No. _____

In the Supreme Court of the United States

NADIA MARY METROKA,
Petitioner,

v.

THE FLORIDA BAR,
Respondent.

On Petition for a Writ of Certiorari
to the Supreme Court of Florida

PETITION FOR A WRIT OF CERTIORARI

Nadia Mary Metroka
Petitioner, *pro se*
608 SE 31ST Avenue
Ocala, Florida 34471
305-906-2704
NadiaMetroka@gmail.com

QUESTION PRESENTED

This case does not ask the Court to revisit disputed facts or second-guess a state disciplinary authority's credibility determinations. Instead, it presents a structural constitutional question concerning whether professional discipline may rest on findings that never satisfy the constitutionally required elements of misconduct. Although the decision below is framed as a fact-bound disciplinary proceeding, liability was imposed through procedural default and sustained through character-based reasoning rather than specific findings regarding intent, falsity, or constitutionally unprotected speech. The question presented therefore extends beyond petitioner and makes this case a matter of great public importance:

1. Whether constitutional due process allows professional discipline to be imposed where the tribunal failed to make the findings required by this Court's precedents before punishment may lawfully issue.

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Attorney discipline; criticism of judges requires falsity and actual malice (cited as persuasive authority consistent with this Court's precedent)

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PETITION FOR WRIT OF CERTIORARI

Petitioner Nadia Mary Metroka respectfully petitions for writ of certiorari to review the judgment the Florida Supreme Court in Florida Bar v. Nadia Mary Metroka SC24-1794. Opinion not published.

CITATIONS OF THE OFFICIAL AND UNOFFICIAL REPORTS OF OPINIONS AND ORDERS ENTERED IN THE CASE

The final judgment of the Florida Supreme Court disbarring Petitioner has not been reported. The Report of Referee, which the Florida Supreme Court adopted, is unreported.

JURISDICTION

The Florida Supreme Court entered a final order of disbarment on January 22, 2026. This Court has jurisdiction under 28 U.S.C. § 1257(a). The constitutional issues were squarely raised in Petitioner's briefing before the Florida Supreme Court and rejected when that court adopted the Referee's Report in full.

RELATED PROCEEDINGS

Pursuant to Supreme Court Rule 14.1(b)(iii), Petitioner states that the following proceedings are directly related to the judgment for which review is sought:

Florida Bar v. Nadia Mary Metroka,
Supreme Court of Florida, Case No. SC2024-1794.
Final Order of Disbarment entered January 22, 2026 (unreported).

Florida Bar v. Nadia Mary Metroka,
Supreme Court of Florida, Case No. SC2024-1794.
Order granting Motion to Strike Petition for Review and dismissing notice of intent to seek review, entered January 8, 2026 (unreported).

The proceedings listed above arise from the same disciplinary matter and constitute the state-court judgments directly underlying this petition.

Petitioner is not aware of any other proceedings in this Court or in any other court that are directly related to this case within the meaning of Rule 14.1(b)(iii).

CONSTITUTIONAL PROVISIONS INVOLVED

1. The First Amendment to the United States Constitution, which provides, in relevant part:
2. "Congress shall make no law ... abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."
3. The Due Process Clause of the Fourteenth Amendment to the United States Constitution, which provides that no State shall "deprive any person of life, liberty, or property, without due process of law."

STATEMENT OF THE CASE

The questions presented are purely legal and appear on the face of the Referee's Report adopted by the Florida Supreme Court without modification, making this case an ideal vehicle for review

Petitioner was disbarred following disciplinary proceedings arising from four count complaint alleging rule violations due to a withhold of adjudication for resisting without violence during the COVID-19 lockdowns and a misdemeanor-level driving offense arising from a family emergency (Count I); a private email containing an analogy or hypothetical referencing a pornographic image (Count II); conduct for which a trial court had previously imposed sanctions but declined to refer the matter to the Florida Bar (Count III); statements during litigation concerning the conduct of an arbitrator (Count IV); and communication with a person represented by counsel. (Count IV).

As it pertains to Count I, the Referee did not make any findings that the alleged misconduct demonstrates unfitness to practice law as required by *Konigsberg and The Florida Bar v. Martocci*, 699 So. 2d 1367 (Fla. 1997). Discipline requires a showing of unfitness, mere offensive or unprofessional conduct is insufficient) Regarding Count II, the Referee explicitly found that it was "difficult to objectively know what [Petitioner's] intention was" and made no findings of reckless disregard as required by *Counterman* and no findings of prejudice to the administration of justice (*Gentile*) or unfitness to practice law (*Konigsberg*). As it pertains to Count III, the Court issuing the sanctions declined to refer Petitioner to the Florida Bar and the Referee did not make any independent findings that Petitioner knowingly and willfully violated the Court Order. Regarding Count IV, the Referee did not make the required findings that the statements were false or made with reckless disregard for their falsity, actual malice or that they created a substantial likelihood of material prejudice to the administration of justice contrary to *Garrison*, *Gentile*, *Yagman*. Lastly, the Referee made no findings that the subject communication with person represented by counsel pertained to the matter for which representation was obtained contrary to *Schwartz* and *Konigsberg*. It should also be noted that the Referee relied

upon unreported, uncharged alleged misconduct in making his recommendation of disbarment contrary to *In Re Ruffalo*.

Petitioner sought review in the Supreme Court of Florida raising the foregoing constitutional issues. The Florida Bar moved to strike the Petition for Review based on Petitioner's inability to file hearing transcripts. Petitioner responded that the case presented purely constitutional questions appearing on the face of the complaint and referee's report and therefore did not require transcripts. (Appendix F, p. 190a).

The Florida Supreme Court granted the motion, struck Petitioner's brief, dismissed review under Rule 3-7.7(c)(2) (rule that makes dismissal discretionary), and deemed the case "uncontested," thereby terminating appellate review without reaching the constitutional questions because Petitioner was unable to obtain transcripts due to financial constraints. (Appendix B).

The court then adopted the Referee's Report in full and entered an order of disbarment effective thirty days later. (Appendix A). Conditioning meaningful appellate review on the ability to procure transcripts conflicts with *Griffin v. Illinois* and *Boddie v. Connecticut*. Even accepting the Referee's factual findings as true, the conduct described constitutes protected expression and does not establish unfitness to practice law.

REASONS FOR GRANTING THE WRIT

Each count reflects the same constitutional defect: professional discipline was imposed without the predicate findings this Court has required before speech or professional conduct may be punished. Although arising in different doctrinal settings, the errors below share a common feature—the absence of findings establishing intent, falsity, prejudice, or professional unfitness necessary to sustain disbarment consistent with the First and Fourteenth Amendments.

1. Review Is Warranted Because Discipline Was Affirmed for Private Expression Absent Any Evidence of Prejudice to the Administration of Justice or Unfitness to Practice Law (Count I) (Appendix C, page 11)

Count I rests on a withhold of adjudication[1] for resisting without violence during the COVID-19 lockdowns and a misdemeanor driving offense (minor criminal conduct) arising from speeding during a family emergency. Neither incident involved client representation, dishonesty, courtroom misconduct or disruption, or interference/disruption with judicial proceedings (*Rankin*), and no rule mandates discipline for such conduct.

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[1] The Report states that Petitioner was found guilty of resisting without violence but the record contains no certified judgment of conviction

Importantly, the governing rules as it applies to Count I makes discipline discretionary—not mandatory. (Florida Bar Rule 3-4.3 Minor misconduct, discipline is discretionary; Florida Bar Rule 3-4.4 Criminal misconduct; discipline discretionary but requires findings demonstrating professional unfitness). The State Supreme Court imposed discipline without identifying any rule requiring sanction and without making findings explaining why punishment was warranted here. Treating discretionary authority as mandatory violates due process.

Further, the decision independently violates due process under *Greene v. McElroy*, which forbids deprivation of a professional livelihood through informal or unreliable proof. As to the driving offense, the Florida Bar introduced ***no certified judgment*** and no competent documentary evidence. The referee relied solely on uncorroborated hearsay from a Bar investigator who testified that he:

> "**[C]ontacted the Clerk in North Carolina ... spoke to Beverly Denning and confirmed the guilty misdemeanor conviction.**" (Appendix C; Report, p. 51a).

Such assertions cannot constitutionally support disbarment; *Greene* requires reliable evidence and articulated findings.

The decision also implicates the First Amendment. Lawyers do not surrender constitutional protections upon admission to the bar. *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1054 (1991). Due process further requires fair notice and individualized judgment when sanctions are imposed. *In re Ruffalo*, 390 U.S. 544, 550–51 (1968). Where discipline is discretionary, punishment may not be imposed absent findings of professional unfitness or prejudice to the administration of justice. *In re Snyder*, 472 U.S. 634, 645–47 (1985).

Lastly, and perhaps most significantly, the Report contains no finding—express or implicit—that the alleged misconduct reflects unfitness to practice law. The absence of any such finding is constitutionally dispositive. In *Konigsberg*, this Court made clear that professional discipline cannot rest upon conjecture, disapproval of expression, or generalized concerns about character; rather, the State must demonstrate conduct bearing a rational and evidentiary connection to fitness to practice law. In *Martocci (1997)*, the Florida Supreme Court found that mere "unprofessional" or "offensive" conduct, alone, is insufficient for discipline. Here, the Referee made no determination that Petitioner lacked the honesty, integrity, competence, or professional capacity required of an attorney. The Report instead disciplines protected expression and alleged unprofessional conduct without the constitutionally required finding of unfitness, rendering the imposed sanction incompatible with the standards articulated by this Court.

By imposing discipline without the required findings and treating discretionary rules as automatic grounds for sanction, the decision below chills protected expression and subjects attorneys to moral regulation untethered from professional fitness. Review is warranted.

2. Review Is Warranted Because Discipline Was Imposed for Allegedly Threatening Expression Without Findings of Subjective Intent or Reckless Disregard As Required by the First Amendment (Count II) (Appendix C, page 20a)

Count II refers to a private email sent to another lawyer while Petitioner was representing herself *pro se*. The communication at issue was expressly framed as an analogy—introduced with the phrase "using your logic" (Appendix C, page 21a)—making clear that Petitioner was engaging in rhetorical argument rather than issuing a literal statement or threat. Under this Court's First Amendment jurisprudence, such rhetorical expression cannot be treated as unprotected merely because some find it to be provocative or distasteful. *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46, 50–57 (1988).

Against that backdrop, the Referee made none of the findings required to place the communication within the narrow "true threat" exception to otherwise broad First Amendment protection. The Report expressly acknowledges that "it is difficult to objectively know what Ms. Metroka's purpose or thinking was," yet nevertheless labels the communication "threatening." (App. C, p. 60). Under *Counterman v. Colorado*, 600 U.S. 66 (2023), speech may not be punished as threatening absent findings establishing the speaker's subjective intent to threaten or, at minimum, recklessness. Recklessness in this context requires proof that the speaker was **subjectively aware of a substantial risk that the communication would be perceived as a threat and consciously disregarded that risk**, not merely that the speech could be viewed as offensive, inappropriate, or ill-advised. *Id.* The Referee's admitted uncertainty as to Petitioner's "purpose or thinking" forecloses any finding of subjective intent or recklessness and therefore precludes application of the true-threat exception.

Nor can discipline be sustained based on the remaining characterizations that the communication was "unprofessional," "extremely offensive," or "vulgar." Professional discipline cannot rest on mere judgments of impropriety absent constitutionally cognizable findings of unfitness. *Konigsberg v. State Bar of California*, 366 U.S. 36, 49–51 (1961); *Florida Bar v. Martocci*, 699 So. 2d 1357 (Fla. 1997). Offensiveness alone does not remove speech from First Amendment protection. *Rankin v. McPherson*, 483 U.S. 378, 388 (1987). Nor does vulgarity strip expression of constitutional protection. *Mahanoy Area School District v. B.L.*, 594 U.S. 180, 189–92 (2021). Moreover, attorney speech may be sanctioned only upon a showing that it poses a substantial likelihood of material prejudice to the administration of justice, a finding entirely absent from the Referee's report. *Gentile v. State Bar of Nevada*, 501

U.S. 1030, 1075 (1991). By disciplining an expressly analogical communication based solely on perceived impropriety, offensiveness, and vulgarity—without findings satisfying *Counterman*, *Gentile*, or this Court's broader First Amendment standards—the decision below conflicts directly with settled constitutional law.

3. The Report Contains No Independent Findings of a Knowing or Willful Violation of a Court Order and Instead Relies Solely on a Sanctions Order That the Presiding Judge Declined to Refer for Bar Discipline. (Count III) (Appendix E, page 177a -180a)

Discipline for Count III rests on conduct arising from a trial proceeding in which the presiding court imposed discretionary sanctions but never initiated disciplinary referral. The Report itself acknowledges that "[s]everal times during the Final Hearing in these Bar proceedings Ms. Metroka has argued that because Judge Phillips decided not to refer Ms. Metroka to the Florida Bar for attorney misconduct, the Florida Bar should not have pursued a grievance against her and brought Count III against her in this Complaint." (Appendix C, p. 32a)

Notwithstanding that posture, the Referee imposed discipline under Rule 4-3.3 without making independent findings that Petitioner knowingly and willfully violated a clear court order—an essential predicate for professional discipline based on alleged misconduct before a tribunal. Rather than identifying evidence of intentional disobedience, the Referee relied on Judge Phillips' sanctions order and recited as supporting evidence that, immediately after sidebar, Petitioner told the jury she "was just reminded by my esteem colleagues and the judge that I am not supposed to bring up insurance during voir dire. So I am going to just stop talking about insurance altogether." (App. C at 28a and 34a).

That finding reflects contemporaneous acknowledgment of the court's instruction and intention to obey it and is inconsistent with a knowing and willful violation. Moreover, the Report contains no express finding of willfulness and identifies no independent basis establishing intentional disobedience. Instead of making the required mental-state determination, the Referee treated Petitioner's acknowledgment of the court's instruction as proof of a knowing and willful violation.

Rule 4-3.3 does not permit discipline absent a finding that the attorney knowingly violated a court order. By converting a discretionary judicial sanction—imposed for trial management—into grounds for disbarment despite findings inconsistent with a knowing violation, the decision improperly escalates courtroom sanctions into professional discipline, violating due process and exceeding constitutional limits on attorney regulation. Moreover, there is no evidence or findings that the alleged misconduct resulted in a substantial likelihood of material prejudice to the administration of justice.

4. Review Is Warranted Because Discipline Was Affirmed for "Impugning the Integrity" of an Arbitrator Without Findings of Falsity, Reckless Disregard for Truth, Actual Malice or a Substantial Likelihood of Material Prejudice to the Administration of Justice (Count IV) (Appendix E, page 183a, paragraph 50)

Count IV invokes Rule 4-8.2(a), which permits discipline for statements about adjudicators only upon a showing of falsity and knowledge of falsity or reckless disregard for truth. The complaint alleged merely that Petitioner filed a document "titled 'Supplement to Show Further Evidence of Misconduct and/or Incompetency Rising to the Level of Inability to Trust the [arbitrator) Decision,' thereby impugning the qualifications and integrity" of the arbitrator. (Appendix E, p. 183a). It did **not** allege that any statement was false, nor that Petitioner acted with knowledge of falsity, reckless disregard, actual malice, or that there was a substantial likelihood of material prejudice to the administration of justice.

The Referee made no finding of falsity. Instead, the Report states only that "the record evidence does not reasonably support Ms. Metroka's allegations." (Appendix C, p. 42a). That is not a finding that the statements were false. The Bar bore the burden of proving, by clear and convincing evidence, that the statements were false and made with knowledge of falsity, reckless disregard for truth, actual malice—or otherwise satisfied the applicable constitutional standard. Rather than making such findings, the Referee shifted the inquiry to whether Petitioner had an objectively reasonable basis for her statements. That improperly shifted the burden to Petitioner before the Bar first proved—by clear and convincing evidence—that any statement was false and made with knowledge of falsity or reckless disregard, or otherwise satisfied the applicable constitutional standard, including a substantial likelihood of material prejudice to the administration of justice.

That omission is constitutionally fatal. Under *Garrison v. Louisiana* and *Standing Committee on Discipline v. Yagman*, discipline for criticism of judicial officers requires proof of false statements made with knowledge of falsity, reckless disregard for truth, or actual malice. This Court reaffirmed in *In re Snyder* that attorneys may speak "harshly" and critically of decisionmakers absent a showing of unfitness. And where speech concerns pending proceedings, discipline requires a showing of material prejudice under *Gentile v. State Bar of Nevada*—a finding not made here or disruption under *Rankin*.

5. Review Is Warranted Because Discipline Was Imposed for Communication With a Represented Person Absent Evidence That the Communication Concerned the Matter for Which Representation Was Obtained (Count IV) (Appendix C, page 42a)

Count IV also involves Florida Bar Rule 4-4.2 (Communication with person represented by counsel; applies only to matters concerning the representation). Pursuant to *Schwartz v. Florida Bar*, 383 So. 3d 600 (Fla. 2024),

the communication must be about the subject matter for which representation was obtained.

The Referee recommended discipline for communicating with a person represented by counsel **without making a finding that the communication pertained to the matter for which counsel was retained**. (Appendix C; Report, p. 42a). Instead only relying upon hearsay in finding that: "Mr. Berenna..spoke to attorney Todd Payne who advised Respondent continued to email his client, Arbitrator Greene, directly after she was advised Arbitrator Greene was represented by Mr. Payne." (Appendix C, p. 51a).

The Report itself demonstrates that the communication at issue did not pertain to the fee dispute for which counsel had been retained. Rather, the Report reflects that the communication concerned Petitioner's objection to statements made by the Arbitrator that Petitioner believed defamatory ("you keep defaming me"). (Appendix C, at 42a). The Report further states that "[c]ounsel was retained to represent Arbitrator Greene and Upchurch Watson regarding the fee dispute with Ms. Metroka." (Appendix C, at 57a). Thus, on the face of the Report, the subject of the communication—alleged defamatory statements by the Arbitrator—was distinct from the fee dispute that defined the scope of counsel's representation, undermining any finding that the communication concerned a matter in which the Arbitrator was represented by counsel.

Because the rule at issue applies only to communications concerning the subject of the representation, the absence of a finding on that essential element means the rule was never shown to be triggered. In *Konigsberg,* this Court found it was contrary to due process to impose discipline where crucial elements are not supported by the record. Where the applicability of the rule itself was never established, discipline may not be imposed based on speculation or assumption. Discipline imposed without establishing the applicability of the rule exceeds the authority granted by the disciplinary framework and violates basic principles of notice and proof.

6. Review Is Warranted Because Discipline Was Based on Alleged Misconduct That Was Never Charged or Properly Noticed, Violating Fundamental Due Process.

The decision below affirms disbarment based in part on conduct that was neither reported nor charged in the Florida Bar's complaint, depriving Petitioner of fair notice as required by *In re Ruffalo*, 390 U.S. 544 (1968). The Referee expressly acknowledged that Petitioner objected to reliance on alleged misconduct arising during the disciplinary hearing itself, yet nevertheless concluded that such conduct "can also reasonably be considered in any disciplinary measures to be applied." (Appendix C, p. 78a). Additional unreported and uncharged allegations were likewise introduced

during the hearing and considered in determining discipline, despite Petitioner's objections.

Even apart from those objections, discipline based on this material was constitutionally improper because the alleged conduct constitutes protected expression and was unsupported by findings of professional unfitness. The allegations involved private emails without evidence of disruption, fee disputes without findings of falsity or misconduct, and a sanctions order never referred to the Bar and lacking independent findings of a knowing and willful violation. The Referee made no findings of unfitness to practice law or substantial likelihood of material prejudice to the administration of justice as required by *Konigsberg v. State Bar of California* and *Gentile* and the expression at issue falls within protected speech under *Rankin*, *Mahanoy*, *Miller*, *Hustler*, and *In re Snyder*. The sanction therefore rests in part on protected, unreported, and uncharged allegations—the precise due-process defect condemned in *Ruffalo*. Lastly, it would be contrary to fundamental fairness and due process to consider unreported and uncharged alleged misconduct when the core allegations lack the constitutional findings required before discipline is lawfully imposed.

CONCLUSION

This Case Is an Appropriate Vehicle for Review

This case presents a final judgment imposing disbarment based on errors that are legal, structural, and apparent on the face of the record. The federal questions presented do not depend on disputed testimony and arise from the Referee's report and the Florida Supreme Court's order adopting it.

The issues recur in attorney-disciplinary proceedings nationwide and implicate core First Amendment and due-process protections. "It is [also] important to both society and the bar itself that lawyers be unintimidated – free to think, speak, and act as members of an independent Bar." *Konigsberg v. State Bar of California,* 353 U.S. 252, 273 (1957). Review is warranted.

Respectfully submitted,

Nadia Mary Metroka
Petitioner, Pro Se
608 SE 31st Avenue
Ocala, Florida 34471

Date: February 17, 2026

APPENDIX

APPENDIX A
January 22, 2026 Order

APPENDIX A

Supreme Court of Florida

THURSDAY, JANUARY 22, 2026

The Florida Bar, Complainant(s) v. Nadia Mary Metroka, Respondent(s)	**SC2024-1794** Lower Tribunal No(s).: 2021-50,014(17G); 2023-50,114(17G); 2023-50,466(17G); 2024-70,352(17G)

The uncontested report of the referee is approved, and Respondent is 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 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 Nadia Mary Metroka in the amount of $9,981.20, for which sum let execution issue.

CASE NO.: SC2024-1794
Page Two

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

MUÑIZ, C.J., and LABARGA, COURIEL, GROSSHANS, FRANCIS, and SASSO, JJ., concur.
TANENBAUM, J., concurs in the administrative disposition but dissents from the judgment for costs.

A True Copy
Test:

SC2024-1794 1/22/2026
John A. Tomasino
Clerk, Supreme Court
SC2024-1794 1/22/2026

BHP

Served:

KERI T. JOSEPH
HON. GREGORY MILLER KEYSER
MARK LUGO MASON
NADIA MARY METROKA
PATRICIA ANN TORO SAVITZ

APPENDIX B
January 8, 2026 Order

APPENDIX B

Supreme Court of Florida

THURSDAY, JANUARY 8, 2026

The Florida Bar,	**SC2024-1794**
Complainant(s)	Lower Tribunal No(s).:
v.	2021-50,014(17G);
	2023-50,114(17G);
Nadia Mary Metroka,	2023-50,466(17G);
Respondent(s)	2024-70,532(17G)

The "Reply to The Florida Bar's Response in Opposition to Emergency Motion for Injunctive Relief" is stricken as unauthorized.

The "Amended Motion for Extension of Time to File Petition for Review" and "Emergency Motion for Injunctive Relief to Enjoin The Florida Bar from Continuing to Violate Reporters Committee" are denied.

The "Motion to Strike Petition for Review and Alternative Motion to Compel Transcripts" is granted. Respondent's initial brief is stricken, and the notice of intent to seek review of the referee's report filed in this case on October 7, 2025, is dismissed. *See* R. Regulating Fla. Bar 3-7.7(c)(2).

This case will now proceed as uncontested. *See* R. Regulating Fla. Bar 3-7.7(c)(6)(A). No rehearing will be allowed.

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

A True Copy
Test:

SC2024-1794 1/8/2026

John A. Tomasino
Clerk, Supreme Court

SC2024-1794 1/8/2026

BHP

Served:

KERI T. JOSEPH
HON. GREGORY MILLER KEYSER
MARK LUGO MASON
NADIA MARY METROKA
PATRICIA ANN TORO SAVITZ

APPENDIX C
Report of Referee

Additional material from this filing is available in the Clerk's Office.