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APPENDIX A

Supreme Court of Florida

THURSDAY, AUGUST 3, 2023

The Florida Bar,
Complainant(s)

v.

Teresa Marie Gaffney,
Respondent(s)

SC2021-0938
Lower Tribunal No(s).:
2018-10,184 (13C);
2018-10,542 (13C)

The uncontested report of the referee is approved and respondent is permanently disbarred, effective thirty 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 days to protect existing clients, this Court will enter an order making the permanent disbarment effective immediately. Respondent shall fully comply with Rule Regulating The Florida Bar 3-5.1(h). Respondent shall also fully comply with Rule Regulating The Florida Bar 3-6.1, if applicable. Further, respondent shall accept no new

business from the date this order is filed.

Judgment is entered for The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, for recovery of costs from Teresa Marie Gaffney in the amount of $8,931.02, 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 permanent disbarment.

MUÑIZ, C.J., and CANADY, LABARGA, COURIEL, GROSSHANS, FRANCIS, and SASSO, JJ., concur.

A True Copy
Test:
SC2021-0938 8/3/2023

/s/
John A. Tomasino
Clerk, Supreme Court

AS
Served:

JENNIFER ROBYN DILLON
LINDSEY MARGARET GUINAND
JAMES J. MACCHITELLI
MARK LUGO MASON
HON. PETER RAY RAMSBERGER
PATRICIA ANN TORO SAVITZ

APPENDIX B

Supreme Court of Florida

THURSDAY, APRIL 18, 2023

The Florida Bar,
Complainant(s)

v.

Teresa Marie Gaffney,
Respondent(s)

SC2021-0938
Lower Tribunal No(s).:
2018-10,184 (13C);
2018-10,542 (13C)

The Florida Bar's Motion to Dispense With Review of Report of Referee is hereby granted. Respondent's notice of intent to seek review of referee's report is dismissed based on Respondent's failure to timely file an initial brief on the merits and transcripts in accordance with Rules Regulating the Florida Bar 3-7.7(c)(3) and 3-7.7(c)(2). Respondent's initial brief and appendices filed February 1, 2023, and amended appendix filed March 20, 2023, are hereby stricken.

Respondent's Motion to Dismiss With Prejudice for Fraud Upon the Court is denied. All other pending motions and requests for relief are denied as moot.

MUÑIZ, C.J., and CANADY, LABARGA, COURIEL, GROSSHANS, and FRANCIS, JJ., concur.

A True Copy
Test:

/s/
John A. Tomasino
Clerk, Supreme Court
SC2021-0938 4/18/2023

AS

Served:

JENNIFER ROBYN DILLON
TERESA MARIE GAFFNEY
LINDSEY MARGARET GUINAND
JAMES J. MACCHITELLI
MARK LUGO MASON
HON. PETER RAY RAMSBERGER
PATRICIA ANN TORO SAVITZ

APPENDIX C

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

v.

TERESA MARIE GAFFNEY,
Respondent.

Supreme Court Case
No. SC21-938

The Florida Bar File
Nos. 2018-10, 184 (13C)
2018-10,542 (13C)

REPORT OF REFEREE

I. **RECOMMENDATION OF REFEREE: Permanent Disbarment**

Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to Rule 3-7.6, Rules of Discipline, **it is recommended that Ms. Gaffney's license to practice law be permanently revoked as soon as possible based on the most egregious incidents of continuing misconduct ever**

witnessed by this referee. See Transcript of Ruling Conference, August 25, 2022.

The undersigned provides the following attachments, in addition to this proceeding's record and report, in support of this special request that the Supreme Court of Florida give this matter and recommendation immediate attention: Chapter 7 Memorandum Decision Following Trial on Contested Matters, dated June 3, 2019, issued by U.S. Bankruptcy Judge Roberta A. Colton, in the bankruptcy case of Sarah K. Sussman, Debtor, Case No. 8: 17-bk-08959-RCT (entered as bar's trial exhibit P49); The Florida Bar's ("bar") Complaint; the bar's Motion for Partial Summary Judgment; the bar's Sanctions Memorandum of Law; and the transcript of the bar's sanctions hearing closing argument. All attachments are considered incorporated in the report and adopted as findings of the referee.

II. SUMMARY OF PROCEEDINGS

On June 22, 2021, The Florida Bar ("bar") filed its Complaint against Ms. Gaffney ("respondent"). On June 29, 2021, the Honorable Kimberly Byrd was appointed as referee in this matter. On August 25, 2021, the referee's request for an extension of time to file the report of referee was granted by this Court, extending the due date for filing the report of referee to February 26, 2022.

Thereafter, by Court order, dated October 21, 2021, the proceedings were stayed until February 6,

2022, and the due date for the filing the report of referee was extended to August 19, 2022. On February 21, 2022, an Amended Order Appointing Referee was entered, appointing the undersigned as referee in this matter.

Ms. Gaffney was represented by pro hac vice counsel, James Macchitelli, in this matter. Ms. Gaffney was local counsel for Mr. Macchitelli and also co-counsel in this matter. The bar was represented by Lindsey Guinand and Robyn Dillon.

The bar's complaint alleged Ms. Gaffney violated Rules 3-4.3, 4-3.1, 4-3.3(a), 4-3.4(c), 4-3.5(c), 4-8.2(a), 4-8.4(a), 4-8.4(c) and 4-8.4(d) in Count I of its Complaint, and Rules 3-4.3, 4-3.1, 4-3.3(a), 4-8.4(a), 4-8.4(c) and 4-8.4(d) in Count II of its Complaint. Ms. Gaffney denied violating any of the rules charged and asserted two affirmative defenses.

The bar filed a Motion for Partial Summary Judgment and Request for Judicial Notice ("Motion") on February 18, 2022, and respondent filed a response in opposition on March 16, 2022. By agreement of the parties, the referee held a hearing on the bar's Motion and respondent's response on March 22, 2022. By order dated April 19, 2022, the referee granted the bar's Motion in part, finding respondent guilty of violating Rules 3-4.3, 4-3.1, 4-3.4(c), 4-3.5(c), 4-8.2(a), 4-8.4(a), 4-8.4(d) in connection with the allegations contained in Count I of the bar's complaint and Rules 3-4.3, 4-3.1, 4-8.4(a), 4-8.4(c), and 4-8.4(d) in Count II. The referee further granted the bar's Request for

Judicial Notice and took into evidence Exhibits 1 through 52.

On June 15, 2022, the bar filed a notice of voluntary dismissal without prejudice of Rule 4-3.3(a) in connection with Count II. This concluded the issues and matters related to Count II.

Thereafter, three issues were left to be adjudicated: the bar's allegations that Ms. Gaffney violated Rules 4-3.3(a) and 4-8.4(c) related to Count I of the Complaint and whether Ms. Gaffney violated the Rules Regulating The Florida Bar regarding her failure to appear at her deposition in Case No. 14-CA-3762. A final hearing on the remaining issues took place on July 18 through 21, 2022, via Zoom.

On July 27, 2022, the undersigned filed a request for extension of time to file the report of referee in this matter. By Court order, dated August 4, 2022, an extension was granted, and the report of referee was ordered to be filed by October 21, 2022.

On August 5, 2022, the undersigned made an oral ruling finding Ms. Gaffney guilty of violating Rules 4-3.3(a) and 4-8.4(c), related to Count I of the bar's complaint. Immediately thereafter a sanctions hearing was held on August 5, 8, and 9, 2022, via Zoom. The undersigned issued an oral ruling on sanctions on August 25, 2022.

All items properly filed including pleadings, recorded testimony (if transcribed), exhibits in

evidence and the report of referee constitute the record in this case and are forwarded to the Supreme Court of Florida. The undersigned refers the Court to the index of record for a list of the plethora of other filings in this case. Each filing was reviewed by the referee.

III. FINDINGS OF FACT

Jurisdictional Statement. Ms. Gaffney is, and at all times mentioned during this investigation was, a member of The Florida Bar, subject to the jurisdiction and Disciplinary Rules of the Supreme Court of Florida.

Narrative Summary Of Case.

1. **Preliminary Statement: Citations to the Record**

   a. References to the bar's final hearing exhibits will be cited as (P Exhibit**).

   b. References to the bar's sanctions hearing exhibits will be cited as (Sanctions Exhibit **)

   c. References to the respondent's exhibit will be cited as (R Exhibit **).

   d. References to the respondent's Answer will be cited as (Answer para. **).

2. **Motion for Summary Judgment in Bar**

Proceeding

The following facts were proven by clear and convincing evidence in the bar's Motion for Partial Summary Judgment:

Count I

Ms. Gaffney's Failure to Appear at Her March 11, 2015, Deposition; Refusal to Reschedule the Deposition Pursuant to Court Order; and Refusal to Answer Court Ordered Deposition Questions

Ms. Gaffney was a party defendant in Hillsborough County Case No. 14-CA-3762 and her deposition was scheduled for March 11, 2015. A Notice of Taking Deposition was filed with the court, and served on respondent's counsel, on February 5, 2015. P Exhibit 1. On March 10, 2015, the day before her scheduled deposition, and over a month after being scheduled for her deposition, respondent, through counsel, filed a Motion for Protective Order Regarding Notice of Taking Deposition, claiming to have other commitments. P Exhibit 2. The motion does not seek a continuance or other relief, but rather a blanket order protecting respondent from being deposed. Florida Rule of Civil Procedure 1.280 (c) outlines the grounds for seeking a protective order, none of which are cited in the motion. Respondent's motion does not allege that respondent needed protection from annoyance, embarrassment, oppression, or undue burden or expense, as required by the rule. Rather, the one sentence provided as a basis for the protective

order is that respondent "will be attending the Judicial Qualifications Committee meeting on the date scheduled for her deposition." Respondent is not a member of the Judicial Qualifications and was not attending a Judicial Qualifications Committee meeting on the date of the scheduled deposition. No hearing on the motion for protective order was scheduled or held, and no oral or written order was issued prior to the March 11, 2015, deposition. P Exhibit 4. Despite no protective order from the court, Ms. Gaffney failed to appear for her deposition. P Exhibit 5.

After respondent failed to appear for her deposition, opposing counsel filed a Verified Response to Teresa Gaffney's Motion for Protective order and Motion for Sanctions. The following day, on March 12, 2015, respondent's counsel filed an Amended Motion for Protective Order retracting the previous reasons for seeking a protective order, claiming it was an error and citing an entirely different reason for needing the protective order (now retroactively). P Exhibit 3. In the amended motion, respondent, for the first time, claimed to need the protective order because she had "commitments" related to the Judicial Nominating Committee and "the date was not cleared." Neither of these arguments, however, is a valid, good cause basis for seeking a protective order. Ms. Gaffney's knowledge of the deposition date will be outlined more below.

The trial court issued an August 7, 2015, order denying Ms. Gaffney's Amended Motion for Protective Order and compelling Ms. Gaffney to reschedule her

deposition. P Exhibit 6. Ms. Gaffney refused to do so without opposing counsel first agreeing to schedule other depositions. Ms. Gaffney thereby willfully disobeyed the court's directive, requiring opposing counsel to file another Motion to Compel Discovery. P Exhibit 7. The Motion to Compel Discovery was granted by court order dated September 18, 2015, and stated: "Teresa Gaffney shall appear for her deposition on October 16, 2015, at 11 :00 a.m." P Exhibit 8.

On October 16, 2015, Ms. Gaffney appeared for her deposition, after being court-ordered to do so. P Exhibits 8 and 9. At the deposition, Ms. Gaffney was asked questions regarding her father's deed to a property at issue in the case.

Ms. Gaffney and her counsel, who was also her husband, objected to the questions on the basis of attorney/client privilege. Ms. Gaffney claimed that she was representing her father when she prepared the deed that transferred an interest in her father's home to herself and that all communications, she had with him concerning that deed were privileged. A telephonic hearing was held with the judge during the deposition to address the objection and privilege. After hearing argument from both parties, the trial judge overruled the objection and ordered respondent to answer the deposition questions. P Exhibit 9. Thereafter, respondent completely disobeyed the direct court order to answer the questions. Page 8 of Ms. Gaffney's deposition transcript states:

THE COURT: Thank you. All right.

Objection 2 is overruled. The witness is directed to answer the question. Thank you. Anything else for you today?

MR. KANGAS: Not at this time. Your Honor. Thank you very much.

THE COURT: Okay. Thank you all.

MR. SUSSMAN: Well, I guess we're going to the Second DCA. 19

THE DEPONENT [TERESA GAFFNEY]: I'm not violating the attorney/client privilege.

MR. SUSSMAN: You need to do what you need to do and we're not breaching attorney/client privilege. We're done unless you want to do something else and ask some other questions.

BY MR. KANGAS:
Q. Please explain the circumstances surrounding that execution of the deed.

TERESA GAFFNEY:
A. I can't. It's attorney/client privilege and we'll have to go to the Second DCA. Go on to your other questions. Take it up with the Second DCA.

Id.

Ms. Gaffney did not, however, take the issue up with the Second District Court of Appeals following her refusal to answer. Likely because the judge's ruling concerning the attorney-client privilege assertion was based on Fla. Stat. 90.502(4)(b). Florida Statute 90.502(4)(b) states: "There is not an attorney-client privilege when the communications sought is relevant to an issue between two parties who claim through the same decedent." P Exhibit 10, pg. 2.

There is no question that the issue concerning the transfer of the deed was relevant to the proceedings, as it was the main issue. However, even if Ms. Gaffney disagreed with the trial judge regarding Fla. Stat. 90.502(4)(b), she still willfully disobeyed the court's oral order. As a result, opposing counsel filed Plaintiff's Motion for Order Granting Discovery Sanctions and for Order Finding Teresa Gaffney in Contempt of Court on October 28, 2015. P Exhibit 10. On March 22, 2016, an Amended Notice of Evidentiary Hearing was filed, noticing the motion for sanctions and contempt. P Exhibit 11. Despite being noticed for the hearing, Ms. Gaffney failed to appear at the evidentiary hearing on March 29, 2016. See Answer, para. 26.

Following the evidentiary hearing, the court ordered sanctions against Ms. Gaffney and held her in contempt of court. In the court's order granting sanctions and holding respondent in contempt, the court found the following, among other things:

"Further, with respect to the discovery

violations described above, the Court specifically ordered Gaffney to answer questions concerning the subject matter of this lawsuit. Defendant Gaffney willfully disobeyed this Court's direct order. Defendant Gaffney is an attorney licensed by the Florida Bar. She cannot claim ignorance to the Florida Rules of Civil Procedure and blame her husband/counsel, as it is obvious to this Court that she has been complicit every step of the way."

"Finally, Plaintiff scheduled the motions for sanctions against Defendants Gaffney and Sussman to be heard on March 29, 2016. Although Defendants Gaffney and Sussman received notice of the hearing, and the respective motions sought the severe sanction of the striking of pleadings, neither of the Defendants nor their counsel appeared for the hearing in an attempt to present evidence in opposition to it. Remarkably, Defendants Gaffney and Sussman and their counsel failed to communicate to Plaintiff or the Court any justifiable reason for the failure to appear. This was the second hearing in a row that Dov Sussman, Esq., and Teresa Gaffney, Esq., as counsel for Sarah Sussman intentionally did not appear for a properly noticed hearing. This Judge has

never experienced such contempt for the judicial system. There remains no doubt that the disobedience of Dov Sussman, Esq. and Teresa Gaffney, Esq. was willful, deliberate and contumacious."

"...this Court finds that those Defendants have willfully and intentionally frustrated the Plaintiffs attempts to justly, speedily, and inexpensively prosecute this case. The Defendants' have contumaciously disregarded this Court's authority, the Rules Regulating the Florida Bar and the Florida Rules of Civil Procedure. Accordingly, this Court is granting Plaintiffs' request that Defendants' affirmative defenses and counterclaims/crossclaims be stricken as a sanction, that attorneys' fees and costs be awarded and that an ultimatum is imposed so that the defendants and their counsel will comply with the law. As will be ordered in detail below, Defendants will be given one, final opportunity to comply with the law. If either fails to do so, her or its answer will be stricken and final judgment will be entered against her or it."

P Exhibit 12.

Further, the court found the plaintiff was

prejudiced due to the misconduct of Ms. Gaffney, including failing to appear at depositions, failing to follow court orders, and frustrating attempts to set and conduct same.

Despite also being counsel of record for one of the defendants in the matter, Ms. Gaffney never appeared for a hearing, including the hearing seeking contempt and sanctions. Ms. Gaffney was court ordered to answer certain deposition questions and she refused to do so. Ms. Gaffney was the defendant deponent, but importantly, also one of the counsels of record. She made objections on her own behalf and after being ordered to answer questions she repeated her objections and refused to answer. Thereafter, after being noticed of the hearing on the motion concerning her refusal to answer the deposition questions, respondent failed to appear at the hearing. All this conduct is clear by the deposition transcript as well as the motion filed by opposing counsel and the subsequent findings by the trial judge. P Exhibits 9, 10 and 12.

Respondent's Numerous Motions to Disqualify and Other Motions/Pleadings Lacking Merit and Impartiality Towards the Tribunal

One business day after the court issued its sanctions ruling against Ms. Gaffney, she submitted an unsworn affidavit to the court asserting inflammatory, personal, horrendous, accusations against the presiding judge, The Honorable Paul Huey. P Exhibit 13. Rather than addressing her misconduct

in the litigation and responding appropriately to the sanctions and contempt order, Ms. Gaffney filed a public document personally attacking Judge Huey.

On April 29, 2016, the court entered an Order Treating Affidavit of Gaffney as Amended Motion to Disqualify Judge and Order Granting Motion to Disqualify Judge. On the same day, Ms. Gaffney's counsel/husband also filed a Motion for Reconsideration of all of Judge Huey's rulings. Upon Judge Huey's recusal, The Honorable Rex Barbas was assigned the case and he heard the Motion for Reconsideration.

On July 6, 2016, a hearing was held on the motion for reconsideration. On July 12, 2016, Judge Barbas entered an order denying the Motion for Reconsideration. Unhappy with the decision, on July 21, 2016, Ms. Gaffney, through counsel/husband, filed another Motion for Reconsideration. Then, in August 2016, Ms. Gaffney through counsel/husband, filed a Verified Motion to Disqualify Judge Barbas From Presiding Further In The Above Captioned Matter, which attached another affidavit penned by Ms. Gaffney. See P Exhibit 15.

Respondent's Affidavit stated in part, "[i]n reviewing the Transcript of July 6, 2016, Judge Rex Barbas expressly condoned the behavior of Judge Paul Huey, to wit, the overt sexual harassment and the fear of repercussions of the sexual advances of Judge Paul Huey. Further, Judge Rex Barbas expressly condoned the unlawfully hearings conducted by Judge Paul

Huey in violation of Florida Statutes 38, 10." Answer, para. 43 and P Exhibit 15.

The Verified Motion to Disqualify Judge Barbas was denied. The court's August 23, 2016, Order Denying Defendant's Verified Motion to Disqualify Judge Rex Barbas From Presiding Further In the Above-Captioned Matter denied the motion on several grounds. P Exhibit 16. One such ground for denial was stated as follows:

> 'The motion is untimely based upon the affidavit attached to the motion. Motions are considered untimely when they are filed after a party has suffered an adverse ruling and no good cause is shown for the delay. See: 497 So. 2d 240 (1986), 669 So. 2d 326 (4th DCA 1996). In this case, the motion to disqualify was filed only after the Court had announced on the previous day to the filing of the motion that the Court was denying the Defendants' Motion for Reconsideration."

On or about September 6, 2016, the court entered a default judgment against defendants, including Ms. Gaffney. In its Order Granting Motion for Default, the court stated, "[n]o judgment shall be entered upon this default until after the conclusion of the pending appeals in Case No. 2015-5735." P Exhibit 17. Thereafter there was no more activity on the case until the conclusion of the appeals in early 2017, wherein the Second District Court of Appeals ruled

against Ms. Gaffney.

The very next filing was a Motion to Dismiss the entire case filed by defendants, including Ms. Gaffney, on March 21, 2017. The motion claimed · the grounds for the dismissal were lack of personal jurisdiction, subject matter jurisdiction, and expiration of the statute of limitations. The motion sought the following relief, among other things: "[d]ismiss the case with prejudice"; "[**c]ondemn the Sexual Predatory Practices engage in by Judge Paul Huey"; and "[a]n apology to the Designated Defendants from the Court for its refusal and reluctance to follow the law** (emphasis added)." P Exhibit 18.

On September 5, 2017, the court issued an order denying the motion to dismiss. Within the order, the court stated, in part, " ... these are the same motions that the Court previously ruled upon. In fact, these are the same motions that formed the basis for orders, which the Defendants filed a Petition for Writ of Certiorari to the Second District Court of Appeals. The Second District subsequently denied the Petition." P Exhibit 19.

The next week, on September 15, 2017, defendants filed Motion to Disqualify Judge Rex Barbas. The Motion also attached an Affidavit of Teresa M. Gaffney, A Designated Defendant, in Support of the Motion to Disqualify The Presiding Judge, The Honorable Rex Barbas. See P Exhibit 20.

Ms. Gaffney's unsworn affidavit stated that she

is an attorney licensed to practice law in Florida, that the designated defendant caused to be filed a Motion to Disqualify the Trial Judge, and that her affidavit was brought in support of the statements made in the Motion to Disqualify the present presiding judge and pursuant to Fla. Stat. 38.10. Two days later, on September 17, 2017, respondent's counsel/husband filed Defendant's Motion for an Evidentiary Hearing on Subject Matter Jurisdiction, Standing, Statute of Limitations, Breach of Fiduciary, Conflict of Interest, Filing an Unlawful Lis Pendens. P Exhibit 21.

On or about September 19, 2017, the court entered an Order Striking Defendants' Motion for a Hearing on Subject Matter Jurisdiction, Standing, Statute of Limitations, Breach of Fiduciary, Conflict of Interests, Filing an Unlawful Lis Pendens. P Exhibit 22. The court found that the defendants' motion again argued the same matters contained in their original motion for reconsideration following Judge Huey's disqualification. The court found that since a default had been entered and the issues regarding personal jurisdiction and subject matter jurisdiction had already been addressed (and taken up on appeal which was per curiam affirmed), the motion was a nullity, since judgment had been entered and the default never set aside. The court further found that the defendants filed yet another motion for reconsideration alleging the same matters that they had previously argued and were a part of the order of July 12, 2016.

Also, on September 19, 2017, the court denied the latest motion for disqualification. P Exhibit 4. On

September 27, 2017, Ms. Gaffney, through counsel/husband, filed a Petition For a Writ of Prohibition and A Writ of Mandamus with the Second District Court of Appeals, Case No. 2D17-3849. P Exhibit 23. The Petition asked for a Writ of Prohibition to require Judge Barbas' Disqualification. The Petition reargued and realleged personal attacks on Judge Barbas. The Petition also sought a Writ of Mandamus to require the lower court to hold an evidentiary hearing, to "hold cognizance" of defendants' request for criminal investigation of plaintiff, and to require disclosure of all communications with plaintiff and plaintiff's counsel.

By Amended Order dated October 23, 2017, the Second District Court of Appeal denied the petitions for writ. P Exhibit 24. Thereafter, on October 16, 2017, the court issued a Final Judgment Upon Default and that same day a Writ of Possession was issued. P Exhibit 25.

On October 23, 2017, respondent filed an Emergency Verified Motion for a Temporary Injunction against the writ of possession. Paragraph 81 of the Emergency Verified Motion cited the standard and burden of the movant in seeking a temporary injunction. It stated,"[i]n order to obtain a temporary injunction, the moving party must make four showing. Atomic Tattoos, LLC v. Morgan, 45 So. 3d 63, 64-65 (Fla. 2d DCA 2010). The movant must demonstrate that he will suffer irreparable harm without an injunction, that he has no adequate remedy at law, that he enjoys a substantial likelihood of success on

the merits and that an injunction would be in furtherance of the public interest."

The Emergency Verified Motion filed by the defendants reargued all of respondent's positions in the case. The issues of the case had been ruled upon, considered again after numerous motions for reconsiderations, and upheld on appeal, and thus, necessarily had no "substantial likelihood of success."

The court concluded the request within the verified motion was not an emergency and then subsequently denied the motion. Up until this point in time, and after Judge Huey's recusal, the defendants, including Ms. Gaffney, filed at least six (6) motions or other pleadings continually arguing matters that had been repeatedly ruled upon, and affirmed on appeal. Such motions and pleadings include but are not limited to the following:

a. April 29, 2016 Motion for Reconsideration

b. July 21, 2016 Motion for Reconsideration

c. March 21, 2017 Motion to Dismiss

d. September 17, 2017 Defendant's Motion for an Evidentiary Hearing on Subject Matter Jurisdiction, Standing, Statute of Limitations, Breach of Fiduciary, Conflict of Interest, Filing an Unlawful Lis Pendens

e. September 27, 2017 Petition For a Writ of

Prohibition and A Writ of Mandamus

f. October 23, 2017 Emergency Verified Motion for a Temporary Injunction

The court, in more than one order denying all the above requests, made the finding that defendants were alleging the same matters over and over again. That conclusion is not subjective or up to interpretation. But, rather, evidenced by the repetitive arguments made by defendants in all their filings. Their positions and arguments had been rejected or denied repeatedly by the lower and appellate courts and yet Ms. Gaffney continued to file motions or other pleadings rearguing same.

On or about June 17, 2019, the plaintiffs filed a Motion for Order to Show Cause and to Enforce Final Judgment. On or about June 20, 2019, the defendants filed a motion to disqualify opposing counsel, Mr. Kangas, and on July 11, 2019, the defendants filed another motion to disqualify Judge Barbas, making the same allegations as the motion for disqualification of Mr. Kangas. On July 12, 2019, an evidentiary hearing was held on defendant's motion for disqualification. Before the court issued a ruling, Ms. Gaffney filed another motion to disqualify Judge Barbas.

On July 22, 2019, Ms. Gaffney's counsel/husband filed another motion on behalf of Ms. Gaffney to disqualify Judge Barbas stating in part the following: **"Judge Barbas has endorsed the**

conduct of a judicial sexual predator and allowed to stand an order made by the judicial sexual predator in retribution for his denial by Gaffney (emphasis added)." The motion further stated in part that: **"In opening the hearing with a decidedly misogynistic comment, Judge Barbas effectively announced that no woman will be treated fairly in his court. The rule of law has been supplanted by misogyny** (emphasis added)." The motion also stated in part that: **"The final order demonstrates the court's profound animus to women, the final order stands for the proposition that the sexual extortion engaged in by Judge Huey was acceptable and had no impact on Judge Huey's retaliatory order** (emphasis added)." The motion attached an affidavit by Ms. Gaffney, which was attesting to the allegations in the motion, among other things. P Exhibit 27.

On or about July 23, 2019, the court denied both motions to disqualify. In the July 23, 2019, order, the court stated in part: "Regarding the allegations that the undersigned found nothing wrong with Judge Huey's alleged actions, this court never made that statement. The sanction order issued by Judge Huey was not vacated because there was a factual and legal basis to conclude that the defendants were being obstructionists during the proceedings." P Exhibit 26. The court also stated in part: "The litany of actions delineated by Judge Huey for the sanctions were never rebutted by Mr. Sussman in a hearing that lasted an entire half day. Moreover, at the conclusion of the hearing, the undersigned provided Sussman with

another opportunity to comply with the rules of discovery, and the court would then consider withdrawing the sanctions order." The court further stated in part that: "The defendants make the bold allegation that the undersigned Judge 'had no problem with the conduct and behavior of Judge Huey ...' **The court reiterated that it was not conducting a hearing regarding the alleged actions by Judge Huey. The defendants continually try to mislead the court and whoever else reads their motions filled with misstatements and innuendo** (emphasis added)." Also, "[i]t is evident that the defendants continue to make motions to obstruct the progress of this case by continually arguing matters that have been continuous [sic] ruled upon and affirmed on appeal." Id.

Ms. Gaffney's conduct in continuously making personal allegations against at least two judges in the proceeding and citing same as a basis for injunctions, writs, emergency relief, dismissals, and repeated motions for reconsiderations and disqualifications is tantamount to belligerence and theatrics. Respondent's conduct directly resulted in years of delay based on bad-faith filings and completely lacked the professional integrity required by the rules of professionalism.

Respondent's Reckless. Impugning, and Disparaging Statements About the Judiciary

As seen above, directly following an adverse ruling against Ms. Gaffney in Case No. 14-CA-003762,

she began to disparage and impugn the integrity of the presiding judge, Circuit Court Judge Paul Huey. Ms. Gaffney has continued to use the court system and her license to practice law to publicly attack Judge Huey in many different forums, including this bar proceeding.

After Judge Huey's recusal in Case No. 14-CA-003762, Judge Rex Barbas was assigned the case. Directly following an adverse ruling from Judge Barbas, respondent began to disparage and impugn the integrity of Judge Barbas. The following statements were made or verified by Ms. Gaffney in court filings about Judge Huey and Judge Barbas:

a. "Judge Barbas has endorsed the conduct of a judicial sexual predator and allowed to stand an order made by the judicial sexual predator in retribution for his denial by Gaffney." P Exhibit 27 and Answer para. 55.

b. "Judge Rex Barbas had no problem with the quid pro quo sexual harassment by Judge Paul Huey directed towards Teresa M. Gaffney." *Id.*

c. "In opening the hearing with a decidedly misogynistic comment, Judge Barbas effectively announced that no woman will be treated fairly in his court. The rule of law has been supplanted by misogyny." *Id.* and Answer para. 56.

d. "The final order demonstrates the court's

profound animus to women, the final order stands for the proposition that the sexual extortion engaged in by Judge Huey was acceptable and had no impact on Judge Huey's retaliatory order." *Id.* and Answer para. 57.

e. "Judge Huey wanted retribution for the Petitioner [Gaffney] rebuffing him and refusing his sexual demands." P Exhibit 28.

f. "More importantly the default judgment is predicated on the quid pro quo sexual demands made by Judge Huey, which were scorned and resulted in the order of 22 April 2016." P Exhibit 29.

g. "The order of 22 April 2016 which is the basis for this courts default is void for a number of reasons specifically an order based on quid pro quo sexual harassment is void and contrary to the laws of the State of Florida." *Id.*

h. "The basis of this judicial action was the refusal of the offer of quid pro quo sexual blackmail by the author [Judge Huey] of the order in question. The poisonous quality of that order is such that in the civilian or military world the perpetrator of these advances would be disciplined and relieved of further duties and responsibilities." P Exhibit 30.

Furthermore, Ms. Gaffney's September 2017 unsworn affidavit stated the following about Judge

Barbas, in part:

a. Although subject matter jurisdiction is lacking in the above captioned matter before this court and although subject matter jurisdiction has never been established on the record, the presiding judge has failed to take cognizance and following the controlling law and statute dispositive of this crucial issue of justiciability.

b. The presiding judge has refused and/or failed to take notice of the fact that although the circuit court lacks any jurisdictional basis to proceed, the Plaintiff has been permitted broad latitude to prosecute a matter over which preferential treatment of the Plaintiff takes precedence over the requirements of the law.

c. The repeated failings of the presiding judge to exercise his duties pursuant to the Code of Judicial Conduct and his abject failure to take notice of the repeated defalcations of the Plaintiff and his counsel convinces the Affiant that a fair and impartial treatment of this matter will [sic] be forthcoming from the presiding judge.

d. The presiding judge has failed to note the very basic operations of the law, such as Statute of Limitations and instead has agreed with the contrived quasi-legal analysis of Plaintiff and his counsel which lack any support in case law or statute.

e. The presiding judge has failed to comprehend that the predatory activity of the preceding presiding judge casts a dark shadow over the integrity of the judicial process. Instead the present presiding judge has expressed amusement and scoffed at the pleadings filed on behalf of the Designated Defendants and, significantly, has adopted the unlawful rulings of the preceding judge.

f. The court has declined to take any remedial action as to the transgressions perpetuated by the Plaintiff, and his counsel, but, rather, has permitted plaintiff, and his counsel to avoid any consequences for its unlawful actions.

P Exhibit 20.

After as many as five (5) accusatory motions for disqualification were filed against Judge Barbas, he granted Ms. Gaffney's latest motion to disqualify in an order dated December 12, 2019. The order stated in part, "[h]owever, based upon the constant misrepresentations by counsel for the Defendant and Defendant Gaffney herself, the undersigned finds that he can no longer be fair and impartial towards the Defendant Gaffney nor her attorney, Sussman. For that reason, and that reason alone, this court ORDERS AND ADJUDGES that Defendant's Motion to Disqualify/ Recuse is GRANTED." P Exhibit 31.

Immediately thereafter, The Honorable Caroline Tesche-Arkin was assigned the case. Ten days later, on

December 22, 2019, defendants filed another Motion for Reconsideration, now seeking all orders and findings issued by Judge Barbas be rescinded. P Exhibit 32. Judge Tesche-Arkin denied the motion in an order dated February 26, 2020, and defendants filed another repetitive Motion for Reconsideration on March 1, 2020. P Exhibit 33.

Per Ms. Gaffney's modus operandi, immediately following the adverse ruling, she filed another Motion for Disqualification of the trial judge on March 15, 2020. P Exhibit 34. In total, the defendants filed at least three (3) motions for disqualification against Judge Tesche-Arkin, none of which met the legal standard required for disqualification of a judge.

Ms. Gaffney has remained steady in her accusations against the Thirteenth Circuit Judiciary and after Judge Tesche-Arkin's assignment to the case, respondent also began to disparage and impugn the integrity of Judge Tesche-Arkin.

The Supreme Court of Florida has clearly outlined the standard applicable to statements made about the judiciary. "The applicable standard under the rule is not whether the statement is false, but whether the lawyer had an objectively reasonable factual basis for making the statement." The Florida Bar v. Ray, 797 So. 2d 556, 558-59 (Fla. 2001). "The burden is on the lawyer who made the statement to produce a factual basis to support the statement." Id. at 558 n.3; See also The Florida Bar v. Patterson, 257 So. 3d 56 (Fla. 2018).

It is not disputed that Ms. Gaffney made the statements above. In fact, she stands by her statements about the judiciary and continues to make the same allegations in numerous forums, including during this bar proceeding. By reading the statements themselves, it can be concluded as a matter of law, that the statements impugn the integrity of the judiciary.

Ms. Gaffney failed to establish that she had any objectively reasonable basis for making each and every statement she made about the court. Ms. Gaffney's self-serving statements and personal affidavits are subjective and therefore insufficient evidence to meet her burden. The subjective nature of Ms. Gaffney's statements are evidenced by Ms. Gaffney's April 25, 2016 unsworn affidavit, wherein she repeatedly makes allegations in the form of "her opinion." See P Exhibit 13. Ms. Gaffney made statements for which she had no objective evidence to support and with reckless disregard as to the truth or falsity of the statements. Those statements include, but are not limited to:

a. "Judge Huey made material misrepresentations in his order."

b. "His order of April 22, 2016 is but the most recent example of his inability to contain his vindictive temperament which seems to motivate his extreme departure from the requirements of the law."

c. "... It appears that Judge Paul Huey uses his

position as Judge to coerce or threaten harm if one does not agree to sexual favors."

d. "In my opinion Judge Paul Huey, in his capacity as a judge, is stalking me and filing false statements, under the guise of a judicial order, as a judge, because I refused his sexual advances.".

e. "In my opinion Judge Paul Huey is a danger to me personally and poses a grave threat to the public at large."

f. "Because I refused Judge Huey's sexual advances, he is utilizing his position as a judge to target me with his vindictive and vituperative comments and is otherwise seeking to harm my personal reputation and my professional standing."

P Exhibit 13.

Ms. Gaffney impugned the integrity of Judge Huey by making repeated subjective statements that were made with reckless disregard for the truth or falsity. Ms. Gaffney cannot make allegations against a sitting judge then make shocking accusations about his abuse of power while under the guise of "this is my opinion". This is exactly what Rule 4-8.2(a) is in place to prevent. One may not make spurious allegations with a complete disregard for the truth or falsity.

Further record evidence that establishes the

statements made by respondent were subjective and unfounded are stated in Judge Barbas' July 23, 2019, Amended Order as follows:

> '**This Court's Review of Predecessor Judge's Rulings**
>
> Regarding the allegations that the undersigned found nothing wrong with Judge Huey's alleged actions, this court never made that statement. What the undersigned judge recalls saying is that it did not matter what the basis for the disqualification of Judge Huey may have been, the undersigned judge only reviews the orders issued by Judge Huey for their factual and legal sufficiency. The sanction order issued by Judge Huey was not vacated because there was a factual and legal basis to conclude that the defendants were being obstructionists during the proceedings. The litany of actions delineated by Judge Huey for the sanctions were never rebutted by Mr. Sussman in a hearing that lasted an entire half day. Moreover, at the conclusion of that hearing, the undersigned provided Mr. Sussman with another opportunity to comply with the rules of discovery, and the court would then consider withdrawing the sanctions order. Again, in paragraph 18 of the July 22, 2019 motion to disqualify, the

defendants make the bold allegation that the undersigned judge "had no problem with the conduct and behavior of Judge Huey ...". The court reiterated that it was not conducting a hearing regarding the alleged actions by Judge Huey. The defendants continually try to mislead the court and whoever else reads their motions filled with misstatements and innuendo.

Misogyny

The allegation of failing to follow the law is followed by the bold statement: "But it is not the only evidence of Judge Barbas's, misogyny." The defendants' motions do not contain any statements made by the undersigned judge in this regard. No transcript of the July 12, 2019 hearing is attached. As is now clearly customary of the defendants, they make a bold statement and then fail to follow it with any factual basis. The court made no misogynous statement in court. Contrary to Defendant Gaffney's allegation, there were multiple female attorneys and law students in the courtroom during the hearing on July 12, 2019. The defendants also alleged that the undersigned judge "cannot resist venting his antagonism to women." Again, this conclusion is not supported by

> any statements or actions that the undersigned has taken.
>
> **Impugning Ms. Gaffney's Reputation**
>
> Defendants claim that the undersigned impugned the reputation of Ms. Gaffney. Again, there are no statements cited that impugn Ms. Gaffney.
>
> Adverse Judicial Rulings
>
> As the defendants are well aware, adverse judicial rulings are not a basis for judicial disqualification. All the rulings the undersigned judge made were prior to the final judgement and became a basis for any potential appeal, which the defendants took and lost. It is evident that the defendants continue to make motions to obstruct the progress of this case by continually arguing matters that have been continuous ruled upon and affirmed on appeal.
>
> P Exhibit 35.

Ms. Gaffney's written accusations against Judge Huey, Judge Barbas, and Judge Tesche-Arkin were made for the purpose of impugning their integrity and calling into question the adverse rulings made against Ms. Gaffney. Further, her statements cannot be determined to be objectively reasonable because they

have been continuously reviewed and denied by the successor judges and the Second District Court of Appeals. There is no objective evidence to support the egregious accusations made by Ms. Gaffney, which also include but are not limited to:

a. The Thirteenth Judicial Circuit Judges have engaged in a conspiracy.

b. The Thirteenth Judicial Circuit Judges engaged in the theft of respondent's assets and aided and abetted, covered up and relied on false and fraudulent orders.

a. Judge Huey poses a grave threat to the public at large.

d. Judge Huey filed false statements, under the guise of a judicial order.

e. The Thirteenth Judicial Circuit Judges punished respondent for exposing the theft of property and the outing of Defendant Judge Paul Huey for his predatory sexual conduct.

Ms. Gaffney's aforementioned statements are also unequivocally disparaging. Judge Huey, Judge Barbas, and Judge Tesche-Arkin are court personnel and respondent's statements about the judges are not only disparaging and humiliating but also prejudicial to the administration of justice.

Ms. Gaffney's Violations of Court's Final Judgment

As stated previously, the court issued its Final Judgment in Case No. 2014-CA-3762 on October 16, 2017. The order declared the following:

> **IT IS ORDERED AND ADJUDGED** that the Deed dated January 20, 2012, purporting to transfer Teresa Gaffney's interest in the Clark Street Property to Sarah K. Sussman, Trustee, recorded at Book 20915 and Page 233-234, of the Official Records of Hillsborough County, Florida, constituted a fraudulent transfer as defined by Chapter 726, Florida Statutes, and therefore the transfer of the Subject Real Property from Teresa Gaffney to Sarah K. Sussman, ·Trustee of the Sussman Family Trust, is avoided as to 100% of the property and therefore the Deed recorded at Book 20915 and Page 233-234 of the Official Records of Hillsborough County, Florida is declared to be null and *void*. **In addition, Sarah K. Sussman, Trustee, and Teresa Gaffney are hereby enjoined against any further disposition of the Subject Real Property**. (emphasis added).
>
> **FURTHER IT IS ORDERED AND ADJUDGED** that Defendant, Teresa Gaffney, obtained title to the Subject Real Property through the exploitation of John J. Gaffney as provided for in

> Chapter 415, Florida Statutes. It is therefore ordered by the Court that a Judgment be and is hereby entered against Defendant, Teresa M. Gaffney, and that the Plaintiff does have and recover from the Defendant, Teresa M. Gaffney, legal and beneficial title to and possession of the Subject Real Property situated in the County of Hillsborough, State of Florida ...
>
> P Exhibit 25.

Ms. Gaffney appealed the Final Judgment to the Second District Court of Appeal on February 6, 2018. The Second District Court of Appeals per curium affirmed the Final Judgment on February 13, 2019. Ms. Gaffney then filed for rehearing, rehearing en bane and written opinion, which were denied by the Second District Court of Appeals in an Order dated April 24, 2019. Ms. Gaffney then sought review from the Supreme Court of Florida in a Notice to Invoke Discretionary Jurisdiction, filed May 23, 2019. The Supreme Court of Florida dismissed the notice in its Order dated May 31, 2019, stating that it lacked jurisdiction. Despite clear confirmation from the courts that the Final Judgment stands as legally valid, Ms. Gaffney thereafter directly violated the Final Judgment and filed claims of lien on the property.

Subsequent to the issuance of the final judgment, Ms. Gaffney filed two claims of lien on the said property each in the amount of $285,000.00 and

filed in Official record book 25334 pages 568-570 and book 26389 pages 822-824. In response to the claims of lien, opposing counsel filed a Motion for Order to Show Cause and to Enforce Final Judgment, and on September 13, 2019, a hearing was held on the motion. At the hearing, Ms. Gaffney's position was: "... that this Court's Final Judgment is a nullity because the aforementioned property was homestead exempt. Additionally, Ms. Gaffney argue[d] that the claim of lien is not disposition of the property. Finally, Ms. Gaffney claim[ed] that the Court lacks subject matter jurisdiction because the initial order by J[udge] Huey was a void as against public policy." P Exhibit 38. As of the date of the hearing, Ms. Gaffney had already exhausted her appellate options regarding the issue of homestead exemption, including all the way to the Supreme Court of Florida. Furthermore, as of the date of the hearing, Ms. Gaffney had already exhausted her appellate options regarding the issue of her claim that the court lacked subject matter jurisdiction. Despite having argued these issues and having been denied relief by the highest courts, Ms. Gaffney still argued same at the hearing in defense of her improperly filed liens.

The record documents clearly establish Ms. Gaffney asserted a position which was frivolous and made in bad faith when she filed the two claims of lien after the final judgment had been issued and affirmed on appeal. Respondent repeatedly argued the issues of homestead exemption and subject matter jurisdiction in dozens of filings in the trial court and the appellate court after all those issues had reached final

disposition. Despite the finality of those issues having been determined by the highest courts, respondent filed the claims of lien in an attempt to hinder the transfer of property at issue. Further, respondent subsequently defended those claims of lien at the September 2019 hearing by continuing to assert bad faith arguments.

On September 26, 2019, the court issued an Order on Plaintiff's Motion for Order to Show Cause and to Enforce Final Judgment and Directions to the Clerk of Court. The court found that the claims of liens filed by Ms. Gaffney were dispositions upon the property, subject to the final judgment in this case, and the claims of lien filed by Ms. Gaffney were direct violations of the court's final Judgment. The court ordered that Ms. Gaffney shall show cause why she should not be held in indirect criminal contempt for violating the injunction prohibiting her from making any disposition of the same property. The court also held that the liens were null and void and the clerk was ordered to strike them from the public records.

Subsequently, opposing counsel entered into a Stipulation for Dismissal of Indirect Criminal Contempt in the interest of avoiding delays in the case. Opposing counsel agreed to dismiss the contempt but not the findings that Ms. Gaffney violated the final judgment or the striking of the liens filed in contravention of the final judgment. On or about October 25, 2019, the court entered an Order Granting Stipulation.

On or about October 30, 2019, the plaintiff filed an Emergency Verified Motion for Order to Show Cause and to Enforce Final Judgment stating that, on October 11, 2019, the very next day following the stipulation on October 10, 2019, Ms. Gaffney filed two new notices of lis pendens against the same property. P Exhibit 39. On or about October 31, 2019, the court entered an Order to Show Cause and Arraignment on Order to Show Cause finding that on the very next day following the parties' stipulation, October 11, 2019, in disregard of the court's authority and the Final Judgment Upon Default, Ms. Gaffney effectuated two new dispositions of. the Clark Street Property, through the filing of two separate notices of lis pendens. P Exhibit 40.

In response to the Order to Show Cause, on November 5, 2019, Ms. Gaffney again sought disqualification of the presiding judge, for approximately the seventh time.

As stated in the comment to Rule 4-3.5, an "advocate's function is to present evidence and argument so that the cause may be decided according to law. Refraining from abusive or obstreperous conduct is a corollary of the advocate's right to speak on behalf of litigants. A lawyer may stand firm against abuse by a judge but should avoid reciprocation; the judge's default is no justification for similar dereliction by an advocate. An advocate can present the cause, protect the record for subsequent review, and preserve professional integrity by patient firmness no less effectively than by belligerence or theatrics." Ms.

Gaffney's misconduct demonstrates respondent's blatant disrespect and disregard for the rules of the tribunal. Respondent knowingly disobeyed an obligation under the rules of a tribunal by filing dispositions against the property at issue two separate times, in direct violation of the final judgment and the court's order.

Further, respondent's filing of claims of liens on the property on two occasions resulted in unnecessary hearings and delays in the case. This, along with her filing of another motion to disqualify the judge, was done with the sole purpose of delaying the transfer of property, thus, intentionally disrupting the litigation and the tribunal. Ms. Gaffney does not deny, but rather, defends her claims of lien on the property in violation of the final judgment. Lastly, Ms. Gaffney's egregious misconduct can only be viewed as contrary to honesty and justice and prejudicial to the administration of justice.

Ms. Gaffney's Frivolous Lawsuit, Case No. 19-CA-2729

In March 2019, after the final judgment in Case No. 14-CA-3762 was per curium affirmed by the Second District Court of Appeals, a lawsuit was initiated in the East Division of Hillsborough County Civil Division, Case No. 19-CA-002729, *Sarah Sussman, et al. v. Kangas, Estate of Gaffney, Baumann, et al.* The parties were the same parties as those in 14-CA-3762, sans Ms. Gaffney. However, Ms. Gaffney filed a notice of appearance for the plaintiff

the next month, on April 8, 2019, and thus, was counsel of record for the rest of the lawsuit. P Exhibit 43.

The complaint alleged defendants engaged in "fraud," "theft," and "slandered the homestead property" of Sarah Sussman, among many other allegations. P Exhibit 41. The complaint sought numerous forms of relief from the complaint, including but not limited to:

a. "Void the Judgment entered unlawfully in Case Number 14-CA- 003762;

b. Void any transfer of title of the Homestead Property;

c. Restore the Title of the Homestead Property to the Plaintiff; [and]

d. Restore the Homestead Property and pay for all damages associated with the unlawful seizure of Homestead Property ..."

Id. at pg. 15.

After Ms. Gaffney signed on as co-counsel, the following occurred in the lawsuit, as can be seen on the court's docket

a. June 5, 2019: Plaintiffs filed a Motion for Continuance and attached a copy of Ms. Gaffney's April 2016 unsworn affidavit from

Case No. 14-GA- 3762 as an Exhibit to the motion. P Exhibit 44.

b. June 13, 2019: Case transferred by court order to Tampa.

c. June 27, 2019: Plaintiff files Motion to Disqualify Judge Barbas.

d: July 25, 2019: Amended Order Denying Motion to Disqualify.

> The order found in part, "Because of the attempt by the Plaintiff in this case to forum shop and circumvent the rulings of this Court and the affirmation by the Second District Court of Appeals, it is incumbent upon this court to thwart the attempted illegal usurpation of this Court's authority. It is inconceivable that the Plaintiff herein should reap the benefit of filing a "new" case, (2019-CA-2729), through forum shopping and filing a motion to disqualify that requires an automatic disqualification of the undersigned judge, when that new case alleges the same facts, issues and laws as in the old case (2014-CA-3762) and is asking for relief that is contrary to the judgment in the prior case." P Exhibit 45.

e. On or About August 24, 2019: Plaintiff filed Writ of Prohibition to Second District Court of

Appeals, regarding Amended Order Denying Motion to Disqualify.

f. 9/12/19: Second District Court of Appeals denies Writ.

g. 10/29/19: Order Granting Defendant's Motion to Dismiss Complaint. P Exhibit 46.

h. 11/6/19: Plaintiff filed Notice of Appeal of order granting motion to dismiss.

i. 10/7/20: Second District Court of Appeal per curium affirms dismissal.

j. 10/22/20: Plaintiff filed Motion for Rehearing to the Second District Court of Appeal.

k. 10/27/20: Plaintiff filed Motion for Relief from Judgment in Case No. 19-CA-002729. P Exhibit 47.

The motion sought the following relief:

> "WHEREFORE, the Plaintiffs, based upon the admission of the Defendants falsely filed a meritless lawsuit in 14-CA-3762 for the sole purposes of unlawfully taking Homestead Property, therefore, the Court must vacate the final judgment in this matter and allow the Plaintiffs due process and their day in Court to seek relief for the unlawfully taking of

Homestead Property pursuant to FRCP 1.540(b).

> 1. Award Plaintiffs their attorney fees and costs expended in this matter from Kangas, individually, and Baumann, individually, and Baumann/Kangas Estate Law; and
>
> 2. Return the Homestead Property immediately; and
>
> 3. Award damages to the Plaintiffs derivative from the admitted bad faith, meritless and fraudulent lawsuit filed by the Defendants in 14-CA-3762 ..."

l. 12/1/20: Second District Court of Appeal denied plaintiff's motion or rehearing.

m. 12/18/20: Second District Court of Appeal issued Mandate.

The above filings are record evidence of misconduct engaged in by Ms. Gaffney as counsel of record in Case No. 19-CA-2729. The entire lawsuit was filed with the intent of circumventing the orders and final judgment issued in Case No. 14-CA-3762. There was no merit to the complaint, as evidenced by the complaint being dismissed after the defendants filed a motion to dismiss and the dismissal was upheld by the appellate court. By using her license to practice law in this

manner, respondent advocated and pushed forward a frivolous lawsuit.

Count II

In Count II, the bar alleged respondent engaged in misconduct related to bankruptcy Case No. 8: 17-bk-08959-RCT. On or about October 16, 2017, in Hillsborough County Case No. 14-CA-3762, the court entered a Final Judgment Upon Default declaring that real property located at 119 S. Clark Street, Tampa, Florida belonged to the Estate of John J. Gaffney. The Final Judgment declared the following:

a. "Teresa Gaffney obtained title to the real property located at 119 Clark Street S., Tampa, Florida through the exploitation of her father, John J. Gaffney; and

b. A determination that the Deed dated January 20, 2012, purporting to transfer Teresa Gaffney's interest in the Clark Street Property to Sarah K. Sussman, as Trustee of the Sussman Family Trust Living Trust constituted a fraudulent conveyance as defined by Chapter 726, Florida Statutes, and therefore the Deed recorded at Book 20915 and Page 233-234 of the Official Records of Hillsborough, County, Florida is declared to be null and void;

c. The Final Judgment Upon Default had 'the effect of a duly executed conveyance that is recorded in Hillsborough County to [the Estate

of John J. Gaffney].'; and

d. Directing the Clerk of Court to issue a writ of possession without delay."

P Exhibit 48.

As a matter of law, per the Final Judgment, as of October 16, 2017, none of the defendants, including Sarah Sussman, Ms. Gaffney, and the Sussman Family Trust, had any legal interest in the Clark Street property.

Ms. Gaffney was living at the property at the time of the Final Judgment and on October 23, 2017, the Hillsborough County Sheriff served the Writ of Possession at the Clark Street Property. Answer para. 115 and 117. The next day, on October 24, 2017, the following documents were filed with the Clerk of the Bankruptcy Court in the Middle District of Florida, Tampa Division, Case No. 8: 17-bk-08959-RCT: (1) a handwritten Petition for Voluntary Bankruptcy of Sarah K. Sussman (respondent's daughter); and (2) a certificate of credit counseling, purporting to evidence that Sarah K. Sussman had taken the credit counseling course required to be taken prior to filing for bankruptcy. Answer para. 118.

Filed Meritless Bankruptcy Petition for Purpose of Thwarting Writ of Possession

The bankruptcy case was initiated for the sole purpose of improperly blocking the Estate of John J.

Gaffney from taking possession of the property. Ms. Gaffney admits that she assisted with the filing of her daughter, Sarah Sussman's, bankruptcy petition. Answer para. 133.

Over the next two years, the bankruptcy matter was litigated and ultimately the bankruptcy court dismissed the bankruptcy action finding bad faith conduct and conduct prejudicial to the administration of justice. In its June 3, 2019, 23-page Memorandum Decision Following Trial on Contested Matters, which is attached to his Report of Referee, the bankruptcy court found the following, among other things:

a. "The service of the writ of possession prompted a flurry of activity and ultimately led to the filing of this bankruptcy case." Memorandum Decision Following Trial on Contested Matters, pg. 4. P Exhibit 49.

b. "The petition was filed, in person, by Ms. Gaffney. The petition is handwritten and was not accompanied by bankruptcy schedules or all required initial disclosures and statements." *Id.* at 5.

c. "Throughout the events of October 23-25, 2017, Debtor was in Washington, D.C. Further, at that time, she did not reside at the Clark Street Property, having moved to Washington sometime around February 2016. When the chapter 13 petition was filed, Debtor lived and worked in Washington, D.C." *Id.* at 7.

d. "Unfortunately for the Debtor, her claim to title to the Clark Street Property arose from a deed that was declared void by the state court before her bankruptcy petition was filed. The Final Judgment served to strip Debtor of all legal and beneficial interest in the property and effectively conveyed it to the Administrator. Accordingly, the Clark Street Property was not property of the bankruptcy estate subject to the automatic stay." *Id.* at 10.

e. "Debtor's right to possession was terminated by the Final Judgment and the writ of possession. Further, Debtor was not in physical possession of the Clark Street Property when her chapter 13 petition was filed, having relocated to Washington, D.C. over a year before the petition. Rather it was her parents that were in actual possession and her parents who were dispossessed. But her parents are not the debtors in this case." *Id.* at 11.

The bankruptcy court made clear in its memorandum of dismissal that "the Clark Street Property was not property of the bankruptcy estate ..." Id. at 10. Still, in bad faith and with no legal basis for such a claim, Sarah Sussman, through assistance and guidance of her mother, respondent, claimed homestead protections of the Clark Street property and swore to same in the bankruptcy filing.

The bankruptcy court's memorandum order further found:

a. "Filing a chapter 13 petition for an improper purpose evidences bad faith. And filing a chapter 13 petition for purposes of circumventing a final state court judgment can be an improper purpose." *Id.* at 16.

b. "The events that transpired in the days leading up to the filing of this case are not entirely clear, but one fact is crystal clear. The sole purpose of Debtor's chapter 13 petition was an attempt to relitigate issues that were or should have been litigated in state court. The court determined Debtor's chapter 13 petition was improper for that very reason, when it denied confirmation and dismissed the petition. But even after Debtor converted her case to a chapter 7 liquidation, the matters dominating the court's docket continued to revolve around the same state court disputes between the Debtor and the Administrator, between the Administrator and Ms. Gaffney, or among the three collectively. The trial on the Contested Matters did little to dissuade the court from this conclusion. It is simply not the function of this court to relitigate state court issues ..." *Id.* at 17.

Sarah Sussman, Ms. Gaffney's daughter, appealed the bankruptcy court's findings and dismissal. On September 13, 2019, the appellate court affirmed the court's decision, finding the final judgment predated the establishment of the property in bankruptcy. The United States District Court Middle District of Florida Tampa Division's Order also

made the following findings:

a. "The controlling fact of the case is that this transfer of property by final judgment occurred over one week prior to the filing of any bankruptcy petition. Appellant filed this bankruptcy case after sheriff's deputies came to enforce the writ of possession." P Exhibit 50.

b. "Appellant simply did not own the house as a matter of law or fact when she filed the bankruptcy petition. That means the bankruptcy estate never possessed the house. Whether or not the house was subject to the Florida homestead exemption at one time was simply not relevant: the house was never present in the bankruptcy estate when the petition was filed." Id.

Ms. Gaffney's attempts to go around the Final Judgment and writ of possession issued in Case No. 14-CA-3762 by filing a bankruptcy petition for her daughter, claiming her daughter possessed the Clark Street property was false and dishonest. The numerous records in Case No. 14-CA-3762, and the findings of the bankruptcy court make it clear, as a matter of law, that the Clark Street property was legally and properly transferred to the Estate of John Gaffney. Ms. Gaffney, as an attorney, was well aware of the legal implications of the Final Judgment. She has never denied that the Final Judgment ordered transfer of the property to the Estate of John Gaffney and voided hers, and her daughter's claims to the

property. Necessarily, it must be concluded that respondent made false statements to the bankruptcy court when she filed the Petition for Voluntary Bankruptcy of Sarah K. Sussman claiming her daughter owned the Clark Street property and legally had a right to an automatic stay concerning same. The undersigned finds Ms. Gaffney's actions following the service of the writ of possession involved dishonesty, bad faith, obstruction of justice, and a complete abuse of the court system.

Ms. Gaffney's Instruction to Sarah Sussman to Destroy Evidence

As admitted by Ms. Gaffney in her Answer to the bar's Complaint, Ms. Gaffney filed: (1) a handwritten Petition for Voluntary Bankruptcy of Sarah K. Sussman (respondent's daughter); and (2) a certificate of credit counseling, purporting to evidence that Sarah K. Sussman had taken the credit counseling course required to be taken prior to filing for bankruptcy on October 24, 2017. Answer para. 118. At a hearing in bankruptcy court on October 31, 2017, "[t]he Court ordered the parties to mediation and, in doing so, encouraged the participation of all parties to the state court action." P Exhibit 48 at 3. Sarah Sussman's claim that she had completed the credit counseling course prior to filing the bankruptcy petition quickly became a contested issue. Despite knowledge of the contested issue, respondent admitted in her Answer to the bar's complaint that "... in November of '17, December, somewhere around that time period, the computer actually just died. I told her

to smash the hard drive and just toss the computer, because it was bad looking and pretty bad. She does it. She smashes the computer and throws it – the hard drive, like you're supposed to and get rid of it." Answer para. 129. Thereafter, motions were filed, subpoenas were issued, and a multi-day evidentiary hearing was held on the issue of whether Ms. Sussman completed the course and her destruction of evidence in support thereof. See e.g. P Exhibit 51.

Following the November 19, 2018, multi-day evidentiary hearing, the court issued an Order Granting Motion for Sanctions Against Sarah Sussman for Spoilation of Evidence on November 20, 2018. P Exhibit 52. The bankruptcy court concluded that by destroying the computer, Sarah Sussman "acted with the intent to deprive the Estate of its use in the litigation between the parties" and issued sanctions against Ms. Sussman.

Respondent has admitted that she directed her daughter, Sarah Sussman, to destroy the computer. The clear intent of respondent's conduct was to deprive the Estate of evidence on the computer that could be relevant in the litigation between the parties. Spoilation of evidence is by definition contrary to honesty and justice and prejudicial to the administration of justice and it is profoundly incredible that Ms. Gaffney engaged in such misconduct.

Ms. Gaffney's Affirmative Defenses

Lastly, Ms. Gaffney plead two affirmative

defenses in her Answer to. the bar's Complaint and the bar addressed both defenses in its Motion for Partial Summary Judgment.

First Affirmative Defense: Ms. Gaffney alleged she has a constitutional right under federal and state constitutions to political speech and to express her observations regarding prejudices and attitudes of the local judiciary.

Ms. Gaffney did not provide evidence or proper legal authority to support this affirmative defense. The bar provided legal authority as a basis to deny the affirmative defense and the undersigned finds the following based on that authority.

Ms. Gaffney fails to recognize that as an attorney her speech must comply with The Rules Regulating The Florida Bar. The license to practice law is a privilege, not a right, and it can be restricted or rescinded by the Florida Supreme Court at any time. It is well established that an attorney can be found guilty of the Rules outlined in the Rules Regulating The Florida Bar for statements made while having a license to practice law.

The First Amendment does not protect attorneys who make harassing or threatening remarks about the judiciary or opposing counsel, *Florida Bar v. Sayler,* 721 So. 2d 1152, 1155 (Fla. 1998), and the right to free speech under both the Florida and United States Constitutions does not preclude an attorney being disciplined for speech directed at the judiciary.

See Florida Bar v. Wasserman, 675 So. 2d 103, 105 (Fla. 1996). In *Florida Bar v. Ray,* 797 So. 2d 556, 558 (Fla. 2001), the. Florida Supreme Court held that statements made by an attorney which questioned the veracity and integrity of a judge, as well as the judge's fairness at a hearing, were not protected speech under the First Amendment for purposes of an attorney disciplinary proceeding, as the attorney did not have. an objectively reasonable basis for making those statements. The attorney was found guilty of violating Rule 4-8.2(a). The Supreme Court of Florida has long held that attorneys, because of their standing as officers of the court, enjoy a conditional privilege that in some instances constrains their free speech rights. *The Florida Bar re Amendments to Rules Regulating The Florida Bar,* 624 So. 2d 720 (Fla. 1993). The bar has a substantial interest both in protecting litigants and court personnel from disparaging conduct by attorneys and in preventing the erosion of confidence in the legal profession such behavior engenders. Lawyers are members of a privileged profession entailing obedience to .ethical rules which may require abstention from what in other circumstances would be constitutionally protected behavior. *See American Civil Liberties Union of Florida, Inc. v. Florida Bar,* 744 Fed. Supp. 1094, 1097 (N.D. Fla. 1990).

The undersigned finds that Ms. Gaffney failed to prove that any of her statements are constitutionally protected and prevent a finding of guilt under the Rules Regulating The Florida Bar.

Second Affirmative Defense: Ms. Gaffney argues

that seeking discipline against her for speaking up regarding prejudicial conduct by judges has the potential to create a "chilling effect" in reporting judicial misconduct.

Ms. Gaffney did not provide evidence or proper legal authority to support this affirmative defense. The bar provided legal authority as a basis to deny the affirmative defense and the undersigned finds the following based on that authority.

The Florida Supreme Court has given the Florida Bar express authority to prosecute attorneys for violation of The Rules Regulating The Florida Bar. The Florida Supreme Court has also given the Judicial Qualifications Commission express authority to prosecute judges for violations of the Code of Judicial Conduct. There are available procedures in place that allow attorneys to report judicial misconduct in a way that does not violate The Rules Regulating The Florida. Bar. Alleging the possibility of a "chilling effect" is not a legally valid affirmative defense as plead.

The undersigned finds that Ms. Gaffney failed to prove that there is a sufficient legal basis to find that a "chilling effect" is an affirmative defense preventing a finding of guilt under the Rules Regulating The Florida Bar.

3. Final Hearing in Bar Proceeding

Following the Order Granting in Part The

Florida Bar's Motion for Partial Summary Judgment, Ms. Gaffney filed a Motion for Reconsideration, requesting reconsideration of every finding. The argument put forth by Ms. Gaffney was that her due process rights had been violated because summary judgment had been entered prior to the close of discovery. The bar filed a response to the Motion for Reconsideration and Ms. Gaffney filed a Supplement. A hearing was held on the motion, response and supplement, and all parties, including Ms. Gaffney, were afforded an opportunity to provide argument. After hearing argument and reviewing of the filings and precedent, the motion for reconsideration was denied. Ms. Gaffney's due process rights were not violated by entry of the order granting partial summary judgment. Further, Ms. Gaffney was not prevented from completing discovery in this bar proceeding. Even after the order on summary judgment was entered, Ms. Gaffney had every discovery tool available to her, including depositions.

Several months later, in July 2022, a final hearing was held on the remaining issues/rules. The issues that remained to be adjudicated were:

1. Whether Ms. Gaffney violated Rule 4-3.3(a), related to Count I[1];

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[1] After the Order Granting in Part The Florida Bar's Motion for Partial Summary Judgment, but before the final hearing, the bar filed a Notice of Voluntary Dismissal Without Prejudice as to Rule 4-3.3(a) in Count II.

2. Whether Ms. Gaffney violated Rule 4-8.4(c), related to Count I;

3. Ms. Gaffney admitted, and the bar proved in it's Motion for Partial Summary Judgment, that Ms. Gaffney did not appear for her March 11, 2015, deposition in Case No. 14-CA-3762. Ms. Gaffney may present evidence at the final hearing that she is not guilty of violating any Rules Regulating The Florida Bar related to that nonappearance.

During the final hearing, the bar called one witness to testify: Michael Kangas, Esq. In addition, the bar entered into evidence sixty-seven (67) exhibits, identified in the record as P1-67.

Also, during the final hearing, Ms. Gaffney testified on her own behalf and called five witnesses: E. Michael Isaak, Esq., J. Kevin Carey, Esq., Sarah Sussman, Gilbert Singer, and Michael Sussman. Ms. Gaffney entered one exhibit into evidence, identified in the record as R29.

Based on the evidence presented at the final hearing, the undersigned finds the following additional facts were proven by clear and convincing evidence:

Ms. Gaffney's Failure to Appear at her March 11, 2015, Deposition)

It is undisputed that Ms. Gaffney did not appear for her deposition, which was properly noticed, on

March 11, 2015, in Case No. 14-CA-3762. Ms. Gaffney admits she did not appear, and a certificate of nonappearance was issued and filed in the case, as can be seen on P Exhibit 4. The issue was whether Ms. Gaffney knowingly failed to appear and whether she had some defense that would prevent the undersigned from finding Ms. Gaffney violated the rules related to her nonappearance.

Ms. Gaffney testified during the final hearing that she did not know about the March 11, 2015, deposition before the deposition date. She supported that position by offering the following arguments: Mr. Levine did not tell her about the deposition; and as soon as she found out, she filed a Notice of Clarification with the court.

Those arguments, however, do not prove Ms. Gaffney didn't know about the deposition until after the deposition date. But, rather, the exhibits in the underlying matter, as well as Ms. Gaffney's filings in this bar case, and her Notice of Clarification prove that Ms. Gaffney did know about the deposition by at least March 10, 2015, the day before the deposition.

On April 29, 2022, Ms. Gaffney filed a Motion for Reconsideration in this bar proceeding. On page 6, para. 30, Ms. Gaffney addresses her knowledge of the deposition. The motion states, "[a]s soon as Respondent found out about the deposition – through a third party and not her attorney – Respondent filed a Notice of Clarification in the file and fired Mr. Levine." Importantly, Ms. Gaffney, in her own filing in

this bar matter, asserts she learned of the deposition from a third party. She does not say who the third party is or on what date she found out, but during cross examination on July 19, 2022, the bar asked the following question, in sum,"[i]n your motion for reconsideration, filed in this bar case, you stated you found out about the deposition through a third party. Who was the third party?"

Ms. Gaffney testified that the third party was Carter Andersen, a Judicial Nominating Commission member.

So, it is clear Ms. Gaffney found out about the deposition from Carter Anderson. The next logical question is, when did she find out from Carter Anderson? The answer can be found in the Notice of Clarification Ms. Gaffney filed in the related probate matter in December 2015, which was entered into evidence. P Exhibit 67. In that Notice, Ms. Gaffney stated she spoke with Carter Anderson on March 10, 2015, the day before her scheduled deposition. It is Ms. Gaffney's own statements that prove she found out about the deposition on March 10, 2015.

During Ms. Gaffney's testimony in the final hearing however, she was unclear and unspecific and .simply placed blame on everyone else, including Mr. Levine. I do not find Ms. Gaffney's testimony that she did not know about the deposition before the date of the deposition to be credible.

It is also telling that Ms. Gaffney never once, in

the 14-CA-3762 case, where the deposition was scheduled, told the court she didn't know about the deposition at all before March 11, 2015. To this referee's knowledge, nowhere in the over 450 docket entries, does Ms. Gaffney file something with the court saying she didn't know about the deposition at all before March 11, 2015. Rather, Ms. Gaffney took the position with the 14-CA-3762 court that she was given "untimely notice" of the deposition. Furthermore, Ms. Gaffney sticks with that position in the beginning of this bar matter. In her Answer to the bar's complaint, filed, July 12, 2021, Ms. Gaffney says Mr. Levine failed to "timely notify her". Not that he failed to notify her entirely.

Lastly, Ms. Gaffney continues to argue that as soon as she found out about the deposition, she filed a Notice of Clarification in the case. That is not supported by the evidence. There was no Notice Of Clarification filed in Case No. 14-CA-3762, as evidenced by the court's docket. P Exhibit 4. Furthermore, the Notice of Clarification that Ms. Gaffney provided to the bar and that was entered into evidence as P Exhibit 67, was filed in the probate case (Case No. 12-CP-221) on December 23, 2015, nine months after the March 11, 2015, deposition date. When the bar asked Ms. Gaffney during her testimony about why it had been filed in the probate court, Ms. Gaffney said she also filed it in the 14-CA-3762 case on December 23, 2015. The docket in 14-CA-3762, however, does not reflect a notice of clarification on any date, most importantly not on or around the date of the deposition, March 2015. Further, Ms. Gaffney

has never shown a notice of clarification with a case heading that reflected Case No. 14-CA-3762. Ms. Gaffney admitted during her cross examination that the Notice of Clarification does not say anywhere in it that she did not know about the deposition before the March 11, 2015, deposition date.

The evidence presented establishes that Ms. Gaffney found out about the deposition from Carter Anderson on March 10, 2015, the day before the scheduled deposition. Ms. Gaffney's testimony during the final hearing, which at times contradicted the timing, is not credible.

In addition, the bar questioned Ms. Gaffney about what she was doing on March 11, 2015, that would have prevented her from attending the deposition once she found out about it. Ms. Gaffney could not recall what her commitments were that day. Thus, no credible evidence was presented by Ms. Gaffney to defend her nonappearance.

It is clear and convincing to the undersigned that Ms. Gaffney had knowledge of the deposition scheduled for March 11, 2015, at least one day before the deposition, and yet she willfully failed to appear. This is supported by the following court documents: Notice of Deposition, Certificate of Nonappearance, and the court docket in Case No. 14-CA- 3762; as well as the Notice of Clarification in Case No. 12-CA-221; and the Motion for Reconsideration and Answer filed in this bar proceeding.

Ms. Gaffney's Deceptive Conduct in Case *No. 19-CA-2729*

In granting the bar's Motion for Partial Summary Judgment, in part, the undersigned already determined Ms. Gaffney engaged in bad faith conduct by prosecuting Case No. 19-CA-2729 with her co-counsel/ husband. I concur with the trial court that the 19-CA-2729 case was frivolous. What was still ripe for consideration at the final hearing in this matter was whether Ms. Gaffney lacked candor to the court and engaged in dishonest and deceptive conduct related to that litigation.

First, the bar alleged Ms. Gaffney engaged in deceptive conduct, prejudicial to the administration of justice, when she advocated and pursued the case in Plant City, Florida. In March 2019, after the final judgment in Case No, 14-CA-3762 was per curium affirmed by the Second District Court of Appeals, Ms. Gaffney's husband (and her counsel in most of the related underlying matters) filed a lawsuit on behalf of Ms. Gaffney's and his daughter against the Estate of John Gaffney and other related parties on the same issues already adjudicated in Case No. 14-CA3762. Ms. Gaffney filed a notice of appearance on behalf of her daughter, the plaintiff, the following month, on April 8, 2019. P Exhibit 43. Ms. Gaffney remained co-counsel with her husband, Mr. Sussman, for the rest of the lawsuit, until his unfortunate passing in December 2021. As of the date of the final hearing in this bar matter, Ms. Gaffney remained sole counsel of record in that proceeding.

At the time the complaint was filed, Mr. Sussman also filed a Request for Division Assignment, requesting the case be put in the East Division of Tampa. P Exhibit 72. Of importance, all the other cases, related to the parties and property at issue, both pending at the time and previously resolved, were in the Tampa Division.

The bar called Michael Kangas to testify in the bar proceeding. During the final hearing, Mr. Kangas testified that immediately upon learning of the new case being filed, he reached out to Mr. Sussman via phone and email and asked for the case to be moved to Tampa, since obviously this lawsuit involved the same parties and issues as the 14-CA-3762 case. Mr. Sussman responded in an email, opposing the transfer, and threatening to seek fees and costs if Mr. Kangas sought to transfer divisions. P Exhibit 73.

It is evident by the Request for Division Assignment and the emails between Mr. Kangas and Mr. Sussman, that the intent from the beginning was to file and prosecute the 19-CA-2729 case outside of Tampa. This required Mr. Kangas to file a Motion to Transfer Case from East Division. P Exhibit 74. Thereafter a hearing was held on the transfer motion, and Ms. Gaffney appeared to oppose the motion. Mr. Kangas testified in the bar proceeding that Ms. Gaffney argued at the hearing in Case No. 19-CA-2729 that the case should stay in the East Division because Ms. Gaffney could not get a fair trial in Tampa. Ms. Gaffney knowingly argued in support of the complaint being filed in the east division, and

during her bar testimony, she defended same.

It is clear to the undersigned that the complaint was filed in a different division for the purpose of attempting to secure a new judge who would relitigate the issues already adjudicated by the trial court, the appellate court and the Supreme Court of Florida in Case No. 14-CA-3762. The trial court agreed and stated the following in an order dated July 25, 2019,

> "The instant case was filed in the East Division of the Court (Plant City) in at an obvious attempt at forum shopping. Plaintiff's counsel knew that if he filed the case in the Tampa Division, that the case would eventually be transferred to the undersigned since it involves the same issues, law and facts as case 2014-CA-3762."
>
> P Exhibit 45.

Ms. Gaffney's appearance in the case and argument in opposition of the transfer to Tampa evidences her intent to deceive the court in Case No. 19-CA-2729. The court in Plant City did not buy into Ms. Gaffney's arguments in opposition and granted the request to transfer the case to Tampa. Then, after transfer, as seen by Ms. Gaffney multiple times over, she filed a motion to disqualify the assigned Tampa judge. The motion to disqualify was denied in a scathing July 2019 order. In that order the court stated, in part,

> "Because of the attempt by the Plaintiff in this case to forum shop and circumvent the rulings of this Court and the affirmation by the Second District Court of Appeals, it is incumbent upon this court to thwart the attempted illegal usurpation of this Court's authority. It is inconceivable that the Plaintiff herein should reap the benefit of filing a "new" case, (2019-CA-2729), through forum shopping and filing a motion to disqualify that requires an automatic disqualification of the undersigned judge, when that new case alleges the same facts, issues and laws as in the old case (2014-CA-3762) and is asking for relief that is contrary to the judgment in the prior case."
>
> P Exhibit 45.

Ms. Gaffney's active participation regarding the division assignment of Case No. 19-CA-2729 was knowingly and intentionally deceitful.

Ms. Gaffney's Misrepresentations and Lack of Candor Towards the Tribunal in Case *No. 19-CA-2729*

The bar alleged Ms. Gaffney lacked candor to the court and made misrepresentations to the court in Case No. 19-CA-2729. More specifically, that Ms. Gaffney was dishonest, made misrepresentations,

failed to correct misrepresentations and omitted information to the court.

First, the bar entered into evidence, and I reviewed, the Complaint for Declaratory Relief, filed March 13, 2019, initiating Case No. 19-CA-2729. P Exhibit 41. Several statements are at issue in this complaint, and I find the following related to each.

Exhibit 41, Page 9, paragraph 73 states in relevant part,

> "Neither the state court proceeding, or this proceeding, involve the same parties or privies; there is a lack of identity of causes of action, i.e. they are not the same."

This is a false statement that is directly contradicted by Case No. 14- CA-3762, the rulings in the Court of Appeals in the same case, the July 2019 Order from the 19-CA-2729 case, as well as by Mr. Kangas' testimony in this bar proceeding.

Mr. Kangas testified that after Ms. Gaffney lost in the appellate court regarding her appeal of the final judgment in Case No. 14-CA-3762, the 19-CA-2729 case was initiated against the same parties, related to the same issues, namely, the Clark Avenue property. This is further evidenced by the July 2019 court order issued in the 19-CA-2729 case which held, in relevant part,

> "It is inconceivable that the Plaintiff herein should reap the benefit of filing a "new" case, (2019-CA-2729), through forum shopping and filing a motion to disqualify that requires an automatic disqualification of the undersigned judge, when that new case alleges the same facts, issues and laws as in the old case (2014-CA-3762) and is asking for relief that is contrary to the judgment in the prior case."
>
> P Exhibit 45.

In addition, the statement that the cases do not "involve the same parties" is clearly contradicted by comparing the style headings of the 19-CA-2729 complaint and the 14-CA-3762 Final Judgment. P Exhibits 41 and 25. Sarah Sussman and the Sussman Family Trust are defendants in the 14-CA-3762 case and are plaintiffs in the 19-CA-2729 case. Phillip A Baumann as Administrator ad Litem of the Estate of John J. Gaffney was the plaintiff in the 14-CA:-3762 case and is one of the defendants in the 19- CA-2729 case. This is clear and uncontroverted. Thus, the statement to the court in the 19-CA-2729 complaint, para 73, that the same parties are not involved is a misrepresentation that Ms. Gaffney to date has not corrected.

Also, on page 11 of the complaint in 19-CA-2729, several requests for relief are listed. The third listed request for relief is, "[v]oid the Judgment entered

unlawfully in Case Number 14-CA-003762." P Exhibit 41. There is no evidence that the final judgment entered in Case No. 14-CA-3762 was entered unlawfully. To the contrary, the Second District Court of Appeals upheld the final judgment as legally valid, thus making it a lawful judgment. Furthermore, Ms. Gaffney requested the Supreme Court of Florida intervene on the issue of the final judgment, to which the Court rejected.

It is evident by Ms. Gaffney's conduct in the past several years, as well as throughout this bar proceeding, that she believes the final judgment is invalid or "void". However, Ms. Gaffney's belief does not make it true. There has never been a finding by any court that the final judgment was entered unlawfully. Stating the final judgment was entered unlawfully on page 11 of the 19-CA-2729 complaint is a false representation to the court that Ms. Gaffney to date has not corrected.

The next document filed in Case No. 19-CA-2729 that was entered into evidence by the bar and that the undersigned reviewed for misrepresentations was the Motion for Relief from Judgment, filed October 27, 2020. P Exhibit 47. The motion contains four misrepresentations: page 3, paragraph 6; page 4, paragraph 11; page 8, paragraph 25; and page 25, the Wherefore clause.

The bar entered into evidence P Exhibit 54, which is the transcript excerpt of a July 13, 2020, hearing wherein Mr. Kangas was testifying in court.

The transcript contradicts the statements and allegations made in the Motion for Relief from Judgment. Furthermore, Mr. Kangas testified in the bar proceeding that the representations by Ms. Gaffney in the Motion for Relief from Judgment were false.

Ms. Gaffney did not enter any documentary evidence related to this issue and did not provide any witness testimony to address same. Actually, Ms. Gaffney did not even address the misrepresentations in the Motion for Relief from Judgment in her own testimony in the bar proceeding. Rather, the only argument Ms. Gaffney put forth in her defense of these misrepresentations to the court is that she wasn't the drafter of the documents.

The bar's position is that Rule 4-3.3 does not require an attorney to be drafter, or the filer of the document that contains misstatements. I concur. Ms. Gaffney is responsible for the misrepresentations to the court because she was co-counsel in the case and because she has never made any effort to correct or amend the misrepresentations. To the contrary, during her testimony in this proceeding Ms. Gaffney said she intended to move forward with the motion and complaint in Case No. 19-CA-2729, as counsel for her daughter.

Ms. Gaffney specifically advocated in support of the complaint and had a duty to correct the multiple misrepresentations that were made within it, but she failed to do so. Further, Ms. Gaffney is counsel of

record and defends and supports the Motion for Relief from Judgment and thus must be held accountable for the misstatement within it.

The undersigned relies upon the Court's ruling in *Florida Bar v. Burkich-Burrell,* 659 So.2d 182, wherein The Supreme Court of Florida found the respondent attorney guilty of making misrepresentations to the court because she failed to properly review and check the information and omissions made by her client in responses to interrogatories. In that case, the client made omissions and misrepresentations, and the client was the one who signed the document. The Court, however, found the respondent attorney guilty of violating the rules because she failed to "check or review the interrogatories for correctness and truthfulness". Further the Court stated that by "her inaction" she assisted the client in withholding information from the Court. The positions outlined by the Supreme Court in *Burkich-Burrell* directly contradict Ms. Gaffney's position that she is not responsible for anything if she is not the drafter.

Lastly, the bar alleged Ms. Gaffney repeatedly failed to disclose material facts and relevant authority to the court in 19-CA-2729. The evidence presented established the following:

1. Ms. Gaffney never disclosed to the 19-CA-2729 trial court that the Second District Court of Appeals had affirmed the final judgment in Case No. 14-CA-3762.

2. Ms. Gaffney never disclosed to the 19-CA-2729 trial court that Second District Court of Appeals issued its Mandate regarding the final judgment three months after the 19-CA-2729 case had been initiated.

3. Ms. Gaffney never disclosed to the 19-CA-2729 trial court that the Supreme Court of Florida issued an order dismissing Ms. Gaffney's attempt to have the Supreme Court review the 14-CA-3762 final judgment in May 2019.

It is clear from the evidence presented that these rulings are from the controlling jurisdiction and Ms. Gaffney never notified the court in 19-CA2729. Mr. Kangas testified about these rulings, and they were entered into evidence in this proceeding. Further, Mr. Kangas testified that Ms. Gaffney failed to notify the court in 19-CA-2729 of the court of appeals and Supreme Court of Florida decisions. P Exhibits 41-47. Ms. Gaffney did not enter any documentary evidence or provide any witness testimony to address this issue.

It has been proven be clear and convincing evidence that Ms. Gaffney failed to disclose to the 19-CA-2729 tribunal legal authority in the controlling jurisdiction know to Ms. Gaffney to be directly adverse to her position. Ms. Gaffney's conduct related to Case No. 19-CA-2729 was deceitful, misrepresentative, and lacked candor.

Ms. Gaffney's Affirmative Defenses

Ms. Gaffney plead two affirmative defenses in her Answer to the bar's Complaint.

First Affirmative Defense: Ms. Gaffney alleged she has a constitutional right under federal and state constitutions to political speech and to express her observations regarding prejudices and attitudes of the local judiciary.

Ms. Gaffney did not specify in her Answer what Rules Regulating The Florida Bar this defense is applicable to, if any. Nor did she present any evidence or legal authority in support of this affirmative defense at trial. While it can be reasonably presumed that this affirmative defense would not apply to the Rules at issue in the trial, namely Rules 4-3.3 and 4-8.4(c), in an abundance of caution the referee will address the defense here. I rely upon and incorporate my findings above regarding this affirmative defense and find that Ms. Gaffney failed to prove by clear and convincing evidence that any of her statements are constitutionally protected and prevent a finding of guilt under the Rules Regulating The Florida Bar.

Second Affirmative Defense: Ms. Gaffney argues that seeking discipline against her for speaking up regarding prejudicial conduct by judges has the potential to create a "chilling effect" in reporting judicial misconduct.

Again, Ms. Gaffney did not specify in her Answer what Rules Regulating The Florida Bar this defense is applicable to, if any. Nor did she present any

evidence or legal authority in support of this affirmative defense at trial. While it can be reasonably presumed that this affirmative defense would not apply to the Rules at issue in the trial, namely Rules 4-3.3 and 4-8.4(c), in an abundance of caution the referee will address the defense here. I rely upon and incorporate my findings above regarding this affirmative defense and find that Ms. Gaffney failed to prove by clear and convincing evidence that there is a sufficient legal basis to find that a "chilling effect" is an affirmative defense preventing a finding of guilt under the Rules Regulating The Florida Bar.

IV. RECOMMENDATIONS AS TO GUILT.

I recommend that Ms. Gaffney be found guilty of violating the following Rules Regulating The Florida Bar:

Count I:

1. 3-4.3 (Misconduct and Minor Misconduct);

2. 4-3.1 (Meritorious Claims and Contentions);

3. 4-3.3(a) (Candor Towards the Tribunal);

4. 4-3.4(c) (Fairness to Opposing Party and Counsel);

5. 4-3.5(c) (Impartiality and Decorum);

6. 4-8.2(a) (Impugning Qualifications and Integrity

of Judge);

7. 4-8.4(a) (Misconduct);

8. 4-8.4(c) (Conduct involving dishonesty, fraud, deceit); and

9. 4-8.4(d) (Conduct prejudicial to the administration of justice).

Count II

1. 3-4.3 (Misconduct and Minor Misconduct);

2. 4-3.1 (Meritorious Claims and Contentions);

3. 4-8.4(a) (Misconduct);

4. 4-8.4(c) (Conduct involving dishonesty, fraud, deceit); and

5. 4-8.4(d) (Conduct prejudicial to the administration of justice).

V. SANCTIONS HEARING

A sanctions hearing was held on August 5, 8, and 9, 2022, via zoom. The bar called one witness to testify: Michael Kangas, Esq. In addition, the bar entered into evidence forty-five (45) exhibits, identified in the record as bar's sanctions exhibits 1-45. Further, the bar filed Notice of Authority for Sanctions Hearing with attached case law and a Memorandum of Law for

Sanctions.

Ms. Gaffney testified on her own behalf and called nine witnesses: Michael Sussman; Troy Lovell, Esq; J. Kevin Carey, Esq.; Gilbert Singer, Esq.; E. Michael Isaak, Esq.; Sheldon McMullen, Esq.; Robin Trupp, Esq.; Frank Schellace, Esq.; and Thomas Gaitens, Esq. Ms. Gaffney did not enter any exhibits into evidence at the sanctions hearing. Ms. Gaffney filed a sanctions memorandum prior to the hearing and a written closing argument after the hearing.

My findings on the appropriate discipline after the sanctions hearing are outlined below.

VI. STANDARDS FOR IMPOSING LAWYER SANCTIONS

The bar filed its Notice of Authority for Sanctions Hearing and Memorandum of Law for Sanctions on July 25, 2022, and relied upon Standards 6.1, 6.2, 7.1, 3.2, and 3.3 in support of its requested sanction: disbarment.

Ms. Gaffney argued against the Standards provided by the bar and requested the referee find three mitigating factors apply, in support of her requested sanction: admonishment.

I considered the following Standards prior to recommending discipline and make the following findings on each:

Standard 6.1 False Statements, Fraud, and Misrepresentation

Absent aggravating or mitigating circumstances, and on application of the factors to be considered in imposing sanctions, the following sanctions are generally appropriate in cases involving conduct that is prejudicial to the administration of justice or that involves dishonesty, fraud, deceit, or misrepresentation:

(a) Disbarment. Disbarment is appropriate when a lawyer: (1) with the intent to deceive the court, knowingly makes a false statement or submits a false document; or (2) improperly withholds material information and causes serious or potentially serious injury to a party or causes a significant or potentially significant adverse effect on the legal proceeding.

Comment, in part: Lawyers who engage in these practices violate the most fundamental duty of an officer of the court. As the court noted in a case where a lawyer was disbarred for making intentional misrepresentations to a judge, "[a]n officer of the court who knowingly seeks to corrupt the legal process can expect to be excluded from that process." See *Florida Bar v. St. Louis,* 967 So. 2d 108, 122-23 (Fla. 2007).

Ms. Gaffney engaged in conduct that was intended to deceive the bankruptcy court when she filed a petition for bankruptcy on behalf of her daughter with the purpose of improperly staying the writ of possession in the 14-CA-3762 case. The petition

Ms. Gaffney filed on behalf of her daughter claimed that the Clark Avenue property was the property of her daughter. That was false. The court in 14-CA-3762 and the court of appeals issued orders specifically conveying the property to the Estate of John J. Gaffney. Later, the bankruptcy court learned that the property Ms. Gaffney was alleging belonged to her daughter in the bankruptcy petition, was not in fact hers at the time of the bankruptcy filing. Ms. Gaffney engaged in intentionally deceitful conduct for her personal benefit, and the bankruptcy court did not accept it.

Furthermore, Ms. Gaffney improperly refused to answer depositions questions in Case No. 14-CA-3762, thereby withholding material information in the case. Ms. Gaffney was court ordered to answer the questions, and she refused. This had the potential of causing significant adverse effect on the legal proceeding, and would have, had respondent not also engaged in other misconduct which led to her own default later in the case. Respondent engaged in the behavior discussed in both Standard 6.1 (a)(1) and (2), thus warranting disbarment.

Standard 6.2 Abuse of the Legal Process

Absent aggravating or mitigating circumstances, and on application of the factors to be considered in imposing sanctions, the following sanctions are generally appropriate in cases involving failure to expedite litigation or bring a meritorious claim, or failure to obey any obligation under the rules

of a tribunal except for an open refusal based on an assertion that no valid obligation exists:

(a) Disbarment is appropriate when a lawyer causes serious or potentially serious interference with a legal proceeding or knowingly violates a court order or rule with the intent to obtain a benefit for the lawyer or another and causes serious injury or potentially serious injury to a party.

Comment, in part: "Lawyers should be disbarred for intentionally misusing the judicial process to benefit, the lawyer or another when the lawyer's conduct causes injury or potentially serious injury to a party, or serious or potentially serious interference with a legal proceeding."

Ms. Gaffney filed multiple lawsuits seeking the same relief and also pursued an action in a venue she knew to be improper while actively opposing its transfer to the proper venue. It is hard to understand how significantly Ms. Gaffney has abused the judicial process to benefit herself and her family. Ms. Gaffney has attempted to circumvent the court's authority in Case No. 14-CA-3762 by improperly filing other lawsuits in the same circuit, filing a frivolous bankruptcy petition to interfere with the writ of possession, and violating the court's Final Judgment. Ms. Gaffney has shown a blatant disregard for the 13th Judicial Circuit Court, Second District Court of Appeals, and the Bankruptcy Court. Apart from her behavior throughout the underlying litigation, Ms. Gaffney engaged in inappropriate behavior in the bar

proceedings, which also fits in this standard and will be outlined more below. Ms. Gaffney's conduct in both the underlying actions and the bar proceedings caused serious interference with legal proceedings and she continues to interfere with numerous other legal proceedings as recent as this month. Based on Standard 6.2, Ms. Gaffney's misconduct warrants disbarment.

Standard 7.1 Deceptive Conduct or Statement and Unreasonable or Improper Fees

Absent aggravating or mitigating circumstances and on application of the factors to be considered in imposing sanctions, the following sanctions are generally appropriate in cases involving deceptive conduct or statements ...

(a) Disbarment is appropriate when a lawyer intentionally engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another and causes serious or potentially serious injury to a client, the public, or the legal system.

Ms. Gaffney intentionally brought actions she knew or should have known were frivolous and without merit, a clear violation of a duty owed by a legal professional. Further, Ms. Gaffney's repeated motions to disqualify judges in the 13th Judicial Circuit, totaling over a dozen, evidences her violation of a duty owed as professional. Ms. Gaffney authored and signed under oath many affidavits, which she later

filed with many courts, making impugning and disparaging remarks about the judiciary. She repeatedly made disparaging statements about the judiciary for her own personal benefit and to the detriment of the legal system. Ms. Gaffney's conduct fits squarely under Standard 7.1 (a), again demonstrating that disbarment is appropriate.

Standard 3.3 Aggravating Factors

The Florida Bar relied upon the facts and evidence presented in its Motion for Partial Summary Judgment, at trial, and at the sanctions hearing and argued the following aggravating factors applied: (b)(2) selfish motive; (b)(3) pattern of misconduct; (b)(4) multiple offenses; (b)(5) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency; (b)(6) submission of false evidence, false statements, or other deceptive practices during the disciplinary process; (b)(7) refusal to acknowledge wrongful nature of misconduct; and (b)(9) substantial experience in the practice of law.

I find all seven aggravating factors argued by the bar apply and justify an increase in the degree of discipline to be imposed against Ms. Gaffney. More specifically, the following facts and evidence support the referee's findings regarding the aggravating factors:

3.2(b)(2) Dishonest or selfish motive

Ms. Gaffney's motive throughout the years of protracted litigation she filed, was a party to, or was otherwise involved, were clear: to get the Clark Avenue property back without regard for who she defamed in the process. Despite the fact that Ms. Gaffney has exhausted her appellate remedies and the matter has been adjudicated against her position many times over, Ms. Gaffney continues to seek return of the property to date.

This is further evidenced by Ms. Gaffney's recent personal bankruptcy case, which was presented in evidence by the bar at the sanctions hearing. See Sanctions Exhibits 1, 2, and 12. On February 22, 2022, Ms. Gaffney filed a voluntary petition for Chapter 13 bankruptcy. Amazingly, on page 9 of her petition, Ms. Gaffney claims she owns an interest in the Clark Avenue property. More specifically, she claims she owns the entire amount of the property, $556,000.00, and that the property is her homestead. It is unfathomable how Ms. Gaffney can assert such a dishonest, misrepresentative, patently false statement to another court. The following courts have issued orders upholding the Final Judgment which conveyed the property to the Estate of John J. Gaffney: Circuit Court in 14-CA-3762; Second District Court of Appeals; Supreme Court of Florida; Bankruptcy Court in Case No. 8: 17-bk-08959-RCT; Circuit Court in 19-CA2729. This list is not all-inclusive. Ms. Gaffney's assertions in her personal bankruptcy petition directly contradict not only the court's orders, but reality. Ms. Gaffney has completely disregarded the rules and orders of many courts and has engaged in conduct in direct

contradiction of the law. Ms. Gaffney continues to act selfishly and dishonestly for her own personal benefit and to the determined of the legal profession.

3.2(b)(3) Pattern of misconduct

Litigation surrounding a property belonging to the Estate of John J. Gaffney has been ongoing for ten years. For ten years, Ms. Gaffney has been filing lawsuit after lawsuit and appeal after appeal, trying to regain the property. Her conduct related to same has been unprofessional, deceitful, and meritless. Ms. Gaffney engages in the same pattern of unprofessional behavior in all the cases she is involved in concerning the property at issue. For that reason, this factor is considered in aggravation.

Furthermore, pursuant to this Court's history of taking into consideration a respondents' behavior during bar disciplinary proceedings, I find the following misconduct by Ms. Gaffney in this bar proceeding as evidence of a pattern of misconduct:

1. *Violation of Rule 3-7.11 General Rule of Procedure and Referee's Case Management Order dated August 24, 2021.*

In direct contradiction of the prior referee's order and Rule 3-7.11 General Rule of Procedure, Ms. Gaffney sent witnesses invalid subpoenas, signed by her pro hac vice counsel. See R. Regulating The Florida Bar Rule 3-7.11(d)(1); Sanctions Exhibits 24-31; The Florida Bar's Memorandum of Law for

Sanctions attached hereto.

2. *Failure to Appear at Two Depositions in the Bar Proceeding.*

Ms. Gaffney, as her own co-counsel in this bar matter, failed to appear at two depositions. Ms. Gaffney failed to appear for an April 4, 2022, witness deposition, which_ had been scheduled by court order and a June 13, 2022, witness deposition which has been properly noticed. Ms. Gaffney was co-counsel and local counsel, had knowledge of both depositions, and willfully failed to appear. See Sanctions Exhibits 32-35; The Florida Bar's Memorandum of Law for Sanctions attached hereto.

3. *First Violation of April 19, 2022, Order on Discovery: Failure to Comply with Rule of Civil Procedure 1.280(b)(5).*

An April 19, 2022, Order on Discovery in this matter directed Ms. Gaffney to disclose to the bar information compliant with Rule 1.280(b)(5), Florida Rules of Civil Procedure. Ms. Gaffney failed to timely, properly, and sufficiently comply with the order and Rule 1.280. See Sanctions Exhibits 36, 37, 39, 40; The Florida Bar's Memorandum of Law for Sanctions attached hereto.

4. *Failure to Disclose Expert Affidavit.*

Ms. Gaffney identified an expert witness in her response to interrogatories in this matter and was in

possession of the expert's affidavit, summarizing his opinions, a "few weeks" prior to the bar's deposition of the expert. Despite the expert's deposition testimony, which stated he had provided Ms. Gaffney with his affidavit a "few weeks" prior, Ms. Gaffney never disclosed the affidavit to the bar. Not only did Ms. Gaffney fail to provide the bar with a copy of the affidavit before the deposition, but she also failed to provide it prior to the court ordered disclosure deadline, as outlined in the Order on Discovery. The bar only discovered the affidavit because the witness mentioned it during his deposition testimony. The knowledge, possession, and withholding of an expert's affidavit by Ms. Gaffney is violative of the Order on Discovery, the Rules of Civil Procedure, and the rules of professional conduct and is considered in aggravation. See Sanctions Exhibits 36-40; The Florida Bar's Memorandum of Law for Sanctions attached hereto.

5. *Second Violation of April 19, 2022, Order on Discovery: Untimely Discovery.*

Per the April 19, 2022, Order on Discovery, discovery cutoff in this bar matter was June 13, 2022. Seven days after discovery cutoff, on June 20, 2022, Ms. Gaffney provided 9,752 pages of untimely discovery to the bar. Furthermore, the same day, Ms. Gaffney filed her final witness and exhibit lists. On the lists she disclosed, for the very first time, at least three unknown witnesses and "new exhibits". In response to Ms. Gaffney's untimely discovery, and undisclosed witnesses and exhibits, the bar was forced to file

eleven, well-founded, motions in limine, which were all granted. See Sanctions Exhibits 36; The Florida Bar's Memorandum of Law for Sanctions attached hereto.

It is well established by the bar's Motion for Partial Summary Judgment and 52 exhibits that Ms. Gaffney violated numerous orders and rules in the underling litigation. This is outlined in numerous orders from the circuit court. Ms. Gaffney does not believe the rules apply to her. Ms. Gaffney's refusal to comply with the Rules of Civil Procedure, rules of the tribunal, and court orders is a pattern, and it is unacceptable. She continued the same misconduct in the bar proceeding and said misconduct should be considered in aggravation.

6. *Emergency Motion for Entry of Temporary Restraining Order #1 Filed in Federal Court.*

Four days before the final hearing in this bar matter was scheduled to begin, Ms. Gaffney filed an Emergency Motion for entry of Temporary Restraining Order in the US District Court, Middle District of Florida, Case No. 8:21-cv-00021, *Teresa Gaffney, et al., v. Judge Paul Huey, Judge Rex Barbas, Judge Caroline Tesche-Arkin, et al.* Although the bar is not a party to Ms. Gaffney's federal lawsuit against multiple sitting 13th Circuit Judges, Ms. Gaffney filed an emergency motion with the federal court asking the federal court to issue a restraining order against the bar. More specifically, Ms. Gaffney requested the bar be barred from proceeding with its disciplinary proceedings.

Ms. Gaffney having no basis in law or fact for seeking a restraining order against the bar within a federal suit in which the bar is not a party, the federal court denied Ms. Gaffney's emergency motion the next day, July 15, 2022. The federal court's five-page order clearly outlines the lack of legal support for Ms. Gaffney's filing and requests, similar to her filings in the underlying cases at issue in this bar proceeding. In addition, in the federal court's July 15, 2022, order, the court found "[Ms. Gaffney] also failed to confer with any of the defendants about her proposed amendment in accordance with Local Rule 3.01 (g)." Sanctions Exhibit 5, Order Denying Emergency Motion for Restraining Order, Case No. 8: 2021-CV-000021, pg. 5. See also Sanctions Exhibits 3-4.

7. *Emergency Motion for Entry of Temporary Restraining Order #2 and Complaint against The Florida Bar and Bar Counsel, Filed in Federal Court.*

On the morning of the first day of the final hearing in this bar proceeding, Ms. Gaffney filed a complaint against The Florida Bar, bar counsel, individually, and others, in federal court. In addition, Ms. Gaffney filed an emergency motion seeking a restraining order against the bar, prohibiting the final hearing from commencing that morning. The complaint makes unfounded allegations against the bar and bar counsel, very similar to the allegations she has made against every other attorney or judge who has disagreed with her position over the past eight years. Not surprisingly, the federal judge issued an order the same day, denying Ms. Gaffney's request for

a restraining order. Sanctions Exhibits 6-9.

Ms. Gaffney's misconduct during these disciplinary proceedings has been abusive, obstructive, improper, and clearly evidences her continued pattern of misconduct.

3.2(b)(4) Multiple offenses

The undersigned is recommending Ms. Gaffney be found guilty of nine Rules Regulating The Florida Bar in connection with Count I, and five Rules in connection with Count II of the bar's Complaint. Ms. Gaffney committed multiple different offenses, including, but not limited to: refusing to answer deposition questions, impugning the integrity of the judiciary, violating court orders, filing a frivolous lawsuit in a different division for the purpose of deceiving the court, filing a meritless bankruptcy petition for her daughter, making misrepresentations, and instructing her daughter to destroy evidence. As such, this factor is considered in aggravation.

3.2(b)(5) Bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency.

The undersigned references and incorporates the facts and evidenced outlined above in the Pattern of Misconduct factor, 3.2(b)(3), into this aggravating factor. Ms. Gaffney engaged in improper and unprofessional behavior throughout this disciplinary

proceeding. The Court has repeatedly ruled that unprofessional behavior is unacceptable. *See Florida Bar v. Abramson,* 3 So. 3d 964 (Fla. 2009). Ms. Gaffney withheld an affidavit, provided late discovery, failed to attend two depositions, violated the referee's orders at least three times, and violated Rule 3-7.11, General Rule of Procedure, among other things. This conduct cannot be tolerated by an attorney this factor is considered in aggravation.

3.2(b)(6) Submission of false evidence, false statements, or other deceptive practices during the disciplinary process

The undersigned references and incorporates the facts and evidenced outlined above in the Pattern of Misconduct factor, 3.2(b)(3), into this aggravating factor. Ms. Gaffney's intentional violations of the bar's procedural rules, failure to comply with at least three orders of the referee and withholding of discovery constitutes deceptive practices in this disciplinary proceeding.

3.2(b)(7) Refusal to acknowledge wrongful nature of misconduct

Throughout not only this bar disciplinary process but also in the numerous pieces of litigation brought by Ms. Gaffney, Ms. Gaffney has continually asserted that her position is justified and correct. The Court stated in *Florida Bar v. Rosenberg,* 169 So.3d 1155, 1162 (2015) that an attorney's refusal to acknowledge the wrongful nature of his misconduct

was "particularly significant," wherein the attorney continued to attempt to relitigate the underlying case and continued his abusive litigation practices throughout the bar disciplinary proceedings. Ms. Gaffney's arguments in her pleadings, motions, and other filings in this proceeding, as well as her testimony during the final hearing and sanctions hearing, continue to demonstrate that she does not believe her actions were improper and that she has no remorse for her misconduct. Ms. Gaffney has attempted to relitigate the underlying cases over and over again in this bar proceeding. She listed witnesses on her witness list that were irrelevant to the bar proceeding and were only listed for the purpose of continuing to litigate the underlying cases. In response, the bar had to file eleven motions in limine to prevent fifteen of Ms. Gaffney's irrelevant witnesses from testifying. Further, Ms. Gaffney repeatedly called witnesses and asked questions of those witnesses that were irrelevant to the bar proceedings, but rather, were for the purpose of relitigating the underlying matters. The undersigned referee has never in his career had to sustain more relevancy objections.

Most applicable, however, is Ms. Gaffney's own testimony during the sanctions hearing. Ms. Gaffney testified on her own behalf, and when bar counsel asked Ms. Gaffney whether she could acknowledge any of her own wrongdoing in the past ten years, Ms. Gaffney stated the only thing she did wrong was hire the wrong attorneys to represent her. However, her husband was her counsel for a majority of the numerous proceedings. Judge Huey pointedly

addresses this fact in his April 2016 sanction order, to wit:

> "The Court considers the familial relationship between counsel and the Defendants as evidence of the clients' participation. Attorneys Sussman and Gaffney are married to one another. Sarah K. Sussman is their daughter. Sarah K. Sussman is the trustee of the Sussman Family Trust. Attorney Gaffney is both a Defendant in this case, and has appeared as counsel on behalf of Defendant Sussman. Based upon those relationships, it is inconceivable to this Court that the Defendants are not participating in and completely aware of the misconduct of the Attorneys Sussman and Gaffney."
>
> P Exhibit 12.

Ms. Gaffney could not identify or acknowledge a single thing she has done wrong. She is unable to recognize and adjust her misconduct. This is most concerning and only further supports the referee's recommendation that Ms. Gaffney be permanently disbarred.

3.2(b)(9) Substantial experience in the practice of law

Ms. Gaffney has been licensed to practice law

since 1984. This factor is considered in aggravation because the longer an attorney has been practicing, the more experienced and knowledgeable the attorney should be regarding his or her professional duties and obligations. Ms. Gaffney has been practicing law for almost 40 years. She knows, or at the very least should know, the Rules Regulating The Florida Bar apply to her, and she must uphold the professionalism standards at all times.

Standard 3.3 Mitigating Factors

Ms. Gaffney argued the following mitigating factors applied: (b)(1) absence of a prior disciplinary record; (b)(7) character or reputation; and (b)(9) unreasonable delay in the disciplinary proceedings.

I do not find that any mitigating factors apply. Ms. Gaffney did not provide credible evidence in support of these factors.

First, factor 3.3(b)(1), absence of a prior disciplinary record. While the bar stipulated that Ms. Gaffney has not received a discipline from the Supreme Court of Florida related to a bar disciplinary case, Ms. Gaffney has been disciplined by other court(s). On April 22, 2016, the trial court in Case No. 14-CA-3762 issued an Order Granting Motions for Sanction, Striking Pleadings, And Entering Default Against Defendant's Teresa Gaffney and Sarah K. Sussman, Individually And As Trustee, which found Ms. Gaffney in willful contempt of court. P Exhibit 12. Later in the same case, on February 2, 2021, the trial

court issued an order finding Ms. Gaffney in indirect civil contempt. Sanctions Exhibit 20, Order Finding Teresa Gaffney in Indirect Civil Contempt for Failure to Product Fact Information Sheet. Then, again, on February 7, 2022, during the pendency of these disciplinary proceedings, the same trial court issued another order against Ms. Gaffney, finding her in "continued, willful, and deliberate contempt of this court ..." Sanctions Exhibit 21, pg. 3, Order Imposing Sanctions for Continued Contempt of Teresa Gaffney for Failure to Produce Fact Information Sheet. Thus, having been held in contempt of court at least three times, I find Ms. Gaffney has prior discipline and this factor should not be considered in mitigation.

Second, factor 3.3(b)(7) character or reputation. Ms. Gaffney offered seven witnesses and testified on her own behalf in support of her argument that this factor should apply to mitigate the discipline in this case. I find Ms. Gaffney's testimony and the testimony of her children, Michael Sussman and Sarah Sussman, are not credible. I do not find that Ms. Gaffney's other witnesses provided testimony to sufficiently establish Ms. Gaffney has good character or a good reputation in the legal community. Thus, this factor should not be considered in mitigation.

Third, 3.3 (b)(9) unreasonable delay in the disciplinary proceedings if. the respondent did not substantially contribute to the delay and the respondent demonstrates specific prejudice resulting from that delay. Ms. Gaffney presented no evidence whatsoever to support this factor. Rather, as evidenced

by the record in this case, Ms. Gaffney was the one who repeatedly asked for continuances and stays in the proceedings, to which the bar objected. Further, because the delays in the bar proceeding were by request of Ms. Gaffney there cannot be a finding that Ms. Gaffney suffered from any prejudice. This factor should not be considered in mitigation.

In sum, I do not find any mitigating factor exists to justify the reduction in the degree of discipline to be imposed against Ms. Gaffney.

VII. CASE LAW

I considered the following case law prior to recommending discipline:

Florida Bar v. Cox, 794 So. 2d 1278 (Fla. 2001)

Florida Bar v. Rosenberg, 169 So. 3d 1155 (Fla. 2015)

Florida Bar v. Abramson, 3 So. 3d 964 (Fla. 2009)

Florida Bar v. Koepke, 327 So. 3d 788 (Fla. 2021)

Florida Bar v. Lord, 433 So. 2d 983 (Fla. 1983)

Florida Bar v. Rheinstein, 2022 WL 1598898 (Fla. May 20, 2022)

Florida Bar v. Burkich, SC16-139, 2018 WL 904231 (Fla. February 15, 2018)

Florida Bar v. Wishart, 543 So. 2d 1250 (Fla. 1989)

Florida Bar v. Wishart, 543 So. 2d 1250 (Fla. 1989) (BARKETT, J. dissenting)

Florida Bar v. Baker, 810 So. 2d 876 (Fla. 2002)

Florida Bar v. Bennett, 276 So. 2d 481 (Fla. 1973)

Florida Bar v. Springer, 873 So. 2d 317 (Fla. 2004)

Florida Bar v. Weintraub, 528 So. 2d 367 (Fla. 1988)

Florida Bar v. Chestnut, SC18-1614, 2019-WL 3967128 (Fla. Aug. 22, 2019)

Florida Bar v. Roman, SC16-1330, 2018 WL 3633573 (Fla. July 12, 2018)

Florida Bar v. Keitel, SC18-532, 2019 WL 321655 (Fla. Oct. 28, 2021)

Florida Bar v. Schwartz, 334 So. 3d 298 (Fla. 2022)

Florida Bar v. Gwynn, 94 So. 3d 425 (Fla. 2012)

Florida Bar v. Berthiaume, 78 So. 3d 503 (Fla. 2011)

Florida Bar v. Patterson, 330 So. 3d 519 (Fla; 2021)

Florida Bar v. Spotter, 126 So. 3d 1059 (Table) (Fla. 2013)

Florida Bar v. Klein, 774 So. 2d 685 (Fla. 2000)

Florida Bar v. Lanford, 691 So.2d 480, 481 (Fla. 1997)

Florida Bar v. Cramer, 643 So.2d 1069, 1070 (Fla. 1994)

Florida Bar v. Neu, 597 So.2d 266 (Fla. 1992)

Florida Bar v. Fredericks, 731 So. 2d 1249, 1252 (Fla. 1999)

Florida Bar v. Wasserman, 675 So. 2d 103, 104 (Fla. 1996)

Florida Bar v. Cocalis, 959 So. 2d 163, 164 (Fla. 2007)

Shamrock-Shamrock, Inc. v. Tracey Remark, 271 So. *3d 1200 (Fla. 5th OCA 2019)*

In re Holloway, 832 So. *2d 716 (Fla. 2002)*

Bailey v. KS Management Services, L.L.C., No. 21-20335, (5th Cir. May 26, 2022).

McCoy v. Energy XXI GOM, L.L.C., 695 F. App'x 750, 758-59 (5th Cir. 2017)

Brown v. Miss. *Valley State Univ.,* 311 F.3d 328, 333 (5th Cir. 2002)

Curtis v. Anthony, 710 F.3d 587, 594 (5th Cir. 2013)

I found *Florida Bar v. Wishart,* 543 So. 2d 1250 (Fla. 1989), and particularly Justice Barkett's dissenting opinion to be particularly on point and persuasive. In *Wishart,* the Court issued a lengthy suspension. While Justice Barkett agreed on the finding of miscondcut, she found disbarment was the most appropriate sanction over the majority's opinions for suspension where there is no more flagrant misconduct by an attorney than deliberately disobeying a series of direct orders by the court even if the attorney believes that the orders were contrary to law.

VIII. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BEAPPLIED

I recommend that Ms. Gaffney be found guilty of misconduct justifying disciplinary measures, and that she be disciplined by:

A. Permanent disbarment.

B. Payment of The Florida Bar's costs in these proceedings.

Once disbarred, Ms. Gaffney will eliminate all indicia of her status as an attorney on email, social media, telephone listings, stationery, checks, business cards office signs or any other indicia of her status as an attorney, whatsoever. Ms. Gaffney will no longer herself out as a licensed attorney.

IX. PERSONAL HISTORY, PAST DISCIPLINARY RECORD

Prior to recommending discipline pursuant to Rule 3-7.6(m)(1)(D), I considered the following:

Personal History of Ms. Gaffney:

Age: 64

Date admitted to the Bar: 07/30/1984

Prior bar discipline: None.

X. STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD BE TAXED

I find costs outlined in the bar's Motion for Costs were reasonably incurred by The Florida Bar. It is recommended that such costs, totaling $8,931.02, be charged to Ms. Gaffney and that interest at the statutory rate shall accrue and be deemed delinquent 30 days after the judgment in this case becomes final unless paid in full or otherwise deferred by the Board of Governors of The Florida Bar.

Dated this ___ day of _____, 2022.

/s/
Peter Ray Ramsberger, Referee
324 S Fort Harrison Ave
Clearwater, FL 337565138

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