any further action against the Respondent.
9. Respondent would further ask this Court to Stay its Order of August 6, 2004 until such time that the matter can properly be heard or vacated.

WHEREFORE, based upon the foregoing grounds the Respondent respectfully request [sic] the Honorable Court Grant Respondent's Emergency Motion for Temporary Injunctive Relief and Stay its Order of August 6, 2004.

[Certificate Of Service Omitted]

Rose J. Spano, P.A.
P.O. Box 50136
Lighthouse Point, Florida 33074-0136
(954) 568-7040

By: /s/ Rose J. Spano
Rose J. Spano
Florida Bar No: 473189

EXHIBIT A
IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Petitioner,

v.

ROSE J. SPANO,

Respondent.

Case No.

**TFB No. 2005-
90,017(OSC)**

/

**THE FLORIDA BAR'S PETITION FOR
CONTEMPT AND ORDER TO SHOW CAUSE**

Petitioner, The Florida Bar, files this, its petition for contempt and order to show cause against respondent Rose J. Spano, and says:

1. In Florida Supreme Court Case No. SC04-397, by order dated August 6, 2004, respondent was suspended from the practice of law for ninety-one (91) days, effective thirty (30) days from the date of the court's order so that respondent could close out her practice and protect the interests of existing clients.

2. On August 10, 2004, The Florida Bar wrote respondent advising her of the effective date of her suspension, to wit: September 7, 2004, and outlining the respondent's responsibilities when an attorney is suspended, specifically, Rule 3-5.1(g). A true and correct copy of The Florida Bar's letter to respondent is attached as Exhibit "A."

3. Respondent is aware of the suspension order as evidenced by her Petition to Vacate and Terminate Court's Order of Suspension dated August 6, 2004 filed with the court along with other pleadings filed in Case No SC04-397.

4. Despite this court's order suspending respondent, she continues to practice law.

COUNT I

5. Respondent represents the plaintiff, Joanne Rigg, in the matter of *Joanne Rigg v. Amisub, Inc.*, Seventeenth Judicial Circuit Court, Case No. 04-009224(18). On September 10, 2004, respondent filed a Notice of Change of Address in the above-referenced matter asking that all pleadings be forwarded to her home address. A certified copy of the Notice of Change of Address is attached as Exhibit "B."

6. On September 16, 2004, respondent filed a Notice of Serving Plaintiff's Interrogatories to Defendant and a Request to Produce, in the matter of *Joanne Rigg v. Amisub, Inc.*, Seventeenth Judicial Circuit Court, Case No. 04-009224(18). Certified copies of the Notice of Serving Interrogatories to Defendant and Request to Produce are attached as Composite Exhibit "C."

7. Respondent failed to notify opposing counsel and the Seventeenth Judicial Circuit Court of her suspension which became effective on September 7, 2004.

COUNT II

8. Respondent represents herself in the matter of *Rosemarie Spano v. Dennis E. Bruce*, Eleventh Judicial Circuit Court Case No. 93-3711FC 18 PJ. On September 10, 2004, respondent filed Petitioner/Mother's Objections to Recommended Order on Reset on Motion to Determine Arrears and Petitioner/Mother's Request for Respondent/Father to File Financial Affidavit Pursuant to Rule 12.287 of the Florida Family Rules of Civil Procedure. Copies of the Petitioner/Mother's Objections to Recommended Order on Reset on Motion to Determine Arrears and Petitioner/Mother's Request for Respondent/Father to File Financial Affidavit Pursuant to Rule 12.287 of the Florida Family Rules of Civil Procedure are attached as Composite Exhibit "D."

9. On September 29, 2004, respondent filed a Motion to Vacate General Master Recommended Order, in the matter of *Rosemarie Spano v. Dennis E. Bruce*, Eleventh Judicial Circuit Court, Case No. 93-3711FC 18 PJ. A copy of the Motion to Vacate General Master Recommended Order is attached as Exhibit "E."

10. On October 1, 2004, respondent prepared and filed a Notice of Hearing on her Petitioner/Mother's Motion to Vacate General Master Recommended Order, in the matter of *Rosemarie Spano v. Dennis E. Bruce*, Eleventh Judicial Circuit Court, Case No. 93-3711FC 18 PJ. A copy of the Notice of Hearing is attached as Exhibit "F."

11. Respondent filed all of the above referenced documents as “by and through the undersigned counsel” and not pro se. Respondent included her office name of Rose J. Spano, PA, and her Florida Bar Number holding herself out as a member of The Florida Bar. Respondent also failed to notify opposing counsel and the Eleventh Judicial Circuit Court of her suspension which became effective on September 7, 2004.

COUNT III

12. Respondent represents herself in the matter of *Rosemarie Spano v. Dennis E. Bruce*, Third District Court of Appeal, Case No. 3D04-838. On September 10, 2004, respondent filed a Reply Brief of Appellant. A copy of the Reply Brief of Appellant is attached as Exhibit “G.”

13. On or about September 22, 2004, respondent appeared at oral argument in the matter of *Rosemarie Spano v. Dennis E. Bruce*, Third District Court of Appeal, Case No. 3D04-838. Respondent identifies herself, at the outset of the oral argument, as both the mother and the attorney for the mother. A video CD recording of the oral argument is attached as Exhibit “H.”

14. Respondent filed the Reply Brief of Appellant as Rose J. Spano, Esquire and not pro se. Respondent included her office name of Rose J. Spano, P.A. and her Florida Bar Number holding herself out as a member of The Florida Bar on the Brief and during oral argument specifically, identified herself as a lawyer.

Respondent also failed to notify opposing counsel and the Third District Court of Appeal of her suspension which became effective on September 7, 2004, Letter dated October 1, 2004 from the Clerk of the Third District Court of Appeal is attached as Exhibit "I."

COUNT IV

15. In addition to the letter sent to respondent on August 10, 2004, outlining respondent's responsibilities when an attorney is suspended, specifically, Rule 3-5.1(g), a second letter was mailed to respondent on September 15, 2004. The second letter requested that respondent comply with Rule 3-5.1(g) within ten (10) days of the date of the letter.

16. To date, respondent has failed to comply with the terms of Rule 3-5.1(g), Rules Regulating The Florida Bar. The affidavit of Melissa Mara, Administrative Secretary, verifying respondent's noncompliance with Rule 3-5.1(g) affidavit is attached as Exhibit "J."

17. Implicit in an order of discipline is enhanced discipline if the respondent fails to comply with the terms and conditions of the court's order. Therefore, it is appropriate that respondent receive disbarment for continuing to hold herself out as a member of The Florida Bar after this court's earlier suspension order.

WHEREFORE, petitioner, The Florida Bar, respectfully requests this court enter its directing respondent Rose J. Spano, to show cause why she should

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not be held in contempt and disbarred from the practice of law.

/s/ Kenneth Lawrence Marvin
Kenneth Lawrence Marvin,
Bar Counsel
The Florida Bar
651 E. Jefferson Street
Tallahassee, Florida 32399-2300
(850)561-5731
Florida Bar No. 200999

[Certificate Of Service Omitted]

[Exhibit B Omitted]

[Exhibit C Omitted]

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR Case No: SCO4-397

Petitioner

ROSE J. SPANO

Respondent /

**RESPONDENT'S VERIFIED MOTION TO
STRIKE AND VACATE THE FLORIDA BAR'S
PETITION FOR CONTEMPT AND ORDER
TO SHOW CAUSE DATED OCTOBER 12, 2004**

Respondent, Rose J. Spano, hereby files her Verified Response to the Florida Bar's Petition for Contempt and Order to Show Cause dated October 12, 2004 and in support thereof says:

1. The Florida Rules of Discipline for the Rules Regulating the Florida Bar require that certain procedural and substantive rules be followed prior to the Florida Bar's filing of a Petition for Contempt and Order to Show Cause dated October 12, 2004.
2. In addition to the Florida Bar's responsibility to follow the Rules of Discipline, Rules Regulating the Florida Bar, the Florida Bar must also follow the Rules of Professional Conduct in its prosecution of an accused attorney.
3. In this case and others, the Florida Bar failed to follow the procedural and substantive Rules of Discipline, Rules Regulating the Florida Bar and the Rules of Professional

Conduct, Rules Regulating the Florida Bar in the following manner:

- (a) On March 6, 2004, Kenneth Lawrence Marvin, Bar Counsel for the Florida Bar was notified that the Referee in this case found that the Respondent was not suffering from any kind of substance abuse, did not recommend suspension or disbarment but recommended that the Respondent complete a substance abuse and psychological evaluation.
- (b) On March 20, 2004, Kenneth Lawrence Marvin, Bar Counsel for the Florida Bar was notified by Dr. Richard Sauber, P.H. D. that the psychological evaluation conducted on Ms. Spano indicated that there was no evidence, signs nor any symptoms of mental disturbances, substance abuse, stalking or domestic violence. Exhibit "A"
- (c) On August 16, 2004 in accordance with the Rules of Discipline for Rules Regulating the Florida Bar, the Florida Bar was notified that the Respondent filed a Petition to Vacate the Court's Order of Suspension, which would toll the Order of Suspension due to the Florida Bar's failure to follow the Rules of Discipline, Rules Regulating the Florida Bar. Rule 3-7.2 (f) and (1) and (2) (2002).
- (d) The Florida Bar failed to serve the Motion for Judgment on the Pleadings upon the Respondent in accordance with Rule

3-7.4(p) of the Florida Rules of Discipline, Rules regulating the Florida Bar.

- (e) The Florida Bar's Petition for Contempt and Order to Show Cause was not referred to the Circuit Court Judge who had jurisdiction to determine if the Florida Bar's Petition for Contempt and Order to show Cause was appropriate under Florida law. Rule 3-7.11(f) of the Rules of Discipline, Rules Regulating the Florida Bar.
- (f) And despite, the Florida Bar having been advised that there were genuine issues of material fact and disputed issues of law which concerned the Florida Bar's Motion for Judgment on the Pleadings, a tolled Order of Suspension, the Florida Bar continued to file a Petition for Contempt and Order to Show Cause dated October 12, 2004.
- (g) Furthermore, in the Florida Bar's Petition filed on October 12, 2004, the Florida Bar failed to inform this Honorable Court of the Respondent's Petition to Vacate the Order of Suspension, The Respondent's Emergency Motion for Injunctive Relief Against the Actions of the Florida Bar, misinformed the Court that Pleadings were being forwarded to the Respondent's Home address and interfered with the Respondent's pending Appeal with the Third District Court of Appeal.

WHEREFORE, based on the foregoing grounds that The Florida Bar has failed to comply with the various

provisions of the disciplinary rules, the Respondent respectfully requests this Honorable Court to Vacate the Order of Suspension dated August 6, 2004 and Strike the Florida Bar's Petition for Contempt and Order to Show Cause dated October 12, 2004.

Rose J. Spano
ROSE J. SPANO

STATE OF FLORIDA:

COUNTY OF BROWARD:

The foregoing Motion was acknowledged before me this 21st day of October, 2004 by ROSE J. Spano who is personally known to me and who took and [sic] oath and swore that the contents of the foregoing Motion are true and correct.

SWORN TO AND SUBSCRIBED, before me,
on the day and year above written.

/s/ Nadine Dasent
NOTARY PUBLIC

My commission expires:

NADINE DASENT
PRINT NAME

(SEAL) NADINE DASENT
MY COMMISSION # DD303596
EXPIRES: March 25, 2008
Bonded Thru Budget Notary Services

[Certificate Of Service Omitted]

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Petitioner,

Case No: SC04-2011

TFB No: 2005-

90,017(OSC)

v.

ROSE J. SPANO,

Respondent.

**THE FLORIDA BAR'S MOTION FOR
JUDGMENT ON THE PLEADINGS**

Petitioner, The Florida Bar, pursuant to Rule 1.140(c), Florida Rules of Civil Procedure, moves this court for entry of an order disbaring respondent, Rose J. Spano from the practice of law and assessing costs in the amount of \$1,250.00 to The Florida Bar and as grounds thereof shows:

1. In Florida Supreme Court Case No. SC04-397, by order dated August 6, 2004, respondent was suspended from the practice of law for ninety-one (91) days, effective thirty (30) days from the date of the court's order so that respondent could close out her practice and protect the interests of existing clients.

2. On October 12, 2004, The Florida Bar filed a Petition for Contempt and Order to Show Cause based on three counts of respondent's continuing to practice law in the State of Florida and one count of respondent failing to notify existing clients, courts, and opposing counsel of her suspension as required by Rule 3-5.1(g),

Rules Regulating The Florida Bar, in Case No. SC04-397.

3. On October 21, 2004, this Court issued its order commanding respondent to file a response on or before November 5, 2004 why she should not be held in contempt and disbarred from the practice of law for the reasons set forth in The Florida Bar's petition.

4. On October 21, 2004, Respondent filed Respondent's Verified Motion to Strike and Vacate The Florida Bar's Petition for Contempt and Order to Show Cause dated October 12, 2004 in Case No. SC04-397 which was unresponsive to the allegations contained in The Florida Bar petition for contempt and order to show cause in this matter.

5. If the court imposes the requested discipline, then the bar is requesting administrative costs of \$1,250.00.

WHEREFORE, petitioner, The Florida Bar, respectfully requests this court enter its disbarring respondent, Rose J. Spano, and assessing costs in the amount of \$1,250.00 to The Florida Bar.

/s/ Kenneth Lawrence Marvin
Kenneth Lawrence Marvin, Bar Counsel
The Florida Bar
651 E. Jefferson Street
Tallahassee, Florida 32399-2300
(850)561-5731
Florida Bar No. 200999