

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

MARK P. STOPA,

Respondent.

Florida Supreme Court Case No. SC18-1197

The Florida Bar File Nos.

2017-10,076(6B) (HES), 2018-10,237(6B),

2018-10,408(6B), 2018-10,489(6B),

2018-10,715(6B), and 2019-10,001(6B)

**RESPONDENT’S MOTION TO DISSOLVE OR AMEND EMERGENCY
SUSPENSION, OR, IN THE ALTERNATIVE, WITHDRAW EMERGENCY
SUSPENSION AND APPOINT REFEREE TO CONSIDER SAME**

COMES NOW, Respondent, MARK P. STOPA, by and through his undersigned counsel, pursuant to Rule 3-5.2(g) of the Rules Regulating The Florida Bar, and files this his Motion to Dissolve or Amend Emergency Suspension, or, in the Alternative, Withdraw Emergency Suspension and Appoint Referee to Consider Same, and states the following.

FACTS

A. Inquiry/Complaint of The Florida Bar, File No. 2017-10,076(6B) (HES)

1. Respondent was served the Inquiry/Complaint of The Florida Bar on March 17, 2017, based upon information received from the Honorable Kimberly Sharpe Byrd concerning Motions to Quash Service filed by Respondent in

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numerous cases related to Jupiter House, L.L.C. It is not known when Judge Sharpe Byrd provided the list of cases or supporting documentation, or how long The Florida Bar was in possession of this documentation prior to service upon Respondent.

2. Respondent filed his response to the Inquiry/Complaint on April 17, 2017.

3. One year ago, on July 26, 2017, the Investigating Member, who is also the Chair of Grievance Committee 6B, was appointed by Bar Counsel.

4. Through undersigned counsel, Respondent contacted the Investigating Member to discuss the above-styled matter.

5. On September 19, 2017, Respondent, through undersigned counsel, was served the Grievance Committee's Witness Subpoena Duces Tecum for sworn statement on October 5, 2017.

6. Respondent's sworn statement was taken October 5, 2017.

7. The sworn statement of Kevin Paul, Esquire, an associate attorney of Stopa Law Firm, was taken November 20, 2017.

8. The Grievance Committee has taken no apparent action in the last eight (8) months.

9. On June 27, 2018, the file was reassigned from Bar Counsel Matthew I. Flicker to Bar Counsel Katrina S. Brown.

10. As of the date of the filing of this pleading, the Inquiry/Complaint has not been set for Summary or Evidentiary Hearing before the Grievance Committee, nor presented by the Investigating Member to the Grievance Committee for consideration, to the best of Respondent's knowledge. Probable cause has not been found.

B. Inquiry/Complaint of Ms. Katheline Nunez, File No. 2018-10,237(6B)

1. Respondent was served the Inquiry/Complaint of Ms. Katheline Nunez on November 6, 2017.
2. Respondent filed his response to the Inquiry/Complaint on December 15, 2017.
3. The Florida Bar requested from Respondent additional information on January 26, 2018, concerning the settlement of Ms. Nunez's case.
4. Respondent filed his response to the request for additional information on February 15, 2018.
5. On June 28, 2018, the file was reassigned from Bar Counsel Matthew I. Flicker to Bar Counsel Katrina S. Brown.
6. On July 5, 2018, less than one month ago, two Investigating Members were appointed by Bar Counsel.

7. On July 13, 2018, Bar Counsel requested additional information from Respondent regarding the employment contract of Stopa Law Firm's coverage attorney. Respondent supplied such documentation on July 19, 2018.

8. It is the Respondent's understanding that the Grievance Committee met on July 19, 2018. As of the date of the filing of this pleading, the Inquiry/Complaint has not been set for Summary or Evidentiary Hearing before the Grievance Committee. Probable cause has not been found.

C. Inquiry/Complaint of The Florida Bar, File No. 2018-10,408(6B)

1. Respondent was served the Inquiry/Complaint on January 16, 2018.

2. Respondent filed his response, a general denial, to the Inquiry/Complaint on January 31, 2018.

3. On June 27, 2018, the file was reassigned from Bar Counsel Matthew I. Flicker to Bar Counsel Katrina S. Brown.

4. This matter has not been referred to a Grievance Committee nor assigned to an Investigating Member of that Committee. Probable cause has not been found.

D. Inquiry/Complaint of Ms. Anne Ridings, File No. 2018-10,489(6B)

1. Respondent was served the Inquiry/Complaint of Ms. Anne Ridings on February 16, 2018.

2. Respondent filed his response, a general denial, to the Inquiry/Complaint on March 5, 2018.

3. On June 28, 2018, the file was reassigned from Bar Counsel Matthew I. Flicker to Bar Counsel Katrina S. Brown.

4. This matter has not been referred to a Grievance Committee nor assigned to an Investigating Member of that Committee. Probable cause has not been found.

E. Inquiry/Complaint of Ms. Robin Guess, File No. 2018-10,715(6B)

1. Respondent was served the Inquiry/Complaint of Ms. Robin Guess on June 7, 2018.

2. Respondent filed his response to the Inquiry/Complaint on June 22, 2018.

3. This matter has not been referred to a Grievance Committee nor assigned to an Investigating Member of that Committee. Probable cause has not been found.

F. Inquiry/Complaint of The Florida Bar, File No. 2019-10,001(6B)

1. Respondent was served the Inquiry/Complaint of The Florida Bar on July 13, 2018, based upon information received from the Honorable Kimberly Sharpe Byrd, the same judge of Inquiry/Complaint of The Florida Bar, File No. 2017-10,076(6B) (HES), concerning Regions Bank v. Goeke, Pasco County Case

No. 2011-CA-005262. The letter to Respondent alleges conduct during a jury trial held May 11, 2017. The transcript of that trial was filed with the court more than one year ago on June 8, 2017. It is not known when Judge Sharpe Byrd provided the transcript to the Bar, or how long The Florida Bar has been in possession of this documentation prior to service upon Respondent July 13, 2018.

2. Respondent's response to the Bar's Inquiry/Complaint is presently due July 30, 2018.

3. This matter has not been referred to a Grievance Committee nor assigned to an Investigating Member of that Committee. Probable cause has not been found.

ARGUMENT

The Florida Bar has knowledge of the allegations in these counts for as much as sixteen-and-a-half (16 ½) months in once instance, and for three of these matters for 9, 6 and 5 months. Grievance Committee 6B was referred File No. 2017-10,076(6B) one year ago and File No. File No. 2018-10,237(6B) less than one month ago, and it has not rendered a finding of probable cause or otherwise acted to resolve the allegations in those cases. The other four matters are simply pending with The Florida Bar staff attorneys.

Moreover, the Complainant in two matters, a Sixth Circuit judge, has had concerns about the referenced Motions to Quash for over two years and concern over subornation of perjury in trial which was conducted May 11, 2017, over fourteen (14) months ago. (See Petition for Emergency Suspension Exhibit A, paragraph 10; and Exhibit N, paragraph 3). Despite having authority to address Respondent's conduct by contempt or by ordering sanctions against Respondent, the judge has taken no action against Respondent over the last two years.

Additionally, the judge's affidavits contained conclusions, referred to documents not provided with the Petition for Emergency Suspension, and purport to hold Respondent responsible for the actions of his associates. (See Petition for Emergency Suspension Exhibit A, paragraphs 12 and 13; and Exhibit N, paragraphs 14, 19-20). Despite and contrary to this judge's concerns, no less than ten judges – four District Court of Appeals judges and six circuit judges – testified glowingly of Respondent's superior legal ability and ethical behavior in Supreme Court Case Nos. SC16-1727 and SC17-1428 earlier this year.

Furthermore, the additional affidavits attached to the Petition for Emergency Suspension are rife with reference to documents not included and conversations with third parties that would amount to hearsay. Much of the evidence and information contained therein is not "personally known to the affiant" as required by Rule Regulating The Florida Bar 3-5.2(a)(1).

It strains credulity that this subject raises an emergency justifying an *ex parte* suspension when considering the lack of action taken by the circuit judge for over two years and similar inertia by The Florida Bar and Grievance Committee 6B for more than sixteen months. Moreover, the supporting affidavits of the witnesses attached to the Bar's Petition for Emergency Suspension with their conclusions, reference to hearsay, and referral to unattached documents, fall woefully short of establishing "clear and convincing[ly]" that Respondent "appears to be causing great public harm."

Simply stated, this subject matter does not constitute an emergency, but is a transparent attempt to avoid providing Respondent his procedural rights pursuant to Rules Regulating The Florida Bar 3-7.4 and 3-7.6. The Bar is, in effect, asking this Court to do its job; the job it is charged to do.

Finally, Respondent represents many hundreds of foreclosure defendants, some of whom are set for trial next week and thereafter. If this Court allows its order of emergency suspension to stand without allowing Respondent to be heard, Respondent's clients and the courts' dockets will be adversely affected.

WHEREFORE and by reason of the foregoing, Respondent respectfully requests this Court dissolve the emergency suspension, or, in the alternative, withdraw the emergency suspension and appoint a referee to consider these matters.

Respectfully submitted,



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Counsel for Respondent

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing has been filed by eportal with The Florida Supreme Court; and true and correct copies have been furnished by email to Matthew I. Flicker, Esquire, and Katrina S. Brown, Esquire, Bar Counsel, The Florida Bar, mflicker@floridabar.org, kschaffhouser@floridabar.org, pmcbride@floridabar.org,

nchristopherson@floridabar.org, and tampaoffice@flabar.org; and by email to
Adria E. Quintela, Esquire, Staff Counsel, The Florida Bar, aquintel@flabar.org,
this 27th day of July, 2018.



SCOTT K. TOZIAN, ESQUIRE