

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Petitioner,

v.

MARK P. STOPA,

Respondent.

Supreme Court Case  
No. SC-

The Florida Bar File No.  
2017-10,076 (6B)(HES)  
2018-10,237 (6B)  
2018-10,408 (6B)  
2018-10,489 (6B)  
2018-10,715 (6B)  
2019-10,001 (6B)

**PETITION FOR EMERGENCY SUSPENSION**

This petition of The Florida Bar seeks emergency relief and requires the immediate attention of the Court pursuant to R. Regulating Fla. Bar 3-5.2. The Florida Bar seeks the emergency suspension of Mark P. Stopa, Attorney No. 550507, from the practice of law in Florida based on facts that establish clearly and convincingly that Mark P. Stopa appears to be causing great public harm as will be shown by facts supported by the affidavits of: The Honorable Kimberly Sharpe-Byrd; Katheline Nunez; Beverley Mellow; Sierra Butler, Esq.; Anne Ridings; Hope Cannon, Esq.; and Robin Guess as follows:

1. The filing of this Petition for Emergency Suspension has been authorized by the Executive Director of The Florida Bar.

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2. Respondent, Mark P. Stopa, is and at all times hereinafter mentioned, was a member of The Florida Bar and subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

3. On May 25, 2018, a Report of Referee was filed with this Court in Supreme Court Case Nos. SC16-1727 and SC17-1428 regarding Respondent's conduct between 2014 and 2017 for failing to appear at scheduled hearings; disrespectful and aggressive behavior toward members of the judiciary; failing to communicate a settlement offer to a client; settling a case without the client's knowledge or authority and falsely leading opposing counsel to believe that he was authorized to settle the case; behaving aggressively and unprofessionally towards a process server; and advising a client she could leave the courthouse after opposing counsel called the client as a witness and the Judge stated that the client could be called. The Referee indicated that Respondent is in great need of professional psychological help and recommended he be suspended.

4. The Florida Bar presents the following current cases in support of this Petition for Emergency Suspension which show that respondent is continuing in the same misconduct which is currently before this court in SC16-1727 and SC17-1428: The Florida Bar File Numbers 2017-10,076 (6B); 2018-10,237 (6B); 2018-10,408 (6B); 2018-10,489 (6B); 2018-10,715 (6B); 2019-10,001 (6B).

5. The Bar's investigation of this matter has indicated the following:

In TFB File No. 2017-10,076 (6B), Respondent has filed numerous motions to quash service of process in ongoing foreclosure matters involving several Florida Limited Liability Companies, all of which have the same registered agent, Roberta Kaplan. Some of the filed motions to quash state that Ms. Kaplan was actually available for service at the principal place of business during regular business hours. Based on numerous service returns as well as statements from process servers, Ms. Kaplan was evading service of process and was not available for service at the principal place of business. Upon information and belief, Ms. Kaplan has never been served at the principal place of business. The statements contained in Respondent's verified motions are false, and Respondent files them knowing that Ms. Kaplan cannot be located.

Respondent's motions to quash service are filed to delay the litigation, and have a detrimental effect on the court system. Motions to quash require special set evidentiary hearings, which can take weeks or months to set. Routinely, just before the hearing or at the hearing, Respondent or his associates will withdraw the motion to quash and agree to answer.

Respondent was warned about this practice and the veracity of his filings by The Honorable Kimberly Sharpe-Byrd and continued to file the false verified motions to quash.

Respondent also continued this practice after receiving notice of the complaint in this matter in March 2017, and also after The Florida Bar took Respondent's sworn statement in this matter in October 2017. The affidavit of The Honorable Kimberly Sharpe-Byrd attached as **Exhibit A** is used by The Bar to support this Petition for Emergency Suspension.

- a. In TFB File No. 2018-10,237 (6B), Respondent was retained in December 2014 to represent Katheline Nunez in a foreclosure matter. In August 2017, Respondent spoke to Ms. Nunez prior to her trial and advised her that he could obtain a cash settlement for her case. Ms. Nunez advised both Respondent and another employee of Respondent's firm that she declined the settlement. Upon arriving to her scheduled trial on September 25, 2017, Ms. Nunez received a phone call from

Respondent's office advising her that her case had been settled and that the trial was canceled.

Respondent falsely led plaintiff's counsel to believe that he was authorized to settle Ms. Nunez's case. Upon receiving a copy of the final judgment of foreclosure and stipulation for entry of consent judgment, attached as **Exhibits B** and **C**, and a copy of an unsigned confidential settlement agreement purportedly between herself and the plaintiff, which were provided to Ms. Nunez by the Bar and not Respondent, Ms. Nunez discovered that the settlement authorized payment of \$7,500.00 to Respondent's firm in exchange for a consent to entry of final judgment of foreclosure.

Ms. Nunez has not received any settlement monies from Respondent. Respondent settled Ms. Nunez' case without her knowledge or authorization. The affidavit of Katheline Nunez attached as **Exhibit D** is used by The Bar to support this Petition for Emergency Suspension.

- b. In TFB File No. 2018-10,408 (6B), Beverly Mellow retained Respondent for representation in a potential foreclosure action while she was still current on her mortgage. Upon the firm's retainment, Respondent's non-lawyer employee advised Ms. Mellow to immediately stop paying her mortgage. For approximately three (3) years, Ms. Mellow inquired numerous times about completing a short sale on her property, however her requests and questions to Respondent went unanswered.

In April 2014, Respondent's office informed Ms. Mellow of an investor who may be interested in purchasing her home. In July 2014, Ms. Mellow executed a deed transferring her home to Quest Systems, LLC, a company owned and/or controlled by Respondent, a copy of which is attached as **Exhibit E**. Respondent failed to disclose his ownership in the company, failed to explain the legal ramifications of signing the deed, failed to advise her to seek independent counsel concerning the transaction, and failed to obtain her written informed consent based on Respondent's role in the transaction.

In November 2017, Ms. Mellow was served with the re-filed complaint for foreclosure, however, Respondent failed to file any documents on her behalf or defend her interests despite assurances from his office that he would handle the matter, and a default has been entered against her. Instead, Respondent has continued to litigate the matter on behalf of Quest Systems, LLC. Respondent used information relating to the representation of Ms. Mellow to her disadvantage without getting the client's informed consent. The affidavit of Beverly Mellow attached as **Exhibit F** is used by The Bar to support this Petition for Emergency Suspension.

- c. In TFB File No. 2018-10,489 (6B), Respondent represented Donald Stuart and his wife in a foreclosure matter. After the trial court granted the foreclosure in March 2017, Respondent filed an appeal, purportedly on the Stuarts' behalf. After the filing of the appeal and Mr. Stuart's wife's passing, in August 2017, Anne Ridings was appointed as Plenary Guardian of the Property and the Limited Guardian of the Person for Mr. Stuart. Mr. Stuart informed Ms. Ridings that he and his late wife did not talk with anyone about filing an appeal and that Respondent did not contact him about an appeal.

Within a week of Ms. Riding's appointment, her attorney Sierra Butler, Esq., contacted Respondent's office requesting a status update and requesting he cease and desist from performing any work on the appeal. Twice, despite explicit instructions to cease work on the appeal, Respondent contacted counsel for the appellee, Hope Cannon, Esq., stating that he was willing to dismiss the case for a cash payment directed to his firm. Respondent falsely led Ms. Cannon to believe that he had authority to settle the case.

In November 2017, Respondent transmitted a signed settlement on the Ward's behalf to Ms. Cannon, with the signature line reading "Mark Stopa as Attorney in Fact for Donald Stuart." Respondent executed a settlement agreement on behalf of an incapacitated person over which he had no authority to act and after he was given explicit instructions to abandon the appeal by the Guardian. The affidavits of Anne Ridings, Sierra Butler,

and Hope Cannon attached as **Exhibits G, H, and I** are used by The Bar to support this Petition for Emergency Suspension.

- d. In TFB File No. 2018-10,715 (6B), Respondent was retained by Robin Guess, a resident of California, to represent her in a foreclosure matter in Hillsborough County, Florida. Despite being retained in August 2017, Respondent did not file a notice of appearance in Ms. Guess' case until April 25, 2018. In January 2018, a default was entered against Ms. Guess for failure to respond to the complaint, and trial was set for April 26, 2018. Respondent did not inform Ms. Guess of the default or the trial date until April 25, 2018, and he failed to inform her that she was required to be present at the trial pursuant to the court's order. On April 25, 2018, Respondent called Ms. Guess to discuss a settlement proposal, which she declined.

Respondent's office then forwarded Ms. Guess a verified motion to quash service of process and motion to vacate default, which she signed and returned to the office the same day. Ms. Guess was led to believe that Respondent was going to attempt to get the case against her dismissed based on the motions. Instead, Respondent negotiated the terms of a settlement agreement with plaintiff's counsel, falsely leading counsel to believe he had authority to settle the case. On April 26, 2018, Respondent's firm settled Ms. Guess' case at the trial by signing a consent to entry of final judgment of foreclosure on her behalf without her knowledge or authorization, a transcript of which is attached as **Exhibit J**. Ms. Guess did not know about the settlement until receiving a copy of the consent judgment from another attorney attached as **Exhibit K**, which agreed to provide \$7,000.00 in relocation assistance.

Ms. Guess has not received any settlement monies from Respondent. Respondent settled Ms. Guess' case without her knowledge or authorization after receiving the Referee's findings of guilt in SC16-1727, wherein Respondent was found guilty of settling a client's case without her authority. The affidavit of Robin Guess attached as **Exhibit L** is used by The Bar to support this Petition for Emergency Suspension.

- e. In TFB File No. 2019-10,001 (6B), Respondent represented James Goeke at a non-jury trial before the Honorable Kimberly Sharpe-Byrd on May 11, 2017. A copy of the transcript of the proceedings is attached as **Exhibit M**. The lender sought to foreclose on Mr. Goeke's second mortgage/line of credit in the amount of \$214,000.00. Respondent argued that Mr. Goeke had in fact only borrowed \$30,000.00 of the line of credit (TR 46) and advised that his client was prepared to testify as to that amount. (TR 48). Respondent called Mr. Goeke as a witness, and once sworn in, Mr. Goeke testified that he borrowed approximately \$30,000.00 on his line of credit. (TR 77). On cross examination, Mr. Goeke was presented with his own prior deposition testimony wherein he testified to owing approximately \$190,000.00. (TR 82). When asked what facts he now had that he did not have a year ago at the time of his deposition, Mr. Goeke stated that, "[b]ecause I just received with Mr. Stopa the list of information and I saw this document, I saw that document that said \$214,000 but what I knew was borrowed was \$30,000." (TR 83).

Based on documents and evidence provided to Respondent both before and during the trial, Respondent knew or should have known that his client's planned testimony was false. Respondent believed that the client's deposition transcript and the full pay history exhibits would not be allowed in as evidence. However, they came in as impeachment evidence. Respondent knowingly encouraged or allowed his client to take the stand and provide false testimony. Upon information and belief, Mr. Goeke is currently facing felony charges for perjury for his false testimony. The affidavit of The Honorable Kimberly Sharpe-Byrd attached as **Exhibit N** is used by The Bar to support this Petition for Emergency Suspension.

Wherefore, by reason of the foregoing, Respondent has violated the following Rules Regulating The Florida Bar: **4-1.2(a)** (Objectives and Scope of Representation - Lawyer to Abide by Client's Decisions); **4-1.3** (Diligence); **4-1.4** (Communication); **Rule 4-1.8(a)** (Conflict of Interest; Prohibited and Other

Transactions: Business Transactions with or Acquiring Interest Adverse to Client); **Rule 4-1.8(b)** (Conflict of Interest; Prohibited and Other Transactions: Using Information to Disadvantage of Client); **4-3.3** (Candor Toward the Tribunal); **4-3.4** (Fairness to Opposing Party and Counsel); **4-8.4(c)** (Misconduct: A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation); and **4-8.4(d)** (Misconduct: A lawyer shall not engage in conduct regarding the practice of law that is prejudicial to the administration of justice).

Based on the aforementioned facts, The Bar asserts Respondent has caused, or is likely to cause, immediate and serious harm to clients and/or the public and that immediate action must be taken for the protection of the respondent's clients and the public. Therefore, pursuant to R. Regulating Fla. Bar 3-5.2, The Florida Bar respectfully requests this court to:

A. Suspend Respondent from the practice of law until further order of this court.

B. Order Respondent to accept no new clients from the date of this Court's order and to cease representing any clients after 30 days from the date of this Court's order. Within the 30 days from the date of this Court's order, Respondent shall wind down all pending matters and shall not initiate any litigation on behalf of clients. Respondent shall withdraw from all representation within 30 days from the date of this Court's order. In addition, Respondent shall



cease acting as personal representative for any estate, as guardian for any ward, and as trustee for any trust and will withdraw from said representation within thirty days from the date of this court's order and will immediately turn over to any successor the complete financial records of any estate, guardianship or trust upon the successor's appointment.

C. Order Respondent to furnish a copy of the suspension order to all clients, opposing counsel and courts before which Mark P. Stopa is counsel of record as required by Rule 3-5.1(h) of the Rules of Discipline of The Florida Bar and to furnish Staff Counsel with the requisite affidavit listing all clients, opposing counsel and courts so informed within 30 days after receipt of the court's order.

D. Order Respondent to refrain from withdrawing or disbursing any money from any trust account related to Respondent's law practice until further order of this court, a judicial referee appointed by this court or by order of the Circuit Court in an inventory attorney proceeding instituted under R. Regulating Fla. Bar 1-3.8, and to deposit any fees, or other sums received in connection with the practice of law or in connection with the respondent's employment as a personal representative, guardian or trustee, paid to the respondent after issuance of this Court's order of emergency suspension, into a specified trust account from which withdrawal may only be made in accordance with restrictions imposed by this Court. Further, Respondent shall be required to notify bar counsel of The

Florida Bar of the receipt and location of said funds within 30 days of the order of emergency suspension.

E. Order Respondent to not withdraw any money from any trust account or other financial institution account related to Respondent's law practice or transfer any ownership of any real or personal property purchased in whole or in part with funds properly belonging to clients, probate estates for which respondent served as personal representative, guardianship estates for which respondent served as guardian, and trusts for which respondent served as trustee without approval of this court, a judicial referee appointed by this court or by order of the Circuit Court in an inventory attorney proceeding instituted under R. Regulating Fla. Bar 1-3.8.

F. Order Respondent to notify, in writing, all banks and financial institutions where the respondent maintains an account related to the practice of law, or related to services rendered as a personal representative of an estate, or related to services rendered as a guardian, or related to services rendered as a trustee, or where Respondent maintains an account that contains funds that originated from a probate estate for which Respondent was personal representative, guardianship estate for which respondent was guardian, or trust for which Respondent was trustee, of the provisions of this Court's order and to provide all the aforementioned banks and financial institutions with a copy of this Court's order. Further, Respondent shall be required to provide Bar Counsel with an

affidavit listing each bank or financial institution respondent provided with a copy of said order.

G. Order Respondent to immediately comply with and provide all documents and testimony responsive to a subpoena from The Florida Bar for trust account records and any related documents necessary for completion of a trust account audit to be conducted by The Florida Bar.

H. And further to authorize any Referee appointed in these proceedings to determine entitlement to funds in any trust account(s) frozen as a result of an Order entered in this matter.

Respectfully submitted,

*Katrina S. Brown*

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## **CERTIFICATE OF SERVICE**

I certify that the foregoing Petition for Emergency Suspension has been E-filed with The Honorable John A. Tomasino, Clerk of the Supreme Court of Florida; with a copy by United States Certified Mail, return receipt no. 7017 0190 0000 0892 4248, to Mark P. Stopa, Respondent, c/o Scott Kevork Tozian, Esq., Counsel for Respondent, at 109 N. Brush Street, Suite 200, Tampa, Florida 33602-4116, and by email to [stozyan@smithtozyan.com](mailto:stozyan@smithtozyan.com); and a copy by electronic mail to and Katrina S. Brown, Bar Counsel, at [kschaffhouser@floridabar.org](mailto:kschaffhouser@floridabar.org) and Matthew Ian Flicker, Bar Counsel, at [mflicker@floridabar.org](mailto:mflicker@floridabar.org), on this 25th day of July, 2018.

*Adria E. Quintela*

Adria E. Quintela, Staff Counsel

## **NOTICE OF DESIGNATION OF PRIMARY EMAIL ADDRESS**

PLEASE TAKE NOTICE that the trial counsel in this matter are Katrina S. Brown and Matthew Ian Flicker, Bar Counsel, whose address, telephone number and email addresses are The Florida Bar, Tampa Branch Office, 4200 George J. Bean Parkway, Suite 2580 Tampa, Florida 33607-1496, (813) 875-9821 and [kschaffhouser@floridabar.org](mailto:kschaffhouser@floridabar.org) (primary), [mflicker@floridabar.org](mailto:mflicker@floridabar.org) (primary), [pmcbride@floridabar.org](mailto:pmcbride@floridabar.org) (secondary), [tampaoffice@floridabar.org](mailto:tampaoffice@floridabar.org) (secondary), and [nchristopherson@floridabar.org](mailto:nchristopherson@floridabar.org) (secondary). Respondent need not address pleadings, correspondence, etc. in this matter to anyone other than Bar Counsel and to Adria E. Quintela, Staff Counsel, The Florida Bar, Lakeshore Plaza II, Suite 130, 1300 Concord Terrace, Sunrise, Florida 33323, [aquintel@floridabar.org](mailto:aquintel@floridabar.org).

**MANDATORY ANSWER NOTICE**

RULE 3-5.2(a), RULES OF DISCIPLINE, EFFECTIVE JULY 1, 2012,  
2004, PROVIDES THAT A RESPONDENT SHALL ANSWER A COMPLAINT.