

APPENDIX EXHIBIT A

RECEIVED, 07/10/2017 06:18:30 PM, Clerk, Supreme Court

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

Supreme Court Case Nos. SC16-1006
SC16-1009

v.

The Florida Bar File Nos. 2014-70,728 (11C)
2014-70,729 (11C)

STEVEN KENT HUNTER

and

PHILIP MAURICE GERSON,
Respondents.

_____ /

NOTICE OF FILING AFFIDAVIT OF PHILIP GERSON

PLEASE TAKE NOTICE that Respondent Philip Gerson files the attached Affidavit of Philip Gerson in opposition to Complainant's Summary Judgment Motion and in support of his Cross-Motion for summary Judgment.

Respectfully submitted,

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By: /s/ David C. Pollack

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Attorneys for respondent Philip Gerson

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of November, 2016, I filed a true and correct copy of the foregoing document, via hand delivery to Judge Michael A. Hanzman, 73 West Flagler Street, Room DCC 804, Miami, Florida 33130, (305)349-7249. I also certify that the foregoing document is being served this day on all counsel of record identified on the below Service List via e-mail.

Thomas Allen Kroeger Bar Counsel The Florida Bar Miami Branch Office 444 Brickell Avenue, Suite M-100 Miami, Florida 33131-2404 tkroeger@flabar.org abowden@flabar.org	John A. Weiss, Esq. John A. Weiss, P.A. 2910 Kerry Forest Pkwy, Suite D4#346 Tallahassee, FL 32309-6828 jack@johnaweisspa.com lynne@johnaweisspa.com
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/s/David C. Pollack

David C. Pollack

PHILIP GERSON AFFIDAVIT

Philip Gerson, being duly sworn, deposes and says:

1. I am one of the respondents in this disciplinary proceeding. I make this affidavit, on personal knowledge, in opposition to The Florida Bar's summary judgment motion and in support of my cross-motion. If called as a witness I would testify competently to the matters set forth herein.

2. In support of its summary judgment motion, The Florida Bar filed affidavits of Patricia Young, Alani Blissard, Miles McGrane, and Raiti Waerness, all of which were first filed in May 2011 in support of Young's and Blissard's Motion to Disqualify me and the other lawyers who had filed the Petition to Enforce and Administer Mandate in December 2010.

3. Patricia Young's affidavit (Ex. I to The Bar's Appendix) asserts:

- "My case was filed in court by attorney Miles McGrane and I regularly met with Miles and the lawyers jointly handling my case and the other cases, particularly Philip Gerson"
- "I shared my confidences and very confidential information regarding myself, the litigation and FAMRI with my attorney, Miles McGrane, and with the other attorneys working with Miles, particularly Steven Hunter and Philip Gerson."
- "The meetings and numerous conversations with Hunter and Gerson occurred over the past eleven or twelve years."

I did not "regularly" meet with Ms. Young or have "numerous" conversations with her; I did not jointly handle her case with Mr. McGrane; Ms. Young never told me any confidential information about her case, herself, FAMRI, or any other subject; and I never learned any such confidential information from any other source.

4. I never had a retainer or any other kind of agreement with Ms. Young; and I never billed her and she never paid me for legal services or anything else. Ms. Young never asked or told me anything about her case, never indicated any intention to hire me as her lawyer, and,

until she asserted in her affidavit that she believed I was her lawyer, she never said that or anything that even hinted at that to me. By contrast, at the April 28, 2010 mediation to negotiate a payment from FAMRI to the flight attendants to avoid the filing of the Petition, Ms. Young accused her lawyer, Miles McGrane, of disloyalty to her as his client, and objected to his filing the Petition. She made no such comments to or about me.

5. I never read the file on Ms. Young's case against the tobacco companies, or filed any paper on her behalf, or appeared for her at a hearing. We never communicated with each other by phone or in writing. I had brief, casual social conversations with Ms. Young from time to time at FAMRI-sponsored symposia or Stanley and Susan Rosenblatt family events, all attended by hundreds of people. I barely know Ms. Young.

6. Miles McGrane's affidavit (Ex. D to The Bar's Appendix) asserts:

- "Board members Patty Young, Lani Blissard and the late Bland Lane, shared many confidences with Philip Gerson and Steven Hunter . . . about themselves, their claims, and FAMRI."
- "Patty and Lani were very giving of their time and spoke freely to us about themselves, their claims, their experiences working for airlines when smoking was permitted and confided in us about FAMRI and their work with FAMRI."

Neither Patty Young, Lani Blissard, nor Bland Lane ever confided in me about FAMRI, their work with FAMRI, their cases, or anything else and I never learned any such confidential information from any source.

7. Raiti Waerness's affidavit (Ex. L to The Bar's Appendix) asserts:

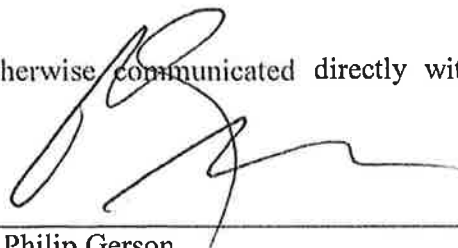
- "I retained Philip M. Gerson as my attorney to bring my individual action in 2000. . . . I never heard from Mr. Gerson again until May 2010."
- "In April 2010 I learned from a fellow flight attendant and class member of a plan by Mr. Gerson and other flight attendant attorneys to raid FAMRI for its assets. I wrote Mr. Gerson objecting to his taking such action against FAMRI (Exhibit B)."

At Stanley Rosenblatt's request and even though he did not give me any information about Ms. Waerness, I filed a complaint for her just before the time to do so expired under the *Broin* Settlement Agreement. To this day I have never met or spoken with Ms. Waerness. The first time I heard from her was more than nine years later at the April 28, 2010 mediation, where I was handed Ms. Waerness's April 27, 2010 email addressed to Elizabeth Kress, FAMRI's Executive director. That email, Exhibit B to Exhibit L to The Bar's Appendix, asserted to Ms. Kress that Ms. Waerness objected to any legal action "that would undercut the good works that FAMRI is doing."

8. Alani Blissard's affidavit (Ex. J to The Bar's Appendix) asserts, "I and other class representatives, Patty Young and Bland Lane, shared many confidences with . . . Steven Hunter and Philip Gerson, whom we truly trusted and confided in about ourselves and FAMRI." Ms. Blissard never shared any confidences with me about herself, her case, or FAMRI, and I never learned any such confidential information from any source.

9. The Bar also filed an email from Peggy Spurgeon (Ex. M to The Bar's Appendix) which, like the affidavits, was first filed in support of the Motion to Disqualify me. Ms. Spurgeon's email, like Ms. Waerness's, was dated April 27, 2010, addressed to Ms. Kress, and handed to me at the mediation on April 28, 2010. Ms. Spurgeon wrote: "I do not want you, as my lawyer, to sue FAMRI" At Mr. Rosenblatt's request, I filed a complaint for Peggy Spurgeon two days before the time to do so would have run. Ms. Spurgeon never signed and returned the engagement letter I sent her, and in 2008, Judge Esquiroz dismissed her case for

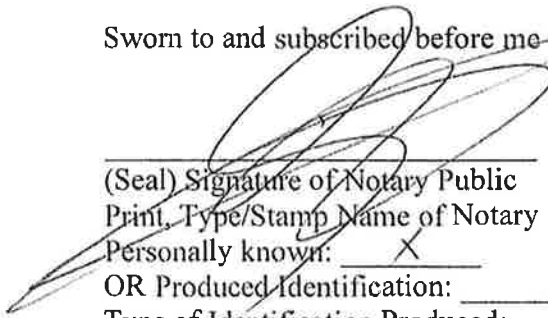
failure to prosecute. I have never spoken or otherwise communicated directly with Ms. Spurgeon.



Philip Gerson

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

Sworn to and subscribed before me this 21st day of November, 2016, by Philip M. Gerson.



(Seal) Signature of Notary Public
Print, Type/Stamp Name of Notary
Personally known: X
OR Produced Identification: _____
Type of Identification Produced: _____

